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Foreign
Relations
of the
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1926
Volume I

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Papers Relating to the
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1926

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(In Two Volumes)

Volume I



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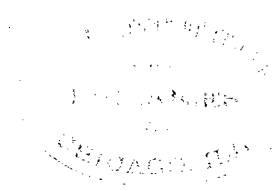
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MESSAGE OF THE PRESIDENT OF THE UNITED STATES TO CONGRESS, DECEMBER 7, 1926

MEMBERS OF THE CONGRESS: In reporting to the Congress the state of the Union, I find it impossible to characterize it other than one of general peace and prosperity. In some quarters our diplomacy is vexed with difficult and as yet unsolved problems, but nowhere are we met with armed conflict. If some occupations and areas are not flourishing, in none does there remain any acute chronic depression. What the country requires is not so much new policies as a steady continuation of those which are already being crowned with such abundant success. It can not be too often repeated that in common with all the world we are engaged in liquidating the war.

In the present short session no great amount of new legislation is possible, but in order to comprehend what is most desirable some survey of our general situation is necessary. A large amount of time is consumed in the passage of appropriation bills. If each Congress in its opening session would make appropriations to continue for two years, very much time would be saved which could either be devoted to a consideration of the general needs of the country or would result in decreasing the work of legislation.

ECONOMY

Our present state of prosperity has been greatly promoted by three important causes, one of which is economy, resulting in reduction and reform in national taxation. Another is the elimination of many kinds of waste. The third is a general raising of the standards of efficiency. This combination has brought the perfectly astonishing result of a reduction in the index price of commodities and an increase in the index rate of wages. We have secured a lowering of the cost to produce and a raising of the ability to consume. Prosperity resulting from these causes rests on the securest of all foundations. It gathers strength from its own progress.

In promoting this progress the chief part which the National Government plays lies in the field of economy. Whatever doubts may have been entertained as to the necessity of this policy and the beneficial results which would accrue from it to all the people of the Nation, its wisdom must now be considered thoroughly demonstrated. It may not have appeared to be a novel or perhaps brilliant

conception, but it has turned out to be preeminently sound. It has not failed to work. It has surely brought results. It does not have to be excused as a temporary expedient adopted as the lesser evil to remedy some abuse, it is not a palliative seeking to treat symptoms, but a major operation for the eradication at the source of a large number of social diseases.

Nothing is easier than the expenditure of public money. It does not appear to belong to anybody. The temptation is overwhelming to bestow it on somebody. But the results of extravagance are ruinous. The property of the country, like the freedom of the country, belongs to the people of the country. They have not empowered their Government to take a dollar of it except for a necessary public purpose. But if the Constitution conferred such right, sound economics would forbid it. Nothing is more destructive of the progress of the Nation than Government extravagance. It means an increase in the burden of taxation, dissipation of the returns from enterprise, a decrease in the real value of wages, with ultimate stagnation and decay. The whole theory of our institutions is based on the liberty and independence of the individual. He is dependent on himself for support and therefore entitled to the rewards of his own industry. He is not to be deprived of what he earns that others may be benefited by what they do not earn. What he saves through his private effort is not to be wasted by Government extravagance.

Our national activities have become so vast that it is necessary to scrutinize each item of public expenditure if we are to apply the principle of economy. At the last session we made an immediate increase in the annual budget of more than \$100,000,000 in benefits conferred on the veterans of three wars, public buildings, and river and harbor improvement. Many projects are being broached requiring further large outlays. I am convinced that it would be greatly for the welfare of the country if we avoid at the present session all commitments except those of the most pressing nature. From a reduction of the debt and taxes will accrue a wider benefit to all the people of this country than from embarking on any new enterprise. When our war debt is decreased we shall have resources for expansion. Until that is accomplished we should confine ourselves to expenditures of the most urgent necessity.

The Department of Commerce has performed a most important function in making plans and securing support of all kinds of national enterprise for the elimination of waste. Efficiency has been greatly promoted through good management and the constantly increasing cooperation of the wage earners throughout the whole realm of private business. It is my opinion that this whole development has been predicated on the foundation of a protective tariff.

TAX REDUCTION

As a result of economy of administration by the Executive and of appropriation by the Congress, the end of this fiscal year will leave a surplus in the Treasury estimated at \$383,000,000. Unless otherwise ordered, such surplus is used for the retirement of the war debt. A bond which can be retired to-day for 100 cents will cost the people 104¼ cents to retire a year from now. While I favor a speedy reduction of the debt as already required by law and in accordance with the promises made to the holders of our Liberty bonds when they were issued, there is no reason why a balanced portion of surplus revenue should not be applied to a reduction of taxation. It can not be repeated too often that the enormous revenues of this Nation could not be collected without becoming a charge on all the people whether or not they directly pay taxes. Everyone who is paying for the bare necessities of food and shelter and clothing, without considering the better things of life, is indirectly paying a national tax. The nearly 20,000,000 owners of securities, the additional scores of millions of holders of insurance policies and depositors in savings banks, are all paying a national tax. Millions of individuals and corporations are making a direct contribution to the National Treasury which runs from 1½ to 25 per cent of their income, besides a number of special requirements, like automobile and admission taxes. Whenever the state of the Treasury will permit, I believe in a reduction of taxation. I think the taxpayers are entitled to it. But I am not advocating tax reduction merely for the benefit of the taxpayer; I am advocating it for the benefit of the country.

If it appeared feasible, I should welcome permanent tax reduction at this time. The estimated surplus, however, for June 30, 1928, is not much larger than is required in a going business of nearly \$4,000,000,000. We have had but a few months' experience under the present revenue act and shall need to know what is developed by the returns of income produced under it, which are not required to be made until about the time this session terminates, and what the economic probabilities of the country are in the latter part of 1927, before we can reach any justifiable conclusion as to permanent tax reduction. Moreover the present surplus results from many nonrecurrent items. Meantime, it is possible to grant some real relief by a simple measure making reductions in the payments which accrue on the 15th of March and June, 1927. I am very strongly of the conviction that this is so much a purely business matter that it ought not to be dealt with in a partisan spirit. The Congress has already set the notable example of treating tax problems without much reference to party, which might well be continued. What I desire to advocate most earnestly is relief for the country from unnecessary tax burdens.

We can not secure that if we stop to engage in a partisan controversy. As I do not think any change in the special taxes, or any permanent reduction is practical, I therefore urge both parties of the House Ways and Means Committee to agree on a bill granting the temporary relief which I have indicated. Such a reduction would directly affect millions of taxpayers, release large sums for investment in new enterprise, stimulating industrial production and agricultural consumption, and indirectly benefiting every family in the whole country. These are my convictions stated with full knowledge that it is for the Congress to decide whether they judge it best to make such a reduction or leave the surplus for the present year to be applied to retirement of the war debt. That also is eventually tax reduction.

PROTECTIVE TARIFF

It is estimated that customs receipts for the present fiscal year will exceed \$615,000,000, the largest which were ever secured from that source. The value of our imports for the last fiscal year was \$4,466,000,000, an increase of more than 71 per cent since the present tariff law went into effect. Of these imports about 65 per cent, or, roughly, \$2,900,000,000, came in free of duty, which means that the United States affords a duty-free market to other countries almost equal in value to the total imports of Germany and greatly exceeding the total imports of France. We have admitted a greater volume of free imports than any other country except England.

We are, therefore, levying duties on about \$1,550,000,000 of imports. Nearly half of this, or \$700,000,000, is subject to duties for the protection of agriculture and have their origin in countries other than Europe. They substantially increased the prices received by our farmers for their produce. About \$300,000,000 more is represented by luxuries such as costly rugs, furs, precious stones, etc. This leaves only about \$550,000,000 of our imports under a schedule of duties which is in general under consideration when there is discussion of lowering the tariff. While the duties on this small portion, representing only about 12 per cent of our imports, undoubtedly represent the difference between a fair degree of prosperity or marked depression to many of our industries and the difference between good pay and steady work or wide unemployment to many of our wage earners, it is impossible to conceive how other countries or our own importers could be greatly benefited if these duties are reduced. Those who are starting an agitation for a reduction of tariff duties, partly at least for the benefit of those to whom money has been lent abroad, ought to know that there does not seem to be a very large field within the area of our imports in which probable reductions would be advantageous to foreign goods. Those who wish to benefit foreign producers are much more likely to secure

that result by continuing the present enormous purchasing power which comes from our prosperity that has increased our imports over 71 per cent in four years than from any advantages that are likely to accrue from a general tariff reduction.

AGRICULTURE

The important place which agriculture holds in the economic and social life of the Nation can not be overestimated. The National Government is justified in putting forth every effort to make the open country a desirable place to live. No condition meets this requirement which fails to supply a fair return on labor expended and capital invested. While some localities and some particular crops furnish exceptions, in general agriculture is continuing to make progress in recovering from the depression of 1921 and 1922. Animal products and food products are in a more encouraging position, while cotton, due to the high prices of past years supplemented by ideal weather conditions, has been stimulated to a point of temporary overproduction. Acting on the request of the cotton-growing interests, I appointed a committee to assist in carrying out their plans. As a result of this cooperation sufficient funds have been pledged to finance the storage and carrying of 4,000,000 bales of cotton. Whether those who own the cotton are willing to put a part of their stock into this plan depends on themselves. The Federal Government has cooperated in providing ample facilities. No method of meeting the situation would be adequate which does not contemplate a reduction of about one-third in the acreage for the coming year. The responsibility for making the plan effective lies with those who own and finance cotton and cotton lands.

The Department of Agriculture estimates the net income of agriculture for the year 1920-21 at only \$375,000,000; for 1924-25, \$2,656,000,000; for 1925-26, \$2,757,000,000. This increase has been brought about in part by the method already referred to, of Federal tax reduction, the elimination of waste, and increased efficiency in industry. The wide gap that existed a few years ago between the index price of agricultural products and the index price of other products has been gradually closing up, though the recent depression in cotton has somewhat enlarged it. Agriculture had on the whole been going higher while industry had been going lower. Industrial and commercial activities, being carried on for the most part by corporations, are taxed at a much higher rate than farming, which is carried on by individuals. This will inevitably make industrial commodity costs high while war taxation lasts. It is because of this circumstance that national tax reduction has a very large indirect benefit upon the farmer, though it can not relieve him from the very

great burden of the local taxes which he pays directly. We have practically relieved the farmer of any Federal income tax.

There is agreement on all sides that some portions of our agricultural industry have lagged behind other industries in recovery from the war and that further improvement in methods of marketing of agricultural products is most desirable. There is belief also that the Federal Government can further contribute to these ends beyond the many helpful measures taken during the last five years through the different acts of Congress for advancing the interests of the farmers.

The packers and stockyards act,
 Establishing of the intermediate credit banks for agricultural purposes,
 The Purnell Act for agricultural research,
 The Capper-Volstead Cooperative Marketing Act,
 The cooperative marketing act of 1926,
 Amendments to the warehousing act,
 The enlargement of the activities of the Department of Agriculture,
 Enlargement of the scope of loans by the Farm Loan Board,
 The tariff on agricultural products,
 The large Federal expenditure in improvement of waterways and highways,
 The reduction of Federal taxes,

in all comprise a great series of governmental actions in the advancement of the special interest of agriculture.

In determination of what further measures may be undertaken it seems to me there are certain pitfalls which must be avoided and our test in avoiding them should be to avoid disaster to the farmer himself.

Acting upon my recommendation, the Congress has ordered the Interstate Commerce Commission to investigate the freight-rate structure, directing that such changes shall be made in freight rates as will promote freedom of movement of agricultural products. Railroad consolidation which I am advocating would also result in a situation where rates could be made more advantageous for farm produce, as has recently been done in the revision of rates on fertilizers in the South. Additional benefit will accrue from the development of our inland waterways. The Mississippi River system carries a commerce of over 50,000,000 tons at a saving of nearly \$18,000,000 annually. The Inland Waterways Corporation operates boats on 2,500 miles of navigable streams and through its relation with 165 railroads carries freight into and out of 45 States of the Union. During the past six months it has handled over 1,000,000 bushels of grain monthly and by its lower freight rates has raised the price of such grain to the farmer probably 2½ cents to 3 cents

a bushel. The highway system on which the Federal Government expends about \$85,000,000 a year is of vital importance to the rural regions.

The advantages to be derived from a more comprehensive and less expensive system of transportation for agriculture ought to be supplemented by provision for an adequate supply of fertilizer at a lower cost than it is at present obtainable. This advantage we are attempting to secure by the proposed development at Muscle Shoals, and there are promising experiments being made in synthetic chemistry for the production of nitrates.

A survey should be made of the relation of Government grazing lands to the livestock industry. Additional legislation is desirable more definitely to establish the place of grazing in the administration of the national forests, properly subordinated to their functions of producing timber and conserving the water supply. Over 180,000,000 acres of grazing lands are still pastured as commons in the public domain with little or no regulation. This has made their use so uncertain that it has contributed greatly to the instability of the livestock industry. Very little of this land is suited to settlement or private ownership. Some plan ought to be adopted for its use in grazing, corresponding broadly to that already successfully applied to the national forests.

The development of sound and strong cooperative associations is of fundamental importance to our agriculture. It is encouraging to note, therefore, that a vigorous and healthy growth in the cooperative movement is continuing. Cooperative associations reporting to the Department of Agriculture at the end of 1925 had on their membership rolls a total of 2,700,000 producers. Their total business in 1925 amounted to approximately \$2,400,000,000, compared with \$635,800,000 in 1915. Legislative action to assist cooperative associations and supplement their efforts was passed at the last session of Congress. Important credit measures were also provided by Congress in 1923 which have been of inestimable value to the cooperative associations. Although the Federal credit agencies have served agriculture well, I think it may be possible to broaden and strengthen the service of these institutions.

Attention is again directed to the surplus problem of agriculture by the present cotton situation. Surpluses often affect prices of various farm commodities in a disastrous manner, and the problem urgently demands a solution. Discussions both in and out of Congress during the past few years have given us a better understanding of the subject, and it is my hope that out of the various proposals made the basis will be found for a sound and effective solution upon which agreement can be reached. In my opinion cooperative marketing associations will be important aids to the ultimate solution of the problem. It

may well be, however, that additional measures will be needed to supplement their efforts. I believe all will agree that such measures should not conflict with the best interests of the cooperatives, but rather assist and strengthen them. In working out this problem to any sound conclusion it is necessary to avoid putting the Government into the business of production or marketing or attempting to enact legislation for the purpose of price fixing. The farmer does not favor any attempted remedies that partake of these elements. He has a sincere and candid desire for assistance. If matched by an equally sincere and candid consideration of the different remedies proposed, a sound measure of relief ought to result. It is unfortunate that no general agreement has been reached by the various agricultural interests upon any of the proposed remedies. Out of the discussion of various proposals which can be had before the Committees of Agriculture some measure ought to be perfected which would be generally satisfactory.

Due to the emergency arising from a heavy tropical storm in southern Florida, I authorized the Secretary of Agriculture to use certain funds in anticipation of legislation to enable the farmers in that region to plant their crops. The department will present a bill ratifying the loans which were made for this purpose.

Federal legislation has been adopted authorizing the cooperation of the Government with States and private owners in the protection of forest lands from fire. This preventive measure is of such great importance that I have recommended for it an increased appropriation.

Another preventive measure of great economic and sanitary importance is the eradication of tuberculosis in cattle. Active work is now in progress in one-fourth of the counties of the United States to secure this result. Over 12,000,000 cattle have been under treatment, and the average degree of infection has fallen from 4.9 per cent to 2.8 per cent. The Federal Government is making substantial expenditures for this purpose.

Serious damage is threatened to the corn crop by the European corn borer. Since 1917 it has spread from eastern New England westward into Indiana and now covers about 100,000 square miles. It is one of the most formidable pests because it spreads rapidly and is exceedingly difficult of control. It has assumed a menace that is of national magnitude and warrants the Federal Government in extending its cooperation to the State and local agencies which are attempting to prevent its further spread and secure its eradication.

The whole question of agriculture needs most careful consideration. In the past few years the Government has given this subject more attention than any other and has held more consultations in relation to it than on any other subject. While the Government is not to be blamed for failure to perform the impossible, the agri-

cultural regions are entitled to know that they have its constant solicitude and sympathy. Many of the farmers are burdened with debts and taxes which they are unable to carry. We are expending in this country many millions of dollars each year to increase farm production. We ought now to put more emphasis on the question of farm marketing. If a sound solution of a permanent nature can be found for this problem, the Congress ought not to hesitate to adopt it.

DEVELOPMENT OF WATER RESOURCES

In previous messages I have referred to the national importance of the proper development of our water resources. The great projects of extension of the Mississippi system, the protection and development of the lower Colorado River, are before Congress, and I have previously commented upon them. I favor the necessary legislation to expedite these projects. Engineering studies are being made for connecting the Great Lakes with the North Atlantic, either through an all-American canal or by way of the St. Lawrence River. These reports will undoubtedly be before the Congress during its present session. It is unnecessary to dwell upon the great importance of such a waterway not only to our mid-continental basin but to the commerce and development of practically the whole Nation. Our river and harbor improvement should be continued in accordance with the present policy. Expenditure of this character is compatible with economy; it is in the nature of capital investment. Work should proceed on the basic trunk lines if this work is to be a success. If the country will be content to be moderate and patient and permit improvements to be made where they will do the greatest general good, rather than insisting on expenditures at this time on secondary projects, our internal waterways can be made a success. If proposed legislation results in a gross manifestation of local jealousies and selfishness, this program can not be carried out. Ultimately we can take care of extensions, but our first effort should be confined to the main arteries.

Our inland commerce has been put to great inconvenience and expense by reason of the lowering of the water level of the Great Lakes. This is an international problem on which competent engineers are making reports. Out of their study it is expected that a feasible method will be developed for raising the level to provide relief for our commerce and supply water for drainage. Whenever a practical plan is presented it ought to be speedily adopted.

RECLAMATION

It is increasingly evident that the Federal Government must in the future take a leading part in the impounding of water for conserva-

tion with incidental power for the development of the irrigable lands of the arid region. The unused waters of the West are found mainly in large rivers. Works to store and distribute these have such magnitude and cost that they are not attractive to private enterprise. Water is the irreplaceable natural resource. Its precipitation can not be increased. Its storage on the higher reaches of streams, to meet growing needs, to be used repeatedly as it flows toward the seas, is a practical and prudent business policy.

The United States promises to follow the course of older irrigation countries, where recent important irrigation developments have been carried out as national undertakings. It is gratifying, therefore, that conditions on Federal reclamation projects have become satisfactory. The gross value of crops grown with water from project works increased from \$110,000,000 in 1924 to \$131,000,000 in 1925. The adjustments made last year by Congress relieved irrigators from paying construction costs on unprofitable land, and by so doing inspired new hope and confidence in ability to meet the payments required. Construction payments by water users last year were the largest in the history of the bureau.

The anticipated reclamation fund will be fully absorbed for a number of years in the completion of old projects and the construction of projects inaugurated in the past three years. We should, however, continue to investigate and study the possibilities of a carefully planned development of promising projects, logically of governmental concern because of their physical magnitude, immense cost, and the interstate and international problems involved. Only in this way may we be fully prepared to meet intelligently the needs of our fast-growing population in the years to come.

TRANSPORTATION

It would be difficult to conceive of any modern activity which contributes more to the necessities and conveniences of life than transportation. Without it our present agricultural production and practically all of our commerce would be completely prostrated. One of the large contributing causes to the present highly satisfactory state of our economic condition is the prompt and dependable service, surpassing all our previous records, rendered by the railroads. This power has been fostered by the spirit of cooperation between Federal and State regulatory commissions. To render this service more efficient and effective and to promote a more scientific regulation, the process of valuing railroad properties should be simplified and the primary valuations should be completed as rapidly as possible. The problem of rate reduction would be much simplified by a process of railroad consolidations. This principle

has already been adopted as Federal law. Experience has shown that a more effective method must be provided. Studies have already been made and legislation introduced seeking to promote this end. It would be of great advantage if it could be taken up at once and speedily enacted. The railroad systems of the country and the convenience of all the people are waiting on this important decision.

MERCHANT MARINE

It is axiomatic that no agricultural and industrial country can get the full benefit of its own advantages without a merchant marine. We have been proceeding under the act of Congress that contemplates the establishment of trade routes to be ultimately transferred to private ownership and operation. Due to temporary conditions abroad and at home we have a large demand just now for certain types of freight vessels. Some suggestion has been made for new construction. I do not feel that we are yet warranted in entering that field. Such ships as we might build could not be sold after they are launched for anywhere near what they would cost. We have expended over \$250,000,000 out of the public Treasury in recent years to make up the losses of operation, not counting depreciation or any cost whatever of our capital investment. The great need of our merchant marine is not for more ships but for more freight. Our merchants are altogether too indifferent about using American ships for the transportation of goods which they send abroad or bring home. Some of our vessels necessarily need repairs, which should be made. I do not believe that the operation of our fleet is as economical and efficient as it could be made if placed under a single responsible head, leaving the Shipping Board free to deal with general matters of policy and regulation.

RADIO LEGISLATION

The Department of Commerce has for some years urgently presented the necessity for further legislation in order to protect radio listeners from interference between broadcasting stations and to carry out other regulatory functions. Both branches of Congress at the last session passed enactments intended to effect such regulation, but the two bills yet remain to be brought into agreement and final passage.

Due to decisions of the courts, the authority of the department under the law of 1912 has broken down; many more stations have been operating than can be accommodated within the limited number of wave lengths available; further stations are in course of construction; many stations have departed from the scheme of allocation set down by the department, and the whole service of this most

important public function has drifted into such chaos as seems likely, if not remedied, to destroy its great value. I most urgently recommend that this legislation should be speedily enacted.

I do not believe it is desirable to set up further independent agencies in the Government. Rather I believe it advisable to entrust the important functions of deciding who shall exercise the privilege of radio transmission and under what conditions, the assigning of wave lengths and determination of power, to a board to be assembled whenever action on such questions becomes necessary. There should be right of appeal to the courts from the decisions of such board. The administration of the decisions of the board and the other features of regulation and promotion of radio in the public interest, together with scientific research, should remain in the Department of Commerce. Such an arrangement makes for more expert, more efficient, and more economical administration than an independent agency or board, whose duties, after initial stages, require but little attention, in which administrative functions are confused with semijudicial functions and from which of necessity there must be greatly increased personnel and expenditure.

THE WAGE EARNER

The great body of our people are made up of wage earners. Several hundred thousands of them are on the pay rolls of the United States Government. Their condition very largely is fixed by legislation. We have recently provided increases in compensation under a method of reclassification and given them the advantage of a liberal retirement system as a support for their declining years. Most of them are under the merit system, which is a guaranty of their intelligence, and the efficiency of their service is a demonstration of their loyalty. The Federal Government should continue to set a good example for all other employers.

In the industries the condition of the wage earner has steadily improved. The 12-hour day is almost entirely unknown. Skilled labor is well compensated. But there are unfortunately a multitude of workers who have not yet come to share in the general prosperity of the Nation. Both the public authorities and private enterprise should be solicitous to advance the welfare of this class. The Federal Government has been seeking to secure this end through a protective tariff, through restrictive immigration, through requiring safety devices for the prevention of accidents, through the granting of workman's compensation, through civilian vocational rehabilitation and education, through employment information bureaus, and through such humanitarian relief as was provided in the maternity and infancy legislation. It is a satisfaction to report that a more general condition of contentment exists among wage earners and the country is

more free from labor disputes than it has been for years. While restrictive immigration has been adopted in part for the benefit of the wage earner, and in its entirety for the benefit of the country, it ought not to cause a needless separation of families and dependents from their natural source of support contrary to the dictates of humanity.

BITUMINOUS COAL

No progress appears to have been made within large areas of the bituminous coal industry toward creation of voluntary machinery by which greater assurance can be given to the public of peaceful adjustment of wage difficulties such as has been accomplished in the anthracite industry. This bituminous industry is one of primary necessity and bears a great responsibility to the Nation for continuity of supplies. As the wage agreements in the unionized section of the industry expire on April 1 next, and as conflicts may result which may imperil public interest, and have for many years often called for action of the Executive in protection of the public, I again recommend the passage of such legislation as will assist the Executive in dealing with such emergencies through a special temporary board of conciliation and mediation and through administrative agencies for the purpose of distribution of coal and protection of the consumers of coal from profiteering. At present the Executive is not only without authority to act but is actually prohibited by law from making any expenditure to meet the emergency of a coal famine.

JUDICIARY

The Federal courts hold a high position in the administration of justice in the world. While individual judicial officers have sometimes been subjected to just criticism, the courts as a whole have maintained an exceedingly high standard. The Congress may well consider the question of supplying fair salaries and conferring upon the Supreme Court the same rule-making power on the law side of the district courts that they have always possessed on the equity side. A bill is also pending providing for retirement after a certain number of years of service, although they have not been consecutive, which should have your favorable consideration. These faithful servants of the Government are about the last that remain to be provided for in the postwar readjustments.

BANKING

There has been pending in Congress for nearly three years banking legislation to clarify the national bank act and reasonably to increase the powers of the national banks. I believe that within the limitation of sound banking principles Congress should now and

for the future place the national banks upon a fair equality with their competitors, the State banks, and I trust that means may be found so that the differences on branch-banking legislation between the Senate and the House of Representatives may be settled along sound lines and the legislation promptly enacted.

It would be difficult to overestimate the service which the Federal reserve system has already rendered to the country. It is necessary only to recall the chaotic condition of our banking organization at the time the Federal reserve system was put into operation. The old system consisted of a vast number of independent banking units, with scattered bank reserves which never could be mobilized in times of greatest need. In spite of vast banking resources, there was no coordination of reserves or any credit elasticity. As a consequence, a strain was felt even during crop-moving periods and when it was necessary to meet other seasonal and regularly recurring needs.

The Federal reserve system is not a panacea for all economic or financial ills. It can not prevent depression in certain industries which are experiencing overexpansion of production or contraction of their markets. Its business is to furnish adequate credit and currency facilities. This it has succeeded in doing, both during the war and in the more difficult period of deflation and readjustment which followed. It enables us to look to the future with confidence and to make plans far ahead, based on the belief that the Federal reserve system will exercise a steadying influence on credit conditions and thereby prevent any sudden or severe reactions from the period of prosperity which we are now enjoying. In order that these plans may go forward, action should be taken at the present session on the question of renewing the banks' charters and thereby insuring a continuation of the policies and present usefulness of the Federal reserve system.

FEDERAL REGULATION

I am in favor of reducing, rather than expanding, Government bureaus which seek to regulate and control the business activities of the people. Everyone is aware that abuses exist and will exist so long as we are limited by human imperfections. Unfortunately, human nature can not be changed by an act of the legislature. When practically the sole remedy for many evils lies in the necessity of the people looking out for themselves and reforming their own abuses, they will find that they are relying on a false security if the Government assumes to hold out the promise that it is looking out for them and providing reforms for them. This principle is pre-eminently applicable to the National Government. It is too much assumed that because an abuse exists it is the business of the National

Government to provide a remedy. The presumption should be that it is the business of local and State governments. Such national action results in encroaching upon the salutary independence of the States and by undertaking to supersede their natural authority fills the land with bureaus and departments which are undertaking to do what it is impossible for them to accomplish and brings our whole system of government into disrespect and disfavor. We ought to maintain high standards. We ought to punish wrongdoing. Society has not only the privilege but the absolute duty of protecting itself and its individuals. But we can not accomplish this end by adopting a wrong method. Permanent success lies in local, rather than national action. Unless the locality rises to its own requirements, there is an almost irresistible impulse for the National Government to intervene. The States and the Nation should both realize that such action is to be adopted only as a last resort.

THE NEGRO

The social well-being of our country requires our constant effort for the amelioration of race prejudice and the extension to all elements of equal opportunity and equal protection under the laws which are guaranteed by the Constitution. The Federal Government especially is charged with this obligation in behalf of the colored people of the Nation. Not only their remarkable progress, their devotion and their loyalty, but our duty to ourselves under our claim that we are an enlightened people requires us to use all our power to protect them from the crime of lynching. Although violence of this kind has very much decreased, while any of it remains we can not justify neglecting to make every effort to eradicate it by law.

The education of the colored race under Government encouragement is proceeding successfully and ought to have continuing support. An increasing need exists for properly educated and trained medical skill to be devoted to the service of this race.

INSULAR POSSESSIONS

This Government holds in sacred trusteeship islands which it has acquired in the East and West Indies. In all of them the people are more prosperous than at any previous time. A system of good roads, education, and general development is in progress. The people are better governed than ever before and generally content.

In the Philippine Islands Maj. Gen. Leonard Wood has been Governor General for five years and has administered his office with tact and ability greatly to the success of the Filipino people. These are a proud and sensitive race, who are making such progress with our

cooperation that we can view the results of this experiment with great satisfaction. As we are attempting to assist this race toward self-government, we should look upon their wishes with great respect, granting their requests immediately when they are right, yet maintaining a frank firmness in refusing when they are wrong. We shall measure their progress in no small part by their acceptance of the terms of the organic law under which the islands are governed and their faithful observance of its provisions. Need exists for clarifying the duties of the auditor and declaring them to be what everyone had supposed they were. We have placed our own expenditures under the supervision of the Comptroller General. It is not likely that the expenditures in the Philippine Islands need less supervision than our own. The Governor General is hampered in his selection of subordinates by the necessity of securing a confirmation, which has oftentimes driven him to the expediency of using Army officers in work for which civilian experts would be much better fitted. Means should be provided for this and such other purposes as he may require out of the revenue which this Government now turns back to the Philippine treasury.

In order that these possessions might suffer no seeming neglect, I have recently sent Col. Carmi A. Thompson to the islands to make a survey in cooperation with the Governor General to suggest what might be done to improve conditions. Later, I may make a more extended report including recommendations. The economic development of the islands is very important. They ought not to be turned back to the people until they are both politically fitted for self-government and economically independent. Large areas are adaptable to the production of rubber. No one contemplates any time in the future either under the present or a more independent form of government when we should not assume some responsibility for their defense. For their economic advantage, for the employment of their people, and as a contribution to our power of defense which could not be carried on without rubber, I believe this industry should be encouraged. It is especially adapted to the Filipino people themselves, who might cultivate it individually on a small acreage. It could be carried on extensively by American capital in a way to furnish employment at good wages. I am opposed to the promotion of any policy that does not provide for absolute freedom on the part of the wage earners and do not think we should undertake to give power for large holdings of land in the islands against the opposition of the people of the locality. Any development of the islands must be solely with the first object of benefiting the people of the islands. At an early day, these possessions should be taken out from under all military control and administered entirely on the civil side of government.

NATIONAL DEFENSE

Our policy of national defense is not one of making war, but of insuring peace. The land and sea force of America, both in its domestic and foreign implications, is distinctly a peace force. It is an arm of the police power to guarantee order and the execution of the law at home and security to our citizens abroad. No self-respecting nation would neglect to provide an army and navy proportionate to its population, the extent of its territory, and the dignity of the place which it occupies in the world. When it is considered that no navy in the world, with one exception, approaches ours and none surpasses it, that our Regular Army of about 115,000 men is the equal of any other like number of troops, that our entire permanent and reserve land and sea force trained and training consists of a personnel of about 610,000, and that our annual appropriations are about \$680,000,000 a year, expended under the direction of an exceedingly competent staff, it can not be said that our country is neglecting its national defense. It is true that a cult of disparagement exists, but that candid examination made by the Congress through its various committees has always reassured the country and demonstrated that it is maintaining the most adequate defensive forces in these present years that it has ever supported in time of peace.

This general policy should be kept in effect. Here and there temporary changes may be made in personnel to meet requirements in other directions. Attention should be given to submarines, cruisers, and air forces. Particular points may need strengthening, but as a whole our military power is sufficient.

The one weak place in the whole line is our still stupendous war debt. In any modern campaign the dollars are the shock troops. With a depleted treasury in the rear, no army can maintain itself in the field. A country loaded with debt is a country devoid of the first line of defense. Economy is the handmaid of preparedness. If we wish to be able to defend ourselves to the full extent of our power in the future, we shall discharge as soon as possible the financial burden of the last war. Otherwise we would face a crisis with a part of our capital resources already expended.

The amount and kind of our military equipment is preeminently a question for the decision of the Congress, after giving due consideration to the advice of military experts and the available public revenue. Nothing is more laudable than the cooperation of the agricultural and industrial resources of the country for the purpose of supplying the needs of national defense. In time of peril the people employed in these interests volunteered in a most self-sacrificing way, often at the nominal charge of a dollar a year. But the Army

and Navy are not supported for the benefit of supply concerns; supply concerns are supported for the benefit of the Army and Navy. The distribution of orders on what is needed from different concerns for the purpose of keeping up equipment and organization is perfectly justified, but any attempt to prevail upon the Government to purchase beyond its needs ought not to be tolerated. It is eminently fair that those who deal with the Government should do so at a reasonable profit. However, public money is expended not that some one may profit by it, but in order to serve a public purpose.

While our policy of national defense will proceed in order that we may be independent and self-sufficient, I am opposed to engaging in any attempt at competitive armaments. No matter how much or how little some other country may feel constrained to provide, we can well afford to set the example, not of being dictated to by others, but of adopting our own standards. We are strong enough to pursue that method, which will be a most wholesome model for the rest of the world. We are eminently peaceful, but we are by no means weak. While we submit our differences with others, not to the adjudication of force, but of reason, it is not because we are unable to defend our rights. While we are doing our best to eliminate all resort to war for the purpose of settling disputes, we can not but remember that the peace we now enjoy had to be won by the sword and that if the rights of our country are to be defended we can not rely for that purpose upon anyone but ourselves. We can not shirk the responsibility, which is the first requisite of all government, of preserving its own integrity and maintaining the rights of its own citizens. It is only in accordance with these principles that we can establish any lasting foundations for an honorable and permanent peace.

It is for these reasons that our country, like any other country, proposes to provide itself with an army and navy supported by a merchant marine. Yet these are not for competition with any other power. For years we have besought nations to disarm. We have recently expressed our willingness at Geneva to enter into treaties for the limitation of all types of warships according to the ratio adopted at the Washington Conference. This offer is still pending. While we are and shall continue to be armed it is not as a menace, but rather a common assurance of tranquillity to all the peace-loving people of the world. For us to do any less would be to disregard our obligations, evade our responsibilities, and jeopardize our national honor.

VETERANS

This country, not only because it is bound by honor but because of the satisfaction derived from it, has always lavished its bounty

upon its veterans. For years a service pension has been bestowed upon the Grand Army on reaching a certain age. Like provision has been made for the survivors of the Spanish War. A liberal future compensation has been granted to all the veterans of the World War. But it is in the case of the disabled and the dependents that the Government exhibits its greatest solicitude. This work is being well administered by the Veterans' Bureau. The main unfinished feature is that of hospitalization. This requirement is being rapidly met. Various veteran bodies will present to you recommendations which should have your careful consideration. At the last session we increased our annual expenditure for pensions and relief on account of the veterans of three wars. While I approve of proper relief for all suffering, I do not favor any further extension of our pension system at this time.

ALIEN PROPERTY

We still have in the possession of the Government the alien property. It has always been the policy of America to hold that private enemy property should not be confiscated in time of war. This principle we have scrupulously observed. As this property is security for the claims of our citizens and our Government, we can not relinquish it without adequate provision for their reimbursement. Legislation for the return of this property, accompanied by suitable provisions for the liquidation of the claims of our citizens and our Treasury, should be adopted. If our Government releases to foreigners the security which it holds for Americans, it must at the same time provide satisfactory safeguards for meeting American claims.

PROHIBITION

The duly authorized public authorities of this country have made prohibition the law of the land. Acting under the Constitution, the Congress and the legislatures of practically all the States have adopted legislation for its enforcement. Some abuses have arisen which require reform. Under the law the National Government has entrusted to the Treasury Department the especial duty of regulation and enforcement. Such supplementary legislation as it requires to meet existing conditions should be carefully and speedily enacted. Failure to support the Constitution and observe the law ought not to be tolerated by public opinion. Especially those in public places, who have taken their oath to support the Constitution, ought to be most scrupulous in its observance. Officers of the Department of Justice throughout the country should be vigilant in enforcing the law, but local authorities, which had always been mainly responsible for the enforcement of law in relation to intoxicating liquor, ought

not to seek evasion by attempting to shift the burden wholly upon the Federal agencies. Under the Constitution the States are jointly charged with the Nation in providing for the enforcement of the prohibition amendment. Some people do not like the amendment, some do not like other parts of the Constitution, some do not like any of it. Those who entertain such sentiments have a perfect right to seek through legal methods for a change. But for any of our inhabitants to observe such parts of the Constitution as they like, while disregarding others, is a doctrine that would break down all protection of life and property and destroy the American system of ordered liberty.

FOREIGN RELATIONS

The foreign policy of this Government is well known. It is one of peace based on that mutual respect that arises from mutual regard for international rights and the discharge of international obligations. It is our purpose to promote understanding and good will between ourselves and all other people. The American people are altogether lacking in an appreciation of the tremendous good fortune that surrounds their international position. We have no traditional enemies. We are not embarrassed over any disputed territory. We have no possessions that are coveted by others; they have none that are coveted by us. Our borders are unfortified. We fear no one; no one fears us. All the world knows that the whole extent of our influence is against war and in favor of peace, against the use of force and in favor of negotiation, arbitration, and adjudication as a method of adjusting international differences. We look with disfavor upon all aggressive warfare. We are strong enough so that no one can charge us with weakness if we are slow to anger. Our place is sufficiently established so that we need not be sensitive over trifles. Our resources are large enough so that we can afford to be generous. At the same time we are a nation among nations and recognize a responsibility not only to ourselves, but in the interests of a stable and enlightened civilization, to protect and defend the international rights of our Government and our citizens.

It is because of our historical detachment and the generations of comparative indifference toward us by other nations that our public is inclined to consider altogether too seriously the reports that we are criticized abroad. We never had a larger foreign trade than at the present time. Our good offices were never more sought and the necessity for our assistance and cooperation was never more universally declared in any time of peace. We know that the sentiments which we entertain toward all other nations are those of the most sincere friendship and good will and of an unbounded desire to help, which we are perfectly willing to have judged by their fruits. In our efforts to adjust our international obligations we have met with a

response which, when everything is considered, I believe history will record as a most remarkable and gratifying demonstration of the sanctity with which civilized nations undertake to discharge their mutual obligations. Debt settlements have been negotiated with practically all of those who owed us and all finally adjusted but two, which are in process of ratification. When we consider the real sacrifice that will be necessary on the part of other nations, considering all their circumstances, to meet their agreed payments, we ought to hold them in increased admiration and respect. It is true that we have extended to them very generous treatment, but it is also true that they have agreed to repay us all that we loaned to them and some interest.

A special conference on the Chinese customs tariff provided for by the treaty between the nine powers relating to the Chinese customs tariff signed at Washington on February 6, 1922, was called by the Chinese Government to meet at Peking on October 26, 1925. We participated in this conference through fully empowered delegates and, with good will, endeavored to cooperate with the other participating powers with a view to putting into effect promises made to China at the Washington conference, and considering any reasonable proposal that might be made by the Chinese Government for the revision of the treaties on the subject of China's tariff. With these aims in view the American delegation at the outset of the conference proposed to put into effect the surtaxes provided for by the Washington treaty and to proceed immediately to the negotiation of a treaty, which, among other things, was to make provision for the abolition of taxes collected on goods in transit, remove the tariff restrictions in existing treaties, and put into effect the national tariff law of China.

Early in April of the present year the central Chinese Government was ousted from power by opposing warring factions. It became impossible under the circumstances to continue the negotiations. Finally, on July 3, the delegates of the foreign powers, including those of the United States, issued a statement expressing their unanimous and earnest desire to proceed with the work of the conference at the earliest possible moment when the delegates of the Chinese Government are in a position to resume discussions with the foreign delegates of the problems before the conference. We are prepared to resume the negotiations thus interrupted whenever a Government representing the Chinese people and acting on their behalf presents itself. The fact that constant warfare between contending Chinese factions has rendered it impossible to bring these negotiations to a successful conclusion is a matter of deep regret. Throughout these conflicts we have maintained a position of the most careful neutrality. Our naval vessels in Asiatic waters, pursuant to treaty rights, have been used only for the protection of American citizens.

Silas H. Strawn, Esq., was sent to China as American commissioner to cooperate with commissioners of the other powers in the establishment of a commission to inquire into the present practice of extraterritorial jurisdiction in China, with a view to reporting to the Governments of the several powers their findings of fact in regard to these matters. The commission commenced its work in January, 1926, and agreed upon a joint report which was signed on September 16, 1926. The commission's report has been received and is being studied with a view to determining our future policy in regard to the question of extraterritorial privileges under treaties between the United States and China.

The Preparatory Commission for the Disarmament Conference met at Geneva on May 18 and its work has been proceeding almost continuously since that date. It would be premature to attempt to form a judgment as to the progress that has been made. The commission has had before it a comprehensive list of questions touching upon all aspects of the question of the limitation of armament. In the commission's discussions many differences of opinion have developed. However, I am hopeful that at least some measure of agreement will be reached as the discussions continue. The American representation on the commission has consistently tried to be helpful, and has kept before it the practical objective to which the commission is working, namely, actual agreements for the limitation of armaments. Our representatives will continue their work in that direction.

One of the most encouraging features of the commission's work thus far has been the agreement in principle among the naval experts of a majority of the powers parties to the Washington treaty limiting naval armament upon methods and standards for the comparison and further limitation of naval armament. It is needless to say that at the proper time I shall be prepared to proceed along practical lines to the conclusion of agreements carrying further the work begun at the Washington Conference in 1921.

DEPARTMENT REPORTS

Many important subjects which it is impossible even to mention in the short space of an annual message you will find fully discussed in the departmental reports. A failure to include them here is not to be taken as indicating any lack of interest, but only a disinclination to state inadequately what has been much better done in other documents.

THE CAPITAL CITY

We are embarking on an ambitious building program for the city of Washington. The Memorial Bridge is under way with all that it holds for use and beauty. New buildings are soon contemplated.

This program should represent the best that exists in the art and science of architecture. Into these structures which must be considered as of a permanent nature ought to go the aspirations of the Nation, its ideals expressed in forms of beauty. If our country wishes to compete with others, let it not be in the support of armaments but in the making of a beautiful capital city. Let it express the soul of America. Whenever an American is at the seat of his Government, however traveled and cultured he may be, he ought to find a city of stately proportion, symmetrically laid out and adorned with the best that there is in architecture, which would arouse his imagination and stir his patriotic pride. In the coming years Washington should be not only the art center of our own country but the art center of the world. Around it should center all that is best in science, in learning, in letters, and in art. These are the results that justify the creation of those national resources with which we have been favored.

AMERICAN IDEALS

America is not and must not be a country without ideals. They are useless if they are only visionary; they are only valuable if they are practical. A nation can not dwell constantly on the mountain tops. It has to be replenished and sustained through the ceaseless toil of the less inspiring valleys. But its face ought always to be turned upward, its vision ought always to be fixed on high.

We need ideals that can be followed in daily life, that can be translated into terms of the home. We can not expect to be relieved from toil, but we do expect to divest it of degrading conditions. Work is honorable; it is entitled to an honorable recompense. We must strive mightily, but having striven there is a defect in our political and social system if we are not in general rewarded with success. To relieve the land of the burdens that came from the war, to release to the individual more of the fruits of his own industry, to increase his earning capacity and decrease his hours of labor, to enlarge the circle of his vision through good roads and better transportation, to place before him the opportunity for education both in science and in art, to leave him free to receive the inspiration of religion, all these are ideals which deliver him from the servitude of the body and exalt him to the service of the soul. Through this emancipation from the things that are material, we broaden our dominion over the things that are spiritual.

LIST OF PAPERS

[Unless otherwise specified, the correspondence is from or to officials in the Department of State.]

GENERAL

PROPOSAL OF THE UNITED STATES TO ADHERE, WITH RESERVATIONS, TO THE PROTOCOL OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

Date and number	Subject	Page
1926 Jan. 27	<p><i>Senate Resolution No. 5, 69th Congress, 1st Session</i></p> <p>Advice and consent to U. S. adherence to protocol of December 16, 1920, and the adjoined statute for the Permanent Court, but not the optional clause for compulsory jurisdiction, subject to certain reservations and understandings, with further stipulation that signature shall not be affixed until signatory powers shall have indicated through exchange of notes their acceptance of the reservations and understandings as a part and condition of U. S. acceptance of protocol.</p>	1
Undated	<p><i>Memorandum by the Chief of the Division of Western European Affairs</i></p> <p>Conversation between the Secretary of State, Senator Lenroot, Senator Pepper, and Mr. Castle, February 5, 1926, in which it was decided to notify World Court resolution direct to signatory powers, at the same time notifying League of Nations that this is being done.</p>	2
Feb. 12	<p><i>To the Austrian Minister</i></p> <p>Transmittal of text of Senate resolution, with inquiry as to acceptance of the conditions, reservations, and understandings contained therein as a part and condition of the adherence of the United States to the said protocol and statute.</p> <p>(Sent also to the diplomatic representatives in Washington of Belgium, Bolivia, Brazil, Bulgaria, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Estonia, Finland, France, Great Britain (for Great Britain and the Governments of Australia, Canada, India, New Zealand, and the Union of South Africa), Greece, Haiti, Hungary, Italy, Japan, Latvia, Lithuania, Netherlands, Norway, Panama, Paraguay, Persia, Poland, Portugal, Rumania, Salvador, Kingdom of the Serbs, Croats and Slovenes, Siam, Spain, Sweden, Switzerland, Uruguay, and Venezuela.)</p>	3
Feb. 12 (25)	<p><i>To the Minister in Albania</i></p> <p>Instructions to address to Albanian Minister of Foreign Affairs a note of the same text as that sent to the Austrian Minister.</p> <p>(The same instruction, <i>mutatis mutandis</i>, to the Chargé in Liberia.)</p>	4
Feb. 12 (226)	<p><i>To the Ambassador in Belgium</i></p> <p>Note, identical in text with note sent to Austrian Minister, for transmission to Luxemburg.</p>	4

GENERAL

PROPOSAL OF THE UNITED STATES TO ADHERE, WITH RESERVATIONS, TO THE
PROTOCOL OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE—Continued

Date and number	Subject	Page
1926 Feb. 15	<p><i>From the Latvian Minister</i> Acknowledgment of U. S. note of February 12, with promise to forward Latvian views as soon as received. (Footnote: Similar acknowledgments received through the representatives in Washington of Bolivia, China, Colombia, Haiti, Lithuania, Panama, Paraguay, Salvador, and Venezuela; no replies from Bulgaria, Canada, and Chile. Information from Brazilian Ambassador, February 24, 1926, that written acceptance would be sent, but no further communication from Brazil appears to have been received.)</p>	5
Mar. 2 (388)	<p><i>To the Minister in Switzerland</i> Note for Secretary General of League (text printed) setting forth conditions of Senate resolution and stating that communications have been addressed to signatory governments.</p>	5
Mar. 17	<p><i>From the Cuban Chargé</i> Cuban acceptance of conditions, reservations, and understandings as part and condition of adhesion of United States to protocol.</p>	6
Mar. 18	<p><i>From the Consul at Geneva (tel.)</i> Adoption by League Council of British proposal suggesting that replies to U. S. note of February 12 stress difficulty of proceeding by exchange of notes and real need for general agreement, and that Council invite all these governments and United States to appoint a delegate to a meeting to be held at Geneva, September 1, 1926, to discuss reservations and framing of new agreement.</p>	7
[Mar.(?)] 26	<p><i>From the Costa Rican Minister</i> Information that Costa Rica does not believe it a duty to decide concerning acceptance, since her membership in League ceases January 1, 1927.</p>	7
Mar. 31 (792)	<p><i>From the Chargé in Switzerland</i> League communication, March 29 (text printed), inviting United States to send delegate to Geneva for purposes suggested by British; information that invitations have been issued to signatory governments.</p>	8
Apr. 3	<p><i>To the Consul at Geneva (tel.)</i> Instruction to ascertain informally whether state withdrawing from League would automatically lose status as signatory of protocol and, if not, what steps would be necessary for withdrawal from Court.</p>	10
Apr. 6	<p><i>From the Consul at Geneva (tel.)</i> Personal opinion of member of judicial section of Secretariat that withdrawal from League would not automatically deprive member state of status as signatory of protocol; to withdraw, member state might denounce protocol or invite other signatories to release it from its obligations.</p>	10
Apr. 9	<p><i>To the Costa Rican Minister</i> Inquiry whether Costa Rica intends to withdraw acceptance of Court protocol upon withdrawal from League.</p>	11

GENERAL

PROPOSAL OF THE UNITED STATES TO ADHERE, WITH RESERVATIONS, TO THE
PROTOCOL OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE—Continued

Date and number	Subject	Page
1926 Apr. 9 (558)	<i>From the Greek Minister</i> Acceptance of conditions, reservations, and understandings contained in Senate resolution.	11
Apr. 17 (63)	<i>To the Chargé in Switzerland (tel.)</i> Communication for Secretary General of League (text printed) declining invitation to send delegate to Geneva, since Senate resolution specifically provided procedure by which United States can become a party to and signatory of the protocol.	12
Apr. 21	<i>From the Costa Rican Minister</i> Information that Costa Rica has not been and is not now a member of the World Court.	13
May 12 (370)	<i>From the Chargé in Liberia</i> Note of Liberian Government, May 11 (text printed), accepting terms of Senate resolution.	13
May 27 (1333/80)	<i>From the Austrian Minister</i> Austrian reservation of final answer to U. S. note of February 12 pending results of conference at Geneva. (Footnote: Similar notes received from Finland and Persia through their representatives in Washington; no further replies appear to have been received from Austria, Finland, or Persia.)	14
June 28 (840)	<i>From the Greek Minister</i> Information that Greek Government felt it should accept the invitation to participate in conference at Geneva, with a view of facilitating the common action of interested powers.	15
Aug. 4	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Uruguayan Chargé's informal statement accepting in principle U. S. suggestion as to World Court, pending action of Uruguayan Congress upon invitation to take part in Court. (Footnote: No further communication appears to have been received from the Uruguayan Government.)	16
Aug. 20	<i>From the Albanian Minister</i> Approval of U. S. reservations for adherence to Court.	16
Aug. 23 (60)	<i>From the Ambassador in Belgium (tel.)</i> Acceptance by Luxemburg, August 21, of conditions and reserves contained in Senate resolution.	16
Aug. 30	<i>From the Dominican Chargé</i> Information that Dominican delegate in League Assembly is being instructed to vote for U. S. adhesion.	16
Sept. 14 (269)	<i>From the Consul at Geneva</i> First session of Geneva meeting, at which discussion centered particularly around conditions that would operate should United States withdraw from Court, and proviso for U. S. consent in cases in which United States has or claims an interest.	17

GENERAL

PROPOSAL OF THE UNITED STATES TO ADHERE, WITH RESERVATIONS, TO THE
PROTOCOL OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE—Continued

Date and number	Subject	Page
1926 Sept. 20	<i>From the Consul at Geneva (tel.)</i> Drafting committee formula for accepting Senate resolution, providing welcome of United States into Court with explanation rather than interpretation of fifth reservation and stating that United States will enjoy same rights as most-favored members of League and, as nonmember, will keep the right of a nonmember not to appear.	25
Nov. 4	<i>Memorandum by the Under Secretary of State</i> Statement by Colombian Minister that information that American note of February 12 has been submitted to Colombian Congress will shortly be communicated by formal note. (Footnote: No further communication appears to have been received.)	26
Nov. 5	<i>Memorandum by the Assistant Chief of the Division of Western European Affairs</i> Résumé of present status of adherence question and comments concerning action of signatory states in meeting at Geneva, at which draft protocol of execution was signed. Suggestion that exchange of notes be attempted with Abyssinia and Irish Free State, which have now become signatories of Court protocol.	26
Nov. 8	<i>To the Assistant Chief of the Division of Western European Affairs</i> Statement that Senate resolution provides that United States cannot sign World Court protocol until every nation signatory to the original statute has accepted the reservations.	28
Nov. 12 (742)	<i>To the Ambassador in Great Britain</i> Memorandum for presentation to Abyssinian Government (text printed), inquiring whether Abyssinia accepts Senate resolution.	29
Nov. 12	<i>To the Minister of the Irish Free State</i> Inquiry as to whether Irish Free State accepts conditions, reservations, and understandings contained in Senate resolution.	30
Dec. 23 (817)	<i>From the British Ambassador</i> Note (text printed), in reply to U. S. note of February 12, embodying Geneva conference decisions and enclosing (1) an extract from the revised rules of the Court providing for publicity of Court opinions and (2) the preliminary draft of suggested protocol of execution providing for a separate understanding between the United States and the Council as to the manner in which the consent provided for in reservation 5 (b) is to be given (texts printed). (Similar notes, <i>mutatis mutandis</i> , received through the diplomatic representatives in Washington of Australia, Belgium, Czechoslovakia, Denmark, Estonia, France, Hungary, Irish Free State, Italy, Japan, Netherlands, Norway, Poland, Portugal, Rumania, Kingdom of the Serbs, Croats and Slovenes, Siam, Union of South Africa, Spain, Sweden, and Switzerland.)	30

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PROPOSAL OF THE UNITED STATES TO ADHERE, WITH RESERVATIONS, TO THE
PROTOCOL OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE—Continued

Date and number	Subject	Page
1926 Dec. 31 (828)	<i>From the British Ambassador</i> India's desire to be associated with British views expressed in note No. 817 of December 23. (Similar note, <i>mutatis mutandis</i> , transmitted, April 4, 1927, on behalf of New Zealand.)	38
1927 Apr. 25 (1811)	<i>From the Ambassador in Great Britain</i> Foreign Office note, April 22, enclosing Abyssinian note, March 21 (texts printed), to the effect that Abyssinia is awaiting certain information from League before replying to U. S. memorandum as to acceptance of Senate resolution. (Footnote: No further communication was received from the Ethiopian Government.)	38

PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE PREPARATORY
COMMISSION FOR THE DISARMAMENT CONFERENCE

1925 Dec. 13 (744)	<i>From the Chargé in Switzerland</i> Invitation, December 12 (text printed), to send representatives to meeting of the Preparatory Commission for the Disarmament Conference, February 15, 1926.	40
1926 Jan. 4	<i>Message of the President of the United States to Congress</i> Request for appropriation of \$50,000 to cover expenses of participation in work of Preparatory Commission.	42
Jan. 5 (39)	<i>From the Ambassador in Japan</i> Request for information concerning subjects to be discussed at preliminary Conference.	44
Jan. 16 (13)	<i>From the Minister in Switzerland (tel.)</i> Suggestion that American delegation be announced as soon as possible so as to avoid public blame for postponement which seems likely to occur.	45
Jan. 20 (8)	<i>To the Minister in Switzerland (tel.)</i> President's unwillingness to accept invitation until Congress has acted on appropriation request; assurance, however, that instructions to delegates will be completed in ample time before February 15. (Footnote: Information that resolution providing for appropriation was passed January 29 and approved February 1.)	45
Jan. 22 (10)	<i>To the Minister in Switzerland (tel.)</i> Query whether press rumors of postponement are accurate and, if so, when notification of postponement will be received and new date fixed.	47
Jan. 22	<i>From the Consul at Geneva (tel.)</i> Report of strong chance for postponement, France and Italy favoring it and England being willing to discuss it.	47

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE PREPARATORY
COMMISSION FOR THE DISARMAMENT CONFERENCE—Continued

Date and number	Subject	Page
1926 Jan. 23	<i>From the Consul at Geneva (tel.)</i> Hope of Secretary General of League that U. S. delegation will be restricted to approximately same limits as other powers, that is, one delegate with technical advisers.	48
Jan. 23 (18)	<i>From the Minister in Switzerland (tel.)</i> Secretary General's promise to keep Minister fully and promptly informed of any developments regarding postponement.	48
Jan. 29 (14)	<i>To the Minister in Switzerland (tel.)</i> Note for Secretary General (text printed) accepting invitation to send representatives to Preparatory Commission meeting.	48
Feb. 1 (28)	<i>From the Minister in Switzerland (tel.)</i> Telegram from Secretary General (text printed) concerning request from certain Council members for postponement of Preparatory Commission meeting to not later than May 15. (Footnote: Information that Secretary General informed members of Commission, February 6, that meetings for February 15 and 16 had been adjourned and that question of dates had been placed on agenda of March session of Council.	49
Feb. 6 (22)	<i>To the Minister in Switzerland (tel.)</i> Instructions to bring to attention of League Secretariat the U. S. opinion that it would be unfortunate should League gain impression that United States, having agreed to be represented on Preparatory Commission, would consent to turn over questions in which it has direct interest to League committees on which it is not represented and which could not in United States' opinion appropriately be consulted in matters of importance to it.	49
Feb. 9 (38)	<i>From the Minister in Switzerland (tel.)</i> Report that action on telegram No. 22 of February 6 is being withheld pending further instructions, since League committees are not to have role to which Department objects, since press reports are inaccurate, and inasmuch as Secretariat could not take any decisive action at this time.	50
Feb. 11	<i>To the Ambassador in Great Britain</i> U. S. attitude with regard to scope of Conference, land and naval disarmament, air forces, and sanctions for the enforcement of a limitation treaty. Instructions to obtain British views upon these questions.	51
Feb. 18 (45)	<i>From the Minister in Switzerland (tel.)</i> Statement of Director of League Disarmament Section, upon Minister's informal presentation of considerations outlined in Department telegram No. 22 of February 6, that for duration of Conference the Permanent Advisory Commission will be replaced by a technical advisory subcommission of Preparatory Commission and that one member each of American, German, and Japanese delegations will be asked to sit in this Joint Commission.	56

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE—Continued

Date and number	Subject	Page
1926 Feb. 27 (39)	<i>From the Ambassador in Great Britain (tel.)</i> Ambassador's conclusion, after conversations with Sir Austen Chamberlain, British Secretary of State for Foreign Affairs, and Lord Robert Cecil, British delegate on Preparatory Commission, that decisions of Conference will be determined by considerations of general policy having no direct interest to United States and that unless Americans follow British in concessions they feel it wise to make, delegates may find themselves standing alone and thus responsible for making agreement impossible.	57
Mar. 2 (15)	<i>To the Ambassador in Japan (tel.)</i> Instructions to ascertain discreetly the attitude of the Japanese Government toward subjects Preparatory Commission is to consider.	59
Mar. 18 (66)	<i>From the Chargé in Switzerland (tel.)</i> League Council's decision to invite military, naval, and air experts of all delegations represented on Preparatory Commission to sit with Permanent Advisory Commission on basis of absolute equality, to increase membership of Joint Commission by adding four members from delegations of United States, Japan, Germany, and Russia, to invite Argentina and Chile to participate in Preparatory Commission, to invite Permanent Advisory Commission to meet on May 18 simultaneously with Preparatory Commission, and to leave to Preparatory Commission decision as to when Joint Commission is to meet.	60
Mar. 20 (61)	<i>From the Chargé in Great Britain (tel.)</i> Washington despatch in London <i>Times</i> , March 19 (excerpt printed), giving purported substance of Ambassador Houghton's report to President and Secretary of State concerning conditions in Europe; comments on subject from other newspapers. (Footnote: Announcement by Department, as quoted in circular telegram, March 19, 6 p. m., to Embassies in France, Germany, Great Britain, Italy, and the Legation in Switzerland, that neither Ambassador Houghton nor Minister Gibson has divulged to any unofficial person the nature of their reports to the President or Secretary Kellogg.)	60
Mar. 25	<i>Memorandum by the Secretary of State of a Conversation With the French Ambassador</i> In which the Ambassador assured the Secretary that France favors having preliminary Conference on May 18.	62
Mar. 25 (780)	<i>From the Chargé in Switzerland</i> League communication, March 19 (text printed), enclosing Council report fixing May 18 as date for Preparatory Commission meeting, May 19 for Permanent Advisory Commission meeting.	63
Mar. 29 (73)	<i>From the Chargé in Switzerland (tel.)</i> Information that American citizen to be appointed by President of Council to sit with Joint Commission cannot be a member of American delegation, since no member may be a government representative; and that several unofficial Americans are being considered for this post.	67

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE PREPARATORY
COMMISSION FOR THE DISARMAMENT CONFERENCE—Continued

Date and number	Subject	Page
1926 Mar. 30 (48)	<i>To the Chargé in Switzerland (tel.)</i> Instructions to present view that Department is unable to understand necessity for Joint Commission of League; that United States can participate in Preparatory Commission only to the extent of the participation of the President's representatives; and that Preparatory Commission is competent to determine own procedure, appoint subcommittees, and seek information where it deems best.	67
Apr. 2 (75)	<i>From the Chargé in Switzerland (tel.)</i> Secretary General's suggested solution, in view of impossibility of revoking Council's decision to convene Joint Commission, that member of American delegation might be designated to sit with Joint Commission in capacity of an expert.	68
Apr. 7 (54)	<i>To the Chargé in Switzerland (tel.)</i> Communication for Secretary General (text printed) to the effect that American representatives were chosen on the understanding that Preparatory Commission was itself to do the preparatory work on limitation of armaments, not merely to delegate this function to other bodies, that it was to continue in session until its report was submitted, and that the task of preparing a report was to rest with the Commission itself or subcommittees to be formed therefrom.	70
Apr. 8 (55)	<i>To the Chargé in Switzerland (tel.)</i> Concern over increasing tendency to inject League committees into work of Commission, thus giving ground for claim that United States has been maneuvered into turning over to League matters which should be discussed only by authorized representatives of the interested governments.	71
Apr. 8 (52)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to obtain Chamberlain's views as to how Preparatory Commission is to function, and to repeat telegram to Paris, Berne, and Prague for confidential information.	72
Apr. 12 (93)	<i>To the Chargé in France (tel.)</i> Surprise concerning press report that strong campaign for another postponement has been started in Paris.	74
Apr. 13 (146)	<i>From the Chargé in France (tel.)</i> Report in French press that postponement proposal has not been made for fear of displeasing United States, though French press from beginning has been skeptical of practical results.	75
Apr. 13 (36)	<i>From the Ambassador in Japan (tel.)</i> Impression, from interview with Foreign Minister, that Japan intends to avoid committal to definite policy, but will leave large discretion to representatives and will pass on questions as they arise.	75
Apr. 14 (74)	<i>From the Ambassador in Great Britain (tel.)</i> Chamberlain's assumption that Preparatory Commission will divide into subcommittees which will act simultaneously, full meeting to take place when subcommittees are ready to report. Press reports that Baltic states and Poland, with approval of France, will request postponement.	76

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE—Continued

Date and number	Subject	Page
1926 Apr. 15 (96)	<i>To the Chargé in France (tel.)</i> Instructions, in view of repeated rumors of postponement, to present U. S. views to Foreign Office.	77
Apr. 16 (148)	<i>From the Chargé in France (tel.)</i> French Foreign Ministry's categorical denial of press reports.	77
Apr. 17 (33)	<i>From the Ambassador in Belgium (tel.)</i> Information that Belgian Government does not desire postponement.	77
Apr. 20	<i>To the Ambassador in France (cir. tel.)</i> Excerpt (text printed) from Secretary of State's address in New York, outlining U. S. attitude toward limitation of land and naval armaments. (Instructions to repeat to London, Brussels, Rome, Berne, and Prague.)	78
Apr. 22 (13)	<i>From the Minister in Czechoslovakia (tel.)</i> Belief of Dr. Beneš, member of League Council, that U. S. insistence that Preparatory Commission determine its own procedure may prove most embarrassing to League.	79
Apr. 22 (92)	<i>From the Chargé in Switzerland (tel.)</i> Secretary General's opinion that there would be no disposition at the Conference to oppose the Department's views with regard to organization of the work thereof.	80
Apr. 23	<i>To the Minister in Switzerland</i> Appointment of Minister as American delegate on the Preparatory Commission and of Alan F. Winslow as secretary. Instructions concerning American participation.	80
Undated	<i>Memorandum by the Department of State</i> Consideration of the seven questions submitted with the invitation of the Council of the League of December 12, 1925. (Footnote: Information that memorandum was transmitted to the Chargé in Switzerland, April 29, for use of the American delegate on the Preparatory Commission.)	89
Apr. 24 (95)	<i>From the Chargé in Switzerland (tel.)</i> Uruguayan delegate's agreement with American views as expressed in Department telegram No. 54 of April 7 to the Chargé, and promise to support them in Conference.	100
May 15 (3)	<i>From the American Delegate on the Preparatory Commission (tel.)</i> Report that British and French are endeavoring to arrange that Conference committees be substituted for League organizations; and opinion as to desirability of supporting Boncour, of French delegation, as chairman and the Uruguayan delegate as vice chairman.	101
May 15 (4)	<i>From the American Delegate on the Preparatory Commission (tel.)</i> Proposed statement to be made by American delegate (text printed) concerning U. S. policy toward participation in Conference.	101

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE—Continued

Date and number	Subject	Page
1926 May 18 (8)	<i>From the American Delegate on the Preparatory Commission (tel.)</i> Report of opening session, at which Dutch delegate was elected as president, Uruguayan and Spanish delegates were elected as vice presidents, and a military, naval and air committee made up of representatives of each delegation was provided in place of Permanent Advisory Commission.	103
May 21 (43)	<i>To the Ambassador in Japan (tel.)</i> Request for Japanese attitude concerning Associated Press report from Geneva that Japanese delegation has program for separate land and naval armament limitation and would be willing to participate in a three-power naval conference at Washington.	104
May 22 (44)	<i>To the Ambassador in Japan (tel.)</i> Minutes of statement made by "White House Spokesman," May 21 (text printed), concerning reports of Japanese suggestions for three-power naval limitation conference.	105
May 25 (51)	<i>From the Ambassador in Japan (tel.)</i> Foreign Minister's gratification upon receiving statement, and assurance that press report from Geneva is without foundation.	106
May 25 (52)	<i>From the Ambassador in Japan (tel.)</i> Foreign Office statement (text printed) denying rumors of new Japanese proposal for disarmament.	107
June 11 (40)	<i>From the American Delegate on the Preparatory Commission (tel.)</i> Conversations with Chamberlain in which dismal outlook for Commission's progress was expressed. Opinion of Beneš that when Germany has entered League and the Locarno pacts have been found effective, some measure of disarmament might be achieved.	108
Sept. 16 (102)	<i>From the American Delegate on the Preparatory Commission (tel.)</i> Request for Department authorization for a statement by American delegate before Preparatory Commission to the effect that procedure being followed in subcommittees cannot lead to a report which could be received seriously as embodying the considered technical opinion of experts.	109
Sept. 18 (56)	<i>To the American Delegate on the Preparatory Commission (tel.)</i> Outline (text printed) for use of delegate in preparing suggested statement.	112
Sept. 20 (105)	<i>From the American Delegate on the Preparatory Commission (tel.)</i> Notice that Preparatory Commission will meet September 22.	114
Sept. 21 (108)	<i>From the American Delegate on the Preparatory Commission (tel.)</i> Explanation that delegate has interpreted Secretary's instructions liberally, embodying those as to procedure in a statement to be delivered September 22 and those as to general attitude in a separate statement to be delivered later in discussions. (Footnote: Information that the latter statement was made at second meeting of second session, September 27.)	114

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PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE PREPARATORY COMMISSION FOR THE DISARMAMENT CONFERENCE—Continued

Date and number	Subject	Page
1926 Sept. 21 (109)	<i>From the American Delegate on the Preparatory Commission (tel.)</i> Statement to be made before Commission, September 22 (text printed), pointing out that Military Commission has approached questions from both political and military points of view and proposing that Subcommittee A be instructed to answer on purely technical grounds, uninfluenced by political or economic considerations, the questions that have been referred to it.	115
Oct. 2 (23)	<i>To the Minister in Uruguay (tel.)</i> Instructions to express orally and informally to Foreign Minister regret of United States that Uruguay, not having been reelected to a seat in League Council, has withdrawn from participation in work of Preparatory Commission.	118
Oct. 7 (53)	<i>From the Minister in Uruguay (tel.)</i> Information that Uruguay will be represented at next meeting of Commission. (Footnote: Minister's further report, October 9, that Uruguay had withdrawn from Commission.)	119
Dec. 9	<i>From the Consul at Geneva (tel.)</i> Adoption of Council resolution, December 8, requesting Preparatory Commission to submit proposals concerning convening of Disarmament Conference and to draw up agenda of Conference.	119

DISCONTINUANCE OF THE OFFICE OF AMERICAN UNOFFICIAL OBSERVER, REPARATION COMMISSION

1926 Apr. 10 (90)	<i>To the Ambassador in France (tel.)</i> For Hill: Request for comments of Ambassador or Hill on Department's intention to discontinue independent office for American observer, as of May 31, 1926, and to assign Edwin C. Wilson to Embassy staff, in charge of reparation matters.	120
Apr. 22 (155)	<i>From the Ambassador in France (tel.)</i> From Hill: Opinion that although there is no insurmountable difficulty to office being embodied ultimately in the Embassy, it would be advisable to continue it in its present form, at least until September 1, for reasons that (1) later change would create less comment, (2) pending matters, particularly the D. A. P. G. tanker case, require attention of someone who has fullest possible knowledge of the background, and (3) saving to Department would be inconsiderable, since change would preclude using assistants heretofore available from Reparation Commission.	121
Apr. 23 (156)	<i>From the Ambassador in France (tel.)</i> Comment that there is no space available in the chancery for a reparation section, and belief that in present state of European opinion it would be unfortunate should United States make any move which could be taken as a lessening of interest in European affairs.	123

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DISCONTINUANCE OF THE OFFICE OF AMERICAN UNOFFICIAL OBSERVER, REPARATION COMMISSION—Continued

Date and number	Subject	Page
1926 June 7 (165)	<i>To the Ambassador in France (tel.)</i> For Hill: Information that Wilson will sail June 9 and will give attention to reparation matters, but that Hill will not be instructed to return to Department before September 1.	124
Dec. 18 (332)	<i>To the Ambassador in France (tel.)</i> For Hill: Instructions to be prepared to turn over to Embassy the handling of reparation matters as of January 31, 1927, and subsequently to report to Department.	124
1927 Feb. 1 (42)	<i>From the Ambassador in France (tel.)</i> Information that Wilson has taken over reparation work as of February 1, 1927. (Footnote: Transfer of the office to the Embassy was effected February 28, 1927.)	125

PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN PROPERTY CUSTODIAN

1925 Dec. 12	<i>To the Secretary of the Treasury</i> Inquiry whether Treasury plan, published December 10, 1925, for return of alien property contemplates the same treatment for property of German, Austrian, and Hungarian nationals. (Footnote: The Treasury plan, with some modifications, was introduced into Congress March 29, 1926, and is commonly referred to as the "Mills Bill.")	125
1926 Feb. 3	<i>Memorandum by the Assistant Secretary of State</i> Discussion with German Ambassador of possibility of reaching agreement for final disposition of claims against Germany. The Ambassador's statement that Germany will make no agreement covering claims which is not contingent upon the return of the alien property fund to its German owners.	125
Feb. 4	<i>Memorandum by the Assistant Secretary of State</i> Conversation in which German Ambassador was informed that United States is not disposed to make an agreement contingent upon return of German property held by Alien Property Custodian.	127
Mar. 17	<i>From the Under Secretary of the Treasury</i> Information that if a bill covering German property is adopted, Treasury Department would be glad to extend the same policy to Austria and Hungary when liabilities for mixed claims and means of payment therefor have been definitely established.	127
Mar. 19 (438)	<i>To the Minister in Austria</i> Conversation, March 15, in which Austrian Minister expressed the hope that the Mills Bill would include a statement regarding Austrian property and mentioned funding agreements as method for taking care of American claims.	128

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PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN PROPERTY CUSTODIAN—
Continued

Date and number	Subject	Page
1926 Mar. 22	<i>Memorandum by the Chief of the Division of Western European Affairs</i> Conversation, March 20, in which German Ambassador said that alien property bill as now worded covered most of his objections.	130
Apr. 2 (838/70)	<i>From the Austrian Minister</i> Representations concerning certain provisions of the Mills Bill; request that technical considerations be waived and a way found to include in the bill the return of Austrian property.	131
Apr. 3	<i>Memorandum by the Chief of the Division of Western European Affairs</i> Information that German Ambassador has received from his Government permission to state categorically that if German private property is returned, no special Government taxes will be assessed against it.	135
Apr. 3	<i>From the German Embassy</i> Statement that German private property returned by United States will not be subjected to any kind of special taxation.	136
June 8 (1505/70)	<i>From the Austrian Minister</i> Statement that Minister has received specific instructions from his Government to enter into negotiations aiming at release of Austrian property held as security for future awards and its replacement by a security of equal or better quality.	136
June 11	<i>To the Austrian Minister</i> Suggestion that Minister communicate with Secretary of the Treasury, to whom note of June 8 has been transmitted. (Footnote: Information that on June 29, 1926, the Minister informed the Department that he had conferred with the Under Secretary of the Treasury.)	137
Nov. 10 (2556/70)	<i>From the Austrian Minister</i> Copy of letter to Under Secretary of the Treasury (text printed) outlining Austrian offer to issue and turn over Government bonds to extent of Austrian property held by Alien Property Custodian, these bonds to serve as security for American claims.	138
Dec. 15	<i>To the Chairman of the Committee on Ways and Means of the House of Representatives</i> Statement placing on record the Secretary's apprehension concerning certain international questions inherent in terms of H. R. 15009 providing for the settlement of U. S.-German claims, return of property of German nationals, and apportionment among all claimants of certain available funds.	141
Dec. 16	<i>Informal Memorandum Left by the Hungarian Minister With the Chief of the Division of Western European Affairs</i> Statement that Hungary does not intend to follow Austrian lead to press for an early return of seized alien property, and sees no reason to protest against noninclusion of Hungarian property in connection with release of German property.	143

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PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN PROPERTY
CUSTODIAN—Continued

Date and number	Subject	Page
1926 Dec. 23	<p><i>From the Under Secretary of the Treasury</i> Under Secretary's statement to Austrian Minister that Treasury will not recommend legislation covering return of Austrian property until after receipt of definite estimate of probable amount of awards.</p>	144
SUBMISSION TO THE SENATE OF THE INTERNATIONAL CONVENTION RELATING TO THE REGULATION OF AERIAL NAVIGATION, DONE AT PARIS, OCTOBER 13, 1919		
1926 June 15	<p><i>To President Coolidge</i> Text of report enclosing (1) draft letter for submission to Senate, (2) convention and additional protocol, (3) protocol relative to amendment of article 5, (4) protocol relative to amendment of article 34, and (5) tabulated statement showing action taken by various countries with respect to the convention and protocols (texts printed); recommendation as to form of Senate resolution of advice and consent (text printed), with reservations as to provisions to which United States is unable to give unqualified approval. (Footnotes: Information that draft letter, with report and enclosures, was sent to the Senate June 16, 1926; also that on January 12, 1934, President Roosevelt requested the return of the convention and accompanying papers, which request was granted January 15, 1934.)</p>	145
CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS REVISING THE INTERNATIONAL SANITARY CONVENTION OF JANUARY 17, 1912, SIGNED JUNE 21, 1926		
1925 Feb. 25	<p><i>From the French Ambassador</i> Inquiry whether United States will send delegates to conference at Paris for revision of sanitary convention, and whether October 26, 1925, would be an acceptable date. Transmittal of draft of revision of sanitary convention. (Footnote: Information that in June 1925 the Ambassador in France reported that conference had been postponed until May 10, 1926.)</p>	174
Oct. 8	<p><i>To the French Ambassador</i> Opinion of U. S. health officials that existing sanitary convention should be revised, and their approval of draft of revision submitted with Ambassador's note of February 25. Information that United States will send delegate, or delegates, to Paris with full powers.</p>	175
1926 Mar. 24	<p><i>To the French Ambassador</i> Notification of names of U. S. representatives.</p>	176
June 21	<p><i>Convention Between the United States and Other Powers</i> Revising the international sanitary convention of January 17, 1912. Also annexes.</p>	177

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CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS REVISING
THE INTERNATIONAL SANITARY CONVENTION—Continued

Date and number	Subject	Page
1926 Mar. 10	<i>Procès-Verbal</i> Of the deposit of ratifications of the international sanitary convention by Belgium, Spain, France, Great Britain, Monaco, and the Soudan.	234
Mar. 28	<i>Procès-Verbal</i> Of the deposit of ratifications of the international sanitary convention by Czechoslovakia.	237
May 22	<i>Procès-Verbal</i> Of the deposit of ratifications of the international sanitary convention by the United States of America.	237

PRELIMINARY CONFERENCE ON OIL POLLUTION OF NAVIGABLE WATERS,
WASHINGTON, JUNE 8-16, 1926

1926 June 16	<i>Final Act of the Preliminary Conference on Oil Pollution of Navigable Waters, Washington, June 8-16, 1926</i> With annexed draft convention.	238
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SYMPATHETIC ATTITUDE OF THE UNITED STATES TOWARD EFFORTS BY THE
LEAGUE OF NATIONS FOR THE SUPPRESSION OF SLAVERY

1925 Oct. 12 (C. L. 123. 1925. VI)	<i>From the Secretary General of the League of Nations</i> Transmission of Council resolution of September 28 (text printed) and draft convention on slave trade, with request to forward observations on draft before June 1, 1926.	247
1926 May 17 (72)	<i>To the Minister in Switzerland (tel.)</i> Reply for Secretary General (text printed) stating that United States, in accord with its traditional policy, is deeply interested in any movement which looks toward the abolishment of all forms of involuntary servitude.	248
June 2 (104)	<i>From the Minister in Switzerland (tel.)</i> Query as to whether United States would be disposed to attend autonomous international conference on slavery.	248
June 4 (75)	<i>To the Minister in Switzerland (tel.)</i> Instructions informally to advise Secretary General that invitation to attend autonomous slavery conference would be given most sympathetic consideration. (Footnote: Information that autonomous conference was not called, and that a convention drawn up by League Assembly was opened for signature on September 25, 1926.)	249

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STATEMENT TO CERTAIN FOREIGN GOVERNMENTS REGARDING EFFORTS OF THE UNITED STATES TO CONTROL THE PRODUCTION OF AND TRAFFIC IN NARCOTIC DRUGS

Date and number	Subject	Page
1926 Oct. 14	<p data-bbox="279 404 929 470"><i>To the Diplomatic Officers of the United States Accredited to the Government's Party to The Hague Convention of January 23, 1912</i></p> <p data-bbox="279 470 929 600">Certain observations as to U. S. methods of controlling domestic traffic in narcotic drugs and the export thereof. Instructions, when presenting these views to government to which accredited, to express U. S. desire for suggestions regarding control and for cooperation in attaining ends aimed at by Hague convention.</p>	250

EFFORTS BY THE UNITED STATES TO PREVENT THE INJECTION OF POLITICAL QUESTIONS INTO THE PROCEEDINGS OF THE BOLÍVAR CONGRESS AT PANAMA

1925 Apr. 2 (678)	<p data-bbox="279 739 590 765"><i>From the Minister in Panama</i></p> <p data-bbox="279 765 929 831">Panama's invitation to United States to send delegates to a congress at Panama, June 18, 1926, in celebration of first centennial of Bolívar Congress of 1826.</p>	254
Apr. 24 (33)	<p data-bbox="279 843 618 869"><i>To the Minister in Panama (tel.)</i></p> <p data-bbox="279 869 929 909">Instructions discreetly to verify whether program is of purely ceremonial and commemorative nature.</p>	255
Apr. 28 (50)	<p data-bbox="279 921 645 947"><i>From the Minister in Panama (tel.)</i></p> <p data-bbox="279 947 787 970">Assurance that Congress is purely ceremonial.</p>	255
May 11 (35)	<p data-bbox="279 982 618 1008"><i>To the Minister in Panama (tel.)</i></p> <p data-bbox="279 1008 623 1031">U. S. acceptance of invitation.</p>	255
1926 May 29 (37)	<p data-bbox="279 1060 618 1086"><i>To the Minister in Panama (tel.)</i></p> <p data-bbox="279 1086 929 1126">Appointment of U. S. delegates to Bolívar Congress, Minister to serve as chairman.</p>	255
June 3 (40)	<p data-bbox="279 1138 618 1164"><i>To the Minister in Panama (tel.)</i></p> <p data-bbox="279 1164 929 1204">Instructions to refrain from participation in any discussions of political or controversial nature, should they arise.</p>	255
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June 24 (52)	<p data-bbox="279 1338 618 1364"><i>To the Minister in Panama (tel.)</i></p> <p data-bbox="279 1364 929 1447">Request for full information concerning Associated Press report, June 22, that Congress has unanimously adopted a resolution recommending common action by Pan American states against any aggressor state.</p>	257
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June 1 (99)	<p><i>To the Ambassador in Chile (tel.)</i> Surmise that final crisis cannot be delayed beyond current week and may come at any moment. Unwillingness to appeal to Chilean public by issuing first statement suggested; intention, however, of acting on suggestion as to statement to be made by Secretary of Commerce.</p>	454
June 1	<p><i>From the Consul at Arica (tel.)</i> From Lassiter: Doubt of possibility of passing resolution contained in Secretary's telegram of May 15. Desirability of moving for passage of substitute draft resolution for termination (text printed) at Commission meeting June 5, provided it will not affect negotiations at Washington unfavorably.</p>	456
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June 2 (188)	<p><i>From the Ambassador in Chile (tel.)</i> Foreign Office note (substance printed) replying to Secretary's memorandum transmitted in telegram No. 93, May 26, and concluding with expression of desire to arrive at equitable solution, which would not be one depriving Chile of rights given by Treaty of Ancón, by the award, and by manifest desire of great majority of people of the territory.</p>	458
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RENEWAL OF GOOD OFFICES BY THE UNITED STATES IN REGARD TO THE TACNA-ARICA CONTROVERSY AND REJECTION BY PERU OF THE PROPOSED SETTLEMENT

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June 26 (222)	<i>From the Ambassador in Chile (tel.)</i> Suggestion made to President and Foreign Minister that Chile place before the Secretary a definite proposal which the Congress would be sure to ratify.	487
July 8 (76)	<i>From the Ambassador in Italy (tel.)</i> Report that Chilean Ambassador in Italy will telegraph his Government recommending that Department of State be approached as to a solution by which disputed territory will be ceded to Bolivia with compensations.	488
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Oct. 6 (285)	<i>From the Chargé in Chile (tel.)</i> Foreign Minister's personal desire to show conciliatory spirit; his invitation to American Chargé to review Foreign Office correspondence of last four months and to point out anything unfair or unreasonable; the Chargé's declination to do this, on ground of not being in position to make suggestions of value.	489

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Nov. 3	<i>From the Peruvian Embassy</i> Statement, in response to plan proposed to Peruvian counsel, that Peru desires in all sincerity to settle controversy and will cooperate to that end, with one unalterable reservation, i. e., she will not consider any proposal that would give to another power the city, port, and Morro of Arica.	500
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1926 Nov. 6	<i>From the Peruvian Embassy</i> Information that reservation in Peruvian memorandum of November 3 does not exclude possibility of settlement contemplating cession to Bolivia of a corridor to the sea, nor modify Peru's acceptance of proposal of total neutralization, nor change Peru's readiness to consider any other solution not inconsistent with the aforementioned reservation.	504
Nov. 30 (84)	<i>To the Ambassador in Peru (tel.)</i> Memorandum for Peru (text printed) outlining a plan for cession of disputed territory to Bolivia, subject to appropriate guaranties and compensation, with provisos that the Morro of Arica be reserved from the transfer and internationalized as a memorial to the valor of Chile and Peru; that suitable treaties of friendship be entered into between Chile and Peru; that the territory be perpetually demilitarized; and that the city of Arica be made forever a free port. (Footnotes: Similar telegram sent to Chile as Department's No. 158; circular telegram in the same sense sent to all Missions in South America, November 30, 11 a. m.)	504
Nov. 30 (338)	<i>From the Chargé in Chile (tel.)</i> Foreign Minister's thanks, upon receipt of U. S. memorandum of November 30, for Secretary's generous and unselfish interest; the Chargé's surmise, from informal remarks, that officials favor some such solution as suggested.	509
Nov. 30 (100)	<i>From the Ambassador in Peru (tel.)</i> Presentation of U. S. memorandum of November 30, to Foreign Minister at 12:55 and to President at 1:10.	510
Dec. 3 (78)	<i>From the Minister in Bolivia (tel.)</i> Bolivian note, December 2 (text printed), accepting solution proposed in U. S. memorandum of November 30 and pledging every effort to arrive at an agreement with Chile and Peru by means of U. S. good offices.	510
Dec. 4	<i>Memorandum of the Chilean Government</i> Agreement to consider, in principle, the proposal outlined in U. S. memorandum of November 30.	512
Dec. 7 (88)	<i>To the Ambassador in Peru (tel.)</i> Instructions to urge Peruvian President to accept U. S. proposal, thereby opening road to final settlement.	515
Dec. 7	<i>To the Ambassador in Argentina, the Ambassador in Brazil, and the Minister in Uruguay (cir. tel.)</i> Request for representations by Argentina, Brazil, and Uruguay urging Peruvian acceptance of U. S. proposal.	516
Dec. 9 (68)	<i>From the Minister in Uruguay (tel.)</i> Report that Uruguay is consulting Argentina as to representations to be made to Peru, and that Argentine Minister to Uruguay believes representations should be either joint or identic.	517

GENERAL

RENEWAL OF GOOD OFFICES BY THE UNITED STATES IN REGARD TO THE TACNA-ARICA CONTROVERSY, ETC.—Continued

Date and number	Subject	Page
1926 Dec. 9 (95)	<i>From the Ambassador in Brazil (tel.)</i> Brazilian decision that representations at this time would not serve main purpose, in view of sharp political crisis created in Peru by U. S. memorandum.	517
Dec. 9 (96)	<i>From the Ambassador in Argentina (tel.)</i> Information that Argentina is consulting Brazil, although believing that even concerted diplomatic action will be too late, inasmuch as Peru's refusal is expected within 48 hours.	518
Dec. 11	<i>To the Peruvian Ambassador</i> Opinion, in reply to Peruvian memorandum of December 3 (text printed), that U. S. proposal as made November 30 will secure every possible protection to the interests of the inhabitants of the provinces that is possible in the circumstances.	518
Dec. 15 (98)	<i>From the Ambassador in Argentina (tel.)</i> Brazilian reply to Argentina, expressing view that intervention in Peru is inopportune at present moment.	519
1927 Jan. 12	<i>Memorandum of the Peruvian Government</i> Peruvian refusal of U. S. proposal, on grounds that controversies of the nature of that of Tacna-Arica are limited in scope to the contending nations; that as plebiscite has not been held, the provinces continue to be Peruvian; that by cession to Bolivia the honor and dignity of Peru would be irretrievably outraged; and that Peru cannot accept a solution which carries with it the forsaking of its citizens in the provinces.	520

BOUNDARY DISPUTES
BOLIVIA AND PARAGUAY

1926 Mar. 3 (51)	<i>From the Minister in Paraguay</i> Conversation in which Foreign Minister asked if United States would consider acting as arbitrator in Bolivian-Paraguayan boundary dispute; the American Minister's avoidance of reply, by suggesting that since both countries are members of League of Nations, ground for adjustment ought to be there.	531
Apr. 5 (6)	<i>To the Minister in Paraguay (tel.)</i> Instructions to make no further suggestions regarding intervention of League of Nations.	532
Sept. 10 (144)	<i>From the Minister in Paraguay</i> Report of Foreign Minister's continued desire for U. S. good offices, despite opposition of Bolivia.	532
Dec. 7 (203)	<i>From the Minister in Paraguay</i> Information that Paraguayan note requesting U. S. interest in boundary limits controversy is being prepared. (Footnote: Information that no note of nature contemplated was delivered.)	533

GENERAL

BOUNDARY DISPUTES—Continued

COLOMBIA AND PERU

Date and number	Subject	Page
1926 June 16 (53)	<i>To the Ambassador in Peru (tel.)</i> Instructions to take up with Peruvian President the fact that failure to ratify Peruvian-Colombian boundary treaty of March 24, 1922, is holding up Colombia's conclusion of the boundary treaty with Brazil, which is provided in <i>procès-verbal</i> of March 4, 1925, between Brazil, Colombia, and Peru.	534
June 18 (66)	<i>From the Ambassador in Peru (tel.)</i> Information that hostile attitude of Congress and bitter opposition to treaty in Department of Loreto constitute serious obstacles to ratification. Opinion that further action would be inexpedient before Congress reconvenes the last of July.	535
June 19 (54)	<i>To the Ambassador in Peru (tel.)</i> Agreement with opinion expressed in telegram No. 66, June 18.	536
July 5 (54)	<i>From the Ambassador in Brazil (tel.)</i> Information that Brazilian Foreign Minister and Colombian Minister in Brazil consider time favorable for renewing representations to Peruvian Government regarding ratification of treaty.	536
July 14 (38)	<i>To the Ambassador in Brazil (tel.)</i> Peruvian President's intention to urge ratification as soon as Congress convenes. Secretary's suggestion that it would be helpful if Brazil also would make known to Peruvian President her desire that treaty be ratified.	536
Aug. 5 (40)	<i>To the Ambassador in Brazil (tel.)</i> Peruvian President's assurance that he will use all his influence to obtain ratification. Suggestion of U. S. Ambassador in Peru that Brazil renew representations.	537
Aug. 19 (61)	<i>From the Ambassador in Brazil (tel.)</i> Telegram from Brazilian Chargé in Peru stating that Peruvian President has promised ratification within the next few weeks.	537
Sept. 29 (70)	<i>To the Ambassador in Peru (tel.)</i> Instructions, in view of two-month delay in ratification, to make further representations and to suggest similar action to diplomatic representatives in Lima of Brazil and Colombia.	537
Oct. 2 (84)	<i>From the Ambassador in Peru (tel.)</i> Compliance with instructions contained in telegram No. 70, September 29, and intention to renew representations after allowing short time for developments in Congress. Belief that outcome is uncertain, considering adverse sentiment in Congress and among Peruvians generally.	538
Oct. 4 (71)	<i>To the Ambassador in Peru (tel.)</i> Secretary's declaration that he is leaving whole matter to Ambassador's discretion.	539

GENERAL

BOUNDARY DISPUTES—Continued

COSTA RICA AND PANAMA

Date and number	Subject	Page
1926 Feb. 4 (8)	<i>To the Chargé in Panama (tel.)</i> Note for Panaman Government (text printed) reviewing negotiations for settlement of Costa Rican-Panaman boundary dispute and inquiring whether Panama would accept the Costa Rican proposal of December 17, 1925 (text printed). Instructions to endeavor to have proposal accepted by Panama.	539
Aug. 10 (1125)	<i>From the Minister in Panama</i> Panaman note, August 7 (text printed), regretting inacceptability of Costa Rican proposal.	542

DOMINICAN REPUBLIC AND HAITI

1926 Mar. 4 (105)	<i>From the Minister in the Dominican Republic</i> Report of informal conversations between Haitian Minister and Dominican Government, with view of settling boundary controversy; probability that, following presidential elections in Haiti, settlement may be effected by adoption of slightly modified "American line" of 1912.	543
June 16	<i>Memorandum by Mr. Orme Wilson of the Division of Latin American Affairs</i> Department's feeling, expressed to Dominican Minister, that presence of Haitian President in Washington is favorable for using informal good offices of United States in reaching settlement; the Minister's hesitant promise to refer matter to his Government.	544
June 17	<i>Memorandum by Mr. Orme Wilson of the Division of Latin American Affairs</i> Decision of Dominican Minister not to cable his Government, but to discuss matter with President on his early return to Santo Domingo.	545
Nov. 30 (348)	<i>From the Minister in the Dominican Republic</i> Memorandum of a conversation with the Haitian Minister in the Dominican Republic, November 29 (text printed), in which the Minister expressed opinion that matter could now be settled by direct negotiations, the first move to take the form of a visit to Santo Domingo by the Haitian President.	546
Dec. 18 (125)	<i>To the Minister in the Dominican Republic</i> Authorization to take whatever steps are considered useful in promoting early settlement, keeping in mind American Government's preference for direct negotiations without resort to arbitration.	547

PRIVILEGES AND IMMUNITIES OF PERSONS BELONGING TO FOREIGN DIPLOMATIC MISSIONS IN THE UNITED STATES

1926 May 18	<i>From the German Ambassador</i> Request for a compilation of the provisions of U. S. law relating to the privileges and immunities of persons belonging to diplomatic missions.	547
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GENERAL

PRIVILEGES AND IMMUNITIES OF PERSONS BELONGING TO FOREIGN DIPLOMATIC MISSIONS IN THE UNITED STATES—Continued

Date and number	Subject	Page
1926 July 16	<i>To the German Chargé</i> Provisions of sections 4062 to 4065 of the Revised Statutes and other acts pertaining to diplomatic privileges and immunities.	548
July 27	<i>To the German Chargé</i> Concurrence in modification of a sentence in note of July 16, in order to answer specific inquiries made by the Secretary of the German Embassy, and to show that persons belonging to foreign missions in the United States are entitled to exemption from the civil and criminal jurisdiction of all the courts.	552

RULINGS BY THE DEPARTMENT OF STATE WITH REGARD TO PRESUMPTION OF EXPATRIATION OF NATURALIZED CITIZENS IN CERTAIN CASES

1926 Jan. 8 (Dip. Ser. 457)	<i>To American Diplomatic and Consular Officers</i> Department ruling that the presumption of expatriation of a naturalized American citizen after 2 years' residence in the country from which he came, or 5 years' residence in any other foreign state, does not arise against a person born in Great Britain and who is residing in a self-governing Dominion of the Empire until he has resided therein for 5 years; application of the same rule to persons born in a self-governing Dominion and resident in Great Britain or in another self-governing Dominion.	553
Mar. 17 (2121)	<i>From the Consul at Beirut</i> Inquiry whether persons born in one part of the former Ottoman Empire and residing in a locality now independent of Turkey and other than the place of their birth, should be considered as residing in the foreign state from which they came.	553
May 4	<i>To the Consul at Beirut</i> Ruling that it was the intent of Congress that presumption of expatriation arises after residence of 2 years in the territory in which the person originally had his home, even though a change in sovereignty has occurred; and, conversely, that presumption of expatriation does not arise for 5 years in cases where a naturalized citizen takes up residence in a country which, as defined by present boundaries, is not the original home country of such person, but was formerly a part of the country from another district of which he came.	554

REPLY BY THE DEPARTMENT OF STATE TO QUESTIONNAIRES ON INTERNATIONAL LAW SUBMITTED BY THE LEAGUE OF NATIONS

1926 Oct. 12 (64)	<i>To the Chargé in Switzerland (tel.)</i> Communication for Secretary General (text printed) expressing views concerning questionnaires submitted by the League on: Nationality, territorial waters, diplomatic privileges and immunities, responsibility of states for damage done in their territories to the person or property of foreigners, procedure of international conferences and procedure for the conclusion and drafting of treaties, piracy, and exploitation of the products of the sea.	555
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AFGHANISTAN

PROPOSAL FOR THE ESTABLISHMENT OF DIPLOMATIC AND CONSULAR REPRESENTATION BETWEEN THE UNITED STATES AND AFGHANISTAN

Date and number	Subject	Page
1925 Nov. 4 (5671)	<i>From the Ambassador in France</i> Request for instructions regarding reply to be made to Afghan note of October 30, expressing desire to establish diplomatic relations with United States and enclosing a draft treaty of friendship (texts printed).	557
1926 Jan. 26 (1839)	<i>To the Ambassador in France</i> Transmittal of reply for Afghan Minister (text printed) expressing U. S. appreciation of friendly sentiments and promising careful consideration of draft treaty. Instructions to forward a report of the conversations referred to in Afghan note as having taken place between the American Ambassador and the Afghan Minister in France on July 15 and October 28, 1925. (Footnote: Information that in his despatch No. 6078, February 20, 1926, the Ambassador reported that the first conversation occurred on June 19, 1925, and not on July 15.)	559

ARGENTINA

REQUEST TO THE ARGENTINE GOVERNMENT THAT AMERICAN ARMS MANUFACTURERS BE GIVEN THE SAME CONSIDERATION AS THOSE OF OTHER NATIONS

1926 Mar. 1 (11)	<i>To the Ambassador in Belgium (tel.)</i> Instructions, should opportunity offer, to inform Argentine commission in Brussels of Ambassador's interest in assuring to American manufacturers fair consideration with regard to any contracts the commission may consider placing.	561
Mar. 1 (12)	<i>To the Ambassador in Argentina (tel.)</i> Instructions, should opportunity offer, to inform Argentine Government of U. S. trust that Americans competing for arms contracts will receive the same consideration as that given to nationals of other countries.	561
Mar. 4 (16)	<i>From the Ambassador in Argentina (tel.)</i> Discussion in which Foreign Minister authorized statement that Argentina will disregard all influences brought to bear and that no decision will be made until commission returns and makes its report.	562
Mar. 5 (18)	<i>From the Ambassador in Belgium (tel.)</i> Information that no decision will be made until subcommittee of experts has been sent to United States to test products of company there.	562

BOLIVIA

REPRESENTATIONS BY THE UNITED STATES TO BOLIVIA REGARDING PETROLEUM CONCESSIONS CONTAINING CLAUSES DISCRIMINATING AGAINST AMERICAN CITIZENS

Date and number	Subject	Page
1924 Oct. 3 (576)	<i>From the Minister in Bolivia</i> Transmittal of clause (text printed) inserted in petroleum concessions granted to Bolivian citizens, which apparently is not only a discrimination against American citizens but is in direct violation of the treaty of friendship of 1858.	564
1925 Jan. 3 (2)	<i>To the Minister in Bolivia (tel.)</i> <i>Aide-mémoire</i> for Foreign Office (text printed) quoting discriminatory clause and expressing confidence that such steps will be taken as will insure to American citizens equal opportunity with citizens of other nations in the matter of investments in Bolivia.	565
May 9 (15)	<i>To the Minister in Bolivia (tel.)</i> Note for Foreign Office (text printed) making further representations concerning discriminatory clause and expressing hope that Government will take early action to modify or suspend the provision in question.	566
1926 Feb. 11 (220)	<i>To the Minister in Bolivia</i> Instructions discreetly to seek official assurance, if not already given, that Bolivian Government will not insert discriminatory clause in future concessions.	567
Mar. 15 (1010)	<i>From the Minister in Bolivia</i> Foreign Minister's reassurance that clause would not again appear in decrees granting oil concessions.	567

BRAZIL

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND BRAZIL

1926 Aug. 21 (1162)	<i>To the Ambassador in Brazil</i> Instructions to inquire whether Brazil would be agreeable to negotiation with the United States of a treaty for unconditional most-favored-nation treatment in customs matters.	569
Sept. 18 (2652)	<i>From the Chargé in Brazil</i> Report of conversations with Foreign Minister and others in the interest of a treaty. (Footnote: Information that in instruction No. 1173, October 1, the Department transmitted to the Chargé a draft of the proposed treaty, but that the negotiations did not result in the signing of any treaty.)	572

BRAZIL

RENEWAL OF CONTRACT FOR AMERICAN NAVAL MISSION TO BRAZIL, SIGNED
NOVEMBER 6, 1922

Date and number	Subject	Page
1926 June 30	<i>To the Brazilian Ambassador</i> U. S. consent to renewal of contract for American naval mission to Brazil for a period of four years from date of expiration of present contract on November 6, 1926, the renewal to be accomplished by an exchange of notes.	574
July 6 (26)	<i>From the Brazilian Ambassador</i> Declaration accepting renewal of the contract by exchange of notes.	574
July 6	<i>To the Brazilian Ambassador</i> Declaration that exchange of notes validly accomplishes the renewal of the contract.	575

PROPOSALS TO STIMULATE THE PRODUCTION OF RUBBER IN THE AMAZON VALLEY

1925 Dec. 19 (72)	<i>To the Ambassador in Brazil (tel.)</i> Inquiries to be made of Brazilian Government, in interest of U. S. rubber manufacturers, as to whether organization to stimulate rubber production in Amazon Valley would be welcomed, and whether assurances would be given that export duties would not be advanced and that free production and exportation of rubber would not be restricted.	575
Dec. 22 (82)	<i>From the Ambassador in Brazil (tel.)</i> Affirmative replies of Minister of Agriculture in response to inquiries; proviso, however, that assurances must be secured from interested State governments as to nonincrease in export duties.	576
1926 Jan. 18 (3)	<i>From the Ambassador in Brazil (tel.)</i> Receipt of communication from Minister of Agriculture, January 16, welcoming American cooperation and repeating same assurances as those reported in telegram No. 82, December 22.	577
Jan. 25 (6)	<i>From the Ambassador in Brazil (tel.)</i> Transmittal by Minister of Agriculture of telegrams from Governors of States of Para and Amazonas agreeing to nonincrease in export duties on rubber.	577

CANADA

APPROVAL BY THE UNITED STATES OF PROPOSAL BY THE BRITISH GOVERNMENT
FOR THE APPOINTMENT OF A CANADIAN MINISTER AT WASHINGTON

1926 Nov. 19 (723)	<i>From the British Chargé</i> British proposal for the appointment of a Canadian Minister at Washington who would take charge of all affairs relating to Canada and who would be entirely responsible to the Canadian Government.	578
Nov. 20	<i>To the British Chargé</i> Acceptability to United States of proposal for appointment of a Canadian Minister at Washington in accordance with the arrangements as outlined in British note.	579

CANADA

APPROVAL BY THE UNITED STATES OF PROPOSAL BY THE BRITISH GOVERNMENT FOR THE APPOINTMENT OF A CANADIAN MINISTER AT WASHINGTON—Continued

Date and number	Subject	Page
1926 Dec. 3 (764)	<i>From the British Chargé</i> Appointment of the Honorable Vincent Massey as Envoy Extraordinary and Minister Plenipotentiary to represent the interests of the Dominion of Canada in the United States.	579
Dec. 4	<i>To the British Chargé</i> Reiteration of former verbal assurance that Mr. Massey's appointment will be entirely agreeable to the United States.	580

CONTINUED PROTESTS BY THE CANADIAN GOVERNMENT AGAINST INCREASED DIVERSION OF THE WATERS OF THE GREAT LAKES

1926 Feb. 5 (91)	<i>From the British Ambassador</i> Representations regarding U. S. failure to state in note of November 24, 1925, the considerations which convinced the Secretary of War that the whole abstraction of water from the Great Lakes authorized by his permit of March 3, 1925, is essential to health; regarding Canada's desire for a statement as to progress made toward diminishing the abstraction; and regarding Canadian apprehension that proposed Illinois-Mississippi waterway construction may be based upon and dependent upon indefinite continuance or even increase of abstraction of water through the Chicago Sanitary District Canal.	580
Apr. 28 (291)	<i>From the British Chargé</i> Resolution of the Legislative Assembly of Ontario, April 7 (text printed), protesting U. S. enactment of any legislation authorizing diversion of water from the Great Lakes at Chicago in disregard of the vital interest of communities bordering the Lakes.	582
Undated [Rec'd May 1] (299)	<i>From the British Chargé</i> Continued representations that no diversions from the Great Lakes involving transfer of water from a common watershed to another should be effected or confirmed in either country, unless after joint consideration and agreement.	584
May 18	<i>To the British Ambassador</i> Information that note of April 28, with resolution, is being transmitted to interested U. S. authorities.	585
July 26	<i>To the British Ambassador</i> Information showing that diversion limits were the least that could be made consistent with regard to health; that satisfactory progress toward reduction is being made; that the bill authorizing improvement of the Illinois River has been carried over to the December session of Congress; and that the United States is prepared to discuss all outstanding questions affecting the Great Lakes and their waterways.	585
Nov. 16 (711)	<i>From the British Chargé</i> Proposal for simultaneous publication in Canada and the United States, December 9, of certain correspondence relative to diversion of water from Lake Michigan by the Sanitary District of Chicago.	588

CANADA

CONTINUED PROTESTS BY THE CANADIAN GOVERNMENT AGAINST INCREASED
DIVERSION OF THE WATERS OF THE GREAT LAKES—Continued

Date and number	Subject	Page
1926 Nov. 26	<i>To the British Chargé</i> Information that proposal to publish correspondence has been referred to authorities concerned and that a reply will be made as soon as possible.	589
Dec. 7	<i>To the British Chargé</i> Observation that, in view of altered understanding of the situation, occasioned by the report of the Joint Board of Engineers on the St. Lawrence Waterway Project showing that only a small part of the fall in Lake levels has been due to the Chicago diversion, it would be advisable to suspend publication of the correspondence and to enter upon discussion of question of providing the recommended compensatory works.	589

CHINA

CIVIL WAR IN NORTH CHINA: INTERNATIONAL NAVAL DEMONSTRATION AT
TAKU; OVERTHROW OF THE PROVISIONAL GOVERNMENT OF TUAN CHI-JUI

1926 Feb. 18 (81)	<i>From the Minister in China (tel.)</i> Abandonment of office by Premier Hsu and precarious tenure of present Cabinet.	591
Mar. 2 (107)	<i>From the Minister in China (tel.)</i> Telegram to commander in chief, U. S. Asiatic Fleet (text printed) recommending dispatch of a destroyer to Taku and continuance of ships at Chefoo and Tsingtao.	592
Mar. 3 (108)	<i>From the Minister in China (tel.)</i> Information of grave situation induced by probability of heavy fighting at several points between Kuominchun and allied forces of Wu Pei-fu, Chang Tso-lin, and possibly Sun Ch'uan-fang.	593
Mar. 4 (109)	<i>From the Minister in China (tel.)</i> Telegram to consul general at Shanghai (text printed) reporting that Shanghai-Tientsin sea route may become dangerous and that Tientsin-Peking train service shortly may be interrupted. Information that U. S. destroyer <i>Preston</i> will proceed to Taku from Shanghai and that Wu-Chang forces have captured several towns.	593
Mar. 8 (115)	<i>From the Minister in China (tel.)</i> Report by destroyer <i>Preston</i> which arrived off Taku on March 7; also report of consul general at Tientsin that position of Chinese cruiser in channel has completely stopped navigation.	594
Mar. 9 (119)	<i>From the Minister in China (tel.)</i> Intention, in view of report of consul general at Tientsin that port has been completely closed by mining of Taku channel, to propose to representatives of protocol powers a display of international naval force for purpose of enforcing 1901 protocol.	595
Mar. 10 (57)	<i>To the Minister in China (tel.)</i> Approval of proposed display of international naval force.	596

CHINA

CIVIL WAR IN NORTH CHINA, ETC.—Continued

Date and number	Subject	Page
1926 Mar. 10 (120)	<i>From the Minister in China (tel.)</i> Senior Minister's note to Chinese Foreign Minister (text printed) protesting closing of port and demanding its reopening, reserving rights of protocol powers to take action should Chinese Government fail to accomplish this forthwith; his instruction to senior consuls at Tientsin, Mukden, and Tsinanfu (text printed) for notifying Chinese military authorities.	596
Mar. 12 (123)	<i>From the Minister in China (tel.)</i> Telegram to U. S. naval commander in chief (text printed) requesting cooperation with naval authorities of other powers in notifying Chinese military and naval authorities that, if satisfactory assurances are not given by March 15, measures will be taken to insure safe navigation between Tientsin and the sea.	598
Mar. 13 (125)	<i>From the Minister in China (tel.)</i> Approval of naval commanders' request for one day's delay in notifying Chinese authorities.	599
Mar. 13 (127)	<i>From the Minister in China (tel.)</i> Report of firing upon Japanese destroyers by Chinese at Taku, in disregard of previous arrangements for their passage.	599
Mar. 15 (130)	<i>From the Minister in China (tel.)</i> Identic instructions from Ministers to naval commanders (text printed) as to procedure for delivering notification to Chinese authorities.	600
Mar. 16 (134)	<i>From the Minister in China (tel.)</i> Identic instructions from Ministers to naval commanders (text printed) stating, in response to information that notification will be delivered March 16 and that noncompliance with it by noon, March 18, may result in use of foreign garrisons, that Ministers would not be prepared to seek authority from their Governments for use of land forces, except as a last resort.	601
Mar. 18 (137)	<i>From the Minister in China (tel.)</i> Information that, in view of satisfactory assurances from Chinese authorities, naval authorities are being told that no further action is required in connection with insuring communication between Tientsin and sea.	602
Mar. 18 (138)	<i>From the Minister in China (tel.)</i> Report that in demonstrations against demands of protocol powers relative to Taku matter, a number of demonstrators were killed and wounded by Chief Executive Tuan's body-guard.	603
Mar. 19 (67)	<i>To the Minister in China (tel.)</i> Gratification that forceful action was not necessary in maintaining protocol status of Tientsin; belief that, in general, policy should be not to use force of arms to enforce treaty rights unless such action is necessary to protect American lives.	603
Mar. 22 (143)	<i>From the Minister in China (tel.)</i> Report that mandate of March 20 directs investigation of March 18 disturbances; that Kuominchun leaders have proposed termination of hostilities and are withdrawing troops; that leaders are being urged by prominent ex-officials to compose their differences; and that Cabinet has resigned.	604

CHINA

CIVIL WAR IN NORTH CHINA, ETC.—Continued

Date and number	Subject	Page
1926 Mar. 23 (146)	<i>From the Minister in China (tel.)</i> Ministers' decision against having Legation Guard police any part of Peking, against discussing suggested loan to General Lu Chung-lin in return for protection, and against taking initiative with respect to neutralization of Peking; authorization for support to Chamber of Commerce in any efforts to obtain police force to replace protective force now in control.	605
Mar. 24 (147)	<i>From the Minister in China (tel.)</i> Advance of Chang and retirement of Kuominchun from Tientsin. Report that Kuominchun leaders are endeavoring to effect a compromise with Chang for establishment in Peking of coalition government excluding Wu.	606
Mar. 26 (153)	<i>From the Minister in China (tel.)</i> Reports of Chang's continued advances; of Kuominchun's establishment of defense line around Peking; and of attempts of ex-officials to mediate between contending factions.	607
Apr. 3 (164)	<i>From the Minister in China (tel.)</i> Continuance of confused politico-military situation during negotiations among various factions.	607
Apr. 7 (166)	<i>From the Minister in China (tel.)</i> Report of continued bombing of Peking; of Senior Minister's note reminding Chinese Government of responsibilities regarding protection of foreign lives and property; and of secret negotiations which may result in almost any regrouping of factions.	608
Apr. 10 (170)	<i>From the Minister in China (tel.)</i> <i>Coup d'état</i> , engineered by Lu, by which Tuan has been placed under restraint, ex-President Tsao Kun liberated, and Wu asked to come to Peking to assume charge of situation.	609
Apr. 12 (171)	<i>From the Minister in China (tel.)</i> Indications that <i>coup</i> was executed without Wu's consent. Resumption of airplane attacks on city.	610
Apr. 15 (177)	<i>From the Minister in China (tel.)</i> Indeterminate position of Provisional Government pending outcome of political intrigues and military operations now in progress.	611
Apr. 15 (178)	<i>From the Minister in China (tel.)</i> Withdrawal of Kuominchun from Peking, police control having been turned over to committee of safety.	613
Apr. 19 (185)	<i>From the Minister in China (tel.)</i> Continued confusion, resulting from withdrawal of Kuominchun, friction among troops around city, resumption of functions by Tuan and Cabinet, and jealousies concerning administrative appointments.	613
Apr. 20 (189)	<i>From the Minister in China (tel.)</i> Flight of Tuan from city and cessation of Cabinet's functions.	614

CHINA

CIVIL WAR IN NORTH CHINA, ETC.—Continued

Date and number	Subject	Page
1926 Apr. 21 (190)	<i>From the Minister in China (tel.)</i> General information regarding status of politico-military situation, with report that early hostilities may be precipitated between Wu and Chang.	614
May 4 (201)	<i>From the Minister in China (tel.)</i> Unwillingness of Yen, 1924 Premier, to comply with circular telegram sent by Tsao Kun to 1924 officials, upon his resignation, in favor of 1924 Cabinet. Statement by Wu's adviser that Yen will consent to early establishment of a regency cabinet government; that Wu and Chang are solidly in accord; and that Wu-Chang alliance is continuing work of eliminating Kuominchun.	615
May 14 (208)	<i>From the Minister in China (tel.)</i> Request for authorization to deal with Yen Cabinet on a <i>de facto</i> basis if satisfactory assurances are given as to observance of treaty rights and if other powers decide to act likewise.	616
May 17 (99)	<i>To the Minister in China (tel.)</i> Authorization to deal with Yen Cabinet on a <i>de facto</i> basis.	617
May 18 (214)	<i>From the Minister in China (tel.)</i> Ministers' decision to do no more than acknowledge Yen's identic note of May 15 until after the Cabinet's actual assumption of office; meantime, that Senior Minister shall intimate to Yen that his Government is expected to assume existing treaty and other international obligations of Chinese Government.	617

INVASION OF THE YANGTZE VALLEY BY THE SOUTHERN NATIONALIST FORCES AND MEASURES TAKEN FOR THE PROTECTION OF AMERICAN INTERESTS

1926 July 26 (304)	<i>From the Minister in China (tel.)</i> From Canton, July 23: Report that Canton army is advancing rapidly toward Hankow and Wuchang and that General Chiang Kai-shek is expected to leave for Hunan in a few days.	618
July 30 (311)	<i>From the Minister in China (tel.)</i> From Canton, July 29: Prediction that Hankow and Wuchang will soon be captured; information that General Chiang has left for Hunan.	618
Aug. 5 (317)	<i>From the Minister in China (tel.)</i> From Hankow, August 4: Information as to reinforcements made by Sun Ch'uan-fang and Wu Pei-fu.	618
Aug. 17 (328)	<i>From the Minister in China (tel.)</i> From Changsha: Report announcing arrival of General Chiang and stating that renewal of drive toward Hankow is not unlikely.	619
Aug. 24 (347)	<i>From the Minister in China (tel.)</i> Summary of telegram, August 23, from Hankow, reporting advances of Cantonese forces, expected arrival of Wu, and concern of Chinese at Hankow lest situation has been permitted to go too far.	619

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1926 Aug. 25 (348)	<i>From the Minister in China (tel.)</i> Reports from Hankow and Changsha of further advances of Cantonese troops.	619
Aug. 27 (357)	<i>From the Minister in China (tel.)</i> From Hankow, August 26: Arrival of Wu and reinforcements.	620
Aug. 30 (359)	<i>From the Minister in China (tel.)</i> Repetition, to commander in chief of U. S. Asiatic Fleet, of telegram from consul general, Hankow, August 29 (text printed), reporting that vice consul at Changsha has protested mining of Siang and Yangtze Rivers and that it may become desirable to send American force to Hankow and to convoy American merchantmen.	620
Aug. 30 (360)	<i>From the Minister in China (tel.)</i> From Hankow, August 27: Report of notification by Cantonese authorities that all foreign warships are to be searched at Chenglingki. The Minister's telegram, August 30 (text printed), instructing consul general at Canton to make representations for cancellation of notification.	621
Sept. 1 (362)	<i>From the Minister in China (tel.)</i> From Hankow, August 31: Report that Cantonese troops are near Wuchang; request of Americans that destroyers be sent to Hankow as a precautionary measure. The Minister's concurrence in suggestion for despatch of destroyers.	622
Sept. 1 (366)	<i>From the Minister in China (tel.)</i> From Hankow: Report of measures to be taken should trouble result from overcrowding of concessions by refugees.	622
Sept. 2 (369)	<i>From the Minister in China (tel.)</i> Despatch of two destroyers to Hankow.	623
Sept. 3 (372)	<i>From the Minister in China (tel.)</i> From Hankow: Report of sustained attack on Wuchang.	623
Sept. 4 (373)	<i>From the Minister in China (tel.)</i> From Hankow, September 3: Reports that Wuchang is still under bombardment, with Wu still holding city.	623
Sept. 7 (376)	<i>From the Minister in China (tel.)</i> From Hankow, September 6: Report of surrender of Hanyang Arsenal, of determination of Wu's men to make no further resistance, and of discussion of peace terms.	624
Sept. 8 (379)	<i>From the Minister in China (tel.)</i> Report of casualties suffered by British in attempting release of two merchantmen illegally detained at Wanhsien; of intimation that attempt may be renewed with larger force to release the vessels.	624
Sept. 8 (381)	<i>From the Minister in China (tel.)</i> From Hankow, September 6 and 7: Reports that Wu has evacuated Hankow, although Wuchang is still holding out.	625

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1926 Sept. 10 (386)	<i>From the Chargé in China (tel.)</i> Telegram sent to commander of U. S. Asiatic Fleet (text printed) asking compliance with British request for presence of American gunboat at Chungking should evacuation of British subjects become necessary.	626
Sept. 11 (388)	<i>From the Chargé in China (tel.)</i> Report that instructions have been issued for necessary protection of British subjects at Chungking.	626
Sept. 11 (391)	<i>From the Chargé in China (tel.)</i> From Swatow, September 10: Request for instructions concerning regulations issued by Chinese authorities in connection with mining of Swatow Bay.	626
Sept. 13 (394)	<i>From the Chargé in China (tel.)</i> From Hankow, September 12: Report that local Cantonese commander has agreed, in response to protests, to issue order forbidding firing on foreign vessels; that conditions in Hankow are improving; and that Wuchang is still holding out.	627
Sept. 14 (400)	<i>From the Chargé in China (tel.)</i> To Swatow: Instructions to protest regulation requiring one day's advance notice of arrival of a naval vessel before entering port; and to reserve right of U. S. vessels to leave at night in an emergency, after due notice to authorities.	627
Sept. 14 (192)	<i>To the Chargé in China (tel.)</i> Approval of instructions to Swatow reported in telegram No. 400, September 14.	628
Sept. 15 (403)	<i>From the Chargé in China (tel.)</i> To Canton: Instructions to request Cantonese authorities to issue appropriate instructions in response to American protest and reservation concerning regulations issued by military commander at Swatow.	628
Sept. 15 (407)	<i>From the Chargé in China (tel.)</i> From Hankow, September 14: Consul general's intention of avoiding any act which might seem to denote recognition of the new regime, whose establishment is taking place only slowly. The Chargé's approval of consul general's proposed attitude.	629
Sept. 15 (408)	<i>From the Chargé in China (tel.)</i> To Chungking: Instructions to extend unofficial good offices to British during temporary absence of British consul. Information that British consul will accompany second British expedition to effect release of vessels still held at Wanhsien.	630
Sept. 15	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation between the Italian Ambassador and the Secretary, in which the Ambassador inquired as to U. S. attitude toward cooperation with Great Britain in a firmer policy in China; the Secretary's statement that, while naval forces in Far East have standing instructions to cooperate with friendly powers in protecting life in emergencies, this Government not only did not contemplate joint action, but that there did not seem to be any occasion for it at present.	630

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Date and number	Subject	Page
1926 Sept. 16 (410)	<i>From the Chargé in China (tel.)</i> From Hankow, September 15: Report that American gunboat <i>Pigeon</i> has been fired upon by Cantonese shore battery off Chenglingki.	631
Sept. 17 (413)	<i>From the Chargé in China (tel.)</i> From Hankow, September 16: Report that American volunteer forces and naval units will be withdrawn; that French gunboat has been fired upon at Chenglingki; and that arrangements have been made to send limited food supplies by mail to Americans in Wuchang, where conditions are growing worse.	631
Sept. 18 (414)	<i>From the Chargé in China (tel.)</i> From Hankow, September 10: Report that American vessels proceeding past Hanyang have been fired upon; that destroyer <i>Stewart</i> has taken aboard British wounded in Wanh sien attack; that Wuchang is still holding out and negotiations for surrender are still in progress; and that situation of foreigners is becoming increasingly difficult.	632
Sept. 19 (416)	<i>From the Chargé in China (tel.)</i> From Hankow, September 18: Report that Wuchang is still resisting, Hankow is quiet, and Cantonese have advanced well into Honan.	633
Sept. 20 (418)	<i>From the Chargé in China (tel.)</i> From Hankow, September 19: Reports of firing upon American gunboat <i>Pigeon</i> ; of notification from Cantonese commissioner of foreign affairs (text printed) instructing foreign gunboats to withdraw from war zone area; and of notification from commissioner forbidding navigation of Yangtze at night and informing that all vessels will be fired upon if they fail to stop on signal for search during daylight hours.	633
Sept. 21 (422)	<i>From the Chargé in China (tel.)</i> Telegram (text printed) instructing consul general at Hankow to reply to commissioner that United States is willing, temporarily and with due reservation of treaty rights, to allow American commercial ships to comply with regulations if they so desire; on the other hand, however, that directions will not be given to war vessels to comply with any of the regulations, and that Chinese authorities will be responsible for any untoward incidents arising from any effort to enforce the regulations.	635
Sept. 21 (423)	<i>From the Chargé in China (tel.)</i> To Canton: Instructions to protest vigorously to Acting Minister of Foreign Affairs the regulations adopted by commissioner of foreign affairs at Hankow; to request their cancellation; and to state that they appear to be of an entirely provocative character, since obviously the United States could not be expected to comply with them.	637
Sept. 22 (203)	<i>To the Chargé in China (tel.)</i> Approval of Chargé's instructions, and suggestion that Chinese authorities be informed that American war vessels represent a friendly nation acting strictly within treaty rights and that it is expected that both factions will give them the cooperation to which they are entitled. Query whether British intend to comply as concerns their naval vessels.	638

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Date and number	Subject	Page
1926 Sept. 23 (426)	<i>From the Chargé in China (tel.)</i> From Hankow: Report that about 70 refugees, mostly British, have arrived at Ichang from Chungking; that attacks on Wuchang continue, peace negotiations having been broken off; and that Wanh sien case has been amicably settled and the two ships released.	639
Sept. 23	<i>Memorandum by the Secretary of State</i> Conversation in which the Portuguese Minister was informed that the Secretary did not think it necessary for the powers to unite to protect their citizens in China.	639
Sept. 24 (430)	<i>From the Chargé in China (tel.)</i> From Hankow, September 23: Report from Chungking that military authorities there may support Chiang; possibility that Ichang authorities may do likewise; that American destroyers have arrived in Hankow; and that Sun is in Kiukiang with 60,000 to 100,000 troops.	640
Sept. 25 (432)	<i>From the Chargé in China (tel.)</i> Telegram from consul general, Hankow, September 22, stating that commissioner of foreign affairs in a note dated September 20 refers to his previous notification regarding withdrawal of naval vessels and states that river below Wuchang and Hanyang was meant, not the river below the whole port of Hankow, because boats anchoring within the boundaries of the concessions will not be endangered by the military operations.	641
Sept. 29 (438)	<i>From the Chargé in China (tel.)</i> Unconfirmed information that British have agreed to stop their war vessels on signal and receive a courtesy visit by a Chinese officer at Chenglingki.	642
Sept. 30 (439)	<i>From the Chargé in China (tel.)</i> From Hankow, September 28: Report of mining of Yangtze by Cantonese.	642
Oct. 2 (447)	<i>From the Chargé in China (tel.)</i> From Canton, October 1: Report that protest has been filed with Acting Minister of Foreign Affairs, who declines to admit that regulations restricting navigation on Yangtze are in violation of the treaties.	643
Oct. 5 (453)	<i>From the Chargé in China (tel.)</i> Request for authorization to send American military officer to effect rescue of American missionaries detained at Sianfu.	643
Oct. 5 (454)	<i>From the Chargé in China (tel.)</i> From Hankow, October 4: Report of more moderate attitude of Cantonese toward American war vessels. Unofficial reports of success of Sun's forces and increasingly hazardous position of Cantonese.	644
Oct. 5 (218)	<i>To the Chargé in China (tel.)</i> Authorization for action suggested in telegram No. 453, October 5.	644
Oct. 7 (459)	<i>From the Chargé in China (tel.)</i> From Canton, October 5: Report that protest will be made concerning ban on passage of vessels past Boca Tigris and Whampoa Fort areas at night.	644

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INVASION OF THE YANGTZE VALLEY BY THE SOUTHERN NATIONALIST FORCES, ETC.—Continued

Date and number	Subject	Page
1926 Oct. 8 (461)	<i>From the Chargé in China (tel.)</i> From Hankow, October 7: Report that Sun's troops are evacuating Kiukiang; that refugees are being evacuated from Wuchang daily; and that British will land bluejackets at Hankow as a precautionary measure.	645
Oct. 9 (465)	<i>From the Chargé in China (tel.)</i> From Hankow, October 8: Report that evacuation of Kiukiang did not reach large proportions and that conditions at Wuchang have been greatly exaggerated.	645
Oct. 9 (224)	<i>To the Chargé in China (tel.)</i> Information that Red Cross will be disposed to assist at Wuchang in case of necessity.	646
Oct. 10 (467)	<i>From the Chargé in China (tel.)</i> Information that no action at Wuchang seems required, in view of telegram from consul general, Hankow, October 9 (text printed), stating that terms of surrender of Wuchang are being agreed upon.	646
Oct. 12 (472)	<i>From the Chargé in China (tel.)</i> From Hankow, October 11: Report of capture of Wuchang by Cantonese despite fact that agreement for surrender had almost been reached.	647
Oct. 13 (602)	<i>From the British Chargé</i> Conveyance of British Government's thanks for action of U.S.S. <i>Stewart</i> in removing British wounded in Wanhsien attack.	648
Oct. 13 (476)	<i>From the Chargé in China (tel.)</i> Information that American military officer will not proceed to Sianfu unless report that detained missionaries are now safe proves incorrect.	648
Oct. 15 (481)	<i>From the Chargé in China (tel.)</i> From Hankow, October 14: Report of firing upon French gunboat, of improved conditions at Wuchang, and of unchanged conditions at Kiukiang.	649
Oct. 18 (488)	<i>From the Chargé in China (tel.)</i> From Hankow: Report of firing upon British and American merchantmen.	649
Oct. 21 (503)	<i>From the Chargé in China (tel.)</i> From Hankow, October 20: Report that removal of capital from Canton to Wuchang has been approved, and that Sun's position in Kiukiang area is increasingly difficult.	650
Nov. 6 (533)	<i>From the Minister in China (tel.)</i> From Hankow, November 5: Report of capture of Kiukiang on November 4 and of landing of British, Japanese, and American naval units as precautionary measure.	650
Nov. 8 (534)	<i>From the Minister in China (tel.)</i> From Hankow, November 6: Report of complete occupation of Kiukiang by Cantonese and of withdrawal of Japanese and American landing forces.	650

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INVASION OF THE YANGTZE VALLEY BY THE SOUTHERN NATIONALIST FORCES, ETC.—Continued

Date and number	Subject	Page
1926 Nov. 29 (834)	<i>From the Minister in China</i> Telegram to the consul at Chungking, November 24 (text printed), agreeing with his view that suspension of sailings of American vessels during disturbed periods is only practicable method of protecting American flag on Upper Yangtze from violation; authorizing him if necessary to warn American shipping companies that U. S. protection may not be expected in cases where vessels are operated during periods when such operation would unduly imperil the vessels themselves, the general interests of American citizens, or the relations between the United States and China. Request for Department's views with respect to various phases of present situation.	651
Nov. 29 (585)	<i>From the Minister in China (tel.)</i> From Hankow, November 27: Report of insistence of Americans in Hankow that more adequate protection be afforded. Information that two American warships were ordered to Hankow November 28.	655
Nov. 30 (587)	<i>From the Minister in China (tel.)</i> Transmittal to commander in chief of request from consul at Foochow for an American warship (text printed).	655
Dec. 1 (589)	<i>From the Minister in China (tel.)</i> From Hankow, November 29: Report that general situation is unimproved although strike against Japanese has been settled; and that British and French naval forces have been landed.	656
Dec. 1 (591)	<i>From the Minister in China (tel.)</i> From Hankow, November 30: Report that situation is slightly less tense and that several labor strikes have been settled.	656
Dec. 1 (592)	<i>From the Minister in China (tel.)</i> Report that commander in chief has ordered warship to Foochow.	657
Dec. 4 (596)	<i>From the Minister in China (tel.)</i> From Hankow, December 3: Report of movements of warships of powers, and hope that arrival of Acting Minister of Foreign Affairs may help in stabilizing situation.	657
Dec. 7 (601)	<i>From the Minister in China (tel.)</i> From Hankow, December 6: Report of withdrawal of British and French landing parties, and of general improvement in situation.	658
Dec. 9 (605)	<i>From the Minister in China (tel.)</i> Résumé of general politico-military situation, with particular reference to conference of Northern leaders at Tientsin for purpose of formulating united policy and making plans to combat Cantonese, and at which Chang Tso-lin was elected commander in chief of a military coalition under the name of "Ankuochun."	658
Dec. 11 (610)	<i>From the Minister in China (tel.)</i> From Hankow, December 10: Report of arrival of officials of Cantonese Government and the consul general's intention to call on Acting Minister of Foreign Affairs; further report on strikes.	659

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INVASION OF THE YANGTZE VALLEY BY THE SOUTHERN NATIONALIST FORCES, ETC.—Continued

Date and number	Subject	Page
1926 Dec. 15 (615)	<i>From the Minister in China (tel.)</i> From Shanghai, December 14: Report that declaration of independence of Chekiang is momentarily expected. The Minister's understanding that Cantonese will not assent to making Chekiang a buffer region, but are determined to occupy it.	660
Dec. 17 (616)	<i>From the Minister in China (tel.)</i> From Hankow: Report of disturbed conditions at Ichang, upon appearance of Kweichow and Cantonese troops in that vicinity.	660
Dec. 17 (617)	<i>From the Minister in China (tel.)</i> From Shanghai, December 16: Report of imminent hostilities between Cantonese and forces of Marshal Sun.	661
Dec. 17 (622)	<i>From the Minister in China (tel.)</i> From Hankow, December 16: Report that new Government is getting settled and that general situation locally is clearing.	661
Dec. 19 (627)	<i>From the Minister in China (tel.)</i> Request for Department's views as to possible use of landing force at Shanghai, particularly with reference to understanding as to whether it is to be used for protecting the integrity of the Settlement as well as life and property in event of Cantonese invasion.	662
Dec. 23 (307)	<i>To the Minister in China (tel.)</i> Instructions that United States is not prepared to use its naval force at Shanghai for purpose of protecting the integrity of the Settlement.	663
Dec. 28 (642)	<i>From the Minister in China (tel.)</i> Request that Department inform powers of decision concerning use of naval force at Shanghai.	664
Dec. 30 (312)	<i>To the Minister in China (tel.)</i> Query whether it will not be sufficient for Minister to inform his colleagues concerning U. S. attitude.	664

DECISION OF THE UNITED STATES TO AWAIT DEVELOPMENTS BEFORE RECOGNIZING ANY FACTION CLAIMING TO ACT WITH AUTHORITY FOR CHINA

1926 Feb. 27 (93)	<i>From the Minister in China (tel.)</i> Résumé of considerations which, in Minister's opinion, are motivating British toward early recognition of Canton Government; his view that, while such action might be reconciled with letter of Washington treaty, it would have effect of restoring scramble for spheres of influence and for concessions, and of recommencing the process of partitioning China.	664
June 16 (248)	<i>From the Minister in China (tel.)</i> Report that agreement has been made between Chang and Wu whereby Yen "governing cabinet," which has not yet functioned, shall be replaced by a cabinet to be formed by Wu.	666

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DECISION OF THE UNITED STATES TO AWAIT DEVELOPMENTS BEFORE RECOGNIZING ANY FACTION CLAIMING TO ACT WITH AUTHORITY FOR CHINA—
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Date and number	Subject	Page
1926 June 26 (257)	<i>From the Minister in China (tel.)</i> Report that Eugene Chen, of Canton Government, now insists upon being addressed as Minister for Foreign Affairs as a condition precedent to dealing with international questions, and has begun to sign certificates of identification; and that American consul general is following British procedure of writing him that use of title is matter of politeness and that recognition is not to be implied therefrom.	667
July 3 (135)	<i>To the Minister in China (tel.)</i> Opinion that, in view of disturbed conditions, it is not necessary that Peking Government appointee sign certificates; instructions tactfully to point out to Canton authorities that certificates signed by a provincial officer, corresponding in rank to commissioners of foreign affairs elsewhere in China, would be acceptable.	668
July 7 (482)	<i>From the Consul General at Canton to the Minister in China</i> Article from <i>Canton Gazette</i> of July 5 (text printed) quoting consul general's letter, June 30, to Chen and Chen's reply, July 2, setting forth his attitude toward recognition. Consul general's intention to make no reply to Chen's letter.	668
Aug. 12 (324)	<i>From the Minister in China (tel.)</i> Information concerning various phases of present governing cabinet's futility.	670
Aug. 14 (325)	<i>From the Minister in China (tel.)</i> Opinion that, with Tariff Conference in abeyance because of disintegration of governmental entity at Peking, a definite decision must be made as to whether to take a frank and open position that an administration which professes to be Chinese government cannot be dealt with until it has been established as actually representative of all of China and as possessing authority sufficient to carry out its international obligations.	671
Aug. 14 (326)	<i>From the Minister in China (tel.)</i> Suggested statement (text printed) for use in advising Great Britain and Japan that United States considers that no purpose beneficial to the interests of China or the United States would be served by recognition as a central government of any administration which is not in fact generally representative of the Chinese people and competent to exercise the ordinary functions of government.	680
Aug. 24 (171)	<i>To the Minister in China (tel.)</i> Opinion that it would not be wise for United States to take lead in abandoning Tariff Conference and in giving public notification to China that she has no government.	682
Sept. 8 (377)	<i>From the Minister in China (tel.)</i> Information from Canton that certificates of identification are now being issued under the seal of a special bureau created for issuance of passports for America from Liangkhwang.	683
Oct. 1 (211)	<i>To the Minister in China (tel.)</i> Approval of arrangement for issuance of identification certificates.	683

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DECISION OF THE UNITED STATES TO AWAIT DEVELOPMENTS BEFORE RECOGNIZING ANY FACTION CLAIMING TO ACT WITH AUTHORITY FOR CHINA—Continued

Date and number	Subject	Page
1926 Oct. 31 (522)	<i>From the Chargé in China (tel.)</i> From Canton, October 30: Report of resolution passed by Kuomintang that Government would not be bound by diplomatic agreements and alliances of Chiang Kai-shek or other military officers if made without the consent of the Ministry of Foreign Affairs at Canton.	683
Nov. 11	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation in which the Secretary informed the Italian Ambassador that the question of extending recognition to the Canton regime doubtless would be considered if and when that regime obtained control over the greater part of China.	683
Nov. 17 (556)	<i>From the Minister in China (tel.)</i> From Canton, November 14: Interview of consul general with Eugene Chen, in which Chen said that the interests of the powers were not identical, and that from now on China must deal with them separately and not en masse; his intimation that while there might be some excuse for withholding full recognition of Canton regime, the powers should be prepared to accord international status of some sort.	684
Dec. 18 (625)	<i>From the Minister in China (tel.)</i> Inquiry by representative of Chang Tso-lin concerning American attitude on questions of finance and treaty revision should Chang, as leader of Ankuochun, establish at Peking a reform government.	685
Dec. 18 (626)	<i>From the Minister in China (tel.)</i> From Hankow, December 17: Statement by Chen that office of Commissioner of Foreign Affairs is being merged into that of Minister for Foreign Affairs, that Canton Government is now national in scope, and that a form must be agreed upon for addressing to him diplomatic correspondence from local American official representative.	687
1927 Jan. 14 (28)	<i>From the Minister in China (tel.)</i> Request for indication of Department's views concerning recognition of new "Regent Cabinet" which, although dominated by Chang, is a transitory makeshift until he can substitute a cabinet of Fengtien party men.	688
Jan. 15 (12)	<i>To the Minister in China (tel.)</i> Opinion that, in view of development of opposition to Peking factions, direction of events should be awaited before considering recognition of any group or faction claiming that it acts with authority for whole Chinese people.	688

PROTECTION OF AMERICAN MISSIONARY INTERESTS ENDANGERED BY ANTIFOREIGN MOVEMENT IN SOUTH CHINA

1926 Jan. 5 (4)	<i>To the Minister in China (tel.)</i> Department's preference for leaving question of elimination or modification of missionary privilege clauses in treaty being prepared by Tariff Conference until it can be dealt with in negotiations for a new commercial treaty with China.	689
Feb. 2 (63)	<i>From the Minister in China (tel.)</i> Opinion that for the present there should be no reduction in destroyers attached to Asiatic Fleet.	689

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PROTECTION OF AMERICAN MISSIONARY INTERESTS, ETC.—Continued

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1926 Feb. 6 (380)	<i>From the Consul General at Canton to the Minister in China</i> Suggestions as to measures which might be taken to protect American citizens and property from encroachments by officials of Canton regime, strike pickets, and others.	690
Feb. 10 (164)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Representations against deplorable state of lawlessness in several provinces, with particular reference to lack of protection of American citizens and their legitimate interests.	694
Feb. 10 (39)	<i>To the Minister in China (tel.)</i> Request for information concerning attack by students and Bolshevik sympathizers on an American Presbyterian mission in Kachek, on Hainan Island.	694
Feb. 11 (71)	<i>From the Minister in China (tel.)</i> Report concerning attack, January 31, upon hospital at Kachek, in which American flag was desecrated.	695
Feb. 26 (92)	<i>From the Minister in China (tel.)</i> From Canton, February 23: Request for instructions to insist that Canton authorities give written expression of regret respecting flag incident and issue proclamation at Kachek expressing regret and warning against insulting flag of friendly nations. To Canton: Approval of consul general's suggestions.	695
Mar. 1 (101)	<i>From the Minister in China (tel.)</i> Report from consul general, Canton, February 28, that destroyer is no longer needed at Hainan Island.	696
Mar. 1 (103)	<i>From the Minister in China (tel.)</i> From Canton, February 26: Information that conditions at Hainan are worse than previously reported. Request for instructions to take strong position with Canton Government; suggestion that a consular officer be sent to Hainan.	696
Mar. 1 (105)	<i>From the Minister in China (tel.)</i> Information that consul general at Canton has been informed of Minister's approval of proposed representations to Canton authorities.	697
Mar. 1 (50)	<i>To the Minister in China (tel.)</i> Approval of action reported in telegram No. 105, March 1.	697
Mar. 1 (106)	<i>From the Minister in China (tel.)</i> Regret that there is no consular officer who can be spared to go to Hainan; recommendation that it would be well, in view of unsettled conditions, to bring up to normal standard the personnel of the consulates.	697
Mar. 13 (126)	<i>From the Minister in China (tel.)</i> From Canton, March 10 and 12: Report on failure of local government to protect hospital at Canton against strike pickets; proposal that American staff be revictualized by naval forces, if necessary. To Canton: Approval of consul general's suggestion regarding revictualizing and information that commander has been asked to afford any assistance requested.	698

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PROTECTION OF AMERICAN MISSIONARY INTERESTS, ETC.—Continued

Date and number	Subject	Page
1926 Mar. 14 (128)	<i>From the Minister in China (tel.)</i> Recommendation that Department take up with interested missionary organizations the advisability of withdrawing their missionaries from interior of Hainan, in view of impossibility of affording them protection during period of lawlessness.	699
Mar. 15 (64)	<i>To the Minister in China (tel.)</i> Approval of instructions to Canton as quoted in telegram No. 126, March 13.	700
Mar. 24 (148)	<i>From the Minister in China (tel.)</i> From Canton, March 23: Report that situation at Wuchow and elsewhere continues threatening; and that at Canton Chiang Kai-shek has made arrests of Soviet sympathizers, will have no more Russian advisers, and is being supported by moderates in the government. To Canton, March 22: Answer to inquiry of consul general, March 16, as to use of Navy (text printed), stating that policy is to distinguish between protecting life and protecting property; but, however, that interpretation of policy must be made according to the necessities in each instance.	700
Mar. 28 (156)	<i>From the Minister in China (tel.)</i> From Canton, March 27: Decision by American missionaries to evacuate Wuchow; possibility that it may become necessary to urge all missionaries to evacuate island stations.	702
Mar. 30 (192)	<i>To the Minister in China</i> Information that action recommended in telegram No. 128, March 14, has been taken.	702
Apr. 3	<i>To the Consul General at Canton (tel.)</i> Inquiry whether recent incidents are part of a general anti-foreign feeling or are evidences of special hostility against Americans.	703
Apr. 7	<i>From the Consul General at Canton (tel.)</i> Information that anti-Christian movement is apparently a general one, Americans being affected primarily probably because their missions are most numerous.	703
Apr. 14 (422)	<i>From the Consul General at Canton to the Minister in China</i> Increasing evidences of definite plan by Communists and radical members of Kuomintang to force American missionary institutions in South China to close their doors in order that an excuse may exist for Chinese authorities to seize them.	703
May 20 (219)	<i>From the Minister in China (tel.)</i> Request for authority to send Counselor of Legation to Canton and Hongkong to study situation, in order that Minister may have basis for making more confident and intelligent recommendations to Department as to policy to be pursued regarding alarming developments now in progress in South China.	705
May 21 (104)	<i>To the Minister in China (tel.)</i> Approval of request made in telegram No. 219, May 20.	707
May 23 (226)	<i>From the Minister in China (tel.)</i> Outline of proposed instructions for Counselor of Legation and others, concerning consultations to be held in connection with Counselor's trip into South China.	708

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PROTECTION OF AMERICAN MISSIONARY INTERESTS, ETC.—Continued

Date and number	Subject	Page
1926 May 26 (107)	<i>To the Minister in China (tel.)</i> Department's views concerning proposed instructions. (Footnote: Information that Counselor left Peking May 31 and that his arrival at Canton was reported June 12.)	709
June 8 (614)	<i>From the Minister in China</i> Notes to Foreign Office, April 7 and May 22 (texts printed), protesting the continued ill-treatment of Chinese Christian converts, and American missionaries and their property, with particular reference to missionaries at Waichow and on Hainan Island.	709
July 7 (275)	<i>From the Minister in China (tel.)</i> Observations, pending opportunity for further reflection upon Counselor's report, that some alteration must be made in character of U. S. relations, both with so-called Chinese Government, which has dwindled into insignificance, and with component regional units, which in fact are autonomous and which alone have any political vitality.	712
July 19 (290)	<i>From the Minister in China (tel.)</i> From Canton, July 18: Information that Chinese have taken over hospital at Wuchow.	712
July 24 (299)	<i>From the Minister in China (tel.)</i> From Canton, July 22: Recommendation that action be taken to clear hospital of Chinese should authorities not agree to evacuate in a reasonable time.	713
July 26 (149)	<i>To the Minister in China (tel.)</i> Instructions for consul general at Canton to limit efforts toward recovering hospital to negotiation and notification that United States reserves right to claim reimbursement to mission of value of property.	713
Oct. 1 (441)	<i>From the Chargé in China (tel.)</i> From Canton, September 28: Information that on September 19 Chinese soldiers vacated hospital; prospect of early reopening, Americans now being in complete possession and labor troubles apparently having been settled with assistance of local authorities.	714

POLICY OF THE UNITED STATES WITH RESPECT TO PROTECTION OF AMERICAN INTERESTS DURING CHINESE BOYCOTTS AND STRIKES AT CANTON AND TIENTSIN

1926 Feb. 10 (69)	<i>From the Minister in China (tel.)</i> Discussion with Inspector General of Customs of telegram from Commissioner General of Customs at Canton (text printed) reporting his action in instance of seizure by boycott pickets of import cargoes between ship and shore; concurrence in Inspector General's view that if Canton local agent supports strikers it will raise direct issue as to right to trade with China under the treaties and in that event will probably involve seizure of the customs by local authorities at Canton and other ports; assurance of readiness to instruct consul general at Canton to join with interested colleagues in protest to local authorities regarding seizures; opinion that naval forces would be warranted in protecting landing of cargo from American vessels to customhouse.	714
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POLICY OF THE UNITED STATES WITH RESPECT TO PROTECTION OF AMERICAN INTERESTS DURING CHINESE BOYCOTTS AND STRIKES AT CANTON AND TIENTSIN—Continued

Date and number	Subject	Page
1926 Feb. 11 (40)	<i>To the Minister in China (tel.)</i> Approval of attitude adopted in conversation with Inspector General.	715
Feb. 20 (471)	<i>From the Minister in China</i> Review of strikes in rug factories at Tientsin; Minister's commendation of consul general at Tientsin, in letter of February 4 (text printed), for his wise decision in insisting that Chinese authorities decide as to measures to be taken for protecting property of American factories, and in pursuing and urging on American interests a policy of patience, caution, and tolerance.	715
Apr. 1 (159)	<i>From the Minister in China (tel.)</i> To Canton, March 31: Opinion that it would be inexpedient to convoy American oil company shipments from Hongkong to Wuchow, in view of possible reaction against existing relatively favorable U. S. position.	719
Apr. 15 (176)	<i>From the Minister in China (tel.)</i> To Canton: Request for expression of judgment as to whether, in view of new factors presented and particularly of its appearing that in the case of British convoys strike pickets have not brought on conflicts, the facts warrant a reconsideration of the question of expediency of convoy.	720
Apr. 21 (192)	<i>From the Minister in China (tel.)</i> From Canton, April 19: Opinion that convoy should be furnished. To Canton: Approval of convoy.	721
June 7 (241)	<i>From the Minister in China (tel.)</i> From Canton, June 5: Report of Canton Government's appointment of three delegates to negotiate with Hongkong for settlement of strike; abolition of office of provincial commissioner of foreign affairs; abolition of oil monopoly to take place June 15.	721
July 24 (300)	<i>From the Minister in China (tel.)</i> From Canton, July 22: Report that upon refusal of British delegates at boycott conference to accede to Chinese demand for cash indemnity, Chinese demanded submission of entire matter to international commission of inquiry.	722
July 26 (302)	<i>From the Minister in China (tel.)</i> From Canton, July 24: Adjournment of boycott conference and failure of efforts at settlement.	722
Sept. 2	<i>From the British Ambassador</i> Inquiry whether, in view of recent outrage on a U. S. citizen, United States wishes to associate itself with British action in instructing naval forces at Canton to seize and disable all boats employed by strike pickets.	723
Sept. 2 (182)	<i>To the Minister in China (tel.)</i> Request for report concerning incidents referred to in British note, and for views and comments in regard to the inquiry.	723

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POLICY OF THE UNITED STATES WITH RESPECT TO PROTECTION OF AMERICAN INTERESTS DURING CHINESE BOYCOTTS AND STRIKES AT CANTON AND TIENTSIN—Continued

Date and number	Subject	Page
1926 Sept. 4 (374)	<i>From the Minister in China (tel.)</i> Report of incidents involving American citizens, with particular reference to case of J. W. Banbury, engaged in ferrying passengers to Hongkong steamer; recommendation that commander of South China Patrol be instructed to seize and disable any strike picket boat which attacks American citizens, that Canton regime be notified of instructions, and that British be informed of U. S. position.	724
Sept. 7 (185)	<i>To the Minister in China (tel.)</i> Department view that U. S. policy of protection under normal conditions should not be allowed to encourage Americans under abnormal conditions to involve their Government in questions which would be the care entirely of the British shipping interests involved, and that commander of South China Patrol should be guided by this distinction in efforts to protect Americans.	726
Sept. 9	<i>To the British Ambassador</i> Regret that United States cannot become associated in action set forth in note of September 2; belief that standing instructions are sufficient to enable commander of American naval forces to protect lives and property of Americans.	726
Sept. 14 (399)	<i>From the Chargé in China (tel.)</i> Radiogram from U. S. S. Sacramento at Swatow (text printed) stating that after September 11 British discontinued action against strike pickets, and that negotiations concerning removal of boycott are to be resumed.	727
Sept. 14 (401)	<i>From the Chargé in China (tel.)</i> Opinion of commander in chief, Asiatic Fleet (text printed), that it is unnecessary that Navy Department issue new instructions to him to take care of policy outlined in Department's telegram No. 185, September 7; suggestion, however, that Americans be notified not to use Banbury's boats, in view of practical difficulties in protecting his boats when carrying Americans and not protecting them at other times. The Minister's renewal of recommendation made in telegram No. 374, September 4.	727
Sept. 15 (406)	<i>From the Chargé in China (tel.)</i> From Swatow, September 13: Resumption of operations at Standard Oil Company, after strike of 7 months' duration.	728
Sept. 15 (409)	<i>From the Chargé in China (tel.)</i> Opinion that success which has attended British efforts against strike pickets confirms wisdom of adopting a firm policy at Canton.	729
Sept. 17 (195)	<i>To the Chargé in China (tel.)</i> Suggestion that difficulty with regard to Banbury's boats be overcome by arranging for Navy transportation to any American desiring to board Hongkong steamer at Canton.	729
Sept. 20 (419)	<i>From the Chargé in China (tel.)</i> From Canton, September 19: Arrangements by Canton authorities to end boycott before October 10.	730

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POLICY OF THE UNITED STATES WITH RESPECT TO PROTECTION OF AMERICAN INTERESTS DURING CHINESE BOYCOTTS AND STRIKES AT CANTON AND TIENTSIN—Continued

Date and number	Subject	Page
1926 Sept. 24 (429)	<i>From the Chargé in China (tel.)</i> From Canton, September 23: Indications that boycott is ending.	730
Oct. 12 (471)	<i>From the Chargé in China (tel.)</i> From Canton, October 11: Statements by Kuomintang and strike committee declaring boycott ended, but reaffirming intention to carry on economic struggle with renewed vigor.	731
Oct. 17 (487)	<i>From the Chargé in China (tel.)</i> From Canton, October 16: Report that unless situation soon clears up as to moving of British goods and handling of British cargoes, British will have gained nothing from so-called ending of strike boycott.	731

FORCED LEVIES UPON AMERICAN BUSINESS IN CHINA

1926 June 14 (624)	<i>From the Minister in China</i> Request for instructions as to whether protest should be made against forced levies by Chinese military leaders upon Chinese agents of American firms doing business in the interior.	731
July 23 (287)	<i>To the Minister in China</i> Opinion that in a case where levy is made in the name of the company rather than against the Chinese agent in his personal capacity, a protest could properly be made.	733

CONTINUATION OF THE EMBARGO ON SHIPMENTS OF ARMS TO CHINA

1926 Apr. 3 (162)	<i>From the Minister in China (tel.)</i> Conviction that arms embargo of 1919 is wholly ineffective and that refusal to permit sales to some factions, in the face of supply to others by other countries, is tantamount to intervention to their detriment. Request for views as to whether matter should be discussed with colleagues.	733
Apr. 13 (80)	<i>To the Minister in China (tel.)</i> Preference that Minister refrain from initiating discussion of question, since U. S. lead in revision or discontinuance of embargo might offer seeming justification for charge of favoritism toward one faction against another.	735
July 30 (309)	<i>From the Minister in China (tel.)</i> Report that British Government has removed commercial airplanes from arms embargo list.	735
Aug. 5 (157)	<i>To the Minister in China (tel.)</i> Authorization to discuss with colleagues question of possible cancelation of arms embargo. Disposition, if British action can be officially confirmed, to amend regulations to permit commercial plane sales.	735

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CONTINUATION OF THE EMBARGO ON SHIPMENTS OF ARMS TO CHINA—Continued

Date and number	Subject	Page
1926 Sept. 3 (370)	<i>From the Minister in China (tel.)</i> British instruction to consular officers, July 12 (text printed), removing commercial planes from embargo list. Delay in discussion of cancelation, in view of absence of British officials, with whom it seemed advisable to take up matter first, as only other nationality scrupulously observing embargo.	736

RECOMMENDATION OF THE MINISTER IN CHINA THAT AMERICAN TROOPS STATIONED AT TIENTSIN BE WITHDRAWN

1926 Apr. 29 (562)	<i>From the Minister in China</i> Observation that the situation at Tientsin, in which American forces find themselves in a militarily untenable position, must ultimately be resolved by their withdrawal, if possible in conjunction with forces of other foreign powers; but that such action must be timed with greatest care to avoid further incitement of Chinese nationalistic sentiment against foreign rights and interests.	736
June 7	<i>To the Secretary of War</i> Transmittal of copy of despatch No. 562, with request that no action be taken at Tientsin for the present.	743

THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF

1926 Jan. 30 (24)	<i>From the American Delegation (tel.)</i> Probability that the powers will be asked to permit the 2½ percent surtax provided by the Washington treaty to become effective immediately, with the provision that the revenue therefrom be made available for the unrestricted use of the Central Government; belief that the powers will not recede from their position that these funds should be impounded for future disposition as agreed by the Conference.	743
Feb. 1 (11)	<i>To the American Delegation (tel.)</i> Approval of position outlined in telegram No. 24, January 30.	744
Feb. 22 (25)	<i>From the American Delegation (tel.)</i> Reasons for rejection by powers of two resolutions offered by Chinese delegation; opinion that if surtaxes provided for in Washington treaty are not impounded they will be dissipated.	744
Mar. 3 (26)	<i>From the American Delegation (tel.)</i> Information that British delegates are inactive; expression to British of attitude that powers should continue efforts to arrive at concord on tariff policy toward China so that if China should go to pieces before a tariff treaty could be ratified, onus of disintegration would not be on powers.	745
Mar. 3 (12)	<i>To the American Delegation (tel.)</i> Approval of attitude expressed in telegram No. 26, March 3.	745

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THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF—Continued

Date and number	Subject	Page
1926 Apr. 26 (33)	<i>From the American Delegation (tel.)</i> British suggestion of a public declaration to the effect that further progress is impossible without a Chinese delegation able to speak for the whole country. Belief that such a suggestion is premature and that delegations other than Chinese should continue efforts to implement the Washington treaty and reach agreement regarding interim surtaxes, likin abolition, and debt consolidation.	745
Apr. 28 (20)	<i>To the American Delegation (tel.)</i> Approval of attitude outlined in telegram No. 33, April 26.	747
May 5 (66)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to bring informally to the attention of the Foreign Office the fact that U. S. delegation is prepared to go on with Tariff Conference as far as political conditions will permit and to express hope for continuance of British cooperation.	748
May 6 (92)	<i>From the Ambassador in Great Britain (tel.)</i> Conversation in which the British Foreign Under Secretary stated that the British position was still under contemplation, but that the program of debt consolidation under foreign control seemed to be inconsistent with the announced policy to release China from foreign interference, and that it was his recollection that in 1923 the present U. S. Minister in China had agreed with him as to its inadmissibility.	749
May 12 (37)	<i>From the Minister in China (tel.)</i> Draft agreement (text printed) implementing Washington treaty.	750
May 12 (38)	<i>From the American Delegation (tel.)</i> Recollection of U. S. Minister that the understanding referred to in telegram No. 92, May 6, from the Ambassador in Great Britain, was that the consolidation of unsecured debts might be omitted by the Conference if such consolidation could be previously effected by a refunding operation based upon salt surplus.	752
May 17 (39)	<i>From the American Delegation (tel.)</i> Request for approval of draft agreement for implementing Washington surtaxes which has now been adopted unanimously by the foreign delegates for reference to their respective Governments.	753
May 20 (24)	<i>To the American Delegation (tel.)</i> Approval of draft agreement as requested in telegram No. 39, May 17.	754
May 26 (53)	<i>From the Ambassador in Japan (tel.)</i> Conversation in which the Japanese Foreign Minister stated that he expected Conference to continue until a plan was formulated which was sufficiently definite to be presented to the Government of China when one was established, and that he believed other powers also expected Conference to continue.	754

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THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF—Continued

[Date and number]	Subject	Page
1926 May 28 (1045)	<i>From the Ambassador in Great Britain (tel.)</i> Conversation with a member of the Foreign Office from which it seems evident that the British will insist that Washington surtaxes be granted before Conference adjourns and that they will not consider favorably any scheme of foreign control of customs revenues for debt consolidation; Foreign Office memorandum (text printed) setting forth British views in detail.	755
June 10 (43)	<i>From the Minister in China (tel.)</i> Information that experts have agreed on a draft resolution respecting custodian banks; British suggestion that when a surtax protocol was agreed upon, it should be submitted to the Chinese Government with the understanding that unless that Government is able to give effect to the agreement, the collection of surtaxes will be postponed until the agreement can be carried out; refusal of Japanese to consider draft resolution or British suggestion until they hear from their Government.	758
June 13 (44)	<i>From the American Delegation (tel.)</i> Statement that British seem to misunderstand purpose of debt consolidation, which is not so much to satisfy China's foreign creditors as it is to reestablish China's credit; information that conferences on debt consolidation were continued until British delegates refused longer to sit. (Footnote: Copy transmitted to Ambassador in Great Britain with instructions to bring the contents informally to the attention of the Foreign Office.)	758
June 19 (123)	<i>To the American Delegation (tel.)</i> British feeling, expressed by former British delegate to the Customs Conference, that the American and Japanese plan for debt consolidation placed too heavy a burden upon China's customs revenues.	759
June 28	<i>From the American Delegation</i> Summary of recent developments in the Customs Conference, with a statement that, in view of the failure of the Chinese Government to form a government with which negotiations can be carried on, it is difficult for the American delegation to take any action in the face of a new Japanese policy of delay.	760
June 30 (45)	<i>From the American Delegation (tel.)</i> Request for instructions as to which of three possible courses to follow in case Peking authorities agree to a cabinet, in expectation that the powers will then negotiate the protocol implementing the Washington treaty.	763
July 2 (33)	<i>To the American Delegation (tel.)</i> View of the Department that the whole protocol ought to be put into effect; but that if the British and Japanese do not agree, the delegation should follow the policy of going as far as possible in carrying out the Washington treaty.	766
July 3 (48)	<i>From the American Delegation (tel.)</i> Opinion that that morning's meeting marks the close of all possibility of making progress with work of Conference at least until autumn.	766
July 8	<i>From the American Delegation</i> Detailed report of the work of the Conference to date.	767

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THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF—Continued

Date and number	Subject	Page
1926 July 16 (490)	<i>From the Consul General at Canton to the Minister in China</i> Request for advice as to whether or not to acknowledge a note from the Acting Foreign Minister of the Canton regime, July 14 (text printed), protesting against resumption of Conference.	844
[July 23] (51)	<i>From the American Delegation (tel.)</i> Information that representative of Peking regime had invited delegates of foreign powers to an informal meeting at which he proposed that Conference resume its work about September 1; adherence by foreign delegations to position that they would be glad to continue as soon as delegates of Chinese Government were in a position to resume discussions; tacit agreement that no meeting would be called for some weeks.	846
July 24 (298)	<i>From the Minister in China (tel.)</i> To Canton, July 24: Instruction to present note to Acting Foreign Minister at Canton (text printed) stating that the interest of the United States is in the welfare of China as a whole, but that the lack of unanimity of Chinese people is disheartening.	846
July 24 (301)	<i>From the Minister in China (tel.)</i> Opinion that the informal conference, July 23, was an attempt to commit the powers to recognition of Peking regime and compel them to accept it as competent to represent China for purposes of the Conference. Advice that the note sent to Acting Foreign Minister of Canton regime was prompted by need to offset any impression of partiality to Peking regime.	847
July 26 (148)	<i>To the Minister in China (tel.)</i> Approval of action reported in telegram No. 298, July 24.	849
July 29 (495)	<i>From the Consul General at Canton to the Minister in China</i> Report that note has been delivered to Acting Foreign Minister at Canton according to instructions in telegram No. 298, July 24; Foreign Minister's reply, July 28 (text printed), containing threat that Canton regime will adopt drastic measures should the powers resume Tariff Conference and arrange loan for Peking regime.	849
July 30 (687)	<i>From the Minister in China</i> List of names of plenipotentiary representatives appointed by Peking regime to the Special Customs Conference.	853
July 31 (499)	<i>From the Consul General at Canton to the Minister in China</i> Declaration by the Kuomintang against resumption of Conference; belief that Government at Canton is stirring up popular agitation against Conference.	853
Sept. 17	<i>From the British Embassy</i> Request for information as to what course U. S. Government intends to pursue in regard to Washington treaty and resumption of general tariff negotiations, and on what footing it proposes to treat with the Canton Government.	854
Oct. 5	<i>To the British Embassy</i> Information that the U. S. Government intends to maintain its policy of holding itself in readiness to negotiate with any government representing China as a whole.	855

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THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF—Continued

Date and number	Subject	Page
1926 Nov. 20 (566)	<i>From the Minister in China (tel.)</i> Request for instructions as to policy to pursue in case the Peking regime requests the resumption of the Conference; suggestion of alternative courses of action.	855
Nov. 23 (278)	<i>To the American Delegation (tel.)</i> Opinion that best course might be for the powers to act independently of China to enforce surtaxes on their own nationals; British suggestion that the 2½ percent surtax be granted at once and without reservations, collections to be made through Customs Administration; Department's belief that the Chinese Government might simply be authorized to collect the surtaxes through the Chinese Maritime Customs.	859
Nov. 24 (279)	<i>To the American Delegation (tel.)</i> Questions as to present status of Russo-Asiatic Bank and reallocation of customs funds among banks in China.	860
Nov. 27 (583)	<i>From the Minister in China (tel.)</i> Information that the Russo-Asiatic Bank is in process of liquidation and that the Hongkong and Shanghai Banking Corporation remains the sole custodian bank, receiving all customs deposits; reasons for fearing any immediate change in <i>status quo</i> .	860
Dec. 3 (595)	<i>From the Minister in China (tel.)</i> Opinion that British statement that the question of debt consolidation wrecked the Conference can be explained only on theory that British Government must have either reversed itself and become unwilling to discuss any plan of debt consolidation or it must have been unwilling to meet the views of other delegations in a spirit of compromise.	861
Dec. 8 (267)	<i>From the Ambassador in Great Britain (tel.)</i> Conversation between the Counselor of the American Embassy and the Permanent Under Secretary of State for Foreign Affairs in which the Under Secretary reviewed the British suggestion that the 2½ percent surtax be granted without reservation.	863

EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY PROVISIONS

1926 Sept. 29 (535)	<i>From the Consul General at Canton to the Chargé in China</i> Report that British have been notified that Canton regime intends to levy consumption and production taxes on all merchandise passing through that port. Opinion of British consul general and the Commissioner of Customs that it would be better for the powers to induce the Canton Government to collect the taxes through existing Maritime Customs than for them to make a protest which would simply be ignored. Inclination to agree with these views.	863
Sept. 30 (440)	<i>From the Chargé in China (tel.)</i> From Canton, September 27: Information as given in despatch No. 535, September 29.	866

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EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION
CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY
PROVISIONS—Continued

Date and number	Subject	Page
1926 Oct. 3 (449)	<p><i>From the Chargé in China (tel.)</i> Telegram to U. S. Minister, September 28 (text printed), giving opinion that Canton situation necessitates either decisive international action backed by threat of naval force or the negotiation with the Canton regime of a regional arrangement.</p> <p>Telegram from U. S. Minister, September 30 (text printed), stating belief that the powers should use force to prevent such piecemeal repudiation of treaties, especially since Canton authorities are no longer interested in regional arrangement; suggestion that Department attempt to reach agreement with Japan and Great Britain to prevent, even by force, the levying of the taxes.</p>	866
Oct. 4 (451)	<p><i>From the Chargé in China (tel.)</i> Indication that the Japanese Government opposes the new taxes and believes that the Washington Conference powers should hold a meeting.</p>	870
Oct. 5 (217)	<p><i>To the Chargé in China (tel.)</i> Department's attitude that there is no need for holding discussions with Great Britain and Japan concerning proposed taxes which have been mentioned to British only; instructions to authorize consul general at Canton to express the concern of U. S. Government; instructions also, in case taxes are levied, to protest to Peking Government and authorize consul general to protest to Canton authorities.</p>	871
Oct. 6 (456)	<p><i>From the Chargé in China (tel.)</i> Telegram from Commissioner of Customs, Canton, October 5, to Acting Inspector General of Customs (text printed), asking for instructions concerning notification by Canton authorities that consumption and production taxes are to become effective October 11; Acting Inspector General's inquiry as to support Customs could expect from powers in case Canton regime tried to force it to collect the new taxes; request for indication of Department's policy.</p>	872
Oct. 8 (545)	<p><i>From the Consul General at Canton to the Chargé in China</i> Note from Acting Minister for Foreign Affairs at Canton, October 6 (text printed), containing a translation of mandate issued October 4 (text printed) establishing the taxes and providing for their collection through Ministry of Finance and also containing an indication that cooperation of Customs is desired.</p>	873
Oct. 8 (462)	<p><i>From the Chargé in China (tel.)</i> Decision by diplomatic representatives at Peking to refer to their Governments the questions of what action the powers should take in reference to tax situation and what reply could be made to the Acting Inspector General of Customs' inquiry as to the support the Customs could expect from the powers; agreement to ask for instructions before October 11 when it is hoped another meeting may be held; draft formula for protest (text printed).</p>	875
Oct. 13 (225)	<p><i>To the Chargé in China (tel.)</i> Information that telegram No. 462, October 8, did not reach Department in time to get reply to Peking before meeting of Legations; request for report on meeting.</p>	877

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EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION
CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY
PROVISIONS—Continued

Date and number	Subject	Page
1926 Oct. 14 (477)	<i>From the Chargé in China (tel.)</i> Statement that meeting did not take place on October 11; information that all Governments except British, Italian, and United States have assented to draft formula for protest.	877
Oct. 14 (478)	<i>From the Chargé in China (tel.)</i> From Canton, October 13: Report that new taxes are now being collected and that all Chinese and some foreigners are paying them.	878
Oct. 14 (479)	<i>From the Chargé in China (tel.)</i> Information that Chargé lodged protest with Ministry of Foreign Affairs against imposition by Shantung provincial government of a goods tax of 2 percent ad valorem.	878
Oct. 15 (483)	<i>From the Chargé in China (tel.)</i> Senior Minister's statement that he purposes to await decision of Heads of Legation with regard to the illegal taxation at Canton before taking any steps in regard to the Shantung goods tax.	878
Oct. 15 (231)	<i>To the Chargé in China (tel.)</i> Department's attitude that instruction No. 217, October 5, gave Chargé sufficient authorization for joining in protest outlined in Chargé's telegram No. 462, October 8.	879
Oct. 16 (485)	<i>From the Chargé in China (tel.)</i> From Canton, October 14: Report that French and British consuls will take no action in tax situation until they receive instructions from their Governments. Chargé's intention to instruct consul general at Canton to file protest as authorized in Department's No. 217, October 5, in case unanimous consent to joint protest has not been obtained by October 20.	879
Oct. 16 (233)	<i>To the Chargé in China (tel.)</i> Approval of action taken as stated in telegram No. 479, October 14.	880
Oct. 16 (234)	<i>To the Chargé in China (tel.)</i> Approval of action proposed in telegram No. 485, October 16.	880
Oct. 16 (552)	<i>From the Consul General at Canton to the Chargé in China</i> Despatch from Acting Foreign Minister at Canton, October 11 (text printed), requesting that American merchants be directed to comply with new tax regulations.	880
Oct. 18 (490)	<i>From the Chargé in China (tel.)</i> Request for authorization to instruct consul general at Canton to refuse Acting Foreign Minister's request for list of luxuries drawn up by Tariff Conference.	881
Oct. 19 (235)	<i>To the Chargé in China (tel.)</i> Approval of recommendation set forth in telegram No. 490, October 18.	882
Oct. 20 (494)	<i>From the Chargé in China (tel.)</i> Résumé of tax situation at Canton as it now stands.	882

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EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION
CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY
PROVISIONS—Continued

Date and number	Subject	Page
1926 Oct. 20 (495)	<i>From the Chargé in China (tel.)</i> Information that diplomatic body is meeting to consider instructions received by British Minister, in view of which the consul general at Canton has not been instructed to lodge U. S. protest.	882
Oct. 20 (497)	<i>From the Chargé in China (tel.)</i> Recommendation to accept British proposal that a protest be made to the Canton regime containing a hint that if the new taxes were collected by the Customs and guarantees were given that there would be no increase in illegal taxation, the powers would be willing to make an agreement to regularize the situation. Draft formula for protest (text printed).	883
Oct. 22 (240)	<i>To the Chargé in China (tel.)</i> Department's preference for protest formula given in telegram No. 462, October 8, rather than the one given in telegram No. 497, October 20; instructions to make protest alone if diplomatic body cannot agree.	885
Oct. 23 (507)	<i>From the Chargé in China (tel.)</i> Question as to whether Department's preference for protest formula set forth in telegram No. 462, October 8, means that Department is unwilling to join in protest as presented in telegram No. 497, October 20.	886
Oct. 23 (243)	<i>To the Chargé in China (tel.)</i> Statement that Department is unwilling to join in protest as set forth in telegram No. 497, October 20.	886
Oct. 25 (510)	<i>From the Chargé in China (tel.)</i> From Swatow, October 22: Request for instructions in regard to extension of surtaxes proposed by Swatow local authorities; Chargé's understanding that Department desires Swatow situation to be covered by protest to Canton.	886
Oct. 25 (511)	<i>From the Chargé in China (tel.)</i> Request for instructions in connection with the new Canton regulations for the examination of the persons, passports, and effects of incoming and outgoing passengers.	887
Oct. 25 (245)	<i>To the Chargé in China (tel.)</i> Department's assumption that protest against Canton taxes will cover Swatow situation.	887
Oct. 26 (513)	<i>From the Chargé in China (tel.)</i> Telegram from Commissioner of Customs, Canton, to Acting Inspector General of Customs (text printed), stating that existence of Maritime Customs is threatened by independent enforcement of new taxes by Canton officials. Conference with British Minister in which latter urged an immediate exchange of views among British, Japanese, and U. S. Governments in order that decisive action may be taken.	888
Oct. 27 (249)	<i>To the Chargé in China (tel.)</i> Instructions to include in protest regarding new taxes a protest against the regulations for examination of passengers to the extent that they relate to collection of taxes; opinion that there is no objection to reasonable regulations for passport examination.	890

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EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION
CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY
PROVISIONS—Continued

Date and number	Subject	Page
1926 Oct. 28 (516)	<i>From the Chargé in China (tel.)</i> Opinion that the regulations for passport examination should not be excepted from the protest against the new regulations.	890
Oct. 28 (518)	<i>From the Chargé in China (tel.)</i> Request for instructions as to attitude U. S. consular and naval authorities in Canton should adopt toward the boarding of vessels and interference with passengers and goods.	891
Oct. 29 (519)	<i>From the Chargé in China (tel.)</i> From Canton, October 28: Report that stations have been established at Dosing and Holow at which all steamers are required to stop and undergo inspection.	892
Oct. 29 (520)	<i>From the Chargé in China (tel.)</i> Request for instructions concerning a third protest formula agreed upon by the diplomatic body which amends the second formula transmitted in telegram No. 497, October 20.	892
Oct. 30 (520 bis)	<i>From the Chargé in China (tel.)</i> To Canton, October 29: Authorization to join in protest to Cantonese authorities against visit and search regulations. Telegram from the Commissioner of Customs at Canton to the Inspectorate General, October 29 (text printed), conveying information that boarding of shipping has begun and that Canton authorities have been informed that if practice continues, notification will be given to public that masters or agents can give information concerning ship or cargo only to officials of Maritime Customs.	893
Oct. 30 (521)	<i>From the Chargé in China (tel.)</i> From Canton, October 30: Report of concurrence in protest against inspection regulations.	894
Nov. 1 (523)	<i>From the Chargé in China (tel.)</i> From Canton, October 29: Explanation of inspection regulations given by Acting Foreign Minister at Canton.	894
Nov. 1 (255)	<i>To the Chargé in China (tel.)</i> Instructions to file protest set forth in telegram No. 520, October 29, alone if other Legations cannot agree and also to have consul general at Canton file protest including statement that the United States cannot consent to having U. S. vessels visited and searched except as provided for by treaty; instructions to consult with the commander in chief of the Asiatic Fleet concerning means of giving protection to U. S. shipping.	895
Nov. 3 (527)	<i>From the Chargé in China (tel.)</i> Information that joint protest is now being communicated to both the Peking and Canton authorities and that consul general at Canton is being instructed to make individual protest in accordance with Department's telegram No. 255, November 1.	896
Nov. 16 (555)	<i>From the Minister in China (tel.)</i> From Canton, November 13: Status of visit and search regulations. Minister's hope that Department will decide upon policy of giving naval protection to U. S. shipping despite disposition of shipowners to acquiesce in regulations.	897

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EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION
CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY
PROVISIONS—Continued

Date and number	Subject	Page
1926 Nov. 17 (566)	<p><i>From the Consul General at Canton to the Minister in China</i></p> <p>Two notes from the Acting Foreign Minister at Canton (texts printed): (1) To the Portuguese consul general, November 8, returning the joint protest with the statement that relations of the powers with the Cantonese regime are not regulated on a basis which can entitle them to raise questions of treaty violations; (2) to the U. S. consul general, November 13, merely referring him to the reply made November 8 to the Portuguese consul general.</p>	900
Nov. 19 (272)	<p><i>To the Minister in China (tel.)</i></p> <p>Department's intention to provide protection for U. S. commerce when protection is sought; statement that commander in chief of naval forces should be consulted upon arrangements.</p>	902
Dec. 2 (594)	<p><i>From the Minister in China (tel.)</i></p> <p>Request for instructions concerning the intention of the Canton Government to levy the illegal taxes at Hankow. Opinion of British Chargé that his Government intends to consent to the taxes if they are collected by the Maritime Customs. Alternative suggestion that the powers might put in operation the Washington surtaxes.</p>	902
Dec. 4 (598)	<p><i>From the Minister in China (tel.)</i></p> <p>Discussion with Inspector General of Customs, British Chargé, and Japanese Minister, in which all except the Japanese Minister agreed that only possible action was for powers to allow the Washington surtaxes to be levied throughout China by whatever authorities happened to have control, with the sole condition that they be collected by the Maritime Customs; agreement of British Chargé and U. S. Minister that each would ask his Government to exert pressure on Japanese Foreign Office. Request for authorization to proceed without delay.</p>	904
Dec. 4 (287)	<p><i>To the Minister in China (tel.)</i></p> <p>Belief that the illegal taxes should be protested regardless of who collects them, in order to have the record clear when the time comes for a discussion with a Chinese Government on the question of tariffs.</p>	907
Dec. 6 (600)	<p><i>From the Minister in China (tel.)</i></p> <p>Intention to assent to procedure for protection of U. S. shipping as outlined in communication from Southern Patrol commander to commander in chief of the Asiatic Fleet (text printed).</p>	907
Dec. 7 (602)	<p><i>From the Minister in China (tel.)</i></p> <p>Hope that proposals outlined in telegram No. 598, December 4, will be regarded by Department as compatible with position set forth in its telegram No. 287, December 4.</p>	908
Dec. 8 (290)	<p><i>To the Minister in China (tel.)</i></p> <p>Approval of arrangement outlined in telegram No. 600, December 6.</p>	908

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EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION
CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY
PROVISIONS—Continued

Date and number	Subject	Page
1926 Dec. 8 (291)	<p><i>To the Minister in China (tel.)</i> Statement that authority to concur in proposal for granting Washington surtaxes was given in telegram No. 278, November 23; outline of difficulties involved in such a course of action, and conclusion that best course is to file usual protest and await emergence of competent government. (For abstract of telegram No. 278, November 23, see page ci.)</p>	908
Dec. 9 (607)	<p><i>From the Minister in China (tel.)</i> Recommendation that authorization be given to accede to the surtax which the Peking Government wishes to levy in place of the famine-relief surtax in order to pay amounts in arrears to the League of Nations and to pay salaries of representatives abroad.</p>	910
Dec. 9 (606)	<p><i>From the Minister in China (tel.)</i> Information that British Government has authorized action to implement Washington surtaxes but intends to compound with Cantonese concerning the illegal surtaxes in case first course of action fails.</p>	911
Dec. 9 (293)	<p><i>To the Minister in China (tel.)</i> Statement that U. S. Government will make no objections to levy of surtax for purposes mentioned in telegram No. 607, December 9.</p>	911
Dec. 11 (611)	<p><i>From the Minister in China (tel.)</i> Request for immediate decision concerning authorization to proceed in the matter of the Washington surtaxes.</p>	911
Dec. 13 (297)	<p><i>To the Minister in China (tel.)</i> Authorization to proceed as suggested in Minister's telegram No. 598, December 4; preference that the Maritime Customs should decide the question as to which of the parties at each port should receive the revenue collected by the Customs.</p>	912
Dec. 14 (613)	<p><i>From the Minister in China (tel.)</i> Question as to whether or not Embassy at Tokyo has been authorized to support plan to have Washington surtaxes implemented.</p>	912
Dec. 14 (298)	<p><i>To the Minister in China (tel.)</i> Statement that Embassy at Tokyo has not been authorized to support the plan because it appears from a recent conversation with the Japanese Ambassador that his Government is unwilling to accept the proposal and the Department does not desire that the proposal should be advanced unless the interested Governments all agree.</p>	913
Dec. 17 (621)	<p><i>From the Minister in China (tel.)</i> Statement that the advancement of the proposal to grant the Washington surtaxes does not rest with U. S. Government since the British Government is going on with it and intends shortly to present the proposal to the diplomatic body for a vote; request for instructions as to whether to join the British or to side with the Japanese in obstructing the plan.</p>	914

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EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION
CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY
PROVISIONS—Continued

Date and number	Subject	Page
1926 Dec. 18 (300)	<i>To the Minister in China (tel.)</i> Authorization to vote with the British for the proposal if prior consent of all interested Governments cannot be obtained and it is brought before the diplomatic body for a vote.	918
Dec. 19 (628)	<i>From the Minister in China (tel.)</i> Information that, at a meeting of the interested Chiefs of Mission on December 18, the British Chargé presented a statement, the general purport of which is that the powers should grant the Washington surtaxes immediately and unconditionally, accept Chinese "tariff autonomy," and cease to insist on the strict letter of treaty rights.	918
Dec. 20 (301)	<i>To the Minister in China (tel.)</i> Information that a news despatch from Peking has been printed in <i>New York Times</i> which gives the impression that the British attitude toward Washington surtaxes is more liberal than that of United States; suggestion that it might be considered wise to make U. S. attitude public.	919
Dec. 22 (632)	<i>From the Minister in China (tel.)</i> Assumption that there is no occasion for action suggested in telegram No. 301, December 20, since the larger proposals set forth in the British statement overshadowed the question of granting the Washington surtaxes; belief that the larger proposals may not be wise, but that, since the United States cannot be less liberal, it would be advisable to cooperate with the British.	919
Dec. 23 (308)	<i>To the Minister in China (tel.)</i> Instructions to support British program in conferences of diplomatic body. Statement of intention to make an address soon expressing the willingness of the U. S. Government to negotiate with a government representing China for the purpose of revising existing treaties.	922
Dec. 23 (816)	<i>From the British Ambassador</i> Telegram from the British Foreign Secretary to the British Minister in China, December 2 (text printed), setting forth the principles which the British Government considers should guide the policy of the Washington treaty powers in China.	923
Dec. 28 (644)	<i>From the Minister in China (tel.)</i> Advice not to commit the United States to any further concessions than those contemplated in the Washington Conference and the Special Customs Conference.	929
Dec. 29	<i>From the Consul General at Hankow (tel.)</i> Indication by Chinese Foreign Minister at Canton that he is anxious that no statement be made by the Department on the subject of the 2½ percent surtaxes until an announcement which he is making is received at Washington; statement that Canton Government is not in favor of British statement.	929
Dec. 29 (311)	<i>To the Minister in China (tel.)</i> Request for comments on statement of U. S. position in regard to China as set forth in proposed reply (text printed) to British memorandum of December 23.	930

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EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION
CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY
PROVISIONS—Continued

Date and number	Subject	Page
1926 Dec. 30 (647)	<i>From the Minister in China (tel.)</i> From Hankow, December 28: Information that taxes now being levied at Canton are to be enforced at Hankow from January 1, 1927; request for instructions. To Hankow, December 30: Instructions to make no protest against new taxes pending further instructions in view of the fact that the Department has agreed to British program to put Washington surtaxes into effect unconditionally but does not wish its position to be made public until the powers have reached agreement.	934
Dec. 31	<i>From the Chinese Acting Minister of Foreign Affairs at Hankow (tel.)</i> Protest against British proposal to enforce Washington surtaxes and allow the proceeds therefrom to be paid to the local authorities at each port.	935
Dec. 31	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Statement by Japanese Ambassador that his Government thought that Washington surtaxes should not be implemented except under conditions as stipulated in Washington treaty; Japanese suggestion that Tariff Conference be resumed informally with representatives of both Chinese factions present.	936
1927 Jan. 3 (1)	<i>To the Minister in China (tel.)</i> Request for suggestions concerning reply to British as quoted in Department's telegram No. 311, December 29; desire to show willingness of this Government to make ample concessions to China while not entirely scrapping Washington treaties and Conference.	937
Jan. 5 (10)	<i>From the Minister in China (tel.)</i> Opinion that draft reply contained in telegram No. 311, December 29, is inadvisable in that it might be interpreted as a competitive protestation of sympathy which actually offered less than the British proposal; belief that best course would be to acquiesce in the British proposal without demur or publicity; draft reply (text printed).	937

PROTESTS BY THE UNITED STATES AND OTHER POWERS AGAINST CHINESE
FINANCIAL MEASURES DIVERTING REVENUES FROM PAYMENT OF FOREIGN
LOANS IN DEFAULT

1926 Mar. 11 (508)	<i>From the Minister in China</i> Notes exchanged between the British, French, and U. S. Ministers and the Chinese Foreign Office, December 12 and 31, 1925, February 10 and March 5, 1926 (texts printed), concerning the default in the Hukuang bond payment.	940
Mar. 18 (512)	<i>From the Minister in China</i> Information that Chinese Government intends to utilize surplus customs revenues as security for an issue of Treasury notes and is making no provision for meeting unsecured foreign obligations; transmittal of protest made February 6 and reply of Chinese, February 11, to the effect that such utilization "does not concern or hinder foreign creditors" (texts printed).	944

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PROTESTS BY THE UNITED STATES AND OTHER POWERS AGAINST CHINESE
FINANCIAL MEASURES DIVERTING REVENUES FROM PAYMENT OF FOREIGN
LOANS IN DEFAULT—Continued

Date and number	Subject	Page
1926 [Mar. 18]	<p><i>From the American, British, French, and Japanese Ministers to the Chinese Ministry of Foreign Affairs</i></p> <p>Protest against the issuance of a further internal loan secured upon surplus customs revenues; statement that, since every new lien upon these revenues necessarily postpones the payment of the foreign debt, the Ministers regard as unacceptable the Chinese assertion that foreign creditors are not adversely affected thereby.</p>	947
[Apr. 19]	<p><i>From the American, British, and French Ministers to the Chinese Ministry of Foreign Affairs</i></p> <p>Protest against the failure of the Chinese Government to provide funds for the payment of the Hukuang loan; request that the necessary funds be made available from the existing customs revenues.</p>	948
June 4 (114)	<p><i>To the Minister in China (tel.)</i></p> <p>Telegram received by American Group from their representative in Peking (text printed) containing information that Chinese Foreign Office has requested diplomatic body to release to them customs funds to meet internal obligations and that diplomatic body has replied that they do not wish to interfere in disposal of surplus revenue so long as they are assured that funds are available to service such foreign loans as are secured on the customs revenues; request for comments for communication to American Group who consider reply of diplomatic body as a reversal of position.</p>	948
June 8 (242)	<p><i>From the Minister in China (tel.)</i></p> <p>Statement that holders of foreign obligations antedating consolidation of internal loans in 1921 have only a moral and not a legal claim on customs revenues; opinion of Ministers that request of Chinese Government could not have been declined or made conditional upon the satisfaction of such unrelated claims.</p>	949
June 13 (245)	<p><i>From the Minister in China (tel.)</i></p> <p>Inquiry as to whether U. S. Government would be willing to join the British, French, and Japanese in a move to force the Military Governor of Chihli to accept Central Government's offer of a subsidy by a threat to use military force to prevent his interference in the Salt Administration.</p>	950
June 15 (120)	<p><i>To the Minister in China (tel.)</i></p> <p>Statement that U. S. Government cannot participate in military action for the protection of the salt revenues.</p>	951
June 22	<p><i>From the American Group</i></p> <p>Information that funds have been received from China for the service of the Hukuang loan and that announcement has been made that coupons from bonds of the German issue which matured June 15, 1920, and June 15, 1925, will be paid.</p>	952
July 27 (681)	<p><i>From the Minister in China</i></p> <p>Report that an agreement has been practically concluded between the Military Governor of Chihli and the Central Government whereby the Military Governor is given a portion of the salt revenue in return for his guarantee not to interfere with its collection.</p>	952

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PROTESTS BY THE UNITED STATES AND OTHER POWERS AGAINST CHINESE
FINANCIAL MEASURES DIVERTING REVENUES FROM PAYMENT OF FOREIGN
LOANS IN DEFAULT—Continued

Date and number	Subject	Page
1926 July 30 (686)	<p><i>From the Minister in China</i> Review of the administration of the Maritime Customs in China; statement that the powers have and exercise a trusteeship over the whole customs revenue, but in respect to obligations that require only a portion of the whole, and that the powers have stated that they exercise no control over the funds remaining after these obligations have been met.</p>	953
Aug. 24 (346)	<p><i>From the Minister in China (tel.)</i> Note to Chinese Foreign Office (text printed) protesting against proposed issuance of new domestic loan bonds secured on surplus customs revenues and insisting that such funds should be used to meet obligations due to American citizens.</p>	957
Sept. 9 (382)	<p><i>From the Minister in China (tel.)</i> Information that a demand is being made that funds from the customs revenues be used to repay a local loan; opinion that compliance with the demand would mean the end of the Customs Administration and a scramble among local leaders for control of revenues of the customhouses.</p>	959
Sept. 3 (743)	<p><i>From the Minister in China</i> Note from the British, French, and U. S. representatives to the Chinese Foreign Office, September 1 (text printed), formally demanding that after the charges now being served by the customs revenues have been met, the claims of the bondholders of the Hukuang loan shall be met before any new capital charge is placed upon that revenue.</p>	960
Oct. 13	<p><i>From the Chinese Ministry of Foreign Affairs to the American Legation</i> Note from the Ministry of Finance (text printed) reiterating the statement that the issuance of new domestic loan bonds secured on the surplus customs funds would not affect foreign creditors.</p>	961
Oct. 30 (254)	<p><i>To the Minister in China (tel.)</i> Receipt of information that Chinese Finance Ministry plans still another domestic loan to be secured on the surplus customs revenues; authorization to make a protest similar to that set forth in telegram No. 346, August 24, if report is true.</p>	962
Nov. 4 (528)	<p><i>From the Chargé in China (tel.)</i> Opinion that report may be true; statement that protest will be made if the occasion warrants.</p>	962
Dec. 21 (870)	<p><i>From the Minister in China</i> Joint memorandum from the American, British, French, and Japanese Ministers to the Chinese Foreign Office, November 20 (text printed), reaffirming their opposition to further hypothecation of customs revenues for floating new internal loans as long as no steps have been taken to make good the defaults in foreign obligations.</p>	962

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DISINCLINATION OF THE UNITED STATES TO INTERVENE TO PREVENT PARALYZING OF CHINESE CUSTOMS SERVICE AT HANKOW BY STRIKE

Date and number	Subject	Page
1926 Nov. 27 (579)	<i>From the Minister in China (tel.)</i> Request for instructions as to whether the U. S. Government would be willing to cooperate with other powers in using force if necessary to protect the customhouse at Hankow from striking employees.	964
Nov. 29 (286)	<i>To the Minister in China (tel.)</i> Opinion that the United States has no right to intervene since the Maritime Customs is a Chinese national service.	966

THE COMMISSION ON EXTRATERRITORIALITY IN CHINA, PROVIDED FOR BY RESOLUTION V OF THE WASHINGTON CONFERENCE

1926 Jan. 5 (6)	<i>To the Minister in China (tel.)</i> Information concerning the Commission on Extraterritoriality; suggestion that this information be presented informally to the Chinese Foreign Office.	966
Jan. 11 (16)	<i>From the Minister in China (tel.)</i> Opinion that it is unnecessary to present information contained in Department's telegram No. 6, January 5, in view of full discussions which have already taken place.	967
Feb. 27 (96)	<i>From the Minister in China (tel.)</i> Chinese suggestion that Commission be empowered to agree upon procedure for abolition of extraterritoriality. Recommendation that such action not be taken without a formally expressed opinion of the Commissioners; belief that unanimous sentiment is against modification of treaties at present in view of the revolutionary conditions.	968
Mar. 2 (52)	<i>To the Minister in China (tel.)</i> Telegram from Chinese Foreign Office to Chinese Minister, February 26 (text printed), requesting that definite arrangements concerning extraterritoriality be made by the Commission. Secretary's note to Chinese Minister, March 1 (text printed), replying that he desires to have before him report and recommendations of Commission before considering the request.	968
Mar. 4 (110)	<i>From the Minister in China (tel.)</i> Recommendation that position set forth in telegram No. 52, March 2, be adhered to until report of the Commission is received.	970
Mar. 25 (150)	<i>From the Minister in China (tel.)</i> Telegram from U. S. Commissioner Strawn (text printed) giving list of matters which the Chinese Commissioner has submitted for the consideration of the Commission.	970
Mar. 25 (74)	<i>To the Minister in China (tel.)</i> For Strawn: Instructions to make no commitments on the subject but to place no obstacles in the Chinese Commissioner's way in submitting views or data which his Government may desire to have the Commission consider.	971

CHINA

THE COMMISSION ON EXTRATERRITORIALITY IN CHINA—Continued

Date and number	Subject	Page
1926 Apr. 16 (10)	<i>From the American Commissioner on Extraterritorial Jurisdiction in China</i> Report of the activities of the Commission from April 5 to 16; opinion that since the Chinese Government has failed to provide transportation, the Commission should give up idea of tour of inspection and proceed to work on report; American Commissioner's forecast of general purport of report.	971
Apr. 30 (11)	<i>From the American Commissioner on Extraterritorial Jurisdiction in China</i> Report of activities of Commission from April 16 to 30; information that discussion of draft report is going forward while the matter of travel is in abeyance.	976
May 11 (12)	<i>From the American Commissioner on Extraterritorial Jurisdiction in China</i> Report of activities of Commission from May 1 to 11; statement that there was a discussion of the outline of the report and recommendation to be made by the Commission and that the tour of inspection was begun May 10.	977
June 11 (117)	<i>To the Minister in China (tel.)</i> For Strawn: Attitude that Commissioner should make recommendations unhampered as to detail by instructions from Department; desire to give up extraterritoriality within reasonable time.	978
Sept. 17 (412)	<i>From the Chargé in China (tel.)</i> From Strawn: Summary of the Commission's report which was signed September 16 by the Commissioners of all the participating powers including China.	979
Nov. 22 (276)	<i>To the Minister in China (tel.)</i> Instructions to inform Chinese Foreign Office that the U. S. Government proposes to give the report to the press for publication on November 29.	982
Nov. 27 (580)	<i>From the Minister in China (tel.)</i> Suggestion by Chinese Foreign Office, November 26 (text printed), that the recommendations of the Commission be published without the findings upon which they were based. (Footnote: Information that Foreign Office released the recommendations for publication on November 29.)	983
Nov. 27 (285)	<i>To the Minister in China (tél.)</i> Statement that Department is publishing report on November 29 and that other Governments have been notified.	983

ABROGATION BY CHINA OF THE SINO-BELGIAN TREATY OF NOVEMBER 2, 1865

1926 Aug. 17 (164)	<i>To the Minister in China (tel.)</i> Information that report has been published stating that China has notified Belgium that abrogation of her commercial treaties and extraterritorial rights will be effective October 29 and stating that treaties of other governments will follow as dates for extension arrive; request for confirmation of report.	984
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CHINA

ABROGATION BY CHINA OF THE SINO-BELGIAN TREATY OF NOVEMBER 2, 1865—
Continued

Date and number	Subject	Page
1926 Aug. 18 (58)	<i>From the Ambassador in Belgium (tel.)</i> Confirmation by the Belgian Foreign Office of the fact that China has notified Belgium concerning the abrogation of her treaty although Belgium alone has that right. Foreign Minister's assertion to Chinese that if <i>modus vivendi</i> is not signed before end of present month, whole treaty matter will be submitted to Court of International Justice; intentions of Belgian Government to ask U. S., British, and possibly French help in obtaining satisfactory <i>modus vivendi</i> .	984
Aug. 19 (337)	<i>From the Minister in China (tel.)</i> Report that Chinese have assumed right to abrogate Belgian and French treaties and intend to take similar action in regard to a treaty with Japan; assertion that U. S. treaty of 1903 would apparently become subject to revision or termination January 13, 1934.	985
Aug. 24 (344)	<i>From the Minister in China (tel.)</i> Report that Belgian Government is requesting Washington Conference powers to make collective representations to Chinese Government; suggestion that Secretary reply that such representations will be made only if the Chinese offer unsatisfactory terms for the <i>modus vivendi</i> .	986
Aug. 25 (585)	<i>From the Ambassador in Belgium</i> <i>Note verbale</i> from the Belgian Foreign Office, August 21 (text printed), requesting the aid of the United States in inducing China to effect an acceptable <i>modus vivendi</i> and enclosing the note which the Belgian Foreign Minister had sent to the Chinese Minister in Belgium August 3 (text printed).	987
Aug. 27 (356)	<i>From the Minister in China (tel.)</i> Suggestion that if any action is taken on Belgian request it should be in the form of a protest against China's violation of Belgian treaty rights.	990
Sept. 7 (66)	<i>From the Ambassador in Belgium (tel.)</i> Information that Belgian Foreign Office is dissatisfied with terms of draft <i>modus vivendi</i> presented by the Chinese on September 3.	990
Sept. 8 (44)	<i>To the Ambassador in Belgium (tel.)</i> Instructions to advise the Foreign Office informally that the U. S. Government questions the advisability of its taking action requested by the Belgian Government.	991
Nov. 6 (77)	<i>From the Ambassador in Belgium (tel.)</i> Statement that the Foreign Office has notified the Chinese Government that the Belgian Government will submit the question of abrogation to the Court of International Justice.	991
Nov. 9 (535)	<i>From the Minister in China (tel.)</i> Information that on November 5 the Belgian Minister addressed an <i>aide-mémoire</i> to the Chinese Foreign Office rejecting the Chinese proposal and inviting the Chinese to join in a compromise and submit the matter to the Court of International Justice, to which the Chinese replied on November 6 with a Presidential order abrogating the treaty as of October 27, 1926.	991

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ABROGATION BY CHINA OF THE SINO-BELGIAN TREATY OF NOVEMBER 2, 1865—
Continued

Date and number	Subject	Page
1926 Nov. 9 (536)	<i>From the Minister in China (tel.)</i> Texts of the Belgian Minister's <i>aide-mémoire</i> of November 5, the Chinese Foreign Office reply of November 6, and the Presidential order of November 6.	992
Nov. 12 (544)	<i>From the Minister in China (tel.)</i> Opinion that it would be unwise for the Washington Conference powers to protest to China; suggestion that Secretary intimate that the United States has no sympathy with the Chinese in the doctrine of international irresponsibility, which doctrine has stood in the way of U. S. recognition of the Russian regime.	995
Nov. 15 (267)	<i>To the Minister in China (tel.)</i> Approval of opinion concerning protest by the powers; belief that suggested intimation would be unwise.	998
Nov. 19 (563)	<i>From the Minister in China (tel.)</i> Explanation that intimation was intended as a friendly word of warning to China as she stands at the crossroads where she must choose between a constructive policy and the Soviet policy of tearing up treaties.	998
Nov. 23 (80)	<i>From the Ambassador in Belgium (tel.)</i> Statement that Chinese Minister submitted a memorandum to the Foreign Office, November 22, refusing to submit the question of the Belgian treaty to the Court of International Justice. Preparation of the Foreign Office to submit it to the Court without China's acquiescence. (Footnote: Information that on November 25, 1926, the Belgian Government submitted the matter to the Court, but on February 14, 1929, requested that it be struck from the list, as the matter had been settled by a preliminary treaty between Belgium and China, signed November 22, 1928.)	1001

CHINESE PROTEST AGAINST THE ADHERENCE OF CERTAIN POWERS TO THE
NINE-POWER TREATY CONCERNING CHINA, SIGNED FEBRUARY 6, 1922

1925 Dec. 23 (589)	<i>From the Ambassador in Germany</i> Foreign Office communication, December 17, 1925 (text printed), declaring that Germany, subject to ratification, adheres to the Nine-Power Treaty. (Footnote: Excerpt from telegram No. 3589, August 19, 1940, from Chargé in Germany: "ratification of the Nine Power Treaty by Germany did not take place and hence Germany did not adhere to that treaty.")	1001
1926 Jan. 9 (11)	<i>To the Minister in China (tel.)</i> Protest of Chinese Minister against Germany's adherence on the ground that Germany is not a power possessing special treaty rights in China. Secretary's explanation that the United States had acted according to provisions of article 8 of the treaty in asking Germany to adhere and that treaty was solely for the benefit of China. Information that Chinese Minister reported to his Government along these lines (substance printed).	1002

CHINA

CHINESE PROTEST AGAINST THE ADHERENCE OF CERTAIN POWERS TO THE NINE-POWER TREATY—Continued

Date and number	Subject	Page
1926 Jan. 16 (319)	<p><i>To the Ambassador in Germany</i></p> <p>Instructions to ascertain if presumption is correct that Foreign Minister's statement that Germany's adherence is subject to ratification means that it must receive approval of the German legislative bodies; opinion that if this is true, the note of December 17 does not constitute complete adherence and does not warrant notification to other signatory powers of Germany's adherence.</p>	1003
Jan. 16	<p><i>From the Chinese Ministry of Foreign Affairs to the American Minister in China</i></p> <p>Reasons why Chinese Government believes that Germany is not among those nations that may adhere to the treaty; request that these reasons be communicated to the U. S. Government in order that they may be brought to the attention of the German Government and that the invitation may be withdrawn.</p>	1004
Jan. 20 (21)	<p><i>To the Minister in China (tel.)</i></p> <p>Instructions to inform Foreign Minister that in 1925 the United States issued invitations to adhere to the Nine-Power Treaty to certain powers, including Germany; that, since these invitations were issued in accordance with the obligations imposed by article 8 of the treaty, they cannot be withdrawn; and that this Government believes that it is to China's interest that all the powers having treaty relations with China should subscribe to the principles and policies set forth in this treaty.</p>	1005
Jan. 22	<p><i>From the Chinese Minister</i></p> <p>Memorandum (text printed) suggesting that invitations issued by the United States to Bolivia, Chile, Persia, Peru, and Switzerland to adhere to the treaty be recalled.</p>	1007
Jan. 23 (43)	<p><i>From the Minister in China (tel.)</i></p> <p>Request for authorization to include in note conveying the substance of telegram No. 21, January 20, a statement (text printed) containing the intimation that should he make an issue of the situation, the Chinese Foreign Minister might risk alienation of some degree of sympathy on the part of the United States.</p>	1008
Jan. 25 (29)	<p><i>To the Minister in China (tel.)</i></p> <p>Qualified approval of suggestion made in telegram No. 43, January 23. Transmittal of substance of Chinese Minister's note of January 22.</p>	1008
Jan. 27 (50)	<p><i>From the Minister in China (tel.)</i></p> <p>Suggestion that the Secretary reply by a single note to the Chinese memoranda of January 16 and January 22, in order to avoid any appearance of differences between the Secretary and the American Minister; apprehension that the Chinese may be seeking to develop such differences. Belief that a firm U. S. attitude would prevent Chinese Foreign Minister from making popular issue of situation.</p>	1009

CHINA

CHINESE PROTEST AGAINST THE ADHERENCE OF CERTAIN POWERS TO THE NINE-POWER TREATY—Continued

Date and number	Subject	Page
1926 Feb. 3 (64)	<i>From the Minister in China (tel.)</i> Excerpts from a publication by a news agency close to the Foreign Minister criticizing motives of the United States in inviting Germany to adhere to the treaty. Opinion that, although opportunity to forestall agitation has passed, its development may be arrested by a sufficiently definite refusal by the United States to reconsider its action.	1010
Feb. 4 (36)	<i>To the Minister in China (tel.)</i> Information that a note had been prepared covering Germany and all other cases but that the Chinese Minister, upon being informed of its substance, had asked that it not be delivered inasmuch as he was again requesting his Government to withdraw its request. Statement that the note will now be delivered.	1012
Feb. 6 (66)	<i>From the Minister in China (tel.)</i> Concurrence in Secretary's proposal to deliver note to Chinese Minister without awaiting further action by him.	1012
Feb. 6	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Explanation by the Secretary, in conversation with the Chinese Minister, that the note could no longer be withheld since statements had been published in Peking which impugned the motives of the United States. Request by the Minister that he be given until February 8; agreement by the Secretary that note be withheld until then.	1013
Feb. 6 (760)	<i>From the Ambassador in Germany</i> Report of statement by Chief of Asiatic Division in the Foreign Office that the Nine-Power Treaty would be submitted to the Reichstag for ratification, that he did not know when this would take place, but that he would notify the Ambassador when the Reichstag was approached on the subject.	1014
Feb. 9	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation between the Secretary and the Chinese Minister in which the Minister read a telegram from his Government dated February 8 (text printed), to the effect that the Chinese Government would not insist that the United States withdraw the invitations; statement by the Secretary that it only remained for the Chinese Government to withdraw the memoranda addressed to the Department and to the American Minister; assertion by Chinese Minister that he had already drafted proposals to that effect for communication to his Government and that he had also drafted a telegram (text printed) which he proposed that the United States should send to the Chinese Government.	1015
Feb. 23 (46)	<i>To the Minister in China (tel.)</i> Information that the Secretary is temporarily withholding Department's reply at the urgent request of the Chinese Minister who hopes shortly to obtain permission to withdraw note.	1017
Feb. 25 (91)	<i>From the Minister in China (tel.)</i> Fear that the attitude of the Foreign Minister does not justify the hope of the Chinese Minister.	1017

CHINA

CHINESE PROTEST AGAINST THE ADHERENCE OF CERTAIN POWERS TO THE NINE-POWER TREATY—Continued

Date and number	Subject	Page
1926 Mar. 1	<i>To the Chinese Minister</i> Acknowledgment of receipt of the Minister's note of January 22 embodying the Chinese Government's views in regard to the adherence of non-signatory powers to the Nine-Power Treaty. Transmittal of a memorandum (text printed) setting forth the reasons why the United States cannot act in accordance with the suggestion of the Chinese Government that the United States withdraw the invitations which it had issued to Bolivia, Chile, Germany, Persia, Peru, and Switzerland.	1018
Mar. 4 (53)	<i>To the Minister in China (tel.)</i> Information that on February 27 the Chinese Minister stated that his Government had disapproved his proposal to withdraw its notes on the question of adherence to the Nine-Power Treaty. Transmittal of text of Department's reply to Chinese Minister's note of January 22 in order that U. S. Minister may make an identical reply to the memorandum of January 16 from the Ministry of Foreign Affairs.	1022
Mar. 8 (117)	<i>From the Minister in China (tel.)</i> Information that Minister has transmitted to the Foreign Office a copy of the Department's reply of March 1 to the Chinese Minister with the statement that it embodies the reply which the Secretary wished him to make to the Chinese Government's note of January 16 in regard to Germany and one dated March 4 in regard to Bolivia.	1023

RENDITION OF THE SHANGHAI MIXED COURT TO THE KIANGSU PROVINCIAL GOVERNMENT

1925 Oct. 8 (197)	<i>From the Minister in China</i> Acknowledgment of the Department's views that the function of the foreign assessor in the International Mixed Court at Shanghai is the same as in other parts of China; that is, that he merely attends court as the representative of the consul general and is under his instructions. Presentation of arguments advanced in support of the general belief in China that the Mixed Court is the survival of an earlier procedure and that the assessor has a judicial status. Statement that this is brought to the attention of the Department in view of the negotiations now in progress for rendition of the Shanghai Mixed Court to the Chinese authorities.	1023
Nov. 25	<i>From the Chinese Minister of Foreign Affairs to the Senior Minister</i> Proposal concerning the rendition of the Mixed Court and the reorganization of the judicial system in the International Settlement of Shanghai.	1026
1926 May 1 (213)	<i>To the Minister in China</i> Department's opinion that general impression in China as to origin of Mixed Court is incorrect; view that this Government has never regarded American assessors as having judicial status in Chinese courts.	1027

CHINA

RENDITION OF THE SHANGHAI MIXED COURT TO THE KIANGSU PROVINCIAL GOVERNMENT—Continued

Date and number	Subject	Page
1926 May 22 (595)	<i>From the Minister in China</i> Report of appointment by the interested Foreign Ministers and the Chinese Ministry of Foreign Affairs of commissions to draft an agreement upon terms for the rendition of the Mixed Court; expression of regret that the commissions have been unable to reach an agreement due to the Chinese insistence that the reconstituted court consist partly of a purely Chinese court, which would alter the mode of administration of the International Settlement.	1029
May 29 (232)	<i>From the Minister in China (tel.)</i> Summary of progress of negotiations for rendition of Mixed Court.	1030
July 23 (297)	<i>From the Minister in China (tel.)</i> Information that agreement has been reached upon terms of rendition (substance printed) which now only requires approval of interested Legations; opinion that the proposed agreement is acceptable and will have a salutary effect on Chinese public opinion.	1031
July 26 (147)	<i>To the Minister in China (tel.)</i> Department's approval of the agreement for rendition summarized in telegram No. 297, July 23.	1032
July 30 (308)	<i>From the Minister in China (tel.)</i> Request for approval of proposed courses of action in case the French, Italians, or Norwegians attempt to obstruct rendition or in case the authorities at Peking refuse to ratify the agreement.	1033
July 31 (151)	<i>To the Minister in China (tel.)</i> Recommendation for modification of proposed course of action in case French attempt to block rendition; approval of other proposals.	1034
Aug. 14 (327)	<i>From the Minister in China (tel.)</i> Report that Ministers are now in agreement except for Italian Minister who awaits instructions; information that Shanghai consular body has been authorized to sign draft agreement outlined in telegram No. 297, July 23, but that actual rendition is to await exchange of notes.	1034
Sept. 1 (364)	<i>From the Minister in China (tel.)</i> Information that Chinese have signed rendition agreement and that all consuls concerned have either signed it or promised to do so. Fear that Italian eleventh-hour demands may delay exchange of notes; statement that Italian demands have been referred to Shanghai consuls for settlement.	1034
Aug. 31	<i>Provisional Agreement</i> For the rendition of the Shanghai Mixed Court.	1035
Dec. 27 (641)	<i>From the Minister in China (tel.)</i> To Shanghai, December 24: Suggestions as to ways of meeting Italian demands. Belief that Italian Minister is weakening.	1039

CHINA

RENDITION OF THE SHANGHAI MIXED COURT TO THE KIANGSU PROVINCIAL GOVERNMENT—Continued

Date and number	Subject	Page
1926 Dec. 29 (645)	<i>From the Minister in China (tel.)</i> Information that the Italian Minister has accepted compromise proposals; expectation that rendition can be effected January 1.	1040
1927 Jan. 4 (5)	<i>From the Minister in China (tel.)</i> Statement that consul general at Shanghai has reported that rendition of Mixed Court was effected by exchange of notes December 31, 1926, and that first session of Provisional Court will be held January 4.	1040

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY IN EFFORTS TO OBTAIN EXECUTION OF ITS CONTRACT WITH THE CHINESE GOVERNMENT

1926 Jan. 7 (9)	<i>To the Minister in China (tel.)</i> Conversation with Japanese Ambassador in which Ambassador urged that U. S. Government give consideration to the Japanese proposal of a consortium arrangement for operation of wireless telegraphy in China under which monopoly claims would be relinquished and control of operations would be placed in the hands of the Chinese Government; Ambassador's belief that agreement between the Governments of Japan and the United States would help to persuade the Chinese Government to accept proposal. Instruction to Minister to canvass situation in regard to probabilities of Chinese ever fulfilling Federal contract. Request for views on advisability of accepting consortium arrangement.	1040
Jan. 13 (24)	<i>From the Minister in China (tel.)</i> Opinion that to acquiesce in the proposal for a radio consortium would be a mistake since the Chinese apparently would not agree to it and the only result would be to destroy the American position under the Federal contract; belief that consortium would not be economically sound; recommendation that Department reject the consortium proposal until Japanese are able to give assurances that Chinese have changed their stand on the subject.	1042
Jan. 14 (25)	<i>From the Minister in China (tel.)</i> Views of Colonel Davis, representative in China of the Radio Corporation of America (text printed), concerning consortium, transmitted for communication to Harbord, president of the Corporation.	1045
Jan. 16 (28)	<i>From the Minister in China (tel.)</i> Receipt of information that Japan has reasserted her claim to 30-year monopoly by protesting to Chinese Government against transaction of business with France and Germany through other than Japanese wireless stations.	1047
Jan. 20 (35)	<i>From the Minister in China (tel.)</i> Report on conversation with Chinese Foreign Minister Janu-18, in which the Foreign Minister was noncommittal; and on informal conversations with Saburi, head of the Commercial Department of the Japanese Foreign Office.	1047

CHINA

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY—Continued

Date and number	Subject	Page
1926 Jan. 23 (27)	<i>To the Minister in China (tel.)</i> Information that the Department awaits results of informal conversations with Saburi; and that if Japanese Embassy should revive question, the Department will reject consortium proposal.	1049
Jan. 27 (31)	<i>To the Minister in China (tel.)</i> Receipt of a letter from Harbord in which he adverts to the fact that an agreement has been made by the Minister and the Chinese Foreign Minister for negotiations to take place between the Americans, Japanese, and Chinese and suggests that he extend invitation to representatives of Japanese company and Chinese Ministry of Communications to meet in New York City. Department's proposal to ask Harbord to come to Washington for consultation.	1049
Jan. 30 (60)	<i>From the Minister in China (tel.)</i> Concurrence in the Department's proposal. Belief that there is danger in treating the matter as though negotiations were already in progress between the Radio Corporation and the Japanese.	1050
Feb. 10 (147)	<i>To the Minister in China</i> Explanation of the status of the negotiations on the subject of the radio situation in China as given to the British Ambassador in answer to the Ambassador's questions asked during the course of a conversation on February 4. (Footnote: The same, on same date, to the Ambassador in Japan and to the Chargé in Great Britain.)	1051
Feb. 11	<i>From Major General James G. Harbord</i> Acceptance of Secretary's invitation to come to Washington and hope that the Department will push matter to a conclusion at an early date.	1052
Mar. 6 (114)	<i>From the Minister in China (tel.)</i> To Tokyo, March 5: Answer to a telegram giving information of recent newspaper comment on the wireless question.	1053
Mar. 30 (194)	<i>To the Minister in China</i> Conversation with the British Ambassador, March 25, in which the Ambassador said that he thought that if the United States would urge China to enter into the consortium, China would agree. Statement that the Secretary made no promise as to what the U. S. Government would do. (Footnote: The same, on same date, to the Chargé in Great Britain.)	1054
Apr. 7 (28)	<i>To the Ambassador in Japan (tel.)</i> Instructions that the Department prefers that no discussions of the wireless question be initiated at Tokyo at present.	1054
Apr. 16 (37)	<i>From the Ambassador in Japan (tel.)</i> Refusal to discuss topic of wireless with Japanese Foreign Minister; informal request by Foreign Minister that the U. S. Minister ask the Department if it could not reply to the Japanese memorandum of June 1, 1925.	1055

CHINA

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH
COMPANY—Continued

Date and number	Subject	Page
1926 Apr. 16	<p><i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Inquiry by the Japanese Ambassador as to new developments in the matter of the Federal contract; reply that there were none because of political situation in China and because the U. S. Government yet wanted to know the Chinese reply to the Japanese proposal of a consortium; Ambassador's statement that no reply had been received and opinion that none would be received until the powers agreed on a proposition. Denial that there is any American opposition to the operation of the Japanese station in China. (Footnote: Copies sent to the Ambassador in Japan and to the Minister in China, April 23.)</p>	1055
May 14 (96)	<p><i>To the Minister in China (tel.)</i> Résumé of radio situation in China; consideration of reply to Japanese memorandum of June 1, 1925, to the effect that if the Chinese have no objections to a radio consortium of the Japanese, British, French, and American interests, U. S. Government will not object; intention of Radio Corporation to recall Davis and, failing to bring about definite action within 6 months, to recommend to the Federal Telegraph Company that it declare the Republic of China in default; alternative proposal that Minister notify Chinese that U. S. Government is ready to accept suggestions made by Chinese Provisional Chief Executive in 1925. Request for comments and suggestions.</p>	1058
May 14 (97)	<p><i>To the Minister in China (tel.)</i> Instructions to inform the Chinese Government that U. S. Government hopes to receive a decision on the Federal contract by June 30 but that, if by that time no action has been taken to carry out the contract, the U. S. Government, while reserving all rights, will permit American interests to work out arrangements with interests of other countries for the operation of radio stations in China, subject to the single provision that the Department will not support any arrangement involving a monopoly.</p>	1061
May 19 (215)	<p><i>From the Minister in China (tel.)</i> Telegram from Davis for the Radio Corporation (text printed) expressing doubt that a Chinese Government will exist in the near future to which the U. S. Minister could present an ultimatum, also giving information that Davis will leave Peking about June 30.</p>	1062
June 11 (243)	<p><i>From the Minister in China (tel.)</i> Information that no action has been taken on telegrams No. 96 and No. 97 of May 14 since there is no one in charge of the Ministry of Communications; opinion that it would be unwise to adopt either procedure since either one would mean abandoning U. S. rights under the Federal contract; request for authorization to be less specific; belief that Japanese insistence upon recognition of their claim to monopoly indicates that open-door policy is at stake; suggestion that if a reply is made to Japanese it should be made upon basis of recommendation in Minister's telegram No. 24, January 13.</p>	1062

CHINA

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY—Continued

Date and number	Subject	Page
1926 July 15 (141)	<i>To the Minister in China (tel.)</i> Information that the Radio Corporation agrees with suggestions in telegram No. 243, June 11, in regard to the communication to Chinese Government; instructions to be guided accordingly.	1066
Aug. 19 (335)	<i>From the Minister in China (tel.)</i> Report of a conversation with Acting Minister for Foreign Affairs, August 18, which seemed to give some hope of an understanding; assertion that, in view of the indeterminate status of the Cabinet, no more categorical statement was made than to intimate that the moment is nearing when the Radio Corporation will have to make arrangements elsewhere if the Chinese fail to make use of the opportunity open to them.	1066
Aug. 21	<i>Memorandum by the Assistant Secretary of State</i> Conversation with British Ambassador in which the Ambassador was told that the Assistant Secretary had nothing new to say concerning the Federal contract; the Ambassador's intimation that the consortium would eliminate Japanese and American monopoly, and suggestion that he submit an <i>aide-memoire</i> on British position.	1067
Aug. 27	<i>From the British Ambassador</i> Memorandum (text printed) giving reasons why the British Government considers that the Federal contract involves a virtual monopoly; statement that, if the Federal contract is carried out, the British Government may be obliged to take concerted action with the other powers concerned for the protection of British interests.	1068
Sept. 1 (365)	<i>From the Minister in China (tel.)</i> Report of a Chinese Cabinet decision that further consideration should not be given to the Federal contract until a "recognized" government is established; opinion that U. S. company can no longer rely on Peking authorities; request for authorization to discuss the matter with the local Shanghai authorities.	1075
Sept. 7 (184)	<i>To the Minister in China (tel.)</i> Department's unwillingness to authorize Minister to discuss matter with local Shanghai authorities.	1077
Sept. 25	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which the Ambassador expressed his Government's disappointment in not having received a reply to a note of almost a year ago; statement that Japan is not committed to the proposition it has made but is prepared to consider any proposal in harmony with the general ideas expressed therein.	1078
Sept. 29 (437)	<i>From the Chargé in China (tel.)</i> Information that the Japanese Minister has instructions to take up wireless question with U. S. Chargé and the Chinese; and that the Chinese Acting Foreign Minister intends to invite the U. S. Chargé, Japanese Minister, and probably Chinese Minister of Communications to an unofficial dinner to discuss the matter.	1078

CHINA

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH
COMPANY—Continued

Date and number	Subject	Page
1926 Sept. 30 (210)	<i>To the Chargé in China (tel.)</i> Instructions to refrain from comment if the unofficial dinner is given but to report to the Department any proposals or suggestions made; statement that the Department expects to go over the situation with General Harbord shortly, after which it will be in a position to give necessary instructions.	1080
Oct. 11	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Japanese Ambassador in which the Ambassador expressed disappointment that he had been unable to accomplish anything in regard to the wireless situation in China for more than a year and was informed that the Department hopes to be able to reply within a few days to the Embassy's note of June 1, 1925.	1080
Oct. 13 (474)	<i>From the Chargé in China (tel.)</i> Report of various indications that now is a propitious time to make a further attempt to have the Federal contract executed.	1081
Oct. 16 (232)	<i>To the Chargé in China (tel.)</i> Statement that, after a conference with General Harbord and Colonel Davis, the Department is now preparing a reply to the Japanese Embassy's note of June 1, 1925; indication as to substance of the reply.	1082
Oct. 28	<i>To the Japanese Ambassador</i> Reply to the Ambassador's memorandum of June 1, 1925; review of entire situation, concluding with the statement that, if the Governments of China and Japan approve, the Radio Corporation of America will invite representatives of the Chinese Ministry of Communications and the Japanese and U. S. companies to meet in New York City to work out a solution of the difficulties; two enclosures (texts printed) setting forth the views of the U. S. interests and their opinion that the most desirable type of consortium would be one in which the Japanese and U. S. companies developed their projects separately but coordinated their operating efforts. (Footnote: Copies sent to the Ambassadors in Great Britain and France, November 4, 1926.)	1082
Oct. 28 (251)	<i>To the Chargé in China (tel.)</i> Transmittal of text of the memorandum sent to the Japanese Ambassador October 28; instructions to leave a copy with the Chinese Ministry of Foreign Affairs accompanied by a memorandum stating the situation in brief and concluding with a request for an early indication of the attitude of the Chinese officials; further instructions to state orally that the U. S. company hopes that the Ministry of Communications will not use this proposal as an excuse for further delay in the execution of the Federal contract.	1091
Nov. 4 (529)	<i>From the Chargé in China (tel.)</i> Report that instructions have been carried out and that Foreign Minister states that he will take up the matter immediately with a view to making an early reply.	1092

CHINA

DISAPPROVAL BY THE DEPARTMENT OF STATE OF PROPOSED GRANT OF OIL
MONOPOLY BY THE CANTON GOVERNMENT TO THE STANDARD OIL COMPANY

Date and number	Subject	Page
1925 Dec. 21 (352)	<p><i>From the Consul General at Canton to the Minister in China</i> Information from a Standard Oil Company official that the Canton authorities, after stating that they expect to continue the oil monopoly, have proposed an agreement with the Standard Oil Company whereby that company would supply most, if not all, the oil and gasoline for the Canton district and might at the same time undertake the distribution of petroleum products under the local government's supervision; opinion of the company's manager in Canton that the proposal will not be considered since its acceptance would be construed as approval of the monopoly and since it would give the other companies a right to protest.</p>	1092
1926 Jan. 7 (10)	<p><i>From the Minister in China (tel.)</i> From Canton, January 5: Information that Standard Oil Company is seriously considering the Canton Government's proposal; opinion that such a step would be unfortunate. To Canton, January 7: Instruction to advise the local representative of the company that the Legation could not countenance such an arrangement, which is contrary to treaty provisions and the established policy of the U. S. Government as concerns monopolies.</p>	1094
Jan. 11 (14)	<p><i>To the Minister in China (tel.)</i> Approval of instructions to Canton as transmitted in telegram No. 10, January 7.</p>	1095
Jan. 30 (59)	<p><i>From the Minister in China (tel.)</i> Information that an oil monopoly similar to that in operation at Canton has been instituted at Swatow.</p>	1095
Mar. 16 (131)	<p><i>From the Minister in China (tel.)</i> Report of a tentative agreement between the Standard Oil Company and the Canton Government whereby the company will allow local authorities to tax oil in violation of treaty provisions; suggestion that matter be taken up with the Standard Oil Company in the sense that it would be regrettable if American interests were to undermine the efforts made by the U. S. Government to prevent illegal taxation of American trade in China.</p>	1095
Apr. 6 (77)	<p><i>To the Minister in China (tel.)</i> Assertion that the Department prefers to take no action in the matter in the absence of a request from the interested firm.</p>	1096
June 7 (241)	<p><i>From the Minister in China (tel.)</i> From Canton, June 5: Statement that the Canton Government has ordered the abolition of the oil monopoly on June 15 but that apparently the high stamp tax will be retained.</p>	1096
July 6 (274)	<p><i>From the Minister in China (tel.)</i> From Canton, July 2: Report that the Standard Oil Company is about to resume sale of oil under the agreement to allow taxation by Canton authorities.</p>	1097

CHINA

ATTITUDE OF THE UNITED STATES TOWARD THE DEMAND OF THE CHINESE GOVERNMENT FOR THE RECALL OF THE SOVIET AMBASSADOR IN CHINA

Date and number	Subject	Page
1926 Aug. 18 (331)	<i>From the Minister in China (tel.)</i> Question by a member of the Chinese Foreign Office staff as to the U. S. Minister's attitude in case the Foreign Office gave the Soviet Ambassador his passport and, in case he refused to leave, insisted upon dealing with his staff only; reply that the Soviet Ambassador's status is a matter concerning only the Chinese and the Russians.	1097
Aug. 19 (168)	<i>To the Minister in China (tel.)</i> Assertion that no doubt should be left in the minds of the Chinese that the status of the Soviet Ambassador concerns only China and the Soviet Government.	1098
Sept. 1 (367)	<i>From the Minister in China (tel.)</i> Information that the Soviet Ambassador is to be withdrawn in a few days. (Footnote: The Soviet Ambassador in China sailed from Shanghai September 26, 1926.)	1099

RIGHT OF AMERICAN CITIZENS TO BRING SUITS IN CHINESE COURTS AGAINST THE GOVERNMENT OF CHINA

1926 Oct. 22 (788)	<i>From the Chargé in China</i> Information that an American citizen may bring suit in China against the Government of China either in the Higher Court of Justice or the District Court of Justice; opinion that it would be difficult to obtain a favorable judgment or to secure its execution.	1099
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STATUS OF PERSONS OF CHINESE RACE IN CHINA CLAIMING AMERICAN CITIZENSHIP

1925 Jan. 5	<i>To the Consul in Charge at Hongkong</i> Instructions concerning the procedure to be followed in the cases of children of native-born American citizens of Chinese descent who are residing in China and may claim American citizenship under section 1993 of the Revised Statutes of the United States.	1100
1926 Feb. 20 (159)	<i>To the Minister in China</i> Transmittal of copy of Department's instruction of January 5, 1925, with instructions to circularize to consular officers in China.	1101
Apr. 19 (202)	<i>To the Minister in China</i> Instruction to advise the consul general at Canton to take no further action in the matter of the arrest by Canton military authorities of Chu Shea-wai, an American citizen of Chinese race, in view of the fact that the Department considers it doubtful that he is any longer entitled to the protection of the U. S. Government; views of the Department which are to be followed when similar cases arise in the future.	1102

CHINA

STATUS OF PERSONS OF CHINESE RACE IN CHINA CLAIMING AMERICAN
CITIZENSHIP—Continued

Date and number	Subject	Page
1926 May 20 (227)	<i>To the Minister in China</i> Instructions to be circularized to all consular officers in China as a supplement to the Department's instruction No. 159, February 20, concerning the procedure to be followed in the cases of children of native-born American citizens of Chinese descent who are residing in China.	1103

GENERAL

PROPOSAL OF THE UNITED STATES TO ADHERE, WITH RESERVATIONS, TO THE PROTOCOL OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE¹

*Senate Resolution No. 5, January 27 (Legislative Day January 16, 1926), 69th Congress, 1st Session, Advising and Consenting, With Reservations, to the Protocol of December 16, 1920*²

Whereas the President, under date of February 24, 1923, transmitted a message to the Senate,³ accompanied by a letter from the Secretary of State, dated February 17, 1923,⁴ asking the favorable advice and consent of the Senate to the adherence on the part of the United States to the protocol of December 16, 1920, of signature of the statute for the Permanent Court of International Justice, set out in the said message of the President (without accepting or agreeing to the optional clause for compulsory jurisdiction contained therein), upon the conditions and understandings hereafter stated, to be made a part of the instrument of adherence: Therefore be it

Resolved (two-thirds of the Senators present concurring), That the Senate advise and consent to the adherence on the part of the United States to the said protocol of December 16, 1920, and the adjoined statute for the Permanent Court of International Justice (without accepting or agreeing to the optional clause for compulsory jurisdiction contained in said statute), and that the signature of the United States be affixed to the said protocol, subject to the following reservations and understandings, which are hereby made a part and condition of this resolution, namely:

1. That such adherence shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the treaty of Versailles.

2. That the United States shall be permitted to participate, through representatives designated for the purpose and upon an equality with the other states, members, respectively, of the Council and Assembly of the League of Nations, in any and all proceedings of either the council or the assembly for the election of judges or

¹For previous correspondence concerning United States adherence to the protocol, see *Foreign Relations*, 1923, vol. I, pp. 1 ff. For text of protocol, see *ibid.* 1920, vol. I, p. 17.

²Resolution reprinted from *Congressional Record*, vol. 67, pt. 3, p. 2824.

³*Foreign Relations*, 1923, vol. I, p. 17.

⁴*Ibid.*, p. 10.

deputy judges of the Permanent Court of International Justice or for the filling of vacancies.

3. That the United States will pay a fair share of the expenses of the court as determined and appropriated from time to time by the Congress of the United States.

4. That the United States may at any time withdraw its adherence to the said protocol and that the statute for the Permanent Court of International Justice adjoined to the protocol shall not be amended without the consent of the United States.

5. That the court shall not render any advisory opinion except publicly after due notice to all states adhering to the court and to all interested states and after public hearing or opportunity for hearing given to any state concerned; nor shall it, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest.

The signature of the United States to the said protocol shall not be affixed until the powers signatory to such protocol shall have indicated, through an exchange of notes, their acceptance of the foregoing reservations and understandings as a part and a condition of adherence by the United States to the said protocol.

Resolved further, As a part of this act of ratification that the United States approve the protocol and statute hereinabove mentioned, with the understanding that recourse to the Permanent Court of International Justice for the settlement of differences between the United States and any other state or states can be had only by agreement thereto through general or special treaties concluded between the parties in dispute; and

Resolved further, That adherence to the said protocol and statute hereby approved shall not be so construed as to require the United States to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall adherence to the said protocol and statute be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions.

500.C114/465

Memorandum by the Chief of the Division of Western European Affairs (Castle) of a Conversation Between the Secretary of State, Senator Lenroot, Senator Pepper, and Mr. Castle, February 5, 1926

The Secretary read to Senators Lenroot and Pepper⁵ the note which had been prepared to the League of Nations giving informa-

⁵ Senator Irvine L. Lenroot of Wisconsin, and Senator George Wharton Pepper of Pennsylvania, members of the Senate Foreign Relations Committee.

tion concerning the passage by the Senate of a resolution authorizing the adherence of the United States to the World Court with reservations. The Secretary explained that the idea was to inform the League of this and let the League communicate the reservations to the different nations which have signed the protocol of the Court, on the understanding that when these nations notified us direct of their adherence and we had acknowledged the communications, this would constitute the exchange of notes contemplated by the Senate reservations. Both Senator Lenroot and Senator Pepper thought that this method of procedure was unwise inasmuch as there might be criticism of the Department for asking the League to notify the different nations. They felt that we ought to write direct to the different nations, sending a certified copy of the resolution, as this was what the Senate obviously had in mind. They both felt that we should, of course, send a notification to the League which would be merely a notification with the statement that we had communicated with the different nations. The Secretary agreed to this and said that notes to the different nations would immediately be prepared. We discussed at some length the wording of these notes, to which wording the Senators agreed.

They also agreed that the note to the League should be modified at the end by making the statement that we had ourselves asked the governments of the powers signatory to the protocol, if they so wished, to signify to this government their acceptance in writing of the conditions, reservations and understandings.

W[ILLIAM] R. C[ASTLE], Jr.

500.C114/445a

*The Secretary of State to the Austrian Minister (Prochnik)**

WASHINGTON, February 12, 1926.

SIR: I have the honor to inform you that the Senate of the United States of America, on January 27, 1926, gave its advice and consent to the adherence on the part of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice, dated December 16, 1920, and the adjoined Statute for the

* Identical notes, on the same date, to the diplomatic representatives in Washington of Belgium, Bolivia, Brazil, Bulgaria, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Estonia, Finland, France, Great Britain (for Great Britain and the Governments of Australia, Canada, India, New Zealand, and the Union of South Africa), Greece, Haiti, Hungary, Italy, Japan, Latvia, Lithuania, Netherlands, Norway, Panama, Paraguay, Persia, Poland, Portugal, Rumania, Salvador, Kingdom of the Serbs, Croats and Slovenes, Siam, Spain, Sweden, Switzerland, Uruguay, and Venezuela.

Permanent Court of International Justice, without accepting or agreeing to the Optional Clause for Compulsory Jurisdiction, contained in the said Statute, on the condition of the acceptance by the Powers signatory to the Protocol of the conditions, reservations and understandings contained in the Senate Resolution, a certified true copy of which is enclosed.⁷

I have the honor, therefore, to request you to be good enough to ascertain whether your Government will accept the conditions, reservations and understandings contained in the Resolution as a part and a condition of the adherence of the United States to the said Protocol and Statute, and to inform me in writing of such acceptance.

Accept [etc.]

FRANK B. KELLOGG

500.C114/445b

*The Secretary of State to the Minister in Albania (Hart)*⁸

No. 25

WASHINGTON, February 12, 1926.

SIR: You should address the following note to the Minister of Foreign Affairs:

[Here follows the text of the note, which is the same as the note of February 12 to the Austrian Minister, printed *supra*.]

Upon the receipt of a reply from the Albanian Government you will communicate a brief resumé by telegram and a certified true copy of the note by mail.

I am [etc.]

[FRANK B. KELLOGG]

500.C114/445d

*The Secretary of State to the Ambassador in Belgium (Phillips)*⁹

No. 226

WASHINGTON, February 12, 1926.

SIR: I am enclosing, for transmission to Baron Raymond de Waha, still accredited as Chargé d'Affaires of Luxemburg to the United States, a note¹⁰ concerning the conditions, reservations and understandings contained in the Resolution of the Senate, dated January 27, 1926, for the adherence by the United States to the Protocol of Signature and Statute of the Permanent Court of International Justice.

I am [etc.]

FRANK B. KELLOGG

⁷ *Ante*, p. 1.

⁸ Same, *mutatis mutandis*, on the same date, to the American Chargé in Liberia as Department's No. 270.

⁹ Also Minister to Luxemburg.

¹⁰ Text identical with that of the note to the Austrian Minister, February 12, p. 3.

500.C114/445 o

*The Latvian Minister (Seya) to the Secretary of State*¹¹

WASHINGTON, February 15, 1926.

SIR: I have the honor to acknowledge the receipt of your letter of February 12, 1926, together with the certified true copy, enclosed therewith, of the Senate Resolution in regard to the adherence on the part of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice.

I have not failed to inform my Government of the conditions, reservations, and understandings contained in the said Resolution, and I will be glad to bring its views to your knowledge as soon as an answer will be received at this Legation.

Accept [etc.]

C. L. SEYA

500.C114/388

The Secretary of State to the Minister in Switzerland (Gibson)

No. 388

WASHINGTON, March 2, 1926.

SIR: There is enclosed, for transmission in the usual manner, a Note to the Secretary General of the League of Nations, regarding the resolution of the Senate concerning the conditions of the adhesion by this Government to the Protocol and Statute of the Permanent Court of International Justice.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

The Secretary of State to the Secretary General of the League of Nations (Drummond)

WASHINGTON, March 2, 1926.

SIR: I have the honor to refer to the communication of this Department, dated August 15, 1921,¹² acknowledging the receipt of a certified copy of the Protocol of Signature relating to the Statute of the Permanent Court of International Justice, and take pleasure

¹¹ Simple acknowledgments similar to the Latvian note were received from the following Governments through their representatives in Washington: Bolivia, Feb. 22; China, Mar. 8; Colombia, Feb. 15; Haiti, Feb. 16; Lithuania, Feb. 15; Panama, Feb. 15; Paraguay, Feb. 20; Salvador, Feb. 15; Venezuela, Feb. 16. No replies were received from the Governments of Bulgaria, Canada, and Chile.

On Feb. 24, 1926, the Brazilian Ambassador informed the Secretary of State that a message had been received from the Brazilian Minister for Foreign Affairs stating that a written acceptance of the entry of the United States into the World Court on the terms communicated by the Secretary would be sent by Brazil. No further communication on the note of Feb. 12, 1926, however, appears to have been received.

¹² *Foreign Relations*, 1920, vol. I, p. 32.

in informing you that the Senate of the United States of America, on January 27, 1926, gave its advice and consent to the adherence on the part of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice, dated December 16, 1920, and the adjoined Statute for the Permanent Court of International Justice, without accepting or agreeing to the Optional Clause for Compulsory Jurisdiction, contained in the said Statute, on the condition of the acceptance by the Powers signatory to the Protocol of the conditions, reservations and understandings contained in the Senate Resolution, which reads as follows:

[Here follows text of Senate Resolution No. 5, printed *ante*, page 1.]

I have the honor, therefore, to inform you that the signature of the United States will not be affixed to said Protocol until the Governments of the Powers signatory thereto shall have signified in writing to the Government of the United States their acceptance of the foregoing conditions, reservations and understandings as a part and a condition to the adherence of the United States to the said Protocol and Statute.

I have addressed a communication to the representative of each of the Governments of the Powers signatories of the Protocol asking these several Governments to be good enough to ascertain and to inform me in writing whether they will accept the conditions, reservations and understandings contained in the resolution as a part and condition of the adherence of the United States to the said protocol and statute.

Accept [etc.]

FRANK B. KELLOGG

500.C114/445aa

The Cuban Chargé (Barón) to the Secretary of State

[Translation]

WASHINGTON, *March 17, 1926.*

EXCELLENCY: I have the honor to inform you that my Government, upon reading the resolution of the Senate of the United States of America of January 27, 1926, by which it gave its advice and consent to the adhesion of the United States to the protocol of signature of the statute for the Permanent Court of International Justice dated December 16, 1920, and the appended statute for the Permanent Court of International Justice, authorizes me to accept, as I hereby do, in its name, the conditions, reservations and understandings contained in the said resolution as part and condition of the adhesion of the United States to the said protocol and statutes.

I avail myself [etc.]

JOSÉ T. BARÓN

500.C114/474 : Telegram

*The Consul at Geneva (Tuck) to the Secretary of State*GENEVA, *March 18, 1926*—8 p. m.

[Received March 18—5:32 p. m.]

On suggestion of Chamberlain¹³ the question of United States participation in Permanent Court was placed on Council's agenda this afternoon and that body adopted his proposal, relating to the consideration of our Government's reservations, which contains the suggestion that a reply should be made by all governments which have received copy of Senate resolution of March 5, 1925,¹⁴ stressing the difficulty of proceeding by way of a mere exchange of notes and the real need of a general agreement.

Adopted proposal also contains suggestion that an invitation might be addressed by Council to all these governments and to the United States to appoint a delegate to participate in the discussion of reservations and in the framing of a "new agreement" at a meeting to be held in Geneva on September 1, 1926.

The general opinion prevails here that Chamberlain's proposal was made only after he had received assurance from the British Ambassador in Washington that such a course would meet with our Government's approval.

TUCK

500.C114/445hh

The Costa Rican Minister (Oreamuno) to the Secretary of State

[Translation]

WASHINGTON, *January [March?] 26, 1926.*

MR. SECRETARY: I have had the honor to receive and to forward to my Government the note of the 12th of February of this year by which your Excellency was pleased to inform me that on January 27 the Senate of the United States had given its advice and consent to the adhesion of the United States to the Protocol of Signature to the Statute of the Permanent Court of International Justice of the 16th of December, 1920, and the Statute of the Permanent Court of International Justice without accepting or agreeing to the elective clause of obligatory jurisdiction contained in the said Statute on the condition that the Powers that had signed the Protocol would accept the conditions, reservations and understandings set forth in the resolution of the Senate on the subject.

¹³ Sir Austen Chamberlain, British Secretary of State for Foreign Affairs and representative on the Council of the League of Nations.

¹⁴ Senate Resolution No. 5, adopted, with modifications, Jan. 27, 1926, printed *ante*, p. 1.

In this connection your Excellency wants to know whether my Government accepts the conditions, reservations and understandings to the said resolution.

The Government of Costa Rica will cease to be a member of the League of Nations on January 1, 1927, and, taking into account that that date is very close, it has instructed me to say to your Excellency that it does not believe it is its duty to decide in regard to the desired acceptance.

Be pleased [etc.]

RAFAEL OREAMUNO

500.C114/490

The Chargé in Switzerland (Winslow) to the Secretary of State

No. 792

BERNE, *March 31, 1926.*

[Received April 13.]

SIR: With reference to my telegram No. 74, of March 31, 11 a. m.,¹⁷ relating to American adherence to the Protocol of Signature of the Statute of the Permanent Court of International Justice, I have the honor to enclose the original communication, dated March 29, 1926, addressed to the Secretary of State by Sir Eric Drummond, Secretary General of the League of Nations, inviting the Government of the United States to send a delegation to meet in Geneva, on September 1, 1926, with delegations of the governments of the States actually signatories of the Protocol, for the purpose of discussing "any questions which it may be proper for them to discuss in this connection and for the purpose of framing any new agreement which may be found necessary to give effect to the special conditions on which the United States are prepared to adhere to the Protocol".

The enclosure to Sir Eric's communication, namely, an extract from the minutes of the seventh meeting of the thirty-ninth session of the Council of the League, held at Geneva on March 18th, containing the statement of Sir Austen Chamberlain, British representative on the Council, which was adopted by that body on that date and which embodies the proposal for the conference in question, is also transmitted herewith.¹⁷ There is moreover enclosed a copy of the communication addressed by the Secretary General, under date of March 29, 1926, to the governments adhering to the Protocol, inviting them to send delegations to Geneva for the purpose above indicated.¹⁷

The communication addressed to the Secretary of State, with its enclosures, was received this morning. As pointed out in my telegram under reference, Mr. Bullard, an American member of the Secretariat of the League, telephoned me shortly after its receipt with a

¹⁷ Not printed.

view to arranging for a simultaneous release to the press at Washington and Geneva of the text of this communication. It was agreed at that time that I would take steps by telegraph to arrange, if possible, that twenty-four hours notice be given to the Secretariat before release should be made by the Department. However, about thirty minutes later Mr. Bullard telephoned again to inform me that he had just learned from Mr. Sharkey, of the Associated Press, that somehow the text of this invitation had already been obtained by the Geneva correspondents. He was at the moment unable to understand how this leak occurred, but said he would endeavor to find out and accordingly inform me. Mr. Bullard expressed his profound regret for this slip and requested that I explain it as such to the Department.

I have [etc.]

ALAN F. WINSLOW

[Enclosure]

The Secretary General of the League of Nations (Drummond) to the Secretary of State

21/50215/20002

GENEVA, 29 March, 1926.

SIR: I have the honour to refer to your letter of March 2nd, 1926,¹⁸ communicating to me, as Secretary-General of the League of Nations, the terms of the resolution adopted by the Senate of the United States of America on January 27th, 1926, with regard to the eventual adhesion of the United States to the Protocol of signature of the Statute of the Permanent Court of International Justice, and informing me that you had addressed a communication to the representatives of the Governments of the States signatories of that Protocol enquiring whether they would accept the conditions, reservations and understandings required by the Senate's resolution. As I informed you in my letter of acknowledgement dated March 18th, 1926,¹⁹ I communicated copies of your letter to the Governments of the Members of the League.

I now take pleasure in informing you that at a meeting of the Council of the League of Nations held on March 18th, 1926, the British representative put before the Council, in regard to the subject dealt with in your letter, a statement and proposals which were adopted by the Council.

I have the honour to enclose an extract from the Council's minutes containing the statement and proposals to which I refer.¹⁹

You will observe from this extract that the Council, desirous of facilitating common action by the signatories of the Protocol in question with regard to the adhesion of the United States to that instrument, and after consideration of the technical aspects of the

¹⁸ *Ante*, p. 5.

¹⁹ Not printed.

subject, has taken a decision that invitations shall be issued to the Governments of the States actually signatories of the Protocol and to the Government of the United States to appoint delegations to meet in Geneva on September 1st of the current year for the purpose of discussing any questions which it may be proper for them to discuss in this connection and for the purpose of framing any new agreement which may be found necessary to give effect to the special conditions on which the United States are prepared to adhere to the Protocol.

Under the terms of the Council's decision the invitation to the meeting is addressed to the signatory States in their capacity as such signatories and to the United States of America. I have conveyed the invitation to the Governments of the former States.

I have now the honour to convey to you the above invitation of the Council for consideration by your Government and to request that you will be so good as to inform me whether your Government will find it possible to be represented at the meeting in question.

I have [etc.]

ERIC DRUMMOND

500.C114/482 : Telegram

The Secretary of State to the Consul at Geneva (Tuck)

WASHINGTON, April 3, 1926—5 p.m.

Endeavor to ascertain informally whether a state member of the League and signatory of the Protocol of the Permanent Court of International Justice would automatically lose its status as a signatory of the Protocol by withdrawing from the League. If not, what steps would be necessary for its withdrawal from the Permanent Court?

KELLOGG

500.C114/488 : Telegram

The Consul at Geneva (Tuck) to the Secretary of State

GENEVA, April 6, 1926—5 p.m.

[Received April 6—3:38 p.m.]

Substance Department's telegram of April 3, 5 p.m., informally brought to the attention of member of judicial section [of] Secretariat, who stated, as his personal opinion, that while there exist no express provisions in the protocol and in the absence of precedent, he considered it very doubtful whether member state of League, signatory of Court protocol, would automatically be deprived of its status of signatory of protocol by withdrawal from League.

Assuming this to be the case, member state, in order to withdraw from Permanent Court, might resort to one of two methods: (a) de-

nunciation of protocol; (b) invite other signatories to release it from its obligations in this connection these conditions [*sic*].

TUCK

500.C114/482

The Secretary of State to the Costa Rican Minister (Oreamuno)

WASHINGTON, April 9, 1926.

SIR: I have the honor to acknowledge the receipt of your note dated January [March ?] 26, 1926, in reply to a note of my Government of February 12, 1926, concerning the reservations and understandings contained in the Resolution of the Senate of the United States of January 27, 1926, giving its advice and consent to the adherence of the United States to the Protocol of Signature and Statute of the Permanent Court of International Justice. It is noted that your Government, in view of the fact that it will cease to be a Member of the League of Nations on January 1, 1927, does not feel that it is its duty to decide in regard to the desired acceptance. My Government would be grateful to be informed whether Costa Rica intends likewise to withdraw its acceptance of the Protocol of Signature and Statute of the Permanent Court of International Justice at the same time as it withdraws from the League of Nations.

Accept [etc.]

FRANK B. KELLOGG

500.C114/44511

The Greek Minister (Simopoulos) to the Secretary of State

No. 558

WASHINGTON, April 9, 1926.

SIR: In reply to your communication dated February 12, 1926, I have the honor to inform you that my Government, having taken cognizance that, on January 27, 1926, the Senate of the United States of America gave its advice and consent to the adherence on the part of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice, dated December 16, 1920, and the adjoined Statute for the Permanent Court of International Justice, without accepting or agreeing to the Optional Clause for Compulsory Jurisdiction, contained in the said Statute, on the condition of the acceptance by the Powers signatory to the Protocol of the conditions, reservations and understandings contained in the Senate Resolution, has the honor to accept the conditions, reservations and understandings contained in said resolution as a part and a condition of the adherence of the United States to the said Protocol and Statute.

Accept [etc.]

CH. SIMOPOULOS

500.C114/490 : Telegram

The Secretary of State to the Chargé in Switzerland (Winslow)

WASHINGTON, April 17, 1926—2 p.m.

63. Your 74, March 31, 11 a.m.²¹ and despatch No. 792, March 31. Please transmit in usual manner to the Secretary General of the League of Nations the following communication, original of which will follow by mail, informing him that text will be given to the press here on Monday morning, April 19:

"I have the honor to acknowledge your communication of March 29, 1926, in which you enclose an extract from the minutes of the meeting of the Council of the League proposing that invitations be issued to the governments of the States actual signatories of the Protocol of the Permanent Court of International Justice and to the Government of the United States to appoint delegates to meet in Geneva on September 1st of the current year for the purpose of discussing any questions which it may be proper for them to discuss in this connection and for the purpose of framing any new agreement which may be found necessary to give effect to the special conditions on which the United States is prepared to adhere to the Protocol. I further note your statement that invitations have been issued to the various States signatory to the Protocol and you now extend an invitation to the United States for such purpose. I am also advised that in the invitation sent to the States other than the United States the League has asked them to indicate to the United States Government the difficulty of treating the American reservations to adherence to the Protocol of the Permanent Court by direct exchange of notes and to point out the need for a general agreement.

While acknowledging the courtesy of the invitation of the League of Nations to attend such a meeting, I do not feel that any useful purpose could be served by the designation of a delegate by my Government to attend a Conference for this purpose. The Senate gave its consent to the adherence of the United States to the Statute of the Permanent Court with certain specific conditions and reservations set forth in the Resolution, which I forwarded to you as the depository of the Protocol. These reservations are plain and unequivocal and, according to their terms, they must be accepted by the exchange of notes between the United States and each one of the forty-eight states signatory to the Statute of the Permanent Court before the United States can become a party and sign the Protocol. The Resolution specifically provided this mode of procedure.

I have no authority to vary this mode of procedure or to modify the conditions and reservations or to interpret them and I see no difficulty in the way of securing the assent of each signatory by direct exchange of notes as provided for by the Senate. It would seem to me to be a matter of regret if the Council of the League should do anything to create the impression that there are substantial difficulties in the way of such direct communication. This Government does not consider that any new agreement is necessary to give effect to

²¹ Not printed.

the conditions and reservations on which the United States is prepared to adhere to the Permanent Court. The acceptance of the reservations by all the nations signatory to the Statute of the Permanent Court constitute such an agreement. If any machinery is necessary to give the United States an opportunity to participate through representatives for the election of judges, this should naturally be considered after the reservations have been adopted and the United States has become a party to the Statute of the Permanent Court of International Justice. If the States signatory to the Statute of the Permanent Court desire to confer among themselves, the United States would have no objection whatever to such a procedure, but, under the circumstances it does not seem appropriate that the United States should send a delegate to such a Conference.

Accept, Sir, etc. Signed, Frank B. Kellogg."

KELLOGG

500.C114/498

The Costa Rican Minister (Oreamuno) to the Secretary of State

[Translation]

WASHINGTON, April 21, 1926.

MR. SECRETARY: I have the honor to acknowledge the receipt of your note of the ninth instant in which Your Excellency, referring to my note of the 26th of January [*March?*], expresses Your Government's desire to be informed as to whether the Government of Costa Rica proposes to withdraw its acceptance of the Protocol of Signature and of the Statute of the Permanent Court of International Justice and also how it notified its decision to withdraw from the League of Nations.

In reply, I have the honor to say to Your Excellency under instructions from my Government that the Congress of Costa Rica did not give its approval to the Protocol of Signature or the Statute of the Permanent Court of International Justice and that therefore my Government considers that Costa Rica has not been and is not now a member of the Court.

Be pleased [etc.]

J. RAFAEL OREAMUNO

500.C114/445c

The Chargé in Liberia (Clark) to the Secretary of State

No. 370

MONROVIA, May 12, 1926.

Diplomatic

[Received June 17.]

SIR: I have the honor to refer to the Department's instruction No. 270 of February 12, 1926,²² and, in confirmation of my telegram of this date,²³ to enclose herewith in duplicate a certified true copy of the Liberian Government's reply to my note of May 7, 1926, with reference

²² See footnote 8, p. 4.

²³ Not printed.

to the acceptance by the Liberian Government of the conditions, reservations and understandings contained in the Senate Resolution of January 27, 1926.

I have [etc.]

REED PAIGE CLARK

[Enclosure]

The Liberian Secretary of State (Barclay) to the American Chargé (Clark)

459/D

MONROVIA, May 11, 1926.

SIR: I have the honour to acknowledge receipt of your despatch dated May 7, 1926, by which I am advised for the information of the Liberian Government that the Senate of the United States have given their advice and consent to the adherence on the part of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice, dated December 16, 1920 and the adjoined Statute for the Court of International Justice, without accepting the optional clause for compulsory jurisdiction contained in said Statute, under certain conditions, reservations and understandings and subject to the condition that Powers Signatory to the said Protocol accept such conditions reservations and understandings.

In reply to this despatch I have the honour to say that the Government of the Republic of Liberia for and on behalf of said Republic accept so far as they relate to questions which may arise between the Republic of Liberia and the United States the conditions, reservations and understandings contained in the Senate's Resolution as a part and a condition of the adherence of the United States to the said Protocol and Statute.

I have [etc.]

EDWIN BARCLAY

500.C114/445a

*The Austrian Minister (Prochnik) to the Secretary of State*²⁴

No. 1333/80

WASHINGTON, May 27, 1926.

EXCELLENCY: The Federal Government of the Republic of Austria having taken cognizance of Your Excellency's esteemed note of February 12th, 1926, and enclosures dealing with a resolution passed on January 27th, 1926, by which the Senate of the United States gave its advice and consent to the adherence on the part of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice dated December 16th, 1920, and the ad-

²⁴ Notes similar to the Austrian note were received from Finland (June 3) and Persia (Aug. 10), through their representatives in Washington. No further replies appear to have been received from the Governments of Austria, Finland, and Persia.

joined Statute of the Permanent Court of International Justice has now instructed me to bring the following to Your Excellency's kind attention.

As the Austrian Government attaches the greatest importance to the adherence on the part of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice, it is disposed to fully and unrestrictedly accept the conditions, reservations and understandings contained in the above mentioned Senate Resolution.

By a careful examination of these reservations, however, the question was raised, whether their acceptance would not be tantamount to a modification of the Statute of the Permanent Court of International Justice. On the solution of this question depends the decision, whether or not an acceptance of the afore referred to reservations on the part of the Federal Government would be subject to the consent and approval by the National Council of the Republic of Austria.

The Government of the United States is well aware that the Signatory-Powers of the Statute of the Permanent Court of International Justice are contemplating to hold a Conference which will have to define its attitude regarding the said question in doubt.

The Federal Government of Austria, therefore, believes that it should not anticipate the results of this Conference but reserve its final answer until a later date.

Accept [etc.]

EDGAR PROCHNIK

500.C114/44511

The Greek Minister (Simopoulos) to the Secretary of State

No. 840

WASHINGTON, June 28, 1926.

EXCELLENCY: Referring to my communication No. 558 of April 9, 1926, concerning the acceptance on the part of my Government of the conditions and reservations under which the Government of the United States of America would consent to adhere to the Protocol of Signature of the Statute of the Permanent Court of International Justice, I have the honor to inform you that in view of the fact that the Government of the United States of America has made its adherence to the aforesaid protocol subject to the condition of the acceptance by all the signatory powers to the conditions, reservations and understandings set forth to this effect, my Government felt that it should accept the invitation to participate in the Conference which is to be held for this purpose at Geneva, September 1, 1926, with a view of facilitating the common action of the interested Powers.

Accept [etc.]

CH. SIMOPOULOS

500.C114/445w

*Memorandum by the Chief of the Division of Latin American Affairs
(Stabler)*

[WASHINGTON,] August 4, 1926.

The Uruguayan Chargé called today and said that he desired to see Secretary Kellogg on Diplomatic Day and that he wished Mr. Stabler to be present as he wished to tell him that his Government desired him to advise the Secretary that it accepts in principle the suggestion which had been made by the United States in regard to the Permanent Court of Justice; that this was an informal statement inasmuch as according to the Uruguayan Constitution formal acceptance of the invitation to take part in the Court had to wait action of the Uruguayan Congress.²⁵

JORDAN HERBERT STABLER

500.C114/445b

The Albanian Minister (Konitza) to the Secretary of State

WASHINGTON, August 20, 1926.

SIR: I have the honor to confirm that my Government has approved the United States reservations for adherence to the Permanent Court of International Justice. The Albanian delegate to the League of Nations has received instructions in accordance with this decision.

I beg [etc.]

FAIK KONITZA

500.C114/445d: Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

BRUSSELS, August 23, 1926—4 p. m.

[Received August 23—1:45 p. m.]

60. Department's instruction 226, February 12. In a note dated August 21st the Grand Duchy of Luxembourg accepts conditions and reserves contained in Senate resolution for the adherence of the United States to the Permanent Court of International Justice.

PHILLIPS

500.C114/445j

The Dominican Chargé (Vasquez) to the Secretary of State

[Translation ²⁶]

WASHINGTON, August 30, 1926.

MR. SECRETARY OF STATE: In reply to your note of February 12, last, I have the honor to inform Your Excellency that by a telegram received

²⁵ No further communication appears to have been received from the Uruguayan Government.

²⁶ File translation revised.

on this date I am instructed to advise your Department that the Dominican Government will vote for the adhesion of the United States to the Protocol of Signature and Bylaws of the Court of International Justice, with the five reservations adopted in the Senate resolution, and that instructions to that effect have been sent to the Dominican delegate in the Assembly of the League of Nations.

I avail myself [etc.]

M. L. VASQUEZ

500.C114/565

The Consul at Geneva (Tuck) to the Secretary of State

No. 269 Political

GENEVA, September 14, 1926.

[Received September 28.]

SIR: I have the honor to report as follows:

The Conference of States signatories to the Statute of the Permanent Court of International Justice held its first session on September 1, 1926, at the International Labor Office, and adjourned indefinitely until later in the month, after having held six meetings, the last of which occurred on the afternoon of September 3, 1926.

It will be remembered that the Conference had been convened by the Council, acting in accordance with its resolution of March 18, 1926, subsequent to a communication from the Secretary of State of the United States concerning the adhesion of the United States to the Statute of the Permanent Court, subject to certain reservations.

The Conference elected as its President Professor Van Eysinga (Netherlands) and as Vice Presidents Mr. Zumeta (Venezuela) and Sir Francis Bell (New Zealand). 39 of the 48 signatories to the Statute of the Court were represented. The large majority of these representatives were also delegates to the Seventh Assembly of the League of Nations.

In connections with the debates occurring in the six meetings of the Conference, I would respectfully refer the Department to the following telegrams from this office: ²⁷

September 1, 1926, 4 p.m.
 September 3, 1926, 7 p.m.
 September 4, 1926, 11 a.m.
 September 6, 1926, 3 p.m.
 September 11, 1926, 3 p.m.

In his opening speech, the President recalled the events which had preceded and made necessary the convocation of the Conference, and reminded his colleagues that it was exclusively a Conference of the representatives of the signatories of the Court Statute and that it

²⁷ None printed.

did not sit in any other capacity. He underlined the importance which the adhesion of the United States to the Court Statute would have for the subsequent development of this institution and was of the opinion that its task should consist, above all, in satisfying the desires of the Government of the United States. The Conference should, he believed, take care that this adhesion should take place in conformity with the constitution of the League of Nations. He then proposed that the discussion should bear in the first place on the substance of the question and secondly on the form. The Conference then proceeded to a first reading of the reservations formulated by the United States Senate with regard to its adhesion to the Court. As reported in the first of my telegrams above mentioned, the Conference was unanimously of the opinion that there was no substantial objection to the *first*, *second* and *third* reservations.

With regard to the fourth reservation, Sir John Foster (Canada) stated that he believed that the second part of this reservation (requiring American consent for amending the Statute of the Court) seemed to contain an inhibition against future amendments which might be judged essential to the well working of the Court by a majority. He believed, in view of these possibilities, that it was necessary to know what was intended by this American reservation. He stated further that as the reservation now stands, if it ever became patent to the 55 members of the League that changes were necessary, they might be prohibited from bringing about such changes through the lack of consent of the United States.

The Serbian representative expressed the opinion that if the United States was asking the right to take part in deliberations, her demand was very justifiable, but if she were asking power of veto, it was an altogether different matter. This point was responsible for a discussion on the manner in which non-League Court members should take part in the changes of the Court Statute.

The Uruguayan representative believed that the situation was badly in need of clarifying, and was not certain whether one member alone could veto or whether the modification required a simple majority. He believed that if League members can veto, there will be no question as to the right of the United States to do the same. In this opinion the Venezuelan representative concurred.

Mr. Dinichert (Switzerland) expressed the opinion that the Protocol had the value of a treaty and cannot be modified without the consent of all signatories.

In support of the Canadian thesis, Sir Cecil Hurst (Great Britain) endeavored to create the impression that the entire discussion would appear to center about the United States' right of veto in the event she should leave the Court. He declared that in such a case, no

country could undertake to have the slightest influence in decisions of Court members.

Mr. Rollin (Belgium) who, incidentally, played one of the most important parts in the discussions and who was undoubtedly one of the most intelligent and indefatigable collaborators in the Conference, stated, with regard to the first part of the fourth amendment, that he understood that the United States was asking equal treatment. As regards the possibility of the United States leaving the Court when it wished, that unquestionably gave her favored treatment since States members of the League could not do the same thing; for, as League members, they continue to pay a share of the Court expenses, to elect judges, and on occasion to ask the Court for opinions. He believed, however, that the Conference of the Court signatories had everything to gain in giving the United States favorable treatment and nothing to lose.

The representative of Uruguay believed that the Conference should consider the position of League members in procedure involved in amending the Protocol of the Court. He asked whether, in the opinion of the Conference, unanimity was required or not. Personally, he believed that the votes of all members were required.

The Serbian representative pointed out that all decisions in the League were taken by unanimity, but that questions of procedure were settled by majority vote. He did not believe that the Conference was competent to settle the question, and thought that it should refer it to the Assembly and Council.

The President brought the first meeting to a close with the suggestion that the discussions should be resumed on the following morning with regard to the fifth reservation. He considered the first part of this reservation already met by Court rules. The second part contained a point which touched most closely on the constitutional law of the League of Nations. The reservation he believed was undoubtedly inspired by the desire to place the United States on an equal footing with other nations. He deplored the absence of an American representative who might clarify the situation.

The four remaining meetings of the Conference were devoted entirely to a discussion of the second part of the fifth reservation. Its general discussion evoked a prolonged analysis.

The Swedish representative went so far as to suggest that the American reservations should be met by counter-reservation on the part of the Court signatories. The delegates of Great Britain, France, Italy, Belgium, Czechoslovakia, Uruguay and Poland showed a most conciliatory spirit and favored the granting of every possible concession to meet America's views.

The importance of Sweden's attitude must not be under-estimated, especially in view of the character of the man who represented her at the Conference. Undén's²⁸ uncompromising attitude, both in the Mosul affair,²⁹ and in the blocking of Spain and Brazil's claims for permanent seats on the Council, are only too well known to the League. . . .

Sir John Foster (Canada) was of the opinion that while America demanded something, it was not as much as had been expected. He believed, however, that great attention should be given when a country outside of the League passes a mandatory statute directed against a court of law. The Council and the Assembly were free to make any request to the Court they pleased. He considered it the duty of the Court to seek information, and it was not for the Council and the Assembly of the League to tell the Court if the United States had an interest in the case. This the Court could do itself. In short, he opposed the reservation as a direction by the United States to the Court, and emphasized the necessity for Senate action if the United States gave consent and the subsequent delay attendant thereto. He believed that the reservations were prepared on the principle of equality of treatment which was stressed by Senator Walsh in Senate debates. The United States should be put on the same plane, as regards obligations and privileges, as other members.

Sir Francis Bell (New Zealand) devoted a long speech to prove that the United States was asking preferential treatment and that the power of veto should not exist. In his opinion, League Council members were not at Geneva entirely as representatives of governments to protect their own countries, but were also there to protect the world and all countries. No member who exercised the right of veto to protect his own country could retain a seat on the Council and therefore a nation, not on the Council, should not enjoy such a right.

It became evident during the last three meetings of the Conference that two very definite points of view had developed. The first, headed by Great Britain, France and Italy, wished to have the Council propose to the United States admission to the Court on exactly the same footing as Council members. The second, headed by Belgium, wished to ask the Permanent Court for a ruling as to Council procedure in asking an advisory opinion. If it were then found that the American reservations demanded preferential treatment for the United States, it was hoped that the Senate would be

²⁸ Professor O. Undén.

²⁹ The controversy between Great Britain and Turkey over the former Ottoman vilayet of Mosul; see League of Nations, *Question of the Frontier Between Turkey and Iraq*: Report submitted to the Council by the Commission instituted by the Council Resolution of September 30th, 1924 (C.400.M.147.1925.VII.).

willing to remodel the reservations. The first school, on the other hand, believed that a Court ruling has but little value, as there still exists the obstacle created by the right of abstention from voting of parties directly interested in the question, and the right of veto in questions in which the United States is interested is claimed in the reservation.

Sir Cecil Hurst (Great Britain) analysed the equality basis, contending that the United States sought a privileged position in not being represented on the Council and not sharing its responsibility. He opposed the Belgian proposal on the ground that the Court and the League were too young to have a jurisprudence definitely established at this stage. (It was pointed out at the time that this opinion is very much in keeping with British tradition on common law.) He considered that the right of veto in matters requiring unanimous decision must be based on participation in Council meetings and the exercise of the right of vote in that meeting only after all the difficulties of the situation had been explained.

At this juncture, Mr. Pilotti (Italy) made a proposal suggesting that the United States be asked to come in to the Court on a footing of equality. If this proposition satisfied the United States, everything would be in order. If, on the other hand, it did not, the Conference would have to apply to the Court as to whether a decision of the Council to apply for an advisory opinion required unanimity or merely a majority vote. This suggestion received the strong backing of France.

On the last day on which the Conference met, much attention was devoted to the proposal, made by the Polish representative, as a solution of the problem. It was to the effect that the American Senate's reservations should first be accepted and then a special Conference should be called to extend the Statutes of the Permanent Court to meet the situation created by the American demands. At such a special conference, the United States should be represented. He believed that the work of meeting the American demands was divided into two stages. The first was the acceptance of the reservations and the second their codification, that is the drawing up of legal formulæ required to meet the reservations. Therefore, it was most necessary to meet the second stage with a special conference to which the United States should be invited.

At this point, Sir Cecil Hurst (Great Britain) intervened, stating that the Polish proposal, in his opinion, was not complete. How could the United States, (he asked), denounce statutes as provided in the fourth reservation, once it had taken part in modifying them? If this happened, League members would be left with a modified protocol, in the event of America's withdrawal.

The Polish representative replied that the Conference ought not to discuss the United States' leaving the Court before it had entered it. He added that Secretary Kellogg's letter to the League stated that if any machinery was necessary to give the United States the right to participate in the election of the Court judges, it should be established after the reservations were accepted and the United States was a member. This same procedure could be followed to meet other American demands. He believed that the way was paved for the Belgian proposal, which had been heard earlier in the session, and which had brought up the question of the form of the procedure which might be followed to meet the reservations. He stated, with regard to reservation 2, concerning the election of judges, that although the Covenant did not refer to the assistance of non members of the League at the Council or Assembly, it did not forbid it, and cited instances in which non member States had assisted.

Mr. Dinichert (Switzerland), referring to the Belgian proposal, believed that the question of form was more difficult than that of substance, but that the Conference should not consider the United States as a member of the League, but as a State participating in the work of the Court. In his opinion, there were three possible methods of procedure. The first was for the Conference to ask an interpretative resolution from the Assembly as to whether it was necessary to interpret the Covenant. The second, if the United States was not satisfied with the present position, the signatories of the Court might ask it to modify its statutes. Thirdly, as suggested by the Polish representative, a Conference might be called to complete or modify the Statutes.

The favorable consideration granted to the Polish proposal was undoubtedly due to the realizing of the delegates to the Conference that there exists a growing opposition, in the American Congress, against the United States' participation in the Court and that there exists a strong possibility that adhesion might be defeated if the question were returned to the Senate. While the Conference actually adjourned on the grounds that the members present were delegates to the Assembly, there is reason to believe that they were glad of an opportunity to postpone further immediate action and observe the reaction in the American press to the questions so far under discussion.

The Belgian representative, in discussing the problems raised by the fifth reservation, said that if the United States had a real interest in any question, it is an indisputable fact that the Court could only give an advisory opinion with the consent of the United States. It was only right that if America did not take part in the discussion, it could not be bound by an opinion. Also, its intervention might force the Court to declare incompetence. He cited as a precedent the case of Eastern Carelia when, owing to a protest by the Soviet authorities,

the Court refused to take jurisdiction.³⁰ He argued that the United States would possess the same right of protest. He believed that in this reservation, the United States did not ask any new privilege, but only preserved a privilege which it already possessed. The difficulty lay in the word "claims". The United States appeared not only to be asking the right to intervention when a question concerned her, but was also asking that the fact of an intervention, without any proof of actual interest, should in itself be regarded as preventing the Court from giving an advisory opinion. It was a question if the Conference could go that far. The reservation was addressed not only to the Council and to the Assembly, but to the Court. It was impossible to declare the Court incompetent; neither a single member, nor all of them, could do this. A country could appear before the Court and give its views, but could not declare the Court incompetent. With regard to the right of veto, he stated that the comparison is not between the rights that the United States now desires and the rights already possessed by Council members, but that the comparison lies between the rights which the United States was claiming by reservation and the power which members of the Council might exercise improperly and unfairly. If a Council member were interested, it could not vote; but by declaring an interest in the case, it could vote and block a decision. If the American reservation said "claims and has interest", there will be no difficulty; presuming the Court agreed that the United States had an interest.

In conclusion, he asked if it could not justly be said to the United States "If you claim this right which you say Council members possess, as there is doubt as to the actual rights possessed by Council members under their procedure, and as there is doubt as to whether the unanimity vote does exist in this particular case; we are prepared to ask the Court for an opinion on this point so that they can tell us what the position really is".

The Venezuelan representative said that his government would omit no endeavor to secure the adherence of the United States to the Court. While the United States might find itself in a privileged position, he asked whether such a privilege did not derive from a high significance which should be attached to the adhesion to the Court Statutes of the most powerful democracy in the world. He believed that the fifth reservation could only be considered in connection with everything implied by the first reservation. The obligations and rights established by the Versailles treaty could not be modified according to the first reservation. The relations of the League and the Court could

³⁰ See Publications of the Permanent Court of International Justice, *Collection of Advisory Opinions*, Series B, No. 5, and *Acts and Documents relating to Judgments and Advisory Opinions Given by the Court*, Series C, No. 3, vols. I and II (Leyden, A. W. Sijthoff's Publishing Co., 1922).

not be changed by an adhesion expressly given outside the constitutional charter of the League.

The Norwegian representative believed that the United States reservation was acceptable when the United States was party to a dispute. It became more difficult to admit the power of veto when it was not a party, especially when the Council might ask an advisory opinion by a majority vote. He did not believe that the Swedish proposal for counter-reservations to the American reservations was necessary, because a League member was protected by actual law. The United States, through reservation 4, reserved itself the right to withdraw from an arrangement. It followed that Court signatories, on their side, could withdraw also. Consequently, the "juridical consequence" of the fourth reservation might be drawn and accepted without it being necessary to formulate reservations opposing the American conditions.

The Rumanian delegate said that his country was quite ready to accept the reservation if it read in the sense that the United States simply desired to retain and exercise the same rights as other non member States on a footing of equality. He then made the important suggestion that a sub-committee be drawn up to define the exact meaning of the second part of the fifth reservation. The sub-committee of 14 members was then appointed, composed of the representatives of the following countries:

Belgium.	Great Britain.
Canada.	France.
Italy.	Japan.
Poland.	Czechoslovakia.
Uruguay.	Switzerland.
Sweden.	Rumania.
Holland.	Venezuela.

With the exception of the representatives of Sweden and Canada, who condemned the American Senate reservations as efforts to secure for the United States a privileged position unenjoyed by any member of the League of Nations, it may be said, *en resumé*, that the Conference of Signatories of the Statute of the Permanent Court gave the most sincere evidence of their desire to meet the American demands and to assure the entrance of the United States into the Permanent Court. The Swedish and Canadian attitude, although outbalanced by the conciliatory spirit displayed by such countries as Great Britain, France, Italy, Belgium, Czechoslovakia, Uruguay and Poland, who favored the utmost concessions to meet the American demands; must not be overlooked.

As reported in my telegram of September 11, 1926,³¹ it is most difficult to obtain any accurate reports with regard to the work of the

³¹ Not printed.

sub-committee appointed by the Conference. This body was sworn to secrecy by its President. I learn, however, from a reliable source, that the sub-committee has appointed a drafting committee which at present is working on the outstanding difficulty of the fifth reservation. This difficulty lies in the words "has or claims" which, it is contended by the majority of the delegates to the Conference, would impair the sovereignty of the Court, since it is considered that the Court alone is competent to settle on claims of interest.

The statement appearing in the press recently, attributed to the President of the United States, wherein he stated that the fifth reservation was framed with the sole purpose of giving the United States an equality with Council member States, has aroused a great deal of interest among the delegates to the Conference. It has been suggested by some of these representatives that if the American President would make this statement officially, a great obstruction to the acceptance of this reservation would be removed. I also learn that a number of delegates favor a moderate delay in the work of the sub-committee in the hope that such an official declaration will be forthcoming.

An endeavor will be made to keep the Department informed of the activities of the Sub-Committee, but in view of the strictly private nature of its sessions, it may be difficult to obtain much accurate information.

I have [etc.]

S. PINKNEY TUCK

500.C114/558 : Telegram

The Consul at Geneva (Tuck) to the Secretary of State

GENEVA, September 20, 1926—2 p. m.

[Received September 20—1: 50 p. m.]

I learn on good authority that a formula accepting Senate reservations on which drafting committee appointed by subcommittee conference signatories Statute Permanent Court has been working past week has been practically completed. This formula, it is understood, provides welcoming United States into Court with explanation rather than interpretation of fifth reservation and will state in substance that, as provided for in reservation, United States will enjoy same rights as most-favored members of League and, as non-member of League, will keep the right of a nonmember nation not to appear (right such as Russia exercised dealing Eastern Carelian case).

It is reported that every possible concession is being made to frame reply which will satisfy United States demands and at same time safeguard interest of Court signatories. Formula now in hands of

subcommittee of 14 which will report it this week for final approval to conference.³²

TUCK

500.C114/445h

Memorandum by the Under Secretary of State (Grew)

[WASHINGTON,] *November 4, 1926.*

The Colombian Minister called and said that he wished to advise me informally that the American note regarding the adherence on the part of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice has been submitted by the Colombian Government to the Colombian Congress which has not yet acted upon it. The Minister said that this fact would shortly be communicated to us in a formal note.³³

J[OSEPH] C. G[REW]

500.C114/584

The Assistant Chief of the Division of Western European Affairs (Richardson) to the Assistant Secretary of State (Harrison)

[WASHINGTON,] *November 5, 1926.*

MR. HARRISON: The following comments may be of interest to you and the Secretary in regard to the recent Conference of States Signatories of the Protocol of Signature of the Statute of the Permanent Court of International Justice.

The following states attended the Conference and signed the Draft Protocol of Execution,^{33a} although they had previously accepted the Senate reservations in direct communication addressed to this Government:

Albania
Luxemburg
Greece.

The Greek Government accepted the reservations by a note dated April 8 [9], but subsequently by a note dated June 28, advised this Government that it would attend the Geneva Conference.

The Dominican Government in a note dated August 30 appears to have attempted to accept the Senate reservations. It attended

³² See League of Nations, *Minutes of the Conference of States Signatories of the Protocol of Signature of the Statute of the Permanent Court of International Justice, Held at Geneva from September 1st to 23rd, 1926* (v. Legal. 1926.v.26).

³³ No further communication appears to have been received from the Colombian Government.

^{33a} *Op. cit.*, p. 81.

the Conference at Geneva and signed the Draft Protocol of Execution with the reservation noted in your Memorandum.³⁴

Liberia accepted the Senate reservations in a note dated May 11. Presumably this explains the failure of its delegate to sign the Protocol of Execution at Geneva.

Uruguay indicated through a statement made by the Uruguayan Chargé d'Affaires on August 5 [4?] to the Secretary that its government accepted the Senate reservations in principle but that formal acceptance could not be given pending ratification by the Uruguayan legislature. This perhaps explains Uruguay's abstention from signing the Protocol of Execution.

The following states which are signatories of the Protocol of Signature of the Statute of the Permanent Court did not attend the Geneva Conference:

Bolivia	Colombia	Haiti
Brazil	Costa Rica	Paraguay
Chile	Cuba	Salvador.

Of the above states, Cuba alone has accepted the Senate reservations.

Since the passage of the Senate resolution Abyssinia and the Irish Free State have ratified the Protocol of Signature of the Statute of the Permanent Court.

The Abyssinian ratification was deposited July 16.

Notification was given of the Irish Free State ratification August 21, 1926.

It is curious to note that a representative of the Irish Free State attended the Geneva Conference and signed the Draft Protocol of Execution, although no note has been addressed by this Government to the British Government on behalf of the Irish Free State or to the Legation of the Irish Free State in Washington.

Abyssinia did not attend the Geneva Conference. We have addressed no note to Abyssinia.

It would seem that, in order to carry out the terms of the Senate resolution of January 27, 1926, an exchange of notes should be attempted with both the Irish Free State and Abyssinia. The phraseology of the resolution is "The signature of the United States to the said Protocol shall not be affixed until the powers signatory to such Protocol shall have indicated through an exchange of notes their acceptance of the foregoing reservations, etc."

As the signature of the United States will take place some time in the future, if ever, it seems to me that "the powers signatory" would

³⁴ Not printed.

be those powers which are signatories at the time of signature or adherence by the United States.

An interesting consideration is that Chile apparently has never ratified the signature of its government to the Protocol of Signature of the Statute of the Permanent Court. The Senate resolution contemplates acceptance of the senate reservations by "signatories". The position may well be taken by Chile that, not actually being a party to the Permanent Court Protocol, it cannot properly accept or decline to accept our reservations.

While some of the above considerations are academic, the situation which they outline appears to me to be somewhat hopeless quite aside from the replies which will presumably be given by the powers that recently conferred at Geneva. I should be glad to have an opportunity to talk this matter over with you shortly and especially to ascertain your views as to whether we should not, for the sake of making the record complete, address notes to the governments of Abyssinia and the Irish Free State.

A despatch from Tuck ³⁵ states that:

- 1) The South African delegate had to leave Geneva before he could sign the draft Protocol of Execution.
- 2) The Chinese delegate had no authority from his government to sign.

D[ORSEY] R[ICHARDSON]

500.C114/584

The Secretary of State to the Assistant Chief of the Division of Western European Affairs (Richardson)

[WASHINGTON,] November 8, 1926.

DEAR MR. RICHARDSON: I have read the attached memorandum on the World Court.³⁵ As I remember, I looked it up last year with Senator Pepper, Mr. Lenroot and others and, under the Resolution of the Senate, we cannot sign the Protocol until every nation signatory to the original Statute of the World Court has accepted the reservations. It does not make any difference whether they ratified it by their Congress, Senate or other body. There is no use of communicating with the governments that have accepted. Every one of them must accept or we cannot join and the President will in no way recommend any change in the situation.

F[RANK] B. K[ELLOGG]

³⁵ Not printed.

³⁶ *Supra*.

500.C114/445cc

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

No. 742

WASHINGTON, November 12, 1926.

SIR: Abyssinia having recently adhered to the Protocol of Signature of the Statute for the Permanent Court of International Justice, it appears to be necessary for this Government, in compliance with the Senate Resolution of January 27, 1926, to ascertain whether the Abyssinian Government will accept the conditions, reservations and understandings set forth in the above-mentioned Senate Resolution in regard to the adherence of the United States to the said Protocol of Signature.

There is accordingly transmitted herewith a Memorandum, with its enclosure, in this connection, which you are requested to ask the British Foreign Office to cause the British Diplomatic Representative in Abyssinia to present to the Abyssinian Government, on behalf of the United States. The British Diplomatic Representative in Abyssinia should request that the reply of the Abyssinian Government in this matter be in writing.

I am [etc.]

FRANK B. KELLOGG

[Enclosure—Memorandum]

The Government of the United States of America has noted that on July 12, 1926, His Excellency the Minister Plenipotentiary, Diplomatic Representative of the Ethiopian Empire to the League of Nations, signed the Protocol of Signature of the Statute for the Permanent Court of International Justice. The Senate of the United States of America, on January 27, 1926, gave its advice and consent to the adherence on the part of the United States to the said Protocol of Signature of the Statute for the Permanent Court of International Justice, dated December 16, 1920, and the adjoined Statute for the Permanent Court of International Justice, without accepting or agreeing to the Optional Clause for Compulsory Jurisdiction, contained in the said Statute, on the condition of the acceptance by the Powers signatory to the Protocol of the conditions, reservations and understandings contained in the Senate Resolution, a certified true copy of which is attached.

The Government of the United States of America therefore desires to ascertain whether the Imperial Ethiopian Government will accept the conditions, reservations and understandings contained in the Resolution as a part and a condition of the adherence of the United States to the said Protocol and Statute.

WASHINGTON, November 12, 1926.

500.C114/445bb

*The Secretary of State to the Minister of the Irish Free State
(Smiddy)*

WASHINGTON, *November 12, 1926.*

SIR: Having noted that the Minister for External Affairs of the Irish Free State, by a letter dated August 21, 1926, notified the Secretary General of the League of Nations that the Irish Free State is to be included among those Members of the League of Nations which have ratified the Protocol of Signature of the Statute for the Permanent Court of International Justice, done at Geneva, December 16, 1920, I have the honor to inform you that the Senate of the United States of America, on January 27, 1926, gave its advice and consent to the adherence on the part of the United States to the said Protocol of Signature, and the adjoined Statute for the Permanent Court of International Justice, without accepting or agreeing to the Optional Clause for Compulsory Jurisdiction, contained in the said Statute, on the condition of the acceptance by the Powers signatory to the Protocol of the conditions, reservations and understandings contained in the Senate Resolution, a certified true copy of which is enclosed.

I have the honor, therefore, to request you to be good enough to ascertain whether the Irish Free State will accept the conditions, reservations and understandings contained in the Resolution as a part and a condition of the adherence of the United States to the said Protocol and Statute, and to inform me in writing of such acceptance.

Accept [etc.]

FRANK B. KELLOGG

500.C114/445l

*The British Ambassador (Howard) to the Secretary of State*⁸⁷

No. 817

WASHINGTON, *December 23, 1926.*

SIR: I have the honour, on instructions from His Majesty's Government, to communicate herewith a note on the subject of the proposal which the United States Government have made with

⁸⁷ Similar notes, *mutatis mutandis*, were received from the following Governments through their representatives in Washington: Australia (transmitted through the British Ambassador), Feb. 16, 1927; Belgium, Jan. 22, 1927; Czechoslovakia, Dec. 10, 1926; Denmark, Jan. 28, 1927; Estonia, Feb. 8, 1927; France, Dec. 23, 1926; Hungary, Jan. 27, 1928; Irish Free State, Mar. 12, 1927; Italy, Mar. 15, 1927; Japan, Dec. 31, 1926; Netherlands, Jan. 15, 1927; Norway, Dec. 29, 1926; Poland, Jan. 15, 1927; Portugal, Jan. 11, 1927; Rumania, Feb. 19, 1927; Kingdom of the Serbs, Croats and Slovenes, Dec. 18, 1926; Siam, Feb. 15, 1927; Union of South Africa (transmitted through the British Ambassador), Jan. 17, 1927; Spain, May 12, 1927; Sweden, Dec. 30, 1926; Switzerland, Jan. 17, 1927.

regard to the accession of the United States to the protocol of Signature of the Statute of the Permanent Court of International Justice.

This note embodies the decisions arrived at by the League Conference which was held at Geneva in September last to consider the United States reservations to the Protocol of the Statute of the Permanent Court of International Justice and is in the form recommended by its president.

I have [etc.]

ESME HOWARD

[Enclosure]

British Note Replying to the American Note of February 12, 1926, Regarding the Accession of the United States to the Protocol of Signature of the Permanent Court of International Justice

With reference to the note from the United States Government of February 12th, 1926, His Majesty's Government in Great Britain have the honour to state that they have learned with the deepest interest of the proposal which the United States have made with regard to their accession to the Protocol of Signature of the Statute of the Permanent Court of International Justice, and they have examined the matter at a conference of Governments of States signatories of the Protocol.

His Majesty's Government are happy to be able to say that consideration of the five reservations subject to which the signature of the United States would be affixed to the Protocol, and of the method of satisfying these reservations, has resulted in the following conclusions:

RESERVATION I

His Majesty's Government agree that the accession of the United States to the Protocol of December 16th, 1920, and the Statute of the Permanent Court of International Justice annexed thereto shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligations by the United States under the Treaty of Peace of Versailles of June 28th, 1919.

RESERVATION II

His Majesty's Government agree that the United States may participate, through representatives designated for the purpose and upon an equality with the other States Members of the League of Nations represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy-judges of the Permanent Court of International Justice or for the filling of vacancies.

RESERVATION III

His Majesty's Government agree that the United States pay a fair share of the expenses of the Court as determined and appropriated from time to time by the Congress of the United States.

RESERVATION IV

A. His Majesty's Government agree that the United States may at any time withdraw its accession to the Protocol of December 16th, 1920.

In order to assure equality of treatment, it seems natural that the signatory States, acting together and by not less than a majority of two-thirds, should possess the corresponding right to withdraw their acceptance of the special conditions attached by the United States to its accession to the said Protocol in the second part of the fourth reservation and in the fifth reservation. In this way the *status quo ante* could be re-established if it were found that the arrangement agreed upon was not yielding satisfactory results.

It is to be hoped, nevertheless, that no such withdrawal will be made without an attempt by a previous exchange of views to solve any difficulties which may arise.

B. His Majesty's Government agree that the Statute of the Permanent Court of International Justice annexed to the Protocol of December 16th, 1920, shall not be amended without the consent of the United States.

RESERVATION V

A. In the matter of advisory opinions, and in the first place as regards the first part of the fifth reservation, the Government of the United States will, no doubt, have become aware, since the despatch of their note of February 12th, 1926, of the provisions of articles 73 and 74 of the Rules of Court as amended by the Court on July 31st, 1926 (Annex A). His Majesty's Government believe that these provisions are such as to give satisfaction to the United States, having been made by the Court in exercise of its powers under article 30 of its Statute. Moreover, they will be disposed to study with the United States the possible incorporation of certain stipulations of principle on this subject in a protocol of execution such as is set forth hereafter (Annex B), notably as regards the rendering of advisory opinions in public.

B. The second part of the fifth reservation suggests to His Majesty's Government that a distinction should be drawn between advisory opinions asked for in the case of a dispute to which the United States are a party and that of advisory opinions asked for in the case of a dispute to which the United States are not a party but in which it

claims an interest, or in the case of a question other than a dispute in which the United States claim an interest.

As regards disputes to which the United States are a party, His Majesty's Government may perhaps confine themselves to a reference to the jurisprudence of the Court, which has already had occasion to pronounce upon the matter of disputes between a Member of the League of Nations and State not belonging to the League. His Majesty's Government hope that they may consider that this jurisprudence, as formulated in Advisory Opinion No. 5 (Eastern Carelia), given on July 23rd, 1923, meets the desire of the United States.

As regards disputes to which the United States are not a party but in which they claim an interest, and as regards questions other than disputes in which the United States claim an interest, His Majesty's Government, in agreement with the Governments of the other signatory States, understand the object of the United States to be to assure to themselves a position of equality with States represented either on the Council or in the Assembly of the League of Nations. With this principle His Majesty's Government are quite prepared to agree. But the fifth reservation appears to rest upon the presumption that the adoption of a request for an advisory opinion by the Council or Assembly requires a unanimous vote. No such presumption, however, has so far been established. It is therefore impossible to say with certainty whether in some cases, or possibly in all cases, a decision by a majority is not sufficient. In any event, His Majesty's Government are disposed to guarantee to the United States a position of equality in this respect—that is to say, in any case where a State represented on the Council or in the Assembly would possess the right of preventing by opposition, in either of these bodies, the adoption of a proposal to request an advisory opinion from the Court, the United States shall enjoy an equivalent right.

His Majesty's Government attach great importance to the value of the advisory opinions which the Court may give as provided for in the Covenant. They are confident that the Government of the United States entertain no desire to diminish the value of such opinions in connection with the functioning of the League of Nations. Yet the terms employed in the fifth reservation are of such a nature as to lend themselves to a possible interpretation which might have that effect. The Members of the League of Nations would exercise their rights in the Council and in the Assembly with full knowledge of the details of the situation which has necessitated a request for an advisory opinion, as well as with full appreciation of the responsibilities which a failure to reach a solution would involve for them under the Covenant of the League of Nations. A State which is exempt from the obligations and responsibilities of

the Covenant would occupy a different position. It is for this reason that the procedure to be followed by a non-member State in connection with requests for advisory opinions is a matter of importance, and, in consequence, His Majesty's Government would desire that the manner in which the consent provided for in the second part of the fifth reservation will be given should form the object of a supplementary agreement which would ensure that the peaceful settlement of future differences between Members of the League of Nations would not be made more difficult.

His Majesty's Government venture to anticipate that the above conclusions will meet with acceptance by the United States. They observe that the application of some of the reservations of the United States would involve the conclusion of an appropriate agreement between the United States and the other States signatories of the Protocol of December 16th, 1920, as was indeed envisaged by the Secretary of State of the United States in his reply to the Secretary-General of the League of Nations dated April 17th, 1926. To this end, His Majesty's Government will be prepared to conclude with the other States signatories of the Protocol of December 16th, 1920, and the United States, a protocol of execution which, subject to such further exchange of views as the Government of the United States may think useful, might be in the form set out below (Annex B).

ANNEX A

Extract From the Revised Rules of Court of the Permanent Court of International Justice

(Articles 71, 73 and 74, as printed herewith, were amended on July 31st, 1926).

ARTICLE 71

Advisory opinions shall be given after deliberation by the full Court. They shall mention the number of the judges constituting the majority.

Dissenting judges may, if they so desire, attach to the opinion of the Court either an exposition of their individual opinion or the statement of their dissent.

ARTICLE 72

Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request, signed either by the President of the Assembly or the President of the Council of the League of Nations, or by the Secretary-General of the League under instructions from the Assembly or the Council.

The request shall contain an exact statement of the question upon which an opinion is required, and shall be accompanied by all documents likely to throw light upon the question.

ARTICLE 73

1. The Registrar shall forthwith give notice of the request for an advisory opinion to the members of the Court, to the Members of the League of Nations, through the Secretary-General of the League, and to any States entitled to appear before the Court.

The Registrar shall also, by means of a special and direct communication, notify any Member of the League or States admitted to appear before the Court or international organisations considered by the Court (or, should it not be sitting, by the President) as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

Should any State or Member referred to in the first paragraph have failed to receive the communication specified above, such State or Member may express a desire to submit a written statement or to be heard; and the Court will decide.

2. States, Members and organisations having presented written or oral statements or both shall be admitted to comment on the statements made by other States, Members or organisations, in the form, to the extent and within the time limits which the Court or, should it not be sitting, the President shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to States, Members and organisations having submitted similar statements.

ARTICLE 74

Advisory opinions shall be read in open court, notice having been given to the Secretary-General of the League of Nations and to the representatives of States, of Members of the League and of international organisations immediately concerned. The Registrar shall take the necessary steps in order to ensure that the text of the advisory opinion is in the hands of the Secretary-General at the seat of the League at the date and hour fixed for the meeting held for the reading of the opinion.

Signed and sealed original copies of advisory opinions shall be placed in the archives of the Court and of the Secretariat of the League. Certified copies thereof shall be transmitted by the Registrar to States, to Members of the League, and to international organisations immediately concerned.

Any advisory opinion which may be given by the Court, and the request in response to which it is given, shall be printed and published in a special collection for which the Registrar shall be responsible.

ANNEX B

Preliminary Draft of a Protocol

The States signatories of the Protocol of Signature of the Permanent Court of International Justice dated December 16th, 1920, and the United States of America, through the undersigned duly authorised representatives, have agreed upon the following provisions regarding the adherence by the United States of America to the said protocol, subject to the five reservations formulated by the United States.

ARTICLE 1

The United States shall be admitted to participate, through representatives designated for the purpose and upon an equality with the signatory States Members of the League of Nations, represented in the Council or in the Assembly, in any and all proceedings of either the Council or the Assembly for the election of judges or deputy judges of the Permanent Court of International Justice, provided for in the Statute of the Court. The vote of the United States shall be counted in determining the absolute majority of votes required by the Statute.

ARTICLE 2

No amendment of the Statute annexed to the Protocol of December 16th, 1920, may be made without the consent of all the Contracting States.

ARTICLE 3

The Court shall render advisory opinions in public session.

ARTICLE 4

The manner in which the consent provided for in the second part of the fifth reservation is to be given will be the subject of an understanding to be reached by the Government of the United States with the Council of the League of Nations.

The States signatories of the Protocol of December 16th, 1920, will be informed as soon as the understanding contemplated by the preceding paragraph has been reached.

Should the United States offer objection to an advisory opinion being given by the Court, at the request of the Council or the Assembly, concerning a dispute to which the United States is not a

party or concerning a question other than a dispute between States, the Court will attribute to such objection the same force and effect as attaches to a vote against asking for the opinion given by a Member of the League of Nations either in the Assembly or in the Council.

ARTICLE 5

Subject to the provisions of article 7 below, the provisions of the present protocol shall have the same force and effect as the provisions of the Statute annexed to the Protocol of December 16th, 1920.

ARTICLE 6

The present protocol shall be ratified. Each State shall forward the instrument of ratification to the Secretary-General of the League of Nations, who shall inform all the other signatory States. The instruments of ratification shall be deposited in the archives of the Secretariat of the League of Nations.

The present protocol shall come into force as soon as all the States which have ratified the Protocol of December 16th, 1920, including the United States, have deposited their ratifications.

ARTICLE 7

The United States may at any time notify the Secretary-General of the League of Nations that it withdraws its adherence to the Protocol of December 16th, 1920. The Secretary-General shall immediately communicate this notification to all the other States signatories of the protocol.

In such case the present protocol shall cease to be in force as from the receipt by the Secretary-General of the notification by the United States.

On their part, each of the Contracting States may at any time notify the Secretary-General of the League of Nations that it desires to withdraw its acceptance of the special conditions attached by the United States to its adherence to the Protocol of December 16th, 1920, in the second part of its fourth reservation and in its fifth reservation. The Secretary-General shall immediately give communication of this notification to each of the States signatories of the present protocol. The present protocol shall be considered as ceasing to be in force if and when, within one year from the receipt of the said notification, not less than two-thirds of the Contracting States other than the United States shall have notified the Secretary-General of the League of Nations that they desire to withdraw the above-mentioned acceptance.

ARTICLE 8

The present protocol shall remain open for signature by any State which may in the future sign the Protocol of Signature of December 16th, 1920.

Done at _____, the _____ day of _____, 19____, in a single copy, of which the French and English texts shall be both authoritative.

500.C114/4451

The British Ambassador (Howard) to the Secretary of State

No. 828

WASHINGTON, *December 31, 1926.*

SIR: With reference to my note No. 817 of December 23rd, I have the honour to inform you, on instructions from His Britannic Majesty's Principal Secretary of State for Foreign Affairs, that the Government of India desire to associate themselves with the views expressed by His Majesty's Government in Great Britain on the reservations attached to the accession of the United States to the protocol of the statute of the Permanent Court of International Justice.³⁸

I have [etc.]

ESME HOWARD

500.C114/445cc

The Ambassador in Great Britain (Houghton) to the Secretary of State

No. 1811

LONDON, *April 25, 1927.*

[Received May 5.]

SIR: I have the honor to refer to the Department's instruction No. 742 of November 12, 1926, by which the Embassy is directed to transmit a memorandum, with its enclosure, to the British Foreign Office with the request that it be forwarded to the British Diplomatic Representative in Abyssinia for presentation to the Abyssinian Government on behalf of the United States. The memorandum and its enclosure referred to the Senate Resolution of January 27, 1926, in connection with the adherence of the United States to the Protocol of Signature of the Statute for the Permanent Court of International Justice.

³⁸ On Apr. 4, 1927, the British Ambassador transmitted a similar note (No. 219), *mutatis mutandis*, on behalf of the Government of New Zealand.

I now have the honor to inform you that the Department's instructions were promptly carried out. I beg to forward herewith a copy, in triplicate, of an informal note from the Foreign Office together with its enclosure, being a copy of a note from the Government of Abyssinia to the British Minister at Addis Ababa.

I have [etc.]

For the Ambassador:

F. A. STERLING
Counselor of Embassy

[Enclosure]

Mr. R. L. Craigie, of the American and African Department, British Foreign Office, to the Counselor of the American Embassy (Sterling)

No. W3450/62/98

FOREIGN OFFICE, S. W. 1., 22 April, 1927.

DEAR STERLING: With reference to my letter of the 26th November last,³⁹ I enclose a copy of a note addressed by the Abyssinian Government to our Minister at Addis Ababa on the subject of the reservations attached by the United States Government to their accession to the protocol of the Permanent Court of International Justice.

Yours sincerely,

R. L. CRAIGIE

[Subenclosure]

The Regent of Ethiopia (Ras Taffari) to the British Minister in Ethiopia (Bentinck)

No. 147

ADDIS ABABA, 21 March, 1927.

AFTER GREETINGS: I have received your letter of February 24th 1927 regarding the note from the United States Government on the subject of the Protocol of Permanent Court of International Justice. As we have asked certain questions from the Secretariat of the League of Nations and it is necessary for us to wait for the answer, we are unable to give you the right answer to your letter. I have therefore to inform you that it is impossible to give you a definite reply on the subject at the present moment.⁴⁰

SEAL OF RAS TAFFARI

³⁹ Not printed.

⁴⁰ No further communication was received from the Ethiopian Government.

PARTICIPATION OF THE UNITED STATES IN THE WORK OF THE
PREPARATORY COMMISSION FOR THE DISARMAMENT CONFER-
ENCE⁴¹

500.A15/21

The Chargé in Switzerland (Winslow) to the Secretary of State

No. 744

BERNE, December 13, 1925.

[Received December 24.]

SIR: With reference to my telegram No. 146 of December 13, 12 noon,⁴² I have the honor to enclose a communication from M. Scialoja, Acting President of the Council of the League of Nations, dated December 12, 1925, addressed to the Secretary of State inviting the Government of the United States, on behalf of the Council of the League to send representatives to sit on the Preparatory Commission for the Disarmament Conference which meets at Geneva on February 15, 1926, in accordance with a decision of the Council of December 12, 1925. The enclosures to this invitation, namely the report on the Preparatory Commission prepared by M. Beneš (Document C 792(2)M.277 1925.IX) adopted by the Council on December 12th, and the list of questions to be examined by the Preparatory Commission for the Disarmament Conference (Document C.793(2)M.278 1925.IX) also prepared by M. Beneš, adopted by the Council on December 12th, are transmitted with this despatch.⁴³

As stated in my telegram under reference, I have been informed by a member of the Secretariat that it is its intention to give the text of this invitation to the press, probably on December 16th, at which time the similar invitation addressed to the Union of the Socialist Soviet Republics, and also despatched on December 12th, shall have reached its destination.

I have [etc.]

ALAN F. WINSLOW

[Enclosure]

*The Acting President of the Council of the League of Nations
(Scialoja) to the Secretary of State*

GENEVA, 12 December, 1925.

SIR: In the name of the Council of the League of Nations, I have the honour to invite the Government of the United States of America to send representatives to sit on the Preparatory Commission for the

⁴¹ For proceedings of the sessions of the Preparatory Commission and related documents, see League of Nations, *Documents of the Preparatory Commission for the Disarmament Conference entrusted with the Preparation for the Conference for the Reduction and Limitation of Armaments*, Series I (C.9.M.5.1926.IX), Series II (C.425.M.158.1926.IX), Series III (C.740.M.279.1926.IX).

⁴² Not printed.

⁴³ Enclosures not printed; see League of Nations, *Documents of the Preparatory Commission*, Series I, pp. 44-48.

Disarmament Conference which has been set up by the Council by a decision of to-day's date and which is to meet in Geneva on February 15th, 1926.

Particulars regarding the composition and working of this Commission are to be found in a document enclosed with this letter.⁴⁴ The following nations, in addition to the States Members of the Council, will be invited to send Representatives to the Preparatory Commission:—

Bulgaria,
Finland,
Germany,
Netherlands,
Poland,

Roumania,
Kingdom of the Serbs,
Croats and Slovenes,
Union of the Socialist
Soviet Republics.

The Commission will have at its disposal the advice of the Technical (military and civilian) Organisations of the League of Nations, as well as that of any other qualified authorities which in the opinion of the Commission it may be advisable to consult on any of the subjects which may come under its consideration.

Its task will consist in the preparation of a Conference for disarmament which it is intended to call together at the earliest possible date. Its deliberations will be directed to such matters as the various factors upon which the power of a country in time of war depends; the question as to whether it is practicable to limit the ultimate war strength of a country, or whether measures of disarmament should be confined to the peace strength; the various forms which reduction or limitation may take in the case of land, sea and air forces, and the relative advantages or disadvantages of each of these different forms; the standards by which it is possible to measure the armaments of one country against the armaments of another; the possibility of ascertaining that the armed force of a country is organised for purely defensive purposes, or on the contrary in a spirit of aggression; the principles on which it may be possible to draw up a scale of armaments for the various countries, and the factors which may enter into the establishment of such principles—such as population, resources, geographical situation, communications, vulnerability of frontiers, delays that are necessary in order to transform peace armaments into war armaments, degree of security etc; the criteria, if any, by which it may be possible to distinguish between civil and military aircraft; the estimation of the military value of commercial fleets; the relations between regional security and regional disarmament and between regional disarmament and general disarmament. The full particulars as to the programme of the Preparatory Commission will be found in a document enclosed with this letter.⁴⁴

⁴⁴ Not printed.

As a result of the long and continuous study which it has devoted to this question, the Council is unanimously of the opinion that, owing to the political, economic and technical complexity of the problem which it raises, the question of disarmament can hardly be approached with any certain hope of complete solution unless it is considered in its entirety and with the co-operation of all nations. The matters for examination touch upon all the aspects of the question and affect the interests of all the nations of the world; and the methods and machinery for dealing with them should, in the Council's opinion, be not less universal. On these general grounds, as well as on the more special grounds of the high importance of the United States in such matters, the Council attaches the greatest possible value to the co-operation of the Government of the United States, not only in the Conference which it is its intention to call together, but also in the preparatory work which, in its opinion, is indispensable for the success of that Conference. The Council believes that the time has come for studying the practical possibilities of the reduction and limitation of armaments under the guidance and responsibility of the Governments and expresses the hope that at the moment when all the nations of the world are conscious of a common need, it will be able to count on the full and direct co-operation of the Government of the United States for a work which so closely concerns the peace of the world.

I have [etc.]

VITTORIO SCIALOJA

500.A15/216

*Message of the President of the United States to Congress,
January 4, 1926*⁴⁶

TO THE CONGRESS OF THE UNITED STATES: In the message which I had occasion recently to submit to you,⁴⁷ I called attention to the agreements recently entered into by a number of European governments under which guaranties of peace were provided and I took occasion to point out that the natural corollary to these treaties should be further international agreements for the limitation of armaments, a work that was so successfully begun at the Washington conference.

The Government of the United States has now been invited by the Council of the League of Nations to send representatives to sit upon a "Preparatory commission for the disarmament conference, being a commission to prepare for a conference on the reduction and limitation of armaments," which has been set up by the council

⁴⁶ House Document No. 183, 69th Cong., 1st sess.

⁴⁷ See Annual Message of the President to the Congress of the United States, Dec. 8, 1925, *Foreign Relations, 1925*, vol. I, pp. vii, xii.

and which is to meet in Geneva, Switzerland, in February, 1926. The purpose of this commission, it is stated, is to make preparations for a conference for disarmament which it is the announced purpose of the council to call at an early date.

It is proposed that the deliberations of the commission shall be directed to such matters as the several factors upon which the power of a country in time of war depends; whether limitation of the ultimate war strength of a country is practicable or whether disarmament should be confined to the peace strength alone; the relative advantages or disadvantages of each of the various forms which reduction or limitation of armament may take in the case of land, sea, and air forces; the standard of measurement of the armament of one country against the armament of another; the possibility of ascertaining whether the armed force of a country is organized in a spirit of aggression or for purely defensive purposes; the consideration of the principles upon which a scale of armament for various countries can be drawn up and the factors which enter into the establishment of those principles, such as communication, resources, geographical situation, population, the vulnerability of frontiers, necessary delays in the transforming of peace armaments into war armaments; criteria, if any, by which it may be possible to distinguish between civil and military aircraft; the military value of commercial fleets; the relation between regional security and disarmament and between regional disarmament and general disarmament.

The matters to be examined by the preparatory commission will, it is stated, touch upon all aspects of the question of disarmament and affect the interests of all of the nations of the world. The council believes that the time has come for studying the practical possibilities of the reduction and limitation of armaments, and expresses the hope that at this time when all of the nations of the world are convinced of a common need, it will be able to count upon the cooperation of the Government of the United States in a work which so closely concerns the peace of the world.

This is neither the time nor the place to discuss the agenda of the preparatory commission or to assess the prospects of any conference or conferences on disarmament or limitation of armament which may later be convened. It is quite sufficient to note at this stage that the United States is merely invited to participate in a preliminary inquiry which may prepare the way for steps of a more definite and formal nature. Whether the conditions and circumstances will prove such as to make it desirable for the United States to attend any conference or conferences which may eventually take place as a result of the labors of the preparatory commission or otherwise is a question which need not now be considered. It is my judgment that so

far as this preliminary inquiry is concerned, we ought to give our aid and cooperation to the fullest extent consistent with the policies which we have adopted.

The general policy of this Government in favor of disarmament and limitation of armament can not be emphasized too frequently or too strongly. In accordance with that policy any measure having a reasonable tendency to bring about these results should receive our sympathy and support. The conviction that competitive armaments constitute a powerful factor in the promotion of war is more widely and justifiably held than ever before, and the necessity for lifting the burden of taxation from the peoples of the world by limiting armaments is becoming daily more imperative.

Participation in the work of the preparatory commission involves no commitment with respect to attendance upon any future conference or conferences on reduction and limitation of armaments; and the attitude of this Government in that regard can not be defined in advance of the calling of such meetings. For this reason I deem it advisable to ask the Congress at this time only for such appropriation as may be required to defray the expenses of our participation in the work of the preparatory commission. I therefore recommend that there be appropriated the sum of \$50,000 to cover the expenses of participation, in the discretion of the Executive, in the work of the preparatory commission.

CALVIN COOLIDGE

THE WHITE HOUSE,
Washington, January 4, 1926.

500.A15/152

The Ambassador in Japan (MacVeagh) to the Secretary of State

No. 39

TOKYO, January 5, 1926.

[Received February 24.]

SIR: I have the honor to inform the Department that it will be a great help to the Embassy if one or more copies might be sent of the list of subjects to be discussed at the preliminary conference on disarmament scheduled to be held at Geneva in April or May.

On the assumption that the Department would wish to be informed in general of the attitude of the Japanese Government towards the conference, the Embassy has, on one or two occasions, discreetly endeavored to ascertain this. Mr. Debuchi, Vice Minister for Foreign Affairs, in a talk with a member of the Embassy staff, made the observation, when the subject of the Geneva Conference was mentioned, that in his own opinion, while it had been found possible to reach a ratio as to the Naval Armaments necessary for certain coun-

tries, it would be a practical impossibility to do the same thing in connection with land armaments.

However, in order to discuss the question more intelligently and, as already stated, to ascertain this Government's view vis-à-vis the questions to be discussed, knowledge of the program of subjects to be dealt with at the conference is essential.

I have [etc.]

CHARLES MACVEAGH

500.A15/63 : Telegram

The Minister in Switzerland (Gibson) to the Secretary of State

BERNE, January 16, 1926—noon.

[Received 2:40 p. m.]

13. There are indications of disposition to postpone meeting of Preparatory Commission (1) in the hope that some way will be found for overcoming present obstacles to participation of Soviets; (2) to line up delegates for or against discussion naval disarmament. Obviously postponement could [not?] be announced on these grounds and it has been intimated to me that postponement if taken will be based on lateness of our answer and necessity for full previous consultation with our delegates. This line is taken in important article in *Journal de Geneva* today which states that American representation is one of the factors prompting postponement; that it is believed we will send strong delegation of important public men with the intention of playing a dominant role and that it will be necessary to reach general agreement with American delegation on principal questions before conference can begin.

It has been suggested that we are holding back announcement with the idea of coming in with strong delegation when it is too late for other countries to strengthen their representation.

Believe it is important to announce our delegation as soon as possible in order to preclude our being held publicly responsible for postponement.

GIBSON

500.A15/63 : Telegram

The Secretary of State to the Minister in Switzerland (Gibson)

[Paraphrase]

WASHINGTON, January 20, 1926—4 p. m.

8. Your No. 13, January 16, noon.

(1) The President, having requested a congressional appropriation, does not wish to appoint delegation on Preparatory Commission and have his action regarded as indication that he is going to

proceed without congressional action. The end sought is too important to risk any misunderstanding here over method of procedure; realization of any disarmament program can only be achieved through cooperation of Executive and Congress.

(2) House resolution to authorize appropriation of \$50,000 was passed January 18 with only one vote against it. I think the Senate will consider the resolution and pass it by February 1.⁴⁸ I have heard of no serious opposition to it. At this time the Department is not disposed, therefore, to suggest that it desires a postponement. If certain powers were to make any attempt to place upon us responsibility for a postponement which they desire for reasons having nothing to do with our attitude, we should have an adequate answer. President's attitude toward participation in Preparatory Commission's work was clearly set forth in his message to Congress on January 4, so there can be no misapprehension regarding our position. The President does not wish to send formal acceptance until Congress has acted.

(3) It does not seem at all necessary that there should be preliminary agreements between representatives of this Government and foreign delegations prior to the assembly of the Preparatory Commission. While purpose of this preliminary work is to facilitate informal exchange of views, that can just as well take place after February 15.

(4) It is true that in the case of this Government the time was brief, as it has not participated in the meetings which preceded the invitation and as it received the documentation necessary for the preparation of instructions only a short time before the meeting was called. Work on preparation of instructions is now proceeding, however, in consultation with War and Navy Departments and will be completed in ample time to send the instructions to you before February 15. If other powers should now desire postponement, we do not object; but we do not propose a postponement and the onus for one should not be placed on us.

(5) As you are aware, the Department does not intend to send large delegation to Geneva and probably only technical military and naval assistants will be sent from here, consisting probably of an admiral and a general with possibly technical aides.

(6) At your discretion you may indicate orally to Drummond⁴⁹ substance of paragraphs (2) and (3); you may add that it is probable that any personnel which may be sent from here will be of technical character.

KELLOGG

⁴⁸ The resolution was passed by the Senate January 29 and was approved February 1; 44 Stat. (pt. 2) 3.

⁴⁹ Sir Eric Drummond, Secretary General of the League of Nations.

500.A15/79a : Telegram

The Secretary of State to the Minister in Switzerland (Gibson)

[Paraphrase]

WASHINGTON, *January 22, 1926—5 p. m.*

10. The protracted debate in the Senate on the World Court issue⁵⁰ may delay action on the appropriation for the Disarmament Commission beyond February 1. For this reason it is important that Department be informed at earliest possible date whether repeated press rumors of postponement of Preparatory Commission's meeting are accurate and if they are, when definite notification of postponement will be received and the new date fixed.

KELLOGG

500.A15/76 : Telegram

The Consul at Geneva (Tuck) to the Secretary of State

GENEVA, *January 22, 1926—7 p. m.*

[Received January 22—4:35 p. m.]

In conversation with Drummond this afternoon at request of Legation at Berne I indicated to him informally the substance of paragraphs 2 and 3 of the Department's number 8 of January 20, 4 p. m. to the Legation with regard to the composition of the various delegations. He stated that the majority would not include more than one or two principal delegates at the most, citing England, France and Czechoslovakia as examples.

In any case he spoke very frankly regarding the possibility of postponement of the Preparatory Commission, stating that both France and Italy favored postponement for the following reasons:

1. If Preparatory Commission meets on February 15th France fears that Germany may adopt attitude that she is already disarmed and expects other countries to do as much. Germany would find it more difficult to take this line when once in the League.
2. The negotiations now proceeding between Berne and Moscow will find, it is hoped, a solution to prevent deadlock. Russia has not yet answered invitation definitely.

If Preparatory Commission postponed, it will probably meet first week in May. Briand⁵¹ apparently does not wish to make definite request for postponement until he has had an opportunity to interview Chamberlain.⁵² England at present against postponement but willing to discuss matter. Drummond considers strong chance exists

⁵⁰ See pp. 1 ff.

⁵¹ Aristide Briand, French Minister for Foreign Affairs.

⁵² Sir Austen Chamberlain, British Secretary of State for Foreign Affairs.

for postponement; from purely League point of view hopes this will occur as he would like to see both Germany as a League member and Russia taking part.

TUCK

500.A15/78 : Telegram

The Consul at Geneva (Tuck) to the Secretary of State

GENEVA, *January 23, 1926—1 a.m.*

[Received 8:44 a.m.]

Referring to my telegram of January 22, 6 [7] p.m. The Department should not construe my second paragraph [*sentence?*] as meaning that countries named therein are to have two delegates. On the contrary, so far as known by Drummond, no country is sending more than one delegate with technical advisers. My reference to two delegates was meant to indicate that if the Department considered it desirable to appoint a substitute delegate this would not be so disproportionate as to cause resentment. Drummond reiterates his hope that our delegation would be restricted to approximately same limits as other powers.

TUCK

500.A15/80 : Telegram

The Minister in Switzerland (Gibson) to the Secretary of State

[Paraphrase]

BERNE, *January 23, 1926—noon.*

[Received January 23—10:52 a.m.]

18. Department's No. 10, January 22, 5 p.m. Drummond tells me that so far no Government has requested postponement although there are indications that both France and Italy would welcome such action. He feels that the chances are slightly against postponement, and has promised to keep me fully and promptly informed of any developments.

GIBSON

500.A15/21 : Telegram

The Secretary of State to the Minister in Switzerland (Gibson)

WASHINGTON, *January 29, 1926—7 p.m.*

14. Your December 13, [1925,] Noon,⁵⁸ and despatch of the same date.

You may communicate the following to the Secretary General, indicating that it is being given publicity here.

⁵⁸ Not printed.

"To the President of the Council of the League of Nations: The President has authorized me to state that the Government of the United States accepts the invitation extended by the Council of the League of Nations to send representatives to sit on the Preparatory Commission which is to meet in Geneva on February 15, 1926, to consider questions relating to the limitation of armaments. Frank B. Kellogg, Secretary of State."

KELLOGG

500.A15/98 : Telegram

The Minister in Switzerland (Gibson) to the Secretary of State

BERNE, February 1, 1926.

[Received February 1—10:10 a.m.]

28. Following telegram just received from Drummond who is communicating it to the press.

"Members Council, France, Italy, Japan, Czechoslovakia, Uruguay, ask postponement meeting Preparatory Disarmament Commission to date to be fixed by Council in March, but in any case not later than 15th May. Have requested other members Council to give prompt opinion. Shall not fail to inform you of decision taken.⁵⁴ Will be glad forward President Council any proposals you wish to submit. Drummond."

GIBSON

500.A15/128a : Telegram

The Secretary of State to the Minister in Switzerland (Gibson)

[Paraphrase]

WASHINGTON, February 6, 1926—6 p.m.

22. An Associated Press report dated February 3 from Geneva states that the American delegation will be requested to participate as temporary members of the Military Advisory Committee of the League of Nations. The same press report also emphasized that that Commission is expected to play important role in disarmament meetings, as all technical problems will be handed over to it for an opinion.

Department has noted that invitation extended by League of Nations on December 12, 1925,⁵⁵ referred to fact that Disarmament Commission would have at its disposal the advice of the League's technical organizations. I should, however, consider it highly unfortunate if the League were to gain the impression that this Govern-

⁵⁴ On Feb. 6 the Secretary General informed the members of the Preparatory Commission that the meetings fixed for Feb. 15 and 16 had been adjourned and that the question of dates had been placed on the agenda of the March session of the Council (file No. 500.A15/151, encl.).

⁵⁵ *Ante*, p. 40.

ment, having agreed to be represented on the Preparatory Commission, would consent to turn over questions in which it had direct interest to an organization of the League on which it was not represented, and which, acting as an organ of the League and not being composed of governmental representatives, could not in this Government's opinion appropriately be consulted in matters of importance to it.

We feel that the Preparatory Commission should refer technical questions to subcommittees formed from Commission itself and should not refer them to other organizations. Should other countries desire the opinion of their experts on League advisory commissions they could easily arrange to have these experts attached to Preparatory Commission. If two sets and types of organizations with different functions and capacities attempted to handle problems presented to Preparatory Commission the result would only be confusion.

That there may be no possibility of misunderstanding, Department desires you to bring above considerations to attention of League Secretariat with view to prevent premature formulation of plans in which the Government of the United States is not disposed to concur and which it might be obliged to oppose before the Preparatory Commission.

KELLOGG

500.A15/131 : Telegram

The Minister in Switzerland (Gibson) to the Secretary of State

BERNE, February 9, 1926—5 p.m.

[Received 5:30 p.m.]

38. Department's 22, February 6, 6 p.m.

1. No foundation for press report that all technical questions will be turned over to Permanent Advisory Commission or Joint Commission or that these Commissions will "play big role." As indicated in the invitation of December 12th⁵⁶ and as amplified on page 37 of document C.P.D.[1],⁵⁷ the Preparatory Commission is authorized but not bound to refer to these bodies any questions on which their advice is desired.

2. Associated Press correspondent informs Tuck his despatch was not written with full knowledge of the facts.

3. Reference of question[s] in which we are interested to League organizations on which we are not represented need not arise. As pointed out in Tuck's telegram of December 28,⁵⁸ provisions for cooperation of these committees were so drafted as to afford the

⁵⁶ *Ante*, p. 40.

⁵⁷ League of Nations, *Documents of the Preparatory Commission*, Series I.

⁵⁸ Not printed.

opportunity for our delegation to be adequately represented when questions of interest to us were under discussion. Moreover I feel confident that it would always be possible to secure the reference of any specific question in which we are interested to a subcommittee of the Conference rather than to League committees if we should so desire at the time.

4. It is clearly specified and understood that opinions of these bodies are of purely advisory character and have no binding force. As at previous conference it is planned to refer occasional questions to them merely so that they can dispose of necessary drudgery and leave Conference committees free for more essential work.

5. During Arms Traffic Conference, questions were frequently referred to legal section of Secretariat for advisory opinions. That section is permanent League body forming integral part of Secretariat and we were not represented on it. However, neither Department nor delegation object[ed] to the course.

6. After having countenanced practice of referring questions to League body on which we are not represented I am not quite clear on what grounds I am desired to base our objection to similar procedure as regards the advisory bodies on which we are offered representation.

7. In view of the foregoing I have felt justified in withholding action last paragraph of Department's telegram until further instructed since it is clear that it is not intended to attribute to these Commissions the role that is objected to by the Department and since press reports on the subject are inaccurate. Furthermore, I question the wisdom of making any communication at this time as [neither] Drummond nor Madariaga⁵⁹ could take any decisive action but could only circulate information concerning our attitude which might create inadmissible impression as to our intentions. If Department feels that additional steps are desirable to make our position clear on this point I believe they could be taken most effectively when Conference meets.

GIBSON

500.A15/138a

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, February 11, 1926.

MY DEAR MR. AMBASSADOR: At present it is the intention of the President to appoint Mr. Hugh Gibson to attend the preliminary

⁵⁹ Salvador de Madariaga, Director of the Disarmament Section, League of Nations.

arms Conference at Geneva and to give him as technical assistants and advisers Mr. Allen W. Dulles, of my Department, two representatives of the War Department and two of the Navy Department. Their names have been selected but as the Conference is going to be adjourned, the President has made no announcement. There may be a change in the technical advisers and assistants. I desire in this letter to set forth a little more in detail than I did in my telegram to you⁶⁰ the attitude of this Government in relation to such conference. Whether these questions will any of them be disposed of by the preliminary Conference I cannot say but I thought it best to outline to you my views on the general subject.

First, the scope of this Conference or of any limitation of armament conference. The suggestions in the invitation are very broad and cover a great many questions which, it seems to me, are entirely impractical. I believe the only practical bases for the limitation of armament are visible armaments and peace strength. This could include the trained personnel, the equipment, munitions and supplies, which can be mobilized immediately on the outbreak of war. No limitation on the basis of budgetary expenses is at all practical. That depends upon the rate of pay, etc., in each country. Any limitation based on the ratio of wealth, population or resources is also impractical. It is impossible to limit the war strength of any country. If the Conference is going into all these collateral issues, it is doomed to failure.

Second, land disarmament is a regional question. I do not believe that any agreement can possibly be procured which will involve all the countries of the world in a scale limiting land armaments. The conditions are so different as to the relation of countries with each other, necessary forces for protection and many other conditions which would make it impossible to arrive at a general formula,—to illustrate, no land armament anywhere in the Western Hemisphere bears the slightest relation to land armaments of Europe. They are neither a menace to Europe nor an aid to Europe except in extraordinary circumstances such as brought the United States into the last War. Land armaments in South America bear no relation to land armaments in North America; neither do the armaments in the Far East (exclusive of Russia) bear any relation to those in Europe except as nations may require a certain number of troops to protect their colonial possessions. The question of reduction of land armament is primarily confined to the reduction of European armaments. The United States has no more than an academic interest or, I might say, a moral interest in this question. We cannot be expected further to limit our already reduced land armaments or agree to any system

⁶⁰ Not printed.

of limitation which would necessarily restrict us to a smaller army than any of the larger powers. I realize, of course, that the attitude of Russia may be a very important factor but this is a matter of more immediate concern to the European and Asiatic Powers. Our object in being represented at this Conference is to show in every reasonable way our sympathy and to give any aid consistent within our policy.

Third, naval conference. Of course, the United States is interested in any naval conference. My general view on this subject is that a naval conference, if called, should be separate entirely from the land armament conference. If they are called together, it is evident that France and some of the other countries will immediately undertake to trade naval forces for land forces or land forces for naval forces, to make one dependent more or less on the other. It may be said that in limiting land forces, the naval forces must be taken into consideration. This can easily be done in a separate conference. Furthermore, there are five nations particularly interested in a naval conference, Great Britain, France, Italy, Japan and the United States. It would be impossible in my opinion to get all the world into a naval conference and make an agreement as to the standard of armament and the amount of armament each country shall have. To illustrate, undoubtedly South America, principally the A. B. C. Powers, are interested in the question of naval armament but the question there is limited entirely by their relation to each other and not by their relation to Europe or to the United States. It is undoubtedly true that Greece, Turkey, Russia and some other countries may be interested in the question of naval armament but this is largely regional and cannot now affect the armament of the larger powers. Furthermore, there is no prospect of any of these countries in the immediate future obtaining a naval armament which would in any way approach that of any of the Five Powers. There is undoubtedly a practical field in the further limitation of the size and number of cruisers, submarines and possibly air forces although the latter is a difficult subject and should be considered more or less by itself. The question of the prohibition of submarines will, of course, come up and I assume that France and the smaller powers will never agree to their abolition. I doubt if we would entirely but we would be willing, of course, to make an agreement as to the number.

Fourth, airplanes. This is a most difficult question which would have to be discussed very largely by our technical advisers. So far as the United States is concerned, of course, its airplane forces could never be a menace or used against any foreign country nor against the air forces of a foreign country except as they may be transported by airplane carriers and the limitation of airplane carriers is a practical limitation of air forces. The situation is undoubtedly different

in Europe. There, as I have said in relation to land armament, it is more or less of a regional question by reason of the short distances and the ease with which such air forces may reach neighboring nations.

Fifth, it, of course, must be understood that the United States will not be a party to any sanctions of any kind for the enforcement of a treaty for the limitation of armament nor will it agree that such treaties to which it may be a party shall come under the supervision of any international body,—whether the League of Nations or otherwise. The agreement, so far as we are concerned, must depend upon the good faith of nations.

Sixth, in any agreement for the limitation of naval armament, the United States would insist on the ratio provided for in the Washington Treaty and, so far as land armament is concerned, it would undoubtedly insist on the right to maintain forces equal to any other large power.

General considerations. I have thus imperfectly outlined the position of the United States. On the question of calling a naval conference, as you know, the President always has been willing to call such a conference as a continuation of the Washington Conference and I think he feels, as I have said to you before, that it would be appropriate that such a conference be called by him in the United States but I apprehend from what I learn from you and from the press that it is not the intention of the European Powers to attend any conference in the United States and that the League of Nations jumped into this matter, inspired to some extent by a desire to get ahead of the President. The President is not disposed to make the limitation of armament dependent on whether he calls a conference or whether somebody else does. He realizes that so far as land armament is concerned, it should be called in Europe and he is not going to occupy the position that he will not participate or do anything unless he can call the conference. The manoeuvres which have been going on in Europe of late about adjournment and the various conferences between Chamberlain and Briand lead me to believe that this conference, or any that may be called, is largely a gesture and that some of the countries have no intention whatever of making an agreement for disarmament. The Locarno Conference was undoubtedly a great step in advance even though it may not be the "cure all" that some now appear to consider it. Nevertheless I am disposed to give it credit for all it has done and it is a step forward. The nations gathering at Locarno, especially France, had said so much about security, disarmament and arbitration going hand in hand and that no disarmament could take

place until there was guaranteed security, having obtained that, they felt as though they must, in order to satisfy their public opinion and that of the world, take some step towards disarmament. It was evident to me that they undertook to get an adjournment and hoped to cast the burden on the United States; in fact, I was directly informed of this by absolutely reliable authority and I counteracted it by cabling at once to Hugh Gibson to say to Sir Eric Drummond that we would be represented and were ready, that the President's message represented his views on this subject, that we were waiting to send our definite answer until the act passed Congress. The moment it passed, I telegraphed acceptance. Finding that they could not place the onus on the United States, they then undertook to get an agreement between themselves and I take it that Great Britain refused to agree. Thereupon, France undoubtedly engineered the scheme to get a number of the countries to request an adjournment. The French Ambassador called on me the other day and explained the reason for the adjournment was that France was acting as an intermediary between Russia and Switzerland in order to obtain the presence of Russia and that Germany had not become a member of the League. However, I am rather inclined to believe that some of these European nations are not now, in any event, ready to make any bona fide disarmament of either naval or land forces and that they are trying to get all the world into a general scramble in order to have somebody to blame for the failure. So far as the United States is concerned, we propose to keep our skirts clear. If we had refused the invitation, it would have immediately gone out to the world that Europe could do nothing without the United States being present. We propose, as far as possible, to cooperate with them and, if there is a failure, for the blame to rest where it should. I may be mistaken about this and over suspicious. Nevertheless, the President was in no position to refuse to cooperate. Public opinion in this country, both in the Congress and out, would never have justified him in doing it.

I should be very glad if you could get the views of the British Government on these various questions in a general way. I cannot, of course, make known to the British Government my instructions to our delegation as the delegation may not ultimately be required to act on them and many of the instructions pertain more to a final conference than to the preliminary conference, which I appreciate is largely for the consideration of technical questions and the preparation of agenda. Nevertheless, knowing our situation and my views in a general way I should be glad if you could give me the British Government's views, if Chamberlain is disposed to tell you. I should also be

glad to have your comment as to the attitude of the various European countries and your suggestions as to whether it would be advisable and worth while for you to come over to talk with the President and me. I simply make this suggestion now because I do not wish to put you to the trouble of the long trip unless you feel that something could be accomplished which you could not do by letter.

Very sincerely yours,

FRANK B. KELLOGG

500.A15/145 : Telegram

The Minister in Switzerland (Gibson) to the Secretary of State

BERNE, February 18, 1926—6 p.m.

[Received February 18—5:18 p.m.]

45. When in Geneva yesterday I took occasion to point out to Madariaga in an oral and informal manner the considerations outlined in the Department's 22, February 6, 6 p.m. Madariaga confirmed the statements made in paragraphs 3 and 4 of my 38, February 9, 5 p.m., and in addition pointed out that for the purposes and duration of the Conference the character of the Permanent Advisory Commission would be completely altered. As the Department is aware, that Commission at present consists of military, naval and air experts of the Governments represented on the Council. During the forthcoming Conference however these experts will be the same as the technical advisers of the delegations of such Government[s] and in addition the military, naval and air advisers of each delegation to the Preliminary Conference whose Governments are not members of the League or Council are to be asked to form temporarily part of its membership. Hence during the life of the Conference the Advisory Commission would in fact be eliminated and substituted [*replaced*] by a technical advisory subcommittee of the Preparatory Commission itself.

With regard to the Joint Commission, he stated that it is understood that at least for the purpose and duration of the Conference one member each of the American, German and Japanese delegations will be asked to sit with it. In view of the foregoing it would not seem necessary to point out to Drummond, who is temporarily absent, the considerations set forth in the Department's 22, February 6, 6 p.m., unless the Department so desires.

GIBSON

500.A15/157 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *February 27, 1926—1 p.m.*

[Received 2:20 p.m.^{60a}]

39. I saw Chamberlain yesterday. Although his inclination is undoubtedly to base disarmament on visible armaments and peace strength and likewise to regard the limitation of naval forces as not having a direct relation to land forces, the situation is so complex that he is unable to stand definitely on either of those propositions. For instance he thinks that industrial strength may be considered as a factor in land disarmament. He pointed out that the French forces in Northern Africa, in Syria, even in Indochina are integral parts of French land strength and are dependent upon ability of the French to keep the Mediterranean open for transports and in that way involve naval strength.

Chamberlain made it plain that an out-and-out declaration of position such as you outlined is quite impossible for him; subject matter is too complex to admit of declaration so simple and straightforward. His attitude may be roughly summed up as follows: He is trying to carry on a common policy with Briand; to do this in matters which are really serious he must be ready to compromise on, if necessary even to sacrifice, matters of less immediate importance. He has many factors and conditions with which to deal in Europe, not to mention points of contact elsewhere which do not concern us except remotely. He cannot approach the Preliminary Conference, therefore, with a single mind in regard to disarmament. The Preliminary Conference must take its proper place and assume its proper importance in an extensive and correlated political policy.

He said to me frankly that he was unable to answer the questions I put to him, except in this general way. He urged me not to think that he was seeking to avoid giving an answer, and that I should not regard as final what he did say; he suggested that I see Lord Robert Cecil⁶¹ who, he thought, was in a position to speak more definitely. He then arranged an interview with Cecil for me.

At the outset of my conversation with Cecil he stated that the committee of experts which had been studying the agenda and entire subject for many months was only just beginning to formulate its

^{60a} Telegram in three sections.

⁶¹ Viscount Cecil of Chelwood, British delegate on the Preparatory Commission.

report; that until this report had been submitted to Cabinet, and accepted, no final decision on any point could be reached.

Cecil's personal view on peace strength and visible armament was that they furnished too narrow a basis. He preferred, as clearer and more satisfactory, mobilizable strength or striking force. He thought, too, that other items, such as industrial strength, must also be taken into consideration. He did not see any logical connection between land strength and naval strength and he hoped that consideration of these two separately would be possible, but he recognized that in the end this might prove impracticable.

I pointed out to him that as the United States was not a member of the League of Nations, our delegates could hardly be expected to discuss such matters as sanctions or the aid to be given by the League to a nation suffering attack. Cecil agreed. I then asked his personal view on whether he thought it possible to [disassociate] the League from the agenda. He said, frankly, that he did not think it possible. He could perceive no reason why question such as disarmament could not be discussed formally without direct reference to the League of Nations, but nevertheless, looked at from European standpoint it must in fact be related to League activities. Greatest difficulty Cecil saw was way of working out a sound ratio for ascertaining armed strength of each nation, but he believed attempt must be made to do this.

I asked him if he thought that the French had control of the Conference. He replied that he did not. He had not studied the rules governing conduct of the Conference but he felt that when a general agreement was not reached no recommendations by Conference could be made.

My conversations with both Chamberlain and Cecil were carried on in a most friendly spirit. Both gentlemen evidently desire to work with us in most open and cordial manner and mean to keep the American delegation fully advised of their attitude on every point as it develops.

The conclusion I draw is that we are about to take part in a Conference whose decisions will be determined, necessarily, in part at least by considerations of general policy which have no direct interest to the United States, and that unless we follow the British in concessions they feel it wise to make, the American delegates are likely to find themselves standing alone and thus responsible for making an agreement impossible. We shall not be able to count upon an inflexible British position or policy; they will do their best, I think, to keep disarmament within the limit of easily ascertainable facts and also to keep naval disarmament and land disarmament as distinct as possible.

They may easily be forced to compromise. I need hardly point out that any such compromise on our part might easily lead logically and directly to relations with the League of Nations. My conclusion in this respect is perhaps a prejudiced one, and it is quite possible that we may find spirit of fairness and conciliation ruling the Conference when it actually convenes, but I am doubtful. As matters stand I believe that the real importance of Conference lies no longer entirely in working out of a standard by which a measure of disarmament may at last be obtained, but in maneuvering us into a position when our relations with the League of Nations will be substantially modified. Only if the nations represented desire disarmament is it possible. There is no one here who believes for a moment that either France or Italy, to say nothing of the others, is ready to decrease its military strength. All are willing to talk about disarmament and to express their hopes that it may be obtained; but until financial need actually forces them to reduce their armies and navies I fear that there is little reason to hope for any substantial reduction of either.

HOUGHTON

500.A15/152 : Telegram

The Secretary of State to the Ambassador in Japan (MacVeagh)

[Paraphrase]

WASHINGTON, *March 2, 1926—6 p. m.*

15. Your despatch No. 39, January 5. The Department's monthly political report for December contains the text of the League invitation to the disarmament meeting and an analysis of subjects which the Commission is to consider. The Department would be pleased if you could discreetly ascertain the attitude of the Japanese Government. For your own information the following outline gives the Department's present views:

1. The question of limitation of land armaments is primarily of interest to Europe, as an entirely different situation exists in the American continents and in the Far East.

2. To be successful, a program of disarmament should be limited to visible, tangible armaments and to peace strength.

3. It is not possible to limit ultimate war strength of any country.

4. It is preferable to disassociate naval conference from land disarmament and former should be restricted to the five principal naval powers. If these principal powers could agree, then extension to other powers of the principles accepted by the chief naval powers might be important.

KELLOGG

500.A15/173 : Telegram

The Chargé in Switzerland (Winslow) to the Secretary of State

BERNE, *March 18, 1926—7 p.m.*

[Received March 18—5:35 p.m.]

66. On the basis of a report by Beneš⁶² on the work of the Preparatory Disarmament Commission, the Council of the League today decided:

1. To invite the military, naval and air experts of all the delegations represented on the Preparatory Commission to sit with the Permanent Advisory Commission during the Conference on a basis of absolute equality;

2. To increase the membership of the Joint Commission⁶³ by adding four members competent to deal with questions relating to industry and transport who should be chosen from the delegations of the United States, Japan, Germany, and Russia;

3. To invite the Governments of Argentina and Chile to participate in the work of the Preparatory Commission;

4. To invite the Permanent Advisory Commission to meet on May 18 simultaneously with the Preparatory Commission;

5. To leave to the Preparatory Commission the decision as to when the Joint Commission should meet as it probably would not be necessary to convoke the latter until several days after May 18.

WINSLOW

840.00/33 : Telegram

The Chargé in Great Britain (Sterling) to the Secretary of State

LONDON, *March 20, 1926—3 p.m.*

[Received 9:28 p.m.]

61. Yesterday's *Times* contained a long despatch from Washington giving what purports to be the substance of a report on conditions in Europe made by Ambassador Houghton⁶⁴ to the President and the Secretary of State. I did not cable this on account of the origin of the despatch but in view of your circular telegram dated March 19, 6 p.m.,⁶⁵ just received, hereunder follows a part of the article:

"Baldly stated, the Ambassador has this to say: The continent of Europe, so far as its statesmen are concerned, has learned nothing

⁶² M. Edouard Beneš, Czechoslovak Minister for Foreign Affairs, and member of the Council of the League of Nations.

⁶³ Composed of members of the economic, financial, and transit organizations of the League of Nations and of the employers' and workers' groups of the governing body of the International Labor Office.

⁶⁴ Mr. Alanson B. Houghton, Ambassador in Great Britain, who was temporarily in Washington.

⁶⁵ To the Embassies in France, Germany, Great Britain, Italy and the Legation in Switzerland, stating that "In view of unauthorized stories in the press the Department is today making following announcement:

"The Department of State today announced that neither Ambassador Houghton nor Minister Gibson [Minister in Switzerland] has divulged to any unofficial person the nature of their reports to the President or Secretary Kellogg." (File No. 840.00/31.)

from the war; the League of Nations, far from becoming a truly international instrument for the organization of peace, is moving toward a revival of the alliance of 1815 with the tremendous difference that it cannot hope to guarantee 40 years' tranquillity in Europe; in this movement France is the leader with certain satellite powers aiding and abetting and with the British Government reluctantly carried along—reluctantly because the tide of British feeling sets strongly in the opposite direction and yet in the opinion of Sir Austen Chamberlain, inevitable because cooperation with France is desirable in the Near East and elsewhere; the powers of the European continent do not genuinely wish to disarm and do not relish or want American participation in their councils; the Preliminary Arms Conference at Geneva will meet, if it does meet, to discuss proposals upon which agreement is neither desired nor expected and which have been deliberately and disingenuously advanced in order to make failure certain."

Comment follows to the effect that pessimistic nature of the report may definitely influence American policy [as regards] Europe towards greater isolation. Various newspapers of this morning comment upon it in either special articles or editorials.

Today's *Manchester Guardian* in a despatch from New York speaks of the administration as definitely retreating from its resolution to discuss international disarmament with the League.

"For the first time in recent years an anonymous semiofficial statement has been issued in Washington of the allies [*pessimistically*] discussing the state of Europe. The statement suggests that Europe has reverted to the theory of balance of power adding that this policy is an immemorial war breeder."

The *Daily Express* and *Daily Chronicle* refer to the report as in opposition to the League and to Chamberlain. *Westminster Gazette* states:

"We sympathize with the resentment so widely spread in the United States that we should still be so brought as at Geneva to the cynical lead of France. It was quite wise and right for the United States to stand aloof until we establish a better order in Europe."

Diplomatic correspondent of the *Daily Telegraph* writes that British and European diplomatic circles yesterday were completely taken aback by the action of the American administration in communicating to the public press the substance of the report which Mr. Houghton had submitted to the President and the State Department. As possible reasons for this procedure the writer considers that it may be desirable to prepare American public opinion for a change of foreign policy towards isolationism and that the effect of this exposure may help to clear the air and deal a blow to the revival of secret diplomacy

and intrigue. He further says that Mr. Houghton exerted himself on behalf of the Locarno Pact.⁶⁶

"In this connection he (Mr. Houghton) brought his powerful influence to bear on Berlin. He was, however, disappointed at the sequel, holding that Germany had been forced into unwarranted concessions, e.g., in relation to her Eastern and Southern neighbors, and still more by the Allied refusal to evacuate the Rhineland as the logical repercussion of a pact said to be bilateral. This omission he apparently regards as the negotiation [*negation*] of the true spirit of peace and reconciliation which Locarno was supposed to embody. It explains his utter lack of confidence in Locarno at this date. His distrust of Europe has since been considerably heightened: first, by the intrigues which led to the postponement of the Preliminary Disarmament Conference; and, secondly, by those which preceded the recent session of the League at Geneva. The continental powers, he declares, are not sincerely anxious for disarmament, least of all France, which is determined not to disarm on the proportionate basis of the Versailles Treaty" . . .⁶⁷ "Italy and Japan, he thinks, are associated with France in the endeavor to oppose the White House in any real scheme for the reduction of arms as well as for a separate naval conference at Washington desired by President Coolidge, just as the new Latin syndicate within the League is designed, in his opinion, to thwart Great Britain. Mr. Houghton considers Great Britain to be the only honest and pacific state among the powers of Europe but he thinks that official policy of conciliation although genuine, is misguided and weak in its subservience to continental, and in particular French, influences."

[Paraphrase.] Discussion in private circles, as far as I have heard of it, is expressive of surprise at the Ambassador's frank utterances but is in no wise unfavorable to him.

STERLING

500.A15/184

Memorandum by the Secretary of State of a Conversation With the French Ambassador (Bérenger)

[WASHINGTON,] *March 25, 1926.*

The French Ambassador said that he had seen a good deal in the press about France's intention to have the preliminary arms conference adjourned and the British and American press were attacking Chamberlain and Briand for secret agreements at Locarno; that it was not their intention to go on with the conference. The Ambassador assured me that the French Government was in favor of going on

⁶⁶ The common term of reference for the documents signed at Locarno between the representatives of the Governments of Belgium, Czechoslovakia, France, Germany, Great Britain, Italy, and Poland; see Great Britain, Cmd. 2525, Miscellaneous No. 11 (1925), *Final Protocol of the Locarno Conference, 1925.*

⁶⁷ Omission indicated in the original telegram.

with the preliminary conference on May 18; that the date had been fixed at the instance of Chamberlain and Briand and that the reports in the press were entirely erroneous. I assured him that we were going to be prepared. I told him who our delegates would be as near as I could and informed him that neither the President nor I was responsible for any of the articles in the press. He stated he quite understood that. I told him furthermore that neither the President nor I was aware that Mr. Houghton was going to be interviewed by the press nor do we know what he said. I stated that that was a subject I did not care to discuss at all. The Ambassador agreed with me as to the propriety of discussing the matter.

500.A15/196

The Chargé in Switzerland (Winslow) to the Secretary of State

No. 780

BERNE, *March 25, 1926.*

[Received April 5.]

SIR: I have the honor to refer to my telegram No. 69, of March 24, 2 p. m.,⁶⁸ and to report that I have just received, for transmission to the Department, a formal communication from the Secretary General of the League of Nations, addressed to the Secretary of State, dated March 19, 1926, stating that the Preparatory Commission for the Disarmament Conference will meet at Geneva on May 18, 1926. The communication, which is transmitted herewith, encloses the report of Monsieur Beneš (Document C.205.(1)1926.IX) adopted by the Council of the League at its meeting of March 18th.⁶⁹ This report was summarized in my telegram No. 66, of March 18, 7 p. m.

The communication from the Secretary General adds that the Permanent Advisory Commission for Military, Naval and Air Questions will meet on May 19th, and the Department's attention is drawn to that part of M. Beneš' report adopted by the Council in accordance with which the States represented on the Preparatory Commission for the Disarmament Conference are invited to appoint military, naval and air experts to sit on the Permanent Advisory Commission on a footing of equality with members of that Commission to assist in the work of the Conference. Sir Eric requests that the Department be good enough to communicate to him, as soon as possible, the names of the experts who may be appointed in compliance with this section of the resolution.

In this connection I am aware that this scheme for the alteration of the character of the Permanent Advisory Commission was proposed

⁶⁸ Not printed.

⁶⁹ Not printed; see League of Nations, *Documents of the Preparatory Commission*, Series II, p. 5.

by Admiral Aubrey Smith, British member of the Commission, and is an obvious and apparently successful effort to avoid any necessity of allowing questions in which the United States is interested to be referred to League organs on which there was no American representation. While the solution arrived at technically keeps intact the Permanent Advisory Commission as at present constituted, i. e. a commission on which there are only represented military, naval and air experts of the States members of the Council, and while during the forthcoming Preparatory Disarmament Conference that body will retain its same designation, it may be pointed out that, for the duration and purposes of the Conference, this body becomes in reality a technical sub-committee of the Preparatory Commission.

The enclosed communication from Sir Eric also points out that the Council has decided to increase the number of members of the Joint Commission, which is associated with the Preparatory Commission, by the addition of four members specially competent to deal with questions connected with industry and transport and to include a national of each of the following States: United States of America, Japan, Germany, and the Union of Socialist Soviet Republics. No request, however, is made of the Department at this time to inform the Secretariat of the name of the member of the American delegation, competent to deal with questions connected with industry and transport, who may be designated to sit with the Joint Commission. I shall endeavor to ascertain if and when such a request is to be made and shall inform the Department promptly.

In this connection, it may be pointed out that this decision to permit American representation on the Joint Commission for the purposes and duration of the Preparatory Disarmament Conference was likewise influenced by the desire to avoid the necessity of submitting to League organs on which the United States was not represented questions in which it was interested.

During the week-end following the adjournment of the Council and the Assembly of the League of Nations I took occasion to go to Geneva and at that time had an opportunity to discuss various matters informally with Mr. Madariaga, of the Secretariat of the League, and with Sir Eric Drummond. As pointed out in my telegram No. 69,⁷⁰ both these officials told me that the view is generally held in Geneva that the heads of the various delegations, with their assistants, during the meeting which commences on May 18th, would sit for only about ten days and then adjourn leaving the various technical questions to be discussed by the Permanent Advisory Commission and the Joint Commission. It is to be noted that while the Permanent Advisory Commission is to convene on May 19th, the presence of the

⁷⁰ Not printed.

military, naval and air experts of the American delegation with the remaining members of the delegation at the meeting on May 18th would not seem to be precluded. It is apparent, however, that these experts, as well as the experts of the other States non-members of the Council, are to be detached from the main Commission on the 19th in order to sit separately in a conference with the original members of the Permanent Advisory Commission and on an equal footing with them. It is estimated that this latter commission, as pointed out above, would continue to sit after the adjournment of the heads of delegations for a period of approximately ten days or two weeks longer.

It is also to be noted that, while the date for the convocation of the Joint Commission has not been fixed, it is stated in the report of Monsieur Beneš, adopted by the Council, that the Preparatory Commission would invite the Joint Commission by telegram to convene presumably a few days subsequent to May 18th; again, there would appear to be nothing which would preclude the participation of the assistant delegate on the American delegation who may eventually be designated to sit with the Joint Commission, from attending the plenary conference pending the convocation of the Joint Commission.

Sir Eric and Monsieur [*Señor*] Madariaga told me that it is generally believed, and they share this view, that it will be possible for the heads of delegations, as well as for the two reorganized technical commissions, to conclude their preliminary study of the entire matter within the period of time indicated above. They also felt that following the conclusion of this preliminary study, it would be necessary, before further study is resumed, to allow in most cases the heads of the various delegations, as well as their advisers, to return to the seat of their governments for consultation. It was believed that there would be sufficient time for such consultation if the Preparatory Commission as well as the reorganized technical committees, should not convene again until the latter part of July and that at that time these second sessions would again be terminated within a period of from ten days to two weeks.

While it is obvious that the procedure outlined above is not to be taken as a definite indication of the actual procedure which may be followed, it appears to be sufficiently definite to warrant careful consideration by the Department. Moreover, it does not seem likely that more definite indications can be obtained until the actual meeting of the Conference on May 18th.

Regardless of the status of the work of the Preparatory Commission and the technical committees at the time of adjournment following the July meeting, i. e. whether their work was complete or not, Mr. Madariaga was of the opinion that nothing further would be done

until the Assembly had met in September. Fearing that this statement implied that the Assembly, on which, of course, the United States would not be represented, would take action, either through recommendations or amendments, on the work of the Preparatory Disarmament Conference, I asked Mr. Madariaga what was meant by his statement. In explanation, he said that as a matter of course the Council must report to the Assembly at each September session on all the work carried on by the various agencies of the Council during the year dating from the preceding September; that this is a routine matter and that the Council would merely report to the Assembly the findings of the Preparatory Commission, and that the Assembly, in turn, as a routine matter, would adopt the report of the Council. He said that the report of the Council would, of course, be in reality the report of the Preparatory Commission and whatever its findings or recommendations were, it was a foregone conclusion that those would be the findings and recommendations of the Council and the Assembly.

I have [etc.]

ALAN F. WINSLOW

[Enclosure]

The Secretary General of the League of Nations (Drummond) to the Secretary of State

8/48346/39868

GENEVA, 19 March, 1926.

SIR: With reference to the letter, dated December 12th, 1925, which was sent to you by the President of the Council of the League of Nations, I have the honour to enclose herewith the Report of M. Beneš, (Document C.205(1).1926.IX) adopted by the Council on the 18th March, 1926.

As you will see from this Report, the Council has decided that the Preparatory Commission for the Disarmament Conference will meet at Geneva on the 18th May, 1926, and the Permanent Advisory Commission for Military, Naval and Air Questions, on the 19th May.

I particularly desire to draw your attention to the Resolution adopted by the Council, in accordance with which the States represented on the Preparatory Commission for the Disarmament Conference are invited to appoint military, naval and air experts who would sit on the Permanent Advisory Commission on a footing of equality with members of that Commission whenever it was convened to assist the work of the Preparatory Commission. I shall be obliged if you will be good enough to communicate to me as soon as possible the names of the experts whom you see fit to appoint in compliance with this Resolution.

I further desire to point out that the Council has decided to increase the number of members of the Joint Commission, which is associated with the Preparatory Commission, by the addition of four members specially competent to deal with questions connected with

industry and transport, and to include a national of each of the following States: Germany, the United States of America, Japan and the Union of Socialist Soviet Republics.

I have [etc.]

ERIC DRUMMOND

500.A15/187: Telegram

The Chargé in Switzerland (Winslow) to the Secretary of State

BERNE, March 29, 1926—5 p. m.

[Received 5:35 p. m.]

75 [73]. Reference to paragraph numbered 2, my telegram number 66, March 18, 7 p. m. Drummond has explained to me that the American citizen to be appointed by the President of the Council to sit with the Joint Commission for the purpose and duration of the Preparatory Disarmament Conference cannot be a member of the American delegation since no member of the Joint Commission may be a government representative.

While no invitations have been extended as yet to any American citizen to sit with the Joint Commission, consideration is being given to the choice of (1) Owen Young, in spite of his recent refusal to attend forthcoming Economic Conference on April 26th,⁷¹ (2) Adams, who will represent United States Chamber of Commerce at Double Taxation Conference on May 17th,⁷² and (3) David F. Houston, ex-Cabinet member.

WINSLOW

500.A15/187: Telegram

The Secretary of State to the Chargé in Switzerland (Winslow)

WASHINGTON, March 30, 1926—6 p. m.

48. Your 75 [73], March 29, 5 p. m. Department notes your statement that Drummond has explained that as he cannot appoint a member of the American Delegation, he proposes to appoint an unofficial American citizen to sit with the Joint Commission for the purpose and for the duration of the Preparatory Disarmament Conference. The Department made clear in my No. 22, February 6, 6 P. M., its views that the Preparatory Commission should not refer technical questions of direct interest to the United States to sub-committees of the League but to sub-committees of its own organization. This was communicated to Madariaga on February 18 [17] by Mr. Gibson. The Department cannot understand why there

⁷¹The Preparatory Committee for the International Economic Conference; the members were not representatives of governments, but persons chosen as experts.

⁷²The Government of the United States was not represented officially.

should be any necessity for a Joint Commission of the League to sit with the committees of the Preparatory Disarmament Conference. So far as questions affecting the United States are concerned, all questions should be considered by the Preparatory Commission or sub-committees of that Commission. If other countries desire to refer any questions affecting them to a League Commission, that is something with which we are not concerned. The United States can participate in the work of the Preparatory Commission only to the extent of the participation of the representatives sent by the President. The Preparatory Commission is competent to determine its own procedure, to appoint sub-committees and to seek information where it deems best. It would be unfortunate to limit its freedom of action in this respect by any decisions reached at this time. You should present the foregoing views to Drummond.

KELLOGG

500.A15/194 : Telegram

The Chargé in Switzerland (Winslow) to the Secretary of State

BERNE, April 2, 1926—10 p. m.

[Received April 3—3:04 p. m.]

75. Department's 48, March 30, 6 p. m. I saw Drummond yesterday and presented to him the considerations set forth in the Department's telegram under reference. I also pointed out in detail that until his explanation made on March 27 (see my 73, March 29, 5 p. m.) the Legation had distinctly understood that American to be added to the Joint Commission for the purpose and duration of the Conference was to be an official member of the American delegation; that this understanding was due (1) to the absence of any statement to the contrary either in document C. P. D. 1⁷³ or in Beneš's report adopted by the Council on March 18,⁷⁴ and (2) to conversations with various competent members of the Secretariat previous and subsequent to the Council's decision of March 18. I said that therefore his explanation on March 27th had come as a surprise.

Drummond stated that the Legation's understanding was justified and expressed his regret that the Secretariat had failed to make the situation clear. While emphasizing again that the Joint Commission was purely an advisory body and that its opinions could in no wise bind the Preparatory Disarmament Commission, he expressed a desire to do everything possible to meet the Department's wishes.

He said however that it would be extremely difficult if not impossible to revoke the Council's decision to convene the Joint Commis-

⁷³ League of Nations, *Documents of the Preparatory Commission*, Series I.

⁷⁴ *Ibid.*, Series II, p. 5.

sion, in order to allow the Preparatory Disarmament Commission to appoint its own technical subcommittee.

He also regretted that in view of technical difficulties it would scarcely be possible for him acting on behalf of the President of the Council to invite and subsequently designate a member of the American delegation to sit with the Joint Commission in his capacity as an official representative of the United States Government.

However, in consideration of the Department's views in this matter he was confident that in spite of original plan he could arrange for the designation of any member of the American delegation whose preference should be indicated by the Department to sit with that Commission in the capacity of an expert; in order to avoid incongruity, since all other members of the Joint Commission were unofficial, and to circumvent technical difficulties, he pointed out that such a designation of a member of the American delegation would have to be as an "expert" but that from the American point of view he would still remain responsible to his Government and retain his official character not only while sitting with the Joint Commission but throughout his participation of the Conference. He pointed out that in spite of the stipulations in the Council's decision of March 18th that American member to be added to the Joint Commission should be competent to deal with questions connected with "industry or transport" he could arrange for the addition of a member of the American delegation in any expert capacity which the Department might wish to attribute to him (in view of the character of the Joint Commission consistent choice would seem to be either Dulles as a legal expert or Richardson as a shipping expert).

In suggesting this arrangement Drummond was obviously actuated by a desire to find a solution acceptable to United States and to the other Governments concerned as well as to circumvent existing technical difficulties.

If this arrangement, which under the circumstances would seem the most satisfactory possible, is acceptable to the Department Drummond would be obliged to take up the matter with the President of the Council. He would then, on behalf of the President and in conformity with prescribed procedure, address an invitation to the member of the American delegation preferred by the Department to sit with the Joint Commission. As Drummond is leaving for Athens on April 8th it is important that the Department inform me as soon as possible: (1) whether the proposed arrangement is considered acceptable; (2), which member of the delegation it desires to have sit with the Joint Commission; and, (3), the expert capacity to be attributed to him.

WINSLOW

500.A15/196: Telegram

The Secretary of State to the Chargé in Switzerland (Winslow)

WASHINGTON, April 7, 1926—4 p. m.

54. Please address following communication to Drummond:

"My dear Sir Eric: Under instructions from my Government I have the honor to acknowledge the receipt of your note of March 19th⁷⁵ to the Secretary of State. In this note you communicate the resolution adopted by the Council of the League of Nations in accordance with which the States represented on the Preparatory Commission are asked to appoint military, naval and air experts to sit on the Permanent Advisory Committee on a footing of equality with members of that Committee whenever it is convened to assist the work of the Preparatory Commission. You request communication of the names of the experts to be appointed on behalf of the American Government in compliance with this resolution. You further make known the decision of the Council to increase the number of members of the Joint Commission by the addition of four members competent to deal with questions connected with industry and transport, to include an American citizen.

In the invitation transmitted to this Government under date of December 12, 1925 by the Acting President of the Council, the Government of the United States was invited to send representatives to sit on the Preparatory Commission which was to have 'at its disposal the advice of the Technical (military and civilian) organizations of the League of Nations, as well as that of any other qualified authorities which in the opinion of the Commission it may be advisable to consult on any of the subjects which may come under its consideration.' It was this invitation to be represented on the Preparatory Commission which my Government accepted under date of January 30th.

My Government does not desire to hinder the Preparatory Commission in seeking the benefits of assistance which it might derive from any source but it has not consented to be represented on any other organization than the Preparatory Commission. While it is not disposed to raise technical objection on questions of procedure at this time, it is felt that it would be unfortunate to have the procedure of the Preparatory Commission determined in any respect prior to the meeting of this Commission and the question as to the organizations, if any, which the Preparatory Commission may desire to consult appears to my Government to be one which should be left to the decision of that Commission.

It was on the assumption that the Preparatory Commission was entirely competent to determine its own procedure and to decide as to the reference to other bodies of questions which might arise that my Government felt justified in accepting the invitation to attend the meeting of the Preparatory Commission without any reservations on this point.

It is inferred from the last paragraph of your note that the Council of the League of Nations is considering the appointment of an unofficial American citizen to sit with the Joint Commission. While

⁷⁵ *Ante*, p. 66.

my Government would not of course presume to raise any question as to any appointment which the Council might see fit to make to a League Committee you will, of course, realize that the appointment of an unofficial American citizen could not be regarded by my Government as constituting American representation on that body. Neither could it be construed as imposing upon my Government any obligation to consent to the reference to the Joint Commission of questions in which my Government is interested. In this connection also it would seem that in view of the competence of the Preparatory Commission to determine its own procedure it would be preferable to await the actual meeting of that Commission before determining the functions of other bodies to which it might eventually decide to turn for expert advice. In the interest of the success of the Preparatory Commission's work I am desired to state frankly my Government's view that attempts at this time to anticipate decisions of the Preparatory Commission and to prejudice its free decisions are calculated to impede rather than facilitate its work.

Further, in connection with my recent conversations with you, and to supplement the representations which I had the honor to make,^{75a} I have been further instructed to state that it has been the understanding of my Government that the Preparatory Commission was constituted for the purpose of doing itself the preparatory work on the limitation of armaments and not merely to delegate this function to other bodies. It was on this understanding that the American representatives were chosen. Thus my Government assumed that the Preparatory Commission was to continue in session until its report was submitted and that the task of preparing a report was to rest with the Preparatory Commission itself or subcommittees to be formed therefrom and not with other organizations. The American representation on the Preparatory Commission will be prepared to participate in the work of this Commission in a spirit of cooperation and helpfulness in the hope that its deliberations may result in constructive achievement."

KELLOGG

500.A15/196 : Telegram

The Secretary of State to the Chargé in Switzerland (Winslow)

WASHINGTON, April 8, 1926—noon.

55. Department's 54, April 7, 4 p. m. Department is concerned by apparent tendency to give increased importance to the role of League Committees. As originally presented the role of these committees was clearly limited to holding their advice at the disposal of the Preparatory Commission and no objection was therefore raised by this Government inasmuch as this did not put the League committees on different ground from any other authority from which the Commission might seek advice. There has, however, been an increasing tendency to inject

^{75a} This much of the paragraph was deleted from the letter which the Chargé sent to the Secretary General (file No. 500.A15/212).

these committees into the work of the Commission and Drummond's letter to me speaks of the fact that they are to be "convened to assist the work of the Preparatory Commission." Your despatch 780 March 25 indicates that it is proposed to adjourn the Preparatory Commission within a short time and leave the discussion of its agenda in the hands of these League bodies. It will be obvious to you that any such course would afford to those who are opposed to our cooperating with the League good ground for claiming that we have been maneuvered into turning over to League organizations responsible primarily to the League Council matters which should be discussed only by the authorized representatives of this and other Governments. As you know the Department has sought to cooperate as generously as possible with the League in its humanitarian activities but these efforts might be seriously compromised if any ground were given for the belief that the League Committees are given a more active and important role than was indicated to us at the time the invitation was accepted.

In view of the difficulty of securing technical experts abroad it has been necessary for this Government to send a large delegation and it will be unfortunate if through the long adjournments which are foreseen in your despatch 780, March 25 our representatives are kept in Europe longer than is necessary for continuous discussion. It is therefore hoped that no effort will be made to fix the duration of sessions until the Commission itself has acted upon the matter.

KELLOGG

500.A15/204a : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, April 8, 1926—4 p. m.

52. (1) You will remember that in the documentation accompanying the invitation to the Preparatory Commission it was stated that body was to have "at its disposal the advice of the technical (military and civilian) organizations of the League of Nations, as well as that of any other qualified authorities which in the opinion of the Commission it may be advisable to consult on any of the suggestions which may come under its consideration." This Government accepted the invitation to sit on the Preparatory Commission but has not consented to be represented on any other organization than the Preparatory Commission. I have now received the full text of a note from Drummond ⁷⁶ asking me to designate experts from our delegation to sit on Permanent Advisory Commission "on a footing of equality with members of that Commission whenever it is convened to assist the work

⁷⁶ *Ante*, p. 66.

of the Preparatory Commission." If wording is accurate it would imply more active participation by the Permanent Advisory Commission than was originally contemplated.

(2) With respect to Joint Commission which we discussed when you were in Washington and the proposed appointment of an unofficial American citizen on this Commission, Legation Berne has informed League that appointment by the League of an unofficial American citizen to this Commission could not be looked upon as affording us representation or justifying the reference to Joint Commission of questions of interest to us. Drummond has orally replied to these representations that since he was obliged by Council's decision to invite an American to sit with the Joint Commission there appeared to be no course for him to follow other than to explain to the President of the Council by letter and request that he be relieved if possible of this obligation at least until the Preparatory Commission shall have convened.

(3) Our Chargé at Berne reports that Drummond states view is generally held in Geneva that there will be a session of the Preparatory Commission lasting about 10 days after which there will be an adjournment until sometime in July and that during the interval the Permanent Advisory Commission and Joint Commission will continue to function.

(4) The Department has just received a telegram from our Minister at Prague ⁷⁷ reporting that Beneš anticipates that the Preparatory Commission will meet for a three-day formal session and will meet again before the Assembly in September.

(5) The idea of a brief and purely formal session would seem to imply a further advance toward turning the work of the Preparatory Commission entirely over to the League Committees. This is entirely different from the plan indicated in the original invitation which we accepted and as we have not consented to be represented on either of the League Committees it is not seen wherein American participation would be effective under such a scheme. It was assumed that Preparatory Commission was to devote itself continuously to discussion of disarmament problems and on that assumption the President has appointed a sufficiently large delegation to consider the various questions which might be presented and has assigned men who can be spared from their present work only for serious and continuous discussion of disarmament problems.

(6) I should like to have you discuss this matter promptly with Chamberlain and ascertain his views as to how the Preparatory Commission is to function. You may say that we feel that the only

⁷⁷ Not printed.

effective way in which this Government can participate is to have the Preparatory Commission itself continue the discussions, appoint its own committees, and remain in practically continuous session until its work has been concluded.

(7) I have instructed Legation at Berne to address to Secretary General of the League a written communication setting forth our views as outlined above.

(8) Repeat to Paris, Berne and Prague for their confidential information. Ask Paris to make confidential distribution.

KELLOGG

500.A15/208a : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, April 12, 1926—4 p. m.

93. As indicated in Department's 52, April 8, 4 p. m. to the Embassy in London, repeated to you for your confidential information, Department has taken up with the Secretary General of the League certain questions with regard to the work of the Preparatory Commission and has expressed the hope that questions of procedure, particularly with reference to time of adjournment or delegation of Preparatory Commission's work to League committees would not be determined prior to the meeting of the Preparatory Commission.

Legation at Berne is being instructed to mail you immediately a copy of our note of April 8 to the League Secretariat⁷⁸ covering the foregoing points. This note concluded with the following statement:

"The American representation on the Preparatory Commission will be prepared to participate in the work of this Commission in a spirit of cooperation and helpfulness in the hope that its deliberations may result in constructive achievement."

The foregoing sentence expresses the policy of this Government. Our delegation has been selected and is planning to sail for Europe on April 30th. It is fully prepared to participate in a helpful and constructive way in the work of the Preparatory Commission.

The Department has noted with some surprise press reports from Paris to the effect that "a strong campaign for another postponement" has been started there. This Government believes that any discussion of the disarmament question would serve a useful purpose and that it is very desirable to make a beginning on the preparatory work even though final conclusions may not be possible at this time. For its part it would regret to see a postponement of the meeting of the Preparatory Commission and knows of no recent developments which would justify postponement.

⁷⁸ See telegram No. 54, Apr. 7, to the Chargé in Switzerland, p. 70.

The foregoing is for your information and guidance in the event either (1) that any attempt should be made in any quarter to misrepresent this Government's attitude in the matter; or (2) that Foreign Office should seek from you an indication of this Government's views.

Report any developments by telegraph. Mail copies to London, Rome, Brussels, Berne and Prague.

KELLOGG

500.A15/209 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

PARIS, April 13, 1926—noon.

[Received April 13—11:35 a.m.]

146. Your 93, April 12, 4 p.m. I do not think a press campaign under these circumstances started for postponement of the Conference. French press has from the beginning been extremely skeptical of any practical results being accomplished and the Soviets' refusal to take part increased this. Several papers then expressed the opinion that it would be wiser to postpone, but that no one would dare to make such a proposal for fear of displeasing the United States.

There has been little comment recently.

Mailed to London, Rome, Brussels, Berne and Prague. Copy to European Information Center.

WHITEHOUSE

500.A15/210 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

[Paraphrase]

TOKYO, April 13, 1926—6 p.m.

[Received April 13—9:25 a.m.]

36. On Sunday two Japanese papers printed a statement purporting to be the Government's attitude on the Disarmament Conference and press correspondents here may have telegraphed it to the United States.

Yesterday on inquiring at the Foreign Office I was informed by the Vice Minister that the statement was unauthorized and in many respects was incorrect. For that reason I have not telegraphed it. Today I was in conference with the Foreign Minister who outlined his Government's attitude substantially as follows:

1. The Government is willing that naval, military and air policies should be considered together but the conclusions which are reached should be different for different countries, and consideration must be

given to the nations taking part in the Conference; for example, if Russia participated, Japan's attitude might be different in regard to separate liberty from what it would be if Russia did not participate.

2. It is impossible to make a binding agreement for armament limitation in time of war.

3. The Cabinet had reached no conclusion upon various matters contained in League's questionnaire⁷⁹ but expected to decide upon these questions as and when they might arise in course of Conference.

I gained the impression from my interview with the Foreign Minister that the Japanese Government intended to avoid committing itself to definite policy, but would [leave] large discretion to the Japanese representatives at the Conference and would pass separately on each important question as it might arise.

MACVEAGH

500.A15/211 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, April 14, 1926—noon.

[Received April 14—10:10 a.m.]

74. Your telegram No. 52, April 8, 4 p.m. I talked with Chamberlain on his return late yesterday afternoon. He assumes that, after some general discussion, the Preparatory Commission will divide into subcommittees which will proceed simultaneously to take up the several parts of the agenda; and that until the subcommittees are ready to report there will be no full meeting.

As far as Permanent Military Commission is concerned, Chamberlain seems to agree that while representatives of other nations may wish to consult that body, there is no reason why the American delegates should consult it. Further, he thinks that if we are not willing that individual American citizens serve on Advisory Committee, that can also be easily arranged. He wishes, however, to consult with Lord Cecil and he asked me for an *aide-mémoire* which was given him.

The diplomatic correspondents of the *Morning Post* and the *Daily Telegraph* state that it is expected that Baltic states and Poland, with approval of France, will request postponement of Conference.

HOUGHTON

⁷⁹ See p. 89.

500.A15/209 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

WASHINGTON, April 15, 1926—5 p.m.

96. Department's 93, April 12, 1926, and your 146, April 13, 1926. The press here carries repeated rumors, under Paris and London date lines, that French Government intends to bring about postponement of preparatory meeting through medium of requests by Baltic States and Poland. In view of these rumors, the Department desires you to see Briand or Berthelot⁸⁰ personally and set forth the views of this Government as outlined in Department's 93.

Repeat to Embassy London as Depts 55 by telegraph and also Department's 93 in case text of latter telegram not already available there.

KELLOGG

500.A15/217 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

PARIS, April 16, 1926—6 p. m.

[Received 10:45 p. m.]

148. Your No. 96, April 15, 5 p. m. When I told Berthelot about the press reports in the United States he was surprised and somewhat hurt and gave them a most categorical denial. He stated that he had not had the slightest intimation from either Poland or the Baltic states of any desire on their part to postpone Conference and that he fully appreciated its importance. Berthelot added that he had done everything he could to induce the Soviets to attend the Conference, although in his opinion it was quite clear that they did not desire to attend. . . .

WHITEHOUSE

500.A15/219 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

[Paraphrase]

BRUSSELS, April 17, 1926—noon.

[Received April 17—11:04 a.m.]

33. Your 93, April 12, via Paris. Belgian Foreign Office indicates a disposition not to adopt any procedure which would cause Amer-

⁸⁰ Philippe Joseph Louis Berthelot, Secretary General of the French Ministry for Foreign Affairs.

ican Government difficulties at forthcoming meeting of the Preparatory Commission in Geneva. Belgian Government does not desire postponement of meeting.

PHILLIPS

500.A15/221a : Circular telegram

*The Acting Secretary of State to the Ambassador in France
(Herrick)*

WASHINGTON, April 20, 1926—6 p.m.

The address which the Secretary is delivering today in New York at the Associated Press Luncheon refers among other subjects to American representation on the Preparatory Commission for the Limitation of Armaments. After briefly discussing the situation in China and the logical development of American policy toward China pursuant to the treaties concluded at the Washington Conference of 1922, the Secretary states:

“The other agreements reached at this same Conference in Washington may be viewed as milestones in the orderly development of the established policies of this Government. Thus, in matters relating to the limitation of armament, we have agreed to be represented on a Commission which is shortly to meet at Geneva to consider the general problem of arms limitation. This Commission, as its name discloses, is a Preparatory Commission. It is not a conference to conclude definite treaties or agreements but to discover the proposals which can be laid before a future conference or conferences with the greatest hope of success. Its purpose is to prepare the ground work for the future by an orderly and exhaustive consideration of the problem.

The desire for further limitation of armaments is universal but with that desire there is a most natural demand for security. We would not be candid with ourselves or just to others if we did not recognize the peculiarly fortunate situation of our own country in this respect. With our detached position and our geographic isolation from those areas of the world where conflicting territorial or political issues have led to the maintenance of large standing armies, we have been able to reduce our land forces from the more than 4,000,000 men under arms in 1918 to a present regular army of about 118,000 for the more than 118,000,000 of our own population and that of our over-seas possessions. Thus, as regards land armament we have voluntarily reduced to the minimum. We have every reason to rejoice that our situation has permitted this but no justification for overlooking the different problems with which other countries are faced. We would naturally welcome any steps which other powers might take toward the limitation of land armament; we shall be glad if we can at any time exert a helpful influence in this direction.

As regards naval armament this Government would welcome any practical steps which might tend toward the further limitation of competitive naval construction. In this connection it should be borne

in mind that while a substantial part of the program presented to the Washington Conference by the American delegation was realized, no agreement was reached as to the limitation of competitive building of naval craft other than capital ships and aircraft carriers. This Government would welcome an agreement which would complete the work begun at Washington, particularly as there is danger that the competitive construction which formerly existed, particularly with respect to capital ships, may still be continued, in a less aggravated form it is true, with respect to cruisers and other types of naval craft not dealt with by the Washington Treaties. Our representatives at the Geneva meeting will help to the uttermost of their ability in preparing the way for agreements for the further limitation of naval armament at no distant date. Our people are practical idealists. They believe in dealing with what is visible and tangible. The dramatic success of the proposal by Mr. Hughes at the Washington Conference, based on tonnage allotments for capital ships, was due in no small measure to the fact that it dealt with real and measurable objects. Thus our representatives at Geneva will endeavor, as far as possible, to use their influence in favor of projects which may be practical in their application and realizable in their development.

Each definite move toward disarmament, small though it be, is of greater value for the promotion of world peace than ambitious and all inclusive projects which may be excellent in theory but which fail to take account of existing world problems. The questions which have been submitted for the consideration of the Preparatory Commission are very general and sweeping in character and until there has been some discussion it is impossible to determine what definite proposals can most profitably be advanced, but when the most practicable line of action is determined this Government can be counted upon to cooperate within the limits of its traditional policy in any serious effort toward the further limitation of the burden of armaments".

In the event that you consider desirable or that garbled reports of this speech should appear you may give out foregoing quotation to the press.

The other sections of the Secretary's speech in so far as they relate to foreign policy deal with China,⁸¹ our Treaty with Turkey,⁸² and Tacna and Arica.⁸³

Repeat by telegraph to London, Brussels, Rome, Berne and Prague.

GREW

500.A15/223 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, April 22, 1926—5 p. m.

[Received April 22—2:15 p. m.]

13. Dr. Beneš believes that our insistence on having the Preparatory Commission for Disarmament determine its own procedure may prove

⁸¹ For correspondence concerning China, see pp. 591 ff.

⁸² For correspondence concerning the treaty with Turkey, see vol. II, pp. 974 ff.

⁸³ For correspondence concerning Tacna-Arica, see pp. 260 ff.

most embarrassing to the League which has altogether separated the considerations of principles from the subsequent study of technical questions from [by?] its own advisory commissions. Yet he thought it not impossible in order to comply with our wishes that some new committee may be appointed.

I urged on him the desirability of avoiding future misunderstandings and clarifying as much as possible at the start instead of leaving controversial matters for subsequent consideration. He agreed fully and declared he would do his utmost to carry this out. In spite of his interest in the League he said he was opposed to those who were seeking to entice us into it by indirect means.

Telegram mailed to London, Paris and Berne.

EINSTEIN

500.A15/224 : Telegram

The Chargé in Switzerland (Winslow) to the Secretary of State

BERNE, April 22, 1926—5 p.m.

[Received 6:25 p.m.]

92. Department's 64, April 20, 8 p.m.⁸⁴

1. I indicated informally to Drummond on April 21 the contents of Department's 55.⁸⁵ Although the question was not raised I do not believe that he intends to convey to the interested Governments the substance of my remarks.

2. He asked that I impress upon the Department that the Permanent Advisory Commission and the Joint Commission for the purpose and duration of the Conference would be solely responsible and subservient to the Preparatory Commission and not to the Council.

3. He indicated moreover that in his opinion there would be no disposition at the Conference to oppose the Department's views with regard to the organization of the work of the Conference.

WINSLOW

500.A15/242a

The Secretary of State to the Minister in Switzerland (Gibson)

WASHINGTON, April 23, 1926.

SIR: The President has instructed me to inform you of his desire that you should be in charge of the American representation on the Preparatory Commission which is to meet in Geneva on May 18,

⁸⁴ Not printed.

⁸⁵ *Ante*, p. 71.

1926 to consider questions relating to the limitation of armaments. You will be assisted by:

From the Department of State:

Mr. Allen W. Dulles,
Mr. Dorsey Richardson;

From the War Department:

Major General Dennis E. Nolan,
Brigadier General H. A. Smith,
Major George V. Strong;

From the Navy Department:

Rear Admiral Hilary P. Jones,
Rear Admiral Andrew T. Long,
Captain Adolphus Andrews.

Mr. Alan F. Winslow, Secretary of the American Legation at Berne, will act as Secretary to the American Representation.

In case additional military or naval personnel should be required to deal with the questions before the Commission, the Department will arrange for such personnel either from Washington or from the offices of military or naval attachés in Europe.

I desire to leave it to your discretion to make such arrangements for the organization of the American representation as circumstances may require.

Purpose of American Representation.

The purpose of American representation was indicated by the President in his message to Congress of January 4th of which the full text is annexed.⁸⁶

In dealing with the question of the further limitation of armaments this country should be helpful within the limits of its traditional policy, and where questions arise which do not fall within the scope of this policy you should not of course object to efforts by others to reach agreements which they may consider desirable in dealing with the special conditions existing elsewhere.

Character and Extent of American Participation in the Deliberations of the Preparatory Commission.

A consideration of the various questions which will be submitted to the Commission indicates that the discussions will bear upon a broad range of problems.

In the consideration of these problems it is obvious that the United States would be directly interested in questions relating to the further limitation of naval armament; it would likewise be directly interested in questions which might affect our land armament. The United

⁸⁶ *Ante*, p. 42.

States is concerned only in a general way in the question of the limitation of European land armament as that question is deemed largely regional in character. On the other hand, we must decline to become involved in such questions as those relating to the application of European security pacts whether resulting from Articles of the League Covenant or European treaties or agreements.

This Government appreciates, however, that a general informal discussion of the problems involved in the limitation of armaments may be considered important before an attempt is made to formulate concrete agenda for future conferences, but it desires you, while furthering in any way the purposes for which the Commission was convoked, to avoid taking a leading part in the debate on questions with which we are not properly concerned. You should, of course, refrain from any action which might create an impression that the United States was disposed to hamper full and free discussion of such problems among the interested powers.

It is noted that the third paragraph of the League Invitation of December 12⁸⁷ states:

"The Commission will have at its disposition the advice of the technical (military and civilian) organizations of the League as well as that of any other qualified authorities which in the opinion of the Commission it may be advisable to consult on any of the subjects which may come under its consideration."

It is considered that questions of direct concern to the United States should be referred to committees to be formed from the personnel attached to the main Preparatory Commission or to committees on which we may be appropriately represented. There would appear to be no obstacle to such a course inasmuch as it is understood that the Preparatory Commission is competent to determine its own procedure.

In the documentation submitted with the League invitation it is stated that "the Preparatory Commission will decide on the proposals for the Conference on the reduction and limitation of armaments to be submitted to the Council." In so far as the United States is concerned you will appreciate that this Government would not participate in the submission of a report to the Council of the League of Nations, although it could not properly offer objection if States members of the League should desire individually or collectively to do so. In this connection you will recall the statement in the President's message of January 4, that representation on the Preparatory Commission involves no commitment with respect to attendance upon any future conference, or conferences, on the reduction or limitation of armaments.

⁸⁷ *Ante*, p. 40.

Outline of the American Viewpoint and Policy.

The American position with respect to the limitation of armaments was set forth in the President's Messages of December 8, 1925⁸⁸ and January 4, 1926 to the Congress and in my address of April 20. In these statements it was pointed out that in the opinion of this Government the need for great armaments has been diminished by agreements such as the Locarno treaties and that "the natural corollary to these treaties should be further international contracts for the limitation of armaments." It was further pointed out that the general policy of this Government in favor of the limitation of armaments could not be emphasized too frequently or too strongly and that in accordance with that policy any measure having a reasonable tendency to bring about these results should receive our sympathy and support. The President added, "the conviction that competitive armaments constitute a powerful factor in the promotion of war is more widely and justifiably held than ever before and the necessity for lifting the burden of taxation from the peoples of the world by limiting armaments is becoming daily more imperative."

It was this conviction which led to the calling of the Washington Conference of 1921-1922 and which prompts this Government to give its cordial support to any efforts which may lead to further limitation of armaments wherever and whenever it is felt that the circumstances are such as to hold out a reasonable prospect of success.

General Considerations.

It is the opinion of this Government that the practical approach to the question of the limitation of armaments is through dealing with visible armaments at peace strength.*

In order to arrive at a working basis for determining the strength of the armaments of any nation it is felt that such a determination should include, in the case of the army, only the military strength, including both personnel and materiel (equipment, munitions and supplies) which can be mobilized at the outbreak of war and, in the case of the navy, existing naval tonnage.

*The Problem of the Limitation of Land Armament.***

In considering this question the President, in his message of December 8th, stated:

⁸⁸ *Foreign Relations, 1925, vol. I, pp. vii, xii.*

* By the phrase "peace strength" is meant that armament which is maintained in time of peace, that is, in the absence of a declared state of war between two or more powers or the actual carrying on of hostilities against a recognized belligerent. [Footnote in the original.]

** The terms "land armament" and "naval armament" as used in this instruction include the aviation units which form a part of the land and naval forces of the United States. [Footnote in the original.]

“The question of disarming upon land is so peculiarly European in its practical aspects that our country would look with particular gratitude upon any action which those countries might take to reduce their own military forces. This is in accordance with our policy of not intervening unless the European powers are unable to agree and make request for our assistance. Whenever they are able to agree of their own accord it is especially gratifying to us, and such agreement may be sure of our sympathetic support.”

The United States has not only already reduced its land forces from a war strength of over 4,000,000 by successive steps to an authorized peace strength of the Regular Army of about 280,000, but has also further limited that strength to an actual strength of about 118,000 men. When this latter figure is compared with that of the forces of other great powers, it will be clear that this country has already taken the lead in the reduction of land forces and it could hardly be expected to make any further reduction. Nor would it be reasonable to expect this Government to forego the right to maintain forces fully commensurate with those of other great powers. It seems unlikely that any formula would be considered which might have the effect of limiting the army of the United States to a figure lower than its authorized strength or that any other great power would be likely to accept a limitation approaching in any way the present reduced strength of our own army.

In view of the present reduced state of our land forces and since the question of the limitation of land armament is primarily a European problem, it is not felt that you should take the initiative in the discussion of this matter unless your assistance is sought. In this event, however, you will of course endeavor to exert a helpful influence in assisting informally to aid in reaching an agreement in case an impasse should be reached. The following paragraphs may offer a basis for profitable discussion.

The conditions prevailing in different regions of the world are so varied and the factors entering into the situation are so divergent that constructive achievement in the matter of the limitation of land armament appears to lie in regional agreements rather than in an effort to work out a general plan for the limitation of land armament applicable to the whole world.

In considering the limitation of land armament it is recognized that it is impossible to deprive a nation of the strength which it may derive from the past military training of its inhabitants. It is, however, possible for nations to agree upon the number of men who will receive military training each year, the amount (length, degree, nature) of training they shall undergo, and the reserve equipment which shall be maintained.

In this connection it should be noted that the placing of all peace-time military forces on a common ground as to procurement, would facilitate an accurate estimate of the relative size of the armies of the various countries as a basis for the limitation of armaments.

In connection with the discussion of mobilization stocks or reserve equipment, it must be borne in mind that on the outbreak of war, the military power of any nation, from the point of view of the army, is determined largely by two factors, the active army, including trained reservists; and war reserves of materiel.

It is desirable that a limitation be placed upon the size of active armies, and it is equally desirable that a limitation be placed upon the peace-time reserves of materiel. It should be borne in mind that consideration of the size and composition of these reserves of materiel might lead to an effort to bring in the consideration of the industrial power and resources of a country unless the discussion were limited, as it should be, to actual and tangible reserves of materiel maintained as such under national control.

Limitation of Naval Armament.

The 5-5-3 ratio (Washington Treaty 1922⁸⁹) should be firmly maintained as applicable to all types of combatant naval units so far as the United States, Great Britain and Japan are concerned. The United States is interested in a general way in the limitation of the naval armament of other countries. Such limitation may properly be a matter of negotiation in so far as not already determined by the Washington Conference and provided the Washington agreements are not disturbed.

This Government would welcome any practical steps which might tend toward the limitation of competitive naval construction. In this connection it should be borne in mind that while a substantial part of the program presented to the Washington Conference by the American Delegation was realized, no agreement was reached as to the limitation of competitive building of naval craft other than capital ships and aircraft carriers. This Government would welcome an agreement which would complete the work begun at Washington.

Separation of the Problems Involved in the Limitation of Land Armament from those Involved in the Limitation of Naval Armament.

It is appreciated that the scope of the work of the Preparatory Commission will include the consideration of problems relating to the limitation of both land and naval armaments. It is believed, how-

⁸⁹ For text of treaty, see *Foreign Relations*, 1922, vol. I, p. 247.

ever, that you should endeavor to arrange for the consideration of these problems by separate committees of the main Commission with a view to the eventual preparation of separate agenda for conferences which may be called later. The ultimate success of any effort toward the limitation of armaments seems to lie along the line of isolating from the general problem as many concrete questions as possible and it is therefore felt that the consideration of the limitation of both land and naval armaments jointly at the same conference would tend to render more difficult definite achievement along either line.

Five nations are particularly interested in the question of the limitation of naval armament: the United States, Great Britain, France, Italy, and Japan, and the success of any program would depend primarily upon an agreement between those five powers. There are, however, other nations which may be concerned to a certain extent in the limitation of naval armament. Regional agreements between certain South American countries, between the powers of the Eastern Mediterranean, and between certain northern European powers, might facilitate a general reduction in naval armament and such regional agreements should be encouraged. The success of the further limitation of naval armament along the lines of the Washington Treaty might be imperiled if powers not parties to that treaty should undertake a considerable program of naval armament and it might therefore be very desirable, while working toward the regional agreements mentioned, to correlate such agreements with the standards fixed at Washington by the five principal Naval Powers.

In this connection it should be noted that certain powers have undertaken "not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the navy of any foreign power." It is felt that it would be a useful addition to any further program for the limitation of naval armament to secure from other naval powers not bound by the Washington Conference Treaty an undertaking of a similar character.

Readiness to Call a Naval Conference.

In his message of December 8, the President referred to the fact that the United States has constantly, through its Executive and through repeated acts of Congress, indicated its willingness to call a conference for the consideration of the further limitation of naval armament. The President, in his message of December 8, said:

"The general policy of our country is for disarmament and it ought not to hesitate to adopt any practical plan which might reasonably be expected to succeed but it would not care to attend a conference which from its location or constituency would in all probability prove futile."

This Government believes that the greatest assurance of success in limiting naval armament could be obtained by a conference of the five naval Powers which attended the Washington Conference and which would be practically a continuation of that Conference involving the limitation in construction of other naval craft such as cruisers and submarines. It is the opinion of this Government that a naval conference confined to practical lines could make substantial progress in further limiting naval armament.

Consideration of Certain Criteria which do not afford an acceptable Basis for the Reduction of Armaments.

Any attempt to limit the ultimate war strength of a nation would be futile. The factors which enter into the potential war strength of a nation are in many respects the same as those which form an essential part of the normal activities of a State in time of peace. No country would agree to curtail or limit its natural resources or its capacity to prepare for a national emergency. It follows from the foregoing that the United States representation should not agree to the application to this country of any formula for the limitation of armaments which is based upon an estimate of the potential war strength of a nation.

You should likewise under no circumstances concur in the adoption of any formula for the limitation of armaments which is based upon expenditure. Any comparison on this basis is apt to be extremely misleading. For example, the item of base pay varies largely with the character of service, whether voluntary, militia, or conscriptive. The base pay of the lowest rating in the United States Army is fifty-eight times the minimum base pay of the lowest rating in the forces of one of the great powers whose service is based on conscription. The effect of this on comparative expenditures is obvious. In addition, it costs more to feed, clothe, and shelter an American soldier or sailor than one of any other nationality. Monetary expenditure for the creation and maintenance of military establishments does not afford either a true measure of armaments or a fair basis of comparison for limitation of armaments.

Further, an attempt to limit armaments on the basis of an inverse ratio to national wealth or population, or an attempt to equalize the military power of nations by allotting to smaller and weaker nations forces equal to or greater than those possessed by larger and more powerful nations, is an artificial effort to equalize that which is not and cannot be made equal, and, in consequence, would be totally impracticable.

No International Supervision of the Limitation of Armaments.

In case the question should arise you should make it clear that the United States would not agree to place the supervision of its arma-

ments or the carrying out of any program for the limitation of armaments in the hands of the League of Nations or any other international body. The execution of any international agreement for the limitation of armaments must depend in so far as the United States is concerned upon international good faith and respect for treaties. The United States will not tolerate the supervision of any outside body in this matter nor be subject to inspection or supervision by foreign agencies or individuals.

In case the other powers desire to make such a régime of inspection or of control applicable to themselves, this is not, of course, a matter which concerns the United States and you should not oppose it, on the clear understanding of course that we would not even consider the extension of such a régime to this country.

You will, of course, bear in mind that it is contrary to the traditional policy of this Government to enter into commitments as to the application of a régime of sanctions for the enforcement of Treaty obligations. The application of sanctions of either an economic or military character must, under our constitutional organization, depend upon the approval of the Executive and Legislative action in the Congress. In consequence of this policy of this Government you should not make any commitments in the matter of sanctions.

In view of what you have learned of this Government's policies through full and frank discussion during your stay in Washington, I am confident that you will understand that the reservations contained in the foregoing instructions are in no sense to be construed as evidence of an obstructive attitude on the part of this Government. Quite the contrary is the case and this Government hopes that you will be able to play a helpful and a constructive part in the deliberations of the Commission. However, the questions which have been submitted to the preliminary commission are so general and so sweeping in character that until there has been some discussion it is impossible to determine what definite proposals can most profitably be advanced. Consequently this Government has indicated certain limitations beyond which you should not go. These limitations have been laid down as a matter of prudence and merely for your guidance in estimating the practical value of suggestions which may be presented from time to time. Quite apart, however, from the instructions which it has been possible at this time to reduce to written form the President desires to impress upon you his deep interest in any sincere effort to deal with the problem of armaments. He is confident that with mutual good-will progress can be made and it will be a matter of gratification to him if the American representation can in some measure contribute to this progress. As the discussion develops and brings out the nature of the questions which can effectively be considered the President

trusts that it will be possible to send you further instructions to present proposals in regard to specific problems and for your further guidance in exercising a helpful influence in bringing about agreement among the interested powers. In connection with each proposal as it arises you should bear in mind the sincere desire of this Government to cooperate, within the limits of its traditional policy, in any serious effort toward the further reduction of the burden of armaments.

I am [etc.]

FRANK B. KELLOGG

500.A15/242b

*Memorandum by the Department of State*⁹⁰

CONSIDERATION OF THE SEVEN QUESTIONS SUBMITTED WITH THE INVITATION OF THE COUNCIL OF THE LEAGUE OF NATIONS OF DECEMBER 12, 1925

QUESTION I

“What is to be understood by the expression ‘armaments’?”

“(a) Definition of the various factors—military, economic, geographical, etc.—upon which the power of a country in the time of war depends.

“(b) Definition and special characteristics of the various factors which constitute the armaments of a country in time of peace; the different categories of armaments (military, naval and air), the methods of recruiting, training, organizations capable of immediate military employment, etc.”

“What is to be understood by the expression ‘Armaments’?”

For the purpose of the Preparatory Commission on the Limitation of Armaments, the expression “armaments” should be defined as the organized military (Army, Navy and Air) forces of a country, with their materiel and installations actually in being.

In the foregoing definition the term “organized military forces” should be construed to mean persons equipped and formed into groups under the direction and control of a central authority to maintain and protect national rights through force of arms.

The term “materiel” should be construed to embrace generally the arms of various calibers, ammunition, means of transportation and communication, supplies, accessories, et cetera, necessary to the operation of the forces.

The term “installations” should be construed to include fortifications, arsenals, dry docks, plants and accessories, et cetera, designed

⁹⁰ Transmitted to the Chargé in Switzerland, Apr. 29, 1926, for the use of the American representative on the Preparatory Commission.

or employed for specific use in connection with the accomplishment of a military purpose.

“(a) Definition of the various factors—military, economic, geographical, etc.—upon which the power of a country, in time of war, depends.”

The various factors upon which the power of a country in time of war depends include the following :

- (1) Geography, topography and climate.
- (2) Population and social conditions.
- (3) Political situation.
- (4) Economic situation—
 - a. Material resources, food and raw materials.
 - b. Manufacture and munitioning capacity.
 - c. Transportation and communications.
 - d. Foreign commerce.
 - e. Finance.
- (5) Military and naval establishments; reserves of materiel, etc.

Of the above factors, point (5) is the only one capable of a satisfactory evaluation; an attempt to evaluate the other factors would lead into such a maze of speculative elements, diversity of opinions and differing formulae as to serve no useful end from the point of view of a consideration of the question of the Limitation of Armaments.

“(b) Definition and special characteristics of the various factors which constitute the armaments of a country in time of peace; the different categories of armaments (military, naval and air), the methods of recruiting, training, organizations capable of immediate military employment, etc.”

The armaments of this country are separated into the Army and Navy; each branch including, in the United States, its air service.

The Army is divided into combatant and non-combatant branches.

The organization of the Army varies in different countries in accordance with national conditions, which are determined by varying factors such as distances, terrain, weather, resources and population, physical and social conditions, morale, communications, sources of supplies, etc.

The details or manner of training and organization cannot be profitably discussed because such matters are primarily of domestic concern. However, in regard to the definition and special characteristics of the various factors which constitute the armament of a country in time of peace, particularly with reference to organizations capable of immediate military employment, the general subject of character of service might be discussed with the idea of placing all peace time military forces on the voluntary basis. In this con-

nection, it should be noted that the abolition of conscription would be the most effective step which could be taken toward the material reduction of peace time armed forces. In addition, a general abolition of conscription and the consequent reduction of the number of reserves would tend to render more nearly equal the length of time necessary for various nations to put their armies into the field at full war strength. It should be noted, however, that this government, because of difficulty in recruitment, would oppose any general requirement which provided for voluntary service for periods greater than a three year enlistment.

The discussion of the various factors which constitute the Naval armaments of a country in time of peace should be restricted to a consideration of the tangible and material units of naval strength capable of physical measurement.

At the Conference on the Limitation of Armament, held in Washington, November 12, 1921, to February 6, 1922, one of the general principles laid down by Mr. Hughes and accepted by the delegates of all the powers represented was:

“The use of capital ship tonnage as the measurement of strength for navies and the proportional allowance of auxiliary combatant craft prescribed.”

It will be seen from this that the term “armament” as applied to navies was construed as applying to tonnage primarily as a basis for comparison of naval strength. In the general discussion and final agreement certain other factors, such as maximum caliber of guns, maximum tonnage of individual units, and other characteristics pertaining essentially to ships and equipment actually carried on ships were included. But all of the factors that were accepted as contributory to the desired end, related solely to tangible and material characteristics of combatant units capable of actual physical measurement. It must be remembered that when the ship of whatever class it may be is disabled or sunk, the whole unit including all of her personnel is out of the battle and can be replaced only by another unit which can not be immediately constructed or organized. Thus, the personnel of Naval Armaments is regulated in numbers largely by the tonnage of such armaments, and the consideration of methods of recruiting and of training and of organization does not properly enter into a discussion of limitation of naval peace strength.

QUESTION II

“(a) Is it practicable to limit the ultimate war strength of a country, or must any measures of disarmament be confined to the peace strength?”

“(b) What is to be understood by the expression ‘reduction and limitation of armaments’?”

“The various forms which reduction or limitation may take in the case of land, sea and air forces; the relative advantages or disadvantages of each of the different forms or methods; for example, the reduction of the larger peace-time units or of their establishment and their equipment, or of any immediately mobilisable forces; the reduction of the length of active service, the reduction of the quantity of military equipment, the reduction of expenditure on national defence, etc.”

(a) “Is it practicable to limit the ultimate war strength of a country, or must any measures of disarmament be confined to the peace strength?”

It is not practicable to limit the ultimate war strength of any country because that strength is, in the last analysis, determined by its wealth, its population, its resources, its industries of every kind that enter into its economic life, the character of its people, and many other elements to which it is impossible to apply a standard of definitive measurement.

Under no circumstances is it conceivable that any country would accept for a moment any suggestion of a limitation on or reduction of its resources, its industries, or any other factor which is entirely bound up with the economic life of its people. Therefore, it is evident that only the peace strength in combatant units is susceptible of reduction and limitation by mutual agreement.

(b) “What is to be understood by the expression ‘reduction and limitation of armaments’?”

“The various forms which reduction or limitation may take in the case of land, sea and air forces; the relative advantages or disadvantages of each of the different forms or methods; for example, the reduction of the larger peace-time units or of their establishment and their equipment, or of any immediately mobilisable forces; the reduction of the length of active service, the reduction of the quantity of military equipment, the reduction of expenditure on national defence, etc.”

The expression, “reduction and limitation of armaments” is understood to mean the reduction of, or the placing of a limitation on, (1) the forces organized in time of peace, for the carrying on of war, and/or (2) the materiel of such forces.

In regard to the army, such reduction or limitation may be applied to either personnel or materiel. Its application to personnel must be primarily in the form of a limitation upon numbers in service, whether that reduction be applied to forces on a voluntary or a conscriptive basis. But in prescribing such a limitation the class of troops, whether regular, national guard, or militia, must be taken into consideration. In regard to materiel, such limitations may involve the elimination of designated weapons, or prescriptions upon the size, character and amount of armament in service or in reserve,

or prescriptions upon the number and character of military and naval aircraft, as well as upon the number or location of air bases.

Any limitation based primarily upon a comparison of budgets for national defense purposes would be totally unacceptable to this government.

In the case of the Navy the various forms which reduction or limitation may take are:—

1. Maintaining the present size of individual units and reducing the numbers of units.

2. Reducing the size of individual units in replacements and maintaining the numbers of units.

3. Reducing both size and numbers in units in replacements.

4. Extending the lives of the different types, thereby deferring replacements.

5. Reducing the caliber of major battery guns.

The method set forth in No. 1 offers a basis for discussion as it admits of definite physical measurement by which to make comparison of relative naval strength. It should be borne in mind, however, that there is a minimum tonnage for each power below which it is unsafe to go in reduction.

The method set forth in No. 2 likewise admits of definite physical measurement and to that extent may constitute a basis of comparison of naval strength. While reducing the size of units in replacements and retaining the numbers will reduce the cost of such replacements and incidentally the maintenance to some extent, there are objections to such a method. Reduction in size tends to reduction in the efficiency of defense against air and under-water attack. It also reduces the sea endurance and therefore the ability to operate in areas distant from home bases where operations may be necessary to insure integrity of lines of communication.

The method set forth in No. 3 combines the advantages and disadvantages of Nos. 1 and 2.

The method set forth in No. 4 merely puts off expenditures and in the long run does not reduce. This method has a disadvantage from an internal economical standpoint in that it tends to disrupt ship-building industries and break up organizations devoted to this art.

The method set forth in No. 5 merely reduces the expenditure for offensive ordnance material but has no other effect on general reduction.

While the reduction of expenditures for national defense purposes is highly desirable, it should be constantly borne in mind that a comparison of expenditures for such purposes does not form a true basis for comparison of national armaments.

QUESTION III

“By what standards is it possible to measure the armaments of one country against the armaments of another, e. g., numbers, period of service, equipment, expenditure, etc.?”

In the case of the land forces, there is no entirely satisfactory unit which is applicable to all elements, but in regard to personnel a man-day unit appears to be the most satisfactory unit of measure in comparing the total force, that is, both active and reserve components; in regard to materiel, fire power may be satisfactorily measured by foot-tons energy; for tanks or motor transportation, a mile-ton-hour may be employed and for aircraft a lift tonnage standard might be employed.

The limitation of land armament as it now exists involves different and more complicated factors than the limitation of naval armament, because no two armies are organized in the same way nor have they fixed elements which can be compared in the manner that the war ships of one nation can be compared with those of another. Infantry divisions in different countries vary in strength from 7,000 to 20,000 and the types of military service include conscription, militia and voluntary. There is no unit in an army which can be satisfactorily used as a yardstick. Any plan for the limitation of armament, to be successful, must contain within itself the elements of simplicity and facility of determination. Limitations can be placed upon the strength of the Regular Army, upon the number of reserves, upon the militia, which is partly trained, and upon those reserves which are trained still less.

It is considered that the only equitable standard by which it is possible to measure the naval armaments of one country against the naval armaments of another is either (1) the amount of tonnage possessed or allowed to be possessed in each type of combatant vessel, or (2) the total tonnage of all types combined.

Under method (1), each type should be considered separately and unrelated to the tonnages of other types, although it may be pleaded that geographical location, outlying bases, overseas possessions, interests, etc., and extraneous political or economic considerations might tend to stress the need for one type over another type and therefore demand greater allowances of tonnage in one type and lesser tonnage in another, for comparison in total strength. The fixing of such relationship would be almost impossible, therefore it would seem imperative that the comparison rest in tonnages of types—considered each by itself—rather than in any attempt to deal with tactical and strategic employment of the various types.

In arriving at the value of the tonnage already possessed, consideration should be given to the ages of the individual units in each type

in order to arrive at an equitable agreement as to immediate scrapping and replacements.

The life of the unit of each type, that is, period when replacements may begin, should be uniform and fixed by agreement between the powers concerned.

The actual numbers of units in any type should be left to the discretion of the powers, only prescribing the maximum limit of tonnage of an individual unit and the total tonnage allowed.

Under method (2), the total allowable tonnage should be fixed and each nation might build, within that tonnage, the numbers of units of each type considered advisable according to her peculiar conditions. But the maximum tonnage of a unit of each type should be prescribed and also the maximum caliber of guns to be allowed each type.

It should be recognized that possession of fortified bases, properly located on lines of communication, constitutes a decided element of strength.

The question of equipment is one which should concern only the maximum caliber of gun carried. The standard by which the tonnage of the individual unit is measured should be prescribed; that is, what should be considered standard tonnage of the ship. In this connection, in the Washington Limitation of Armament Conference it was accepted that fuel and extra feed water were not included in the tonnage weight of the ship.

The complement in personnel of each unit, the speed, cruising radius, amount of ammunition carried and other essentially unit characteristics should be left to the discretion of each power except as noted above in regard to limitation on the maximum caliber of gun.

The question of protection in the shape of armor, both as to thickness and arrangement, and underwater subdivision should be left to the individual powers, only with the proviso that the maximum tonnage of each unit should not be exceeded.

Expenditure on the military establishments does not afford any true measure of armaments.

It is idle to attempt to formulate a plan for the limitation of armament which attempts to change economic or natural laws, by taking into account deficiencies of weaker nations, in men, money, or munitions, on the theory of making the war potential of all nations adequate to meet all possible cases of aggression. Such an artificial effort to equalize what is not and can not be made equal is foredoomed to failure.

QUESTION IV

“Can there be said to be ‘offensive’ and ‘defensive’ armaments?”

“Is there any method of ascertaining whether a certain force is organized for purely defensive purposes (no matter what use may be made of it in time of war), or whether, on the contrary, it is established for the purposes of aggression?”

It would be very difficult if not practically impossible to say whether a particular armament is per se offensive or defensive. From a technical point of view, the terms "offensive" and "defensive" are employed as applying to the use of [*or?*] disposition of armaments rather than to armaments themselves. It is generally accepted by American military and naval authorities that a vigorous offense is the best defense. An inferior force may be used offensively and thereby obtain an initial advantage with a view to accomplishing a more efficient defense. It is quite conceivable that a nation considering her rights or her honor violated, although her armament may be no greater than would be generally considered necessary for the defense of her territory, would launch an offensive that would in reality be entirely in defense of her sovereign rights.

Defensive peace armaments in the non-technical sense may be considered as those which are created and maintained solely for the internal and external security of the homeland and outlying possessions or dominions, and for the protection of the national rights throughout the world. Such armaments must not be confused with a police force, which is created and maintained to deal with domestic crime and disorder, and has no relation to national defense. As to the specific types of armament which may be considered defensive rather than offensive, it may be stated that under general conditions the following partake rather of a defensive than of an offensive character: (1) Coastal fortifications; (2) land fortifications at a reasonable distance from the frontier.

But it should be remembered that land fortifications may be offensive or defensive, depending upon their location or probable use.

Although it may be called a peace armament by the nation possessing it, an armament may partake of aggressive character if apparently created and maintained by a State to secure or maintain political, military or economic dominance or preponderance over territory not under its sovereignty, jurisdiction, or protection, whether by invasion or threat of invasion.

QUESTION V

(a) On what principle will it be possible to draw up a scale of armaments permissible to the various countries, taking into account particularly:

- Population;
- Resources;
- Geographical situation;
- Length and nature of maritime communications;
- Density and character of the railways;
- Vulnerability of the frontiers and of the important vital centers near the frontiers;
- The time required, varying with different States, to transform peace armaments into war armaments;

The degree of security which, in the event of aggression, a State could receive under the provisions of the Covenant or of separate engagements contracted towards that State?

(b) Can the reduction of armaments be promoted by examining possible means for ensuring that the mutual assistance, economic and military, contemplated in Article 16 of the Covenant, shall be brought quickly into operation as soon as an act of aggression has been committed?

(a) This Government believes that no useful end can be attained by the consideration of the subject of war potential which would be involved in the attempted application of most of the points enumerated above. From the standpoint of the limitation of land armament it appears that the only factor which might form a basis for a formula for the limitation of land armament is a limitation on the basis of population or area, providing such a limitation is taken as a direct ratio preferably applied only to metropolitan* area or population. However, it is possible to place an arbitrary limitation on the size of the peace-time military establishment, including equipment and trained reserves without reference to war potential. Factors in the establishment of this arbitrary limitation might include the standardization of the character and term of service, preferably through the abolition of conscription for peace-time procurement.

In regard to naval armament, the factors listed in this question likewise cannot usefully be considered in arriving at a scale of naval armaments permissible to the various countries, whether one takes into account the separate factors mentioned under this head or all of them combined. Any attempt to apply any or all of these factors to a scale of naval armament permissible to the various countries would lead to endless confusion and serve no useful purpose.

Substantial progress has already been made toward the limitation of naval armament by fixing a definite tonnage ratio on certain classes of vessels for various countries. This ratio was not reached by the consideration of unrelated and for the most part indeterminate factors such as those listed in Question V. Any departure from the principle already established at the Washington Conference would only tend to jeopardize the progress toward further limitation of naval armament.

Among the factors which appear to give no promise of usefulness in arriving at a limitation of either land or naval armament are:

1. The ultimate war strength or potential war armament of a nation;
2. Monetary expenditure for the support of peace-time armaments.

*The term "metropolitan" is used to distinguish homeland or mother country from the colonies of [or ?] overseas possessions. [Footnote in the original.]

In so far as the United States is concerned the degree of security which a state might receive under the provisions of the Covenant of the League or separate supplementary agreements is a matter into which this country would not enter as it is not a party to any such agreements.

From a practical standpoint it will be seen that most of the factors listed in Question V are too indeterminate to give any promise of usefulness as a basis for the establishment of any acceptable formula for the limitation of land or naval armament. The same would be true of any attempted combination of these factors.

(b) "Can the reduction of armaments be promoted by examining possible means for ensuring that the mutual assistance, economic and military, contemplated in Article 16 of the Covenant, shall be brought quickly into operation as soon as an act of aggression has been committed?"

The United States is not a member of the League of Nations and hence this question does not apply to this country.

QUESTION VI

"(a) Is there any device by which civil and military aircraft can be distinguished for purposes of disarmament? If this is not practicable, how can the value of civil aircraft be computed in estimating the air strength of any country?"

"(b) Is it possible or desirable to apply the conclusions arrived at in (a) above to parts of aircraft and aircraft engines?"

"(c) Is it possible to attach military value to commercial fleets in estimating the naval armaments of a country?"

(a) Commercial aeronautics, with the attendant development of an aeronautical industry and a personnel skilled in the manufacture, operation and maintenance of aircraft, does furnish a basis for the determination of air power. The development of commercial aeronautics and the development of a nation's military air power are to a certain extent inseparable and inter-dependent.

All aircraft may be of military value no matter what restrictions may be placed upon their character. Some can probably be converted with but few changes into military aircraft; others can be designed so that with major or minor alterations or even with none at all they can be employed for military purposes.

The war value of an airplane may be said to lie in a combination of two or more of the following characteristics:

- (1) Suitability for offensive and defensive equipment;
- (2) Radius of action;
- (3) Speed;
- (4) Lift tonnage;
- (5) Height it can attain. (Ceiling)

While it may be possible to evolve formulae defining the inter-relationship of the above factors in such a way as to limit to some extent the war value of a commercially-built machine, it is practically impossible to insure that war equipment may not be mounted in a commercial plane. Thus it will be seen that definite rules can not be laid down strictly prescribing whether machines are purely war machines or commercial machines that may be quickly converted to war machines.

The most practicable and accurate method for computation of the value of commercial aircraft in estimating the air strength of a country is lift-tonnage. However, in attempting to arrive at a formula for the purpose of limitation of armament, only aircraft designed and constructed for military purposes should be included in any figure establishing a maximum for military aircraft, because no limitation should be placed on the development or construction of commercial aircraft.

“(b) Is it possible or desirable to apply the conclusions arrived at in (a) above to parts of aircraft and aircraft engines?”

The same conclusions arrived at in (a) above should apply to parts of aircraft and aircraft engines.

“(c) Is it possible to attach military value to commercial fleets in estimating the naval armaments of a country?”

It is possible to attach military value to commercial fleets in estimating the naval armament of a country. However, it does not seem advisable to permit the military value of commercial fleets to enter into calculation for the limitation of naval armaments because it is recognized that there should be no limitation upon either the development of commerce or the construction of commercial fleets.

QUESTION VII

“Admitting that disarmament depends on security, to what extent is regional disarmament possible in return for regional security? Or is any scheme of disarmament impracticable unless it is general? If regional disarmament is practicable would it promote or lead up to general disarmament?”

It appears that the crux of the question lies in the interpretation to be placed upon the word *security*. If the term *security* means a reasonable degree of protection against the danger of probable aggression, then it would appear that substantial progress might be made toward the desired end. If, however, the term *security* be interpreted to mean absolute protection against any or all possible aggression from any country, then it appears that in this day and generation there is no answer to the question and discussion of the same might well be closed.

Assuming, however, that the first interpretation above given be accepted, then it would appear that security may have a very determining effect upon the extent to which any country will agree to limit its armament and further that such limitation will probably be in direct ratio to the degree of security which that country considers to be assured. Regional security should lead to regional limitation of armament but complete regional security probably will not result in the regional limitation of armament to the extent required solely for the maintenance of internal law and order, as long as a possible threat exists of aggression from one or more states outside of the region in which mutual regional security has been provided for. It appears, however, that the most practicable approach to the limitation or reduction of armaments is through the development of regional security pacts where such are necessary. Such pacts, to be absolutely effective, should include all powers within a given region. It is further believed that regional disarmament is a logical and practicable forerunner of general disarmament.

Mutual confidence in the good faith of countries of a given region may render the conclusion of specific security pacts an unnecessary preliminary to the limitation or reduction of armaments. A striking case in point is that of the relations between the United States and Canada, which resulted from the Convention of 1817⁹¹ by which the naval forces permitted the signatories on the Great Lakes, were specifically limited without any provision for security. The convention for the limitation of armaments concluded by the Central American republics on November 20, 1924,⁹² is a further illustration of the possibility of the existence and successful operation of a disarmament pact without prior specific agreements for security.

500.A15/229 : Telegram

The Chargé in Switzerland (Winslow) to the Secretary of State

BERNE, April 24, 1926—noon.

[Received April 24—9:47 a. m.]

95. Buero as head of Uruguayan delegation to the Preparatory Disarmament Commission having received directly from the Secretariat of the League a copy of my letter of April 8th to Drummond⁹³ told me at a private interview in his opinion the attitude of the Department was entirely correct and that he could be counted on to

⁹¹ For text of the convention, see Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 2, p. 645.

⁹² Presumably the convention signed Feb. 7, 1923, at Washington; see *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923), p. 339.

⁹³ See telegram No. 54, Apr. 7, 1926, to the Chargé in Switzerland, p. 70.

do all in his power to support our views with regard to the organization of the work of the Conference when it meets.

WINSLOW

500.A15/256 : Telegram

*The American Delegate on the Preparatory Commission (Gibson)
to the Secretary of State*

[Paraphrase]

GENEVA, May 15, 1926—7 p. m.

[Received May 16—10:30 a. m.]

3. (1) The British and the French delegates are endeavoring, in harmony with our views, to arrange that the Conference committees be substituted for League organizations.

(2) Mr. Boncour, of the French delegation wishes to be chairman of the Conference and on Monday morning is coming to broach question to me. As far as I am aware support for Boncour is general and he would unquestionably make a good chairman. As yet there has been no rival candidate proposed. Boncour's election would have this advantage, that it would encourage him to press for a successful achievement. It may prove desirable to give him our vote, in view of fact that French delegation is using its influence in support of our views regarding committees.

(3) My name has been proposed by French delegation as vice chairman of Conference. It would be unwise, I think, for me to accept, as my usefulness to the work of our delegation would be restricted, and there are as well other obvious disadvantages. Unless you instruct me otherwise, it would be advantageous to decline the vice chairmanship and to propose instead the name of Uruguayan delegate who has a good deal of influence and who has been consistently friendly to us at other conferences.

GIBSON

500.A15/257 : Telegram

*The American Delegate on the Preparatory Commission (Gibson) to
the Secretary of State*

GENEVA, May 15, 1926—11 p.m.

[Received May 16—3:22 p.m.]

4. Propose to make following statement Tuesday or Wednesday when general statements are to be made by various delegations. Will send flash for release to press on delivery.

1. The Government of the United States has gladly accepted the invitation to be represented on the Preparatory Commission. The

reasons for this acceptance were stated by the President in his message to the Congress on January 4th in the following terms:

"The general policy of this Government in favor of disarmament and limitation of armament cannot be emphasized too frequently or too strongly. In accordance with that policy any measure having a reasonable tendency to bring about these results should receive our sympathy and support. The conviction that competitive armaments constitute a powerful factor in the promotion of war more widely and justifiably held than ever before and the necessity for lifting the burden of taxation from the peoples of the world by limiting armaments is becoming daily more imperative."

2. It was this conviction which led to the calling of the Washington Conference in 1921⁹⁴ and which prompt[s] the American Government to give its cordial support to any efforts which may lead to further limitation of armaments, wherever and whenever it is felt that the circumstances are such as to hold out a reasonable prospect of success.

3. In the hope that the American Government may contribute to finding a solution for the problems of the reduction and limitation of armaments the President has sent a full representation with instructions to join in the work of the Preparatory Commission. He has impressed upon his representatives his deep interest in any sincere effort to deal with the problems of armament and his confident belief that with mutual good will substantial progress can be made. It will be a matter of gratification to him if the American representation can in some measure contribute to this progress.

4. The questions which will come before the Preliminary Commission require patient study in order to establish the principles which offer the most effective method of approach to the reduction and limitation of armaments. It is hoped, therefore, that there may be a general disposition to devote to the problems before us the earnest and continuous attention of the Preparatory Commission and its committees constituted for the study of special subjects.

5. This is not the time to indicate in detail the views of the American Government on the specific questions which may come before the Preparatory Commission. It may, however, be of interest to state in a general way the attitude of the American Government on certain outstanding questions.

6. The conditions prevailing in different regions of the world are so varied, and so many divergent factors are involved, that constructive achievement in the matter of the limitation of land armament appears to lie in the conclusion of regional agreements rather than in an effort to work out a general plan for limitation applicable to the whole world. As regards land armament the United States occupies a fortunate situation. We have, since 1918, been able to reduce our land forces from more than four million men under arms at the end of the World War to a present actual strength of 118,000—or one soldier per thousand inhabitants. It will thus be seen that so far as land armament is concerned we have voluntarily reduced to a minimum. It is fortunate that our situation has permitted this re-

⁹⁴ See *Foreign Relations*, 1921, vol. 1, pp. 13 ff.

duction but we are not disposed to overlook the fact that other countries are differently placed and that their problems are not susceptible of such simple solution.

7. With respect to naval armament it may be noted that, while a substantial part of the program presented to the Washington Conference by the American Government was realized, no agreement was reached as to the limitation of competitive building of naval craft other than capital ships and aircraft carriers. The American Government would welcome any steps which might tend to the further limitation of competitive naval construction.

8. The scope of the work of the Preparatory Commission includes a consideration of all types of armament and of many related problems. For the ultimate success of our effort toward the limitation of armaments, it seems important not only to consider general abstract principles, but also to endeavor so far as possible to isolate from the general problem as many concrete questions as possible and then deal with these definite questions in a direct and practical way.

9. One of the most practicable approaches to the subject lies in an effort to put an end to international competition in armaments. Agreements of this character should constitute helpful guarantees of that national security which in turn would facilitate future efforts for the further reduction of armaments.

10. The task before us is beset with obstacles and difficulties. One attempt after another has been made to overcome them in the past—and in spite of intelligence and industry and good will the end sought has not yet been attained. It is imperative as never before to destroy the spectres of suspicion and of distrust which rise from competition in armaments and thus lay a foundation for lasting peace. No one of us can accomplish this alone but together we can go far along the road if we approach our task with a single purpose—with a readiness to understand each other's problems and patience to seek solutions. We have no right to disappoint our peoples. They have suffered too much and their lives are clouded with fear of future wars. If we refuse to be turned aside from our purpose we can surely do something to relieve their anxieties. There could be no greater incentive for us to meet in a spirit that is worthy of our task.

GIBSON

500.A15/264 : Telegram

The American Delegate on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, May 18, 1926—2 p.m.

[Received 5:30 p.m.]

8. Opening session this morning. Boncour withdrew his candidacy at last moment and nominated Loudon, Dutch delegate, which is a happy solution. I nominated Uruguayan delegate, Buero, as vice president, and Cobian, Spanish delegate, was made another vice president. All three elected unanimously.

Permanent Advisory Commission eliminated and a military, naval and air committee made up of representatives of each delegation

adopted in its place. This was achieved through good offices of Cecil who took the initiative and relieved me of any necessity of intervention. Problem of Joint Commission to be taken up at this afternoon's session.

GIBSON

500.A15/271 : Telegram

The Secretary of State to the Ambassador in Japan (MacVeagh)

[Paraphrase]

WASHINGTON, May 21, 1926—7 p.m.

43. The representative in Geneva of the Associated Press reports that the Japanese delegation has a complete program for the limitation of both land and naval armaments; that it prefers treating these questions separately; and that it would be willing to participate in a naval conference at Washington, even if only Great Britain, the United States, and Japan were to attend.

In regard to this report, our delegate, Minister Gibson, commented to Department yesterday as follows:

"I made inquiries of the chief Japanese delegate, Matsuda, concerning this report. He agreed with the statement that the Japanese Government was disposed to discuss either in Washington or elsewhere the question of naval reduction and he empowered me to report this confidentially as emanating from him. He said that he felt it was impracticable to attempt to find a formula for naval reduction which should be applicable to the entire world and that if anything could be accomplished, it could only be between the powers most vitally interested. He said that he believed that we all should take part fully and sincerely in the discussions of naval affairs by the Preparatory Commission but that some ground might be found in the meantime for direct agreement between the naval powers most interested. He likewise said that while his Government was ready to come to Washington, if a naval conference were necessary, nevertheless, he thought an agreement might be reached at Geneva without a prolonged international conference. Moreover, the favorable effect on popular opinion might be considerably increased if such an arrangement could be concluded quietly and without arousing previous expectations through the complicated methodology of an international conference.

Lord Cecil in his opening speech on Tuesday alluded to the fact that the Washington Conference had not provided for the limitation of submarine and cruiser strength and stated that he felt that supplementary agreements might be concluded with regard to these types. I deemed it wise to speak to Cecil informally of this matter rather than to allow him to hear of it through the press. He said that he would consider unfortunate any undue publicity to the notion of a separate naval conference at Washington just at the time the Preparatory Commission was getting under way, as such action might be interpreted

as an attempt to undercut the work of the Commission, but he added that he was under no illusions as to the possibility of reaching universal naval reduction and that he felt the sole hope lay in direct agreement either at Washington or at Geneva between the interested naval powers. He furthermore said that while it might be in the general interest to minimize public talk of a separate conference for the present, this should be without prejudice to our right to consider holding such a conference or concluding an agreement at Geneva when the Commission had had its chance to show what it could accomplish and if it should fail to make a beginning for a general naval agreement."

If the Embassy has any information which might throw light on the Japanese attitude set forth above, the Department would like to obtain it.

KELLOGG

500.A15/271 : Telegram

*The Secretary of State to the Ambassador in Japan (MacVeagh)*⁹⁵

WASHINGTON, May 22, 1926—11 a. m.

44. In view of misinterpretations carried in press this morning of statements made by "White House Spokesman" yesterday afternoon there is sent for use at your discretion but not for verbatim publicity minutes taken of that statement.

"The Spokesman said that he had noted reports in the press of suggestions made in Japanese quarters in Geneva that there be held in Washington another naval limitation conference, participated in by Japan, Great Britain and the United States. These suggestions, the President presumes, were made entirely on the authority of the Japanese people who made them and the suggestions were made without consulting this Government. There is very little that he could say about that suggestion at the present time. At some other time or under some other circumstances the President might view a suggestion of this kind with considerable sympathy, but at the present time this Government has committed itself to the conference that is now in session. If now we should begin to talk about some other conference to consider questions that are already being considered by this conference, the President is inclined to think it would very seriously impair the prospects of any successful and practical conclusion being reached by this conference. The President, it was explained, did not say this in criticism of what the Japanese have said, but if we were to join in and participate and endorse another conference he should think the other Governments assembled would say "what is the use of going on with this conference?" The attitude of this Government is to do everything it possibly can do to make the present conference a success. The interested governments are all assembled there. It has taken a considerable time to secure that result. Everything that can possibly

⁹⁵ Sent also to the American delegation at Geneva as Department's No. 5.

be done to work out a practicable solution of some limitation of naval armament and land armament should be done at this present conference. The President has such strong hope and so much confidence that there can be practical solutions that he thinks it would not be helpful for him to make any comment or to make any suggestion or join in any suggestion that we have in contemplation the calling of a conference in Washington."

KELLOGG

500.A15/280 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

[Paraphrase]

TOKYO, May 25, 1926—5 p.m.

[Received May 25—3:33 p.m.]

51. I duly conveyed the substance of your telegram No. 44, May 22, 11 a. m., to the Japanese Minister for Foreign Affairs. He was gratified to receive this authoritative statement and he stated that he agreed entirely with the statements therein contained.

With regard to the Associated Press report contained in your telegram No. 43, May 21, 7 p. m., to me, the Japanese Minister for Foreign Affairs stated that he had communicated with Matsuda and that Matsuda had given him every assurance that the Associated Press report in question was absolutely without foundation and that he (the Japanese Minister for Foreign Affairs) had already issued a communiqué to the Japanese press to this effect—the substance of this communiqué I am despatching to the Department in a separate telegram.⁹⁶ . . .

The Japanese Minister for Foreign Affairs said further that he had been advised that Matsuda had not put forward any such program and that certainly nothing of this sort had been authorized; he added that whereas the Government of Japan desired to see the Conference of Geneva meet with success, it had no prejudice or definite plan; that, while the Japanese were willing to go along with the other interested powers with a plan calling for naval and military disarmament, either separately or jointly, nevertheless, should the Geneva Conference fail to agree upon a definite plan, the Japanese were willing to participate with other interested powers in a separate conference to deal with this particular matter. However, he said that his personal opinion was that such a conference on disarmament would be both useless and inadvisable if both the Governments of Italy and France were not invited to attend and that attempts between the United States, Great Britain, and Japan to reach an agreement, without con-

⁹⁶ *Infra.*

sulting Italy and France, would lead to difficulties of a serious nature. Furthermore, he said that he personally did not see very much hope for a successful issue of the Geneva Conference. As regards naval disarmament, he felt that France would insist upon having the same proportion of inferior vessels as Great Britain had and that Italy in turn would demand the same as France. He added that it was impossible to conceive of Great Britain agreeing that France should have a proportion of lesser vessels equal to her own proportion.

The views of the Minister for Foreign Affairs coincide with those which Mr. Gibson reported were expressed to him by Matsuda. The Foreign Minister remarked that informally an attempt might well be made—in case of the failure of the Geneva Conference—by the interested powers to come to an agreement on further naval disarmament without convoking another conference, but that in view of the considerations already stated he entertained little hope for the successful issue of such an attempt.

As regards the attitude generally of the Government of Japan with regard to the questions before the Conference at the present time, he said that it was exactly as he had told me in a previous interview, i. e., that while the Japanese were very anxious to do everything in their power to ensure the success of the Geneva Conference, nevertheless, they were not definitely committed upon any points, and that the Japanese Government would render a decision upon each point as it arose.

MACVEAGH

500.A15/279 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

ТокYO, May 25, 1926—6 p. m.

[Received 12:05 p. m.]

52. The following is a statement issued by the Minister for Foreign Affairs in regard to Associated Press report sent from Geneva:

“Japan is determined to cooperate with the powers to the best of her ability for the realization of the disarmament question. Consequently she earnestly hopes for the success of the work of the Preliminary Disarmament Conference at Geneva and entertains no proposal with respect to any similar undertaking other than the present Conference.

In these circumstances we need scarcely say that the rumor emanating from Geneva at this time, to the effect that Japan has some new proposal, does not in any way reflect the true intention of the Japanese Government.”

MACVEAGH

500.A15/318 : Telegram

*The American Delegate on the Preparatory Commission (Gibson) to
the Secretary of State*

[Paraphrase]

GENEVA, June 11, 1926—4 p. m.

[Received June 12 (?)—12:38 a. m.]

40. I have conversed twice with Chamberlain, at his request, on the work of the Preparatory Commission. He expressed the view that course pursued by our delegation had been sound and practical. Although he was not wholly familiar with details of the proceedings, Chamberlain feels that there has been regrettable departure from practical considerations by the Preparatory Commission as a whole and that outlook for progress is dismal. He said that the British delegation had lost patience and had requested him to instruct them to take a strong stand for constructive work. He had felt that he was unable to give instructions without first consulting the Cabinet and possibly Council for Imperial Defense. It was also his feeling that he could not take action without conferring with Lord Cecil, who has the entire charge of matters which bear on the Preparatory Commission.

It was my impression that Chamberlain was reluctant to press this issue at present in view of other differences of views with the French, who have asserted vigorously their position that any disarmament must hinge upon security resulting from previous knowledge about help to be expected against an aggressor state under article XVI of the League Covenant.⁹⁷ A series of proposals calculated to expedite action under article XVI had been introduced in the drafting committee by the French delegation. On the ground that these proposals were not within the competence of the Preparatory Commission, they were referred to the League Council.

In recent meeting of the Council Chamberlain insisted that consideration of those proposals go over until Council's September session. He told me, however, that he had not been able to state his real reasons which were that the opposition in Germany to entering the League was based principally on article XVI; that any action tending to give new interpretation to that article at present time might arouse renewed opposition in Germany and he felt it imperative, therefore, to put off any discussion on amending the Covenant until Germany was in the League.

Chamberlain said he had told Briand that he thought the French proposals futile, that no government [garbled group], that the degree

⁹⁷ See Senate Document No. 46, 66th Cong., 1st sess., p. 21.

of help to be given under article XVI would be determined for each state by circumstances of each case, by the identity of aggressor and of the state attacked, and by the interest of the contributing state; that, deplorable though it might be, nothing would change the fact that no government would write a blank check for the League to use in dealing with any hypothetical case of aggression which might arise. He had tried to persuade the French that they were pursuing a course from which they could not obtain any benefits and that it would be much better to get down to realities and deal with visible armaments, and to leave such questions as security, national resources, etc., to be handled later as influencing factors in any general scheme of disarmament. He did not seem to be of the opinion that his arguments had made any impression.

I spoke of our attitude toward premature adjournment of the military subcommittee. Chamberlain agreed that our position was sound but appeared to be uncertain what British attitude would be. Later I was told by one of the British delegation that Chamberlain had expressed himself as impressed by bad effects of adjournment as I had stated them, and that it was hoped that on his return to London he would arrange to have the British delegation take firm stand against any general adjournment.

Edouard Beneš in talking with Dulles expressed the view that no progress was to be expected in matter of disarmament until Germany had entered League of Nations and until the Locarno pacts had been tried out and found to be effective. He seemed to feel that when that had been done some measure of disarmament might be achieved.

GIBSON

500.A15/367 : Telegram

The American Delegate on the Preparatory Commission (Gibson) to the Secretary of State

[Paraphrase]

GENEVA, September 16, 1926—4 p. m.

[Received 8:40 p. m.]

102. For several weeks our delegation has felt concern at development of French thesis in subcommittees and has given serious thought to keeping the record clear on our position. The following is submitted for the Department's consideration:

Thus far the Preparatory Commission and its committees have not produced much more than an outline of a French plan put through by bloc vote in disregard of technical considerations which should be basis of work. Plan is calculated to defeat any constructive efforts to solve disarmament problem by making action depend on complicated

and impossible conditions such as injection of control and suppression, adoption of single and inadequate criteria, rejection of standards hitherto accepted, and ignoring or minimizing important elements; such as, for example, trained reserves. If the work continues to be carried on as it has been thus far, it seems evident that the final report will be an essentially unsound document, bristling with reservations and with minority declarations, which cannot serve as useful basis for constructive work and will bring work of Preparatory Commission into disrepute.

I am venturing suggestion that the Department may wish to consider whether it would not be expedient to take advantage of opportunity presented by forthcoming meeting of Preparatory Commission to put our position clearly on record. Notwithstanding fact that we have endeavored to keep work on practical basis and have made clear record of our views, the mere fact that we have taken part in the discussions may leave us in position of being criticized for having failed to prevent adoption of report calculated to defeat any possibility of disarmament. It must be kept in mind that subcommittees' meetings are not public and that only way we have to register our views publicly is in plenary meetings of Preparatory Commission.

The sort of statement I have in mind would be one temperate and timely which would express satisfaction that Preparatory Commission had met to take account of work so far accomplished and to consider any improvements that might be made on basis of experience gained; that we have carefully followed the work of the subcommittees and feel that they have not kept in view the instructions which Preparatory Commission laid down for their guidance, as well as of essential character of our work; that in view of very complicated character of general disarmament problem a meeting preliminary in nature had been called to apply the laboratory method to discussion of general principles so that sound peace basis might be established on which action might be based by future conference or conferences; that one of special advantages of proceeding in this manner was that necessity of upholding special national interests was obviated; that the basic reason for the calling of such a conference as this was to make possible an unbiased and objective examination of each country's undoubted right to present and defend its own special interests at any conference held in the future; that we had come to Geneva in belief that there was to be such an objective discussion as outlined; that it was in that spirit that we had taken part in the sessions, but that it must be obvious to whoever reads the proceedings of the committees that they have arrived at their decisions upon political rather than upon technical grounds; that decisions were not only reached on these grounds but

that they were often taken by a minority in a private conference with a majority of the Preparatory Commission abstaining, and that this abstention was not because of a lack of technical reasons.

We could point out that this Preparatory Commission was manifestly expected to confine its activities to an objective study of the disarmament problem, as it would be unfair to countries not represented on it for us to make this the occasion to build up a scheme of disarmament based on national interests of only 19 countries, disregarding the interests of other countries whose attendance at future conferences will be essential; that our only hope to accomplish anything lies in producing plan that they will recognize to be practicable and fair; that otherwise, we may close door to future participation by those countries.

It could be made clear that we do not seek to place blame on anyone but that we are merely concerned with fact that procedure of sort described cannot conceivably lead to formulation of a report which could be received seriously as embodying the considered technical opinion of experts; that we should have laid a sound foundation for the next step toward disarmament only if we had a report representing conclusions based on technical grounds alone. But on the other hand, if the report which our political representatives were asked to accept as basis of their action were not true reflection of opinion of our technical experts, our political representatives would be standing on unsafe ground when they came to take next step.

Statement might end with recommendation that in starting the second reading the committees be directed to furnish carefully thought-out technical opinions unbiased by political considerations or instructions. A suggestion of that sort, whether it were acted upon or not, would put us clearly on record as doing our utmost to achieve practical results. I hope the Department will consider whether we can afford to miss opportunity to do this.

I think that the statement should avoid the least imputation of blame to any delegation or group of delegations, so that support of our views may be rendered easier for the French, if they are sincere in their protestations.

I shall follow up conversations I have recently had with Boncour as soon as he is able to spare the time from the present League situation, and it is possible that we may arrive at a satisfactory agreement. It would be helpful, however, if I had an intimation whether the Department would authorize such a statement as I have outlined, should it be desirable to make one.

GIBSON

500.A15/367 : Telegram

The Secretary of State to the American Delegate on the Preparatory Commission (Gibson)

[Paraphrase]

WASHINGTON, *September 18, 1926—2 p.m.*

56. Your 102, September 16, 4 p.m. I agree that you should take the present opportunity to place our views on record regarding way in which limitations may be brought about as a practical matter and at same time to restate positions taken by our representatives in subcommittees. It is my opinion that you should emphasize efforts we have made in military subcommittee to keep discussions to practical questions instead of to theories of all-inclusive formulae. I should avoid appearance of questioning motives of any group of delegations in military subcommittee.

Following outline is merely suggestion. You are on ground; you have received general instructions; you are fully acquainted with positions we have taken and I expect you to be free to amend or add to this statement as you and your advisers deem suitable. I am merely suggesting some of things to be said. You will also keep in mind that you are not addressing only a body of men who are familiar with entire question, but that you are making a statement which should place position of our delegation clearly before the American people.

Should you think that other illustrations of our helpfulness in guiding Preparatory Commission towards practical results should be mentioned, please add them. The following has been put in the form of a quoted statement solely for sake of convenience, not with any desire to limit you to its wording:⁹⁸

“The American Delegation welcomes the opportunity given the Preparatory Commission by this plenary session to take stock of the progress thus far made. The Preparatory Commission is aware of the interest with which its work is being followed in the United States, whose Government is most hopeful that from the deliberations in Geneva will come concrete bases for accomplishment in reducing and limiting armaments. The sincerity and optimism of the American Government in this connection were emphasized by the Secretary of State in his speech at Plattsburg on August 18.⁹⁹

In view of the American Government's earnest hope for specific achievement, and its desire to do all in its power to make this possible, I wish to place before the Preparatory Commission certain observations upon the work accomplished since we convened in May, and certain suggestions which, in the considered opinion of the

⁹⁸ Quoted passage not paraphrased.

⁹⁹ Address delivered at the dedication of the Thomas Macdonough Memorial, Plattsburg, N. Y., Aug. 18, 1926.

American Delegation, may, if accepted, contribute to the greater success of our undertaking.

You will recall that during the first plenary sessions I outlined the general viewpoint of the American Government in regard to the problems before the Preparatory Commission. The discussions of the Preparatory Commission and of its sub-committees since that time have served to confirm my Government in the views I then expressed on its behalf, viz.: 1) That land armament is most susceptible of limitation by regional agreements, 2) that, since the Washington Naval Treaty did not cover all classes of vessels further steps might well be taken to limit the competitive building of types of vessels not so covered, 3) that success in the limitation of armaments is to be achieved by the isolation of as many concrete problems as possible, and the treatment of these in a direct and practical way without awaiting the determination of a set of abstract principles applicable to all armament problems.

The American Delegation has constantly kept in mind the practical objective for which we are all working, viz.: actual agreements for the limitation of armaments. It has endeavored to face realities and to find formulas which gave promise of results in the near future. It has deplored any tendency to discuss exclusively an ideal scheme for universal disarmament which existing conditions throughout the world would appear to make most remote in any practical sense.

Thus the American Delegation has taken the position that limitation, to be practicable, should be directed towards armaments which are in existence and are, therefore, tangible and limitable. The American Delegation has consistently discouraged any effort to calculate the potential economic, financial and industrial resources of one country as against those of another, since it has felt that such elements are not susceptible of limitation, and fall outside any practical definition of armaments. In regard to the limitation of naval armaments, the American Delegation has attempted to point out that the standard of tonnage by classes—a practical method of comparison and limitation of naval forces which has clearly demonstrated, since its acceptance in the Washington Treaty, its utility and convenience as a common unit—should be considered in any effort actually to bring about the limitation of navies.

Furthermore the American Delegation has opposed proposals to establish supervision and control of national armaments by an international agency, since it has felt that any limitation agreements must rest primarily upon international good faith and respect for treaties and moreover since it has been shown by the successful operation of the Washington Naval Treaty that such supervision is not necessary.

The American Delegation, therefore, believes it fitting to ask here: just how far along the road to practical results have we progressed and, more particularly, does the work of our Military Sub-Committee, as far as it has gone, promise to be of great assistance to us in arriving at a solution of our problems?

I believe that many of us will agree that the debates of our Military Sub-Committee have, in some instances, confused rather than clarified the issues before us, and that the answers to the questions thus far made will be of very little assistance to us when we come to study them. This has come about, I believe, because this Prepara-

tory Commission perhaps did not give sufficiently clear directions to its Sub-committees, and did not emphasize that it wished merely technical military opinions from Sub-Committee A, and that the political implications of any question should be taken up only by the plenary Preparatory Commission. The result has been that the Military Sub-Committee appears to have approached questions from both the political and the military points of view. It is this confusion of functions which has detracted from the value of the Military Sub-Committee's work. The American Delegation believes that this condition can be remedied by specific directions addressed to the sub-committee by this Commission. To be precise, we should say that we desire to receive technical expert answers from that sub-committee, that if the views of the Military Sub-Committee's members are divergent, we wish to receive such divergent expert views, the minority as well as the majority, that the question of the acceptability of this or that expert view, its usefulness and applicability in connection with agreements for the limitation of armaments will be determined by this Commission and by an international conference, that our military experts can lay all these considerations to one side. If we give such a direction, I believe we shall derive important assistance from the eminently qualified group of experts on our Military Sub-Committee, whose maximum usefulness is lost to us now because of their tendency to confuse political with technical considerations."

KELLOGG

500.A15/369 : Telegram

The American Delegate on the Preparatory Commission (Gibson) to the Secretary of State

GENEVA, September 20, 1926—11 a.m.

[Received 2:05 a.m. (p.m.?)]

105. My 103, September 17, 10 a.m.¹ Preparatory Commission summoned to meet September 22, 10 a.m.

GIBSON

500.A15/374 : Telegram

The American Delegate on the Preparatory Commission (Gibson) to the Secretary of State

[Paraphrase]

GENEVA, September 21, 1926—2 p.m.

[Received 6:30 p.m.]

108. Department's 56, September 18, 2 p.m. I am telegraphing separately the text of a statement I propose to make tomorrow morning at opening of the Preparatory Commission.² I feel that I owe

¹ Not printed.

² *Infra*.

you an explanation for the liberal way in which I have interpreted your instructions. There is an atmosphere of tenseness here with the French striving to regain position of leadership . . . Boncour has launched scheme for early convening of a world disarmament conference and has vigorously played it up as a step taken against opposition of other nations, filling the press with statements that a section of the work of the Preparatory Commission has been deliberately obstructed by other countries with a view to delaying any final conference.

Question before Commission is purely one of procedure. I fear lest any general statement of our attitude might be seized upon as pretext for leading discussion away from question of procedure. To avoid affording any pretext of this sort I have in my statement studiously avoided placing blame on anyone for the unsatisfactory condition of our work. We feel that opportunity is thus presented by which the French will be enabled to fall in with our views without loss of prestige and that a controversy will thereby be avoided.

I believe that our general attitude can be stated more effectively apart from the question of procedure and without running the risk of controversy. I have embodied your views in a separate statement, and later in the discussion I hope to be able to find appropriate occasion for its delivery.³

GIBSON

500.A15/376: Telegram

*The American Delegate on the Preparatory Commission (Gibson)
to the Secretary of State*

GENEVA, September 21, 1926—5 p. m.

[Received September 22—12:20 a. m.]

109. My 108, September 21, 2 p. m. The American delegation welcomes the opportunity that is afforded by this plenary meeting of the Preparatory Commission to review the work thus far accomplished and to consider what can be done to contribute to an early and successful conclusion of our task. Our immediate task is to consider how far we have progressed and what, in the light of experience, should be our future course. I venture to submit certain suggestions which in the considered opinion of the American delegation will if accepted contribute to the successful conclusion of our labors and to the achievement of definite results.

³ See Mr. Gibson's statement made Sept. 27, at the second meeting of the Second Session, *Documents of the Preparatory Commission*, Series III, pp. 23-25.

Recognizing the complexity of the problems involved, the Preparatory Commission was set up to apply what might be called the laboratory method to a study of general principles upon which further steps could be taken toward disarmament. We are seeking merely to lay the foundation for actual agreements for the limitation and reduction of armaments. I think we are all agreed that one of the essential merits of this form of conference is that it is calculated to permit an unbiased objective examination of all phases of the disarmament problem uninfluenced by the necessity for safeguarding or reconciling special national interests. The American delegation has always assumed that our essential task was to draw up a clear statement of the problem and the methods of approaching it, leaving to a final conference or conferences to take into account the requirements of special national interests. This was clearly indicated in the resolution of the Assembly of the League of Nations adopted on September 25 last year in which it was stated that the Assembly requested the council:

"To make a preparatory study with a view to a conference for the reduction and limitation of armaments in order that as soon as satisfactory conditions have been assured from the point of view of general security . . . ⁴ the said conference may be convened and a general reduction and limitation of armaments may be realized."

Thus it would seem that from the very beginning an effort was made to confine the work of the Preparatory Commission to exploring the problem of disarmament and to leave questions of national interests to be dealt with at a later conference when countries not here represented will have an equal opportunity to present their views.

In our last session we referred a number of questions to our technical committee and it was laid down in the most definite manner that they were to report to us upon the purely technical aspects of those questions. The direction to the subcommittees was in the following language:

"The Commission refers to its technical subcommittees the points stated below in order that it may be informed on the technical aspects of the question submitted to it by the Council. The Commission is alone competent to deal with the political aspects of these questions in the same way that it has sole responsibility for the final answers to be given to these questions."

I think it was generally believed at the time that this was sufficiently clear but our Military Commission appears consistently to

⁴ Omission in the original telegram.

have approached questions from both the political and military points of view and the American delegation cannot but feel that this has led to confusion and has detracted from the value of the subcommittee's work. This meeting affords a convenient opportunity for us to remedy the situation and I venture to submit for the consideration of the Commission two points calling for our attention.

1. Subcommittee A has considered the effects of political and economic factors on the questions referred to it for technical, military, naval or air advice although both economic and political are reserved for other bodies.

2. In the proceedings of Subcommittee A there has been an effort to limit the views embodied in its reports to majority opinions and in many instances the views of a minority with the majority abstaining. There has been a consequent failure to record in the reports thus far drafted or to prepare for presentation to this Commission the divergent views which have developed. There can be no effective approach to disarmament until all possible methods have been explored. If this Commission is to act in the light of adequate information the advantages and disadvantages of each method should be clearly stated and where no single method is unanimously accepted the divergent views should be submitted in a report to the Preparatory Commission. This would obviate the present tendency to state merely those views which command the greatest number of votes and leave this Commission without knowledge of other views unless those holding them make minority reports.

The American delegation believes that this situation can be remedied and further progress facilitated by specific directions addressed to Subcommittee A to the effect that this Commission desires to receive replies to the questions assigned to that Commission based on expert technical information without regard to political or economic considerations; that if the views of the two delegations are divergent we wish to receive all such views with adequate explanations. Unless some such directions are given I feel apprehensive as to the value of the report which Subcommittee A will eventually draw up as it will not be a purely technical report. And only if we have at our disposal a sound technical report on the various questions which have been referred to Subcommittee A shall we have a safe foundation for taking the next step of considering the various factors of the problem.

In consequence the American delegation proposes that the Preparatory Commission direct Subcommittee A to revise the work thus far done on each question and to present in their replies to all questions the divergent technical views, which should be uninfluenced by political, economic or financial considerations, and should be accom-

panied by a clear statement of the advantages and disadvantages of each view which is set forth.⁵

We are all of us anxious to achieve positive results. The American delegation has consistently kept in mind the practical object for which we are all working, namely, actual agreements for the limitation of armaments. We are all of us in agreement that it is desirable to reach such actual agreements.

The American delegation believes that the acceptance of its proposals will not only tend greatly to expedite the satisfactory conclusion of our labors but will also give us an adequate foundation for the next phase of our work and finally that it will render possible the calling of a further conference or conferences on the limitation and reduction of armaments at a much earlier date than would otherwise be possible but I believe we all realize that we cannot hope to reach such agreements until we have satisfactorily disposed of the task which has been entrusted to us.

GIBSON

500.A15/386: Telegram

The Secretary of State to the Minister in Uruguay (Grant-Smith)

[Paraphrase]

WASHINGTON, *October 2, 1926—1 p.m.*

23. You are probably aware of the fact that Uruguay, not having been reelected to a seat in the Council of the League, has notified the President of the Preparatory Commission that Uruguay has withdrawn from participation in the work of the Commission.

The Uruguayan Minister in Switzerland, Señor Buero, has been the Uruguayan representative on the Preparatory Commission and has served as one of its vice presidents, having been nominated for that position by Gibson. Señor Buero has contributed to the Com-

⁵ In the statement Mr. Gibson made on Sept. 22, this paragraph was replaced by the following:

"In consequence, the American delegation submits the following proposal:

"With regard to the questions or parts of questions which have not so far been answered by Subcommittee A, the Preparatory Commission directs that the former [Sub]commission shall answer those questions on purely technical grounds, uninfluenced by political or economic considerations, and that all divergent views on each question, accompanied by a clear statement of the relative advantages and disadvantages of each, shall be furnished to the Preparatory Commission in its report.

"With regard to the questions already dealt with by Subcommittee A at first reading, the Preparatory Commission directs that the former [Sub]commission at second reading shall revise the answers to those questions in such a manner that these answers shall be prepared on purely technical grounds, uninfluenced by political or economic considerations, and that all divergent views on each question, accompanied by a clear statement of the relative advantages and disadvantages of each, shall be furnished the Preparatory Commission in its report". (File No. 500.A15/375.)

mission's work and has shown a friendly and appreciative attitude toward the United States.

If you see no objection, I wish that you would orally and informally express to Uruguayan Minister for Foreign Affairs this Government's regret that Preparatory Commission will no longer have benefit of cooperation of Uruguay's delegation. You may add that this Government's representation on Preparatory Commission deems loss of Buero as chairman of military subcommittee a most severe one, as, by his ability and personality he has shown himself to be a powerful influence for good in work of committee already accomplished.

I do not wish to make any suggestion which would embarrass the Government of Uruguay, if any strong feeling locally has been aroused by recent happenings at Geneva, but I should like to have you, at your discretion, express as purely personal the hope that cooperation of Government of Uruguay in work toward limitation of armament may again be counted on in future.

You are no doubt informed that membership in the Council or in the League of Nations itself is not necessary for participation in work of the Preparatory Commission. Germany was represented on the Commission before she had become a member of the League, and Spain is continuing her representation on the Commission since her resignation from the League. Our participation, of course, does not in any way involve political relations with the League of Nations.

KELLOGG

500.A15/391 : Telegram

The Minister in Uruguay (Grant-Smith) to the Secretary of State

MONTEVIDEO, October 7, 1926—7 p. m.

[Received 8:30 p. m.]

53. Your telegram number 23, October 2, 1 p. m. The Minister for Foreign Affairs informed me today that Uruguay will be represented at the next meeting of the Preliminary [*sic*] Disarmament Commission, possibly by Guani.⁶

GRANT-SMITH

500.A15/421 : Telegram

The Consul at Geneva (Tuck) to the Secretary of State

GENEVA, December 9, 1926—noon.

[Received December 9—10 a. m.]

Council on December 7th adopted resolution contained in report by Beneš on Preparatory Commission for Disarmament Conference

⁶Alberto Guani. On Oct. 9 Mr. Grant-Smith reported Uruguay's withdrawal from the Preparatory Commission.

whereby Preparatory Commission is requested to submit proposals with regard to the moment on which it would be possible to convene Disarmament Conference, due allowance being made for probable progress of its work, and to draw up the agenda of the Conference.⁷

TUCK

**DISCONTINUANCE OF THE OFFICE OF AMERICAN UNOFFICIAL
OBSERVER, REPARATION COMMISSION**

462.00 R 29/4046a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, April 10, 1926—2 p. m.

90. H-41 for Hill.⁸ The Department intends to discontinue the maintenance of an independent office for the American Unofficial Observer, Reparation Commission, on May 31, 1926. This action is for reasons of economy as well as because of the progress made in disposing of questions touching American interest in the reparation problem, and also in view of the reorganization of the Reparation Commission. The Department intends to designate a member of the Embassy staff to attend the meetings of the Commission after May 31, 1926, and in general to take over duties which the Unofficial Observer has performed.

The change described above would involve return of Mr. Hill to the Department as soon as practicable after May 31. Mr. Edwin C. Wilson, First Secretary of Embassy, has been assigned to the Embassy in France. Mr. Wilson has been familiarizing himself in the Department with pending reparation questions. Department intends to charge Mr. Wilson with special duty, under direction of the Ambassador, of attending to matters regarding reparation. He expects to reach Paris about first of May, thus having about a month in which to familiarize himself, on the ground, with condition of matters now pending, in consultation with Mr. Hill. If arrangement be carried out, the Department would expect Mr. Wilson to give preferential attention to reparation matters.

The Department wishes Mr. Hill to make every effort to have pending questions disposed of before May 31, as far as possible. The Department will endeavor to aid in this action by forwarding promptly any additional instructions Mr. Hill may require.

⁷ The resolution was adopted on Dec. 8. See *Documents of the Preparatory Commission*, Series III, pp. 30-32.

⁸ Ralph Waldo Snowden Hill, American unofficial observer on the Reparation Commission.

The Secretary will welcome any suggestion and comment that either the Ambassador or Mr. Hill may care to submit in regard to the matter. Also please telegraph recommendations as to physical arrangements and personnel, and whether it would be feasible to incorporate in Embassy offices a section with necessary personnel and space for attending to reparation matters.

KELLOGG

462.00 R 29/4047 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, April 22, 1926—3 p. m.

[Received 7:25 p. m.⁹]

155. H-92 from Hill. Department's telegram No. 90 (H-41), April 10, 2 p. m. In view of Department's request for comments, I venture to make the following:

(1) If change proposed be made May 31 it would arouse considerable comment and would create unfavorable impression regarding intent and purpose of the United States with the repercussion here that would follow. Such a change could not fail to focus attention upon itself as at the time selected there will be no other overt change in Reparation Commission to distract much attention, but merely the automatic dissolution of the Permanent Managing Committee, whose duties will be reabsorbed by the Reparation Commission, where they rested originally.

Up to September 1, 1926, all assistant delegates who formed the Permanent Managing Committee will remain here in Paris and will continue to sit at meetings which will be meetings of the Commission, instead of the Committee, not, in the eyes of the public, a great distinction. If the delegates are present, the assistants will sit as assistants; if the delegates are absent the assistants will sit in their places. While the reorganization provides that the Reparation Commission meet at least once monthly, it is contemplated that at outset at least it will meet very frequently, possibly as often as the Permanent Managing Committee has met. Expectation is that principal delegates will often be absent and that assistant delegates will take their places. It was in accordance with this expectation that Barthou,¹⁰ who lives in Paris, stated that until September 1 he would not sit if all the principal delegates were absent at any meeting, but that instead he would leave his assistant delegate, Mauclère, to preside.

⁹ Telegram in five sections.

¹⁰ Louis Barthou, French delegate and chairman of the Reparation Commission.

No overt change will take place until September 1, when certain of the assistant delegates will retire. In case of Mauclère, retirement will be permanent. Mr. Gutt, the Belgian assistant delegate, will cease to reside in Paris but will attend meetings. The secretary of the Belgian delegation will handle current matters but will not sit on the Commission. The British and Italian assistant delegates will remain in Paris, because of distance and inconvenience of traveling to and from their countries; each of these delegations will give up its general secretary instead.

If Department wishes to make the change it contemplates, it would create much less comment, in my opinion, if it were made next September, as attention would then be diverted by Mauclère's retirement and the other changes; the spotlight would not be directed upon this delegation as it would be if the change were made May 31.

(2) Apart from unfavorable effect such change would have here if made at this time, I have other grounds for thinking it would be premature. Many matters of interest to the United States, it is true, have been adjusted. There remain, however, quite a number of important matters, some of which I doubt could be settled by the end of May. Furthermore, new questions constantly arise which, in greater or less degree, must and will affect the interests of the United States, such as the recent Finnish decisions which attribute certain payments to the Dawes annuities which heretofore had been considered as outside those annuities.

The following list, which is not all inclusive, comprises outstanding matters which need adjustment and regarding which, in my opinion, someone should be here on the ground who has not only a legal appreciation of points involved but who has also fullest possible knowledge of the background:

- (1) Arrangement of army costs^{10a} and costs of Commission for the third annuity;
- (2) General adjustments incidental to the third annuity;
- (3) Adjustment with Reparation Commission of any arrangement made with Germany for obtaining share of the United States in the Dawes annuities;¹¹
- (4) Arrangements for obtaining payments on account of claims of the United States against Austria and Hungary;¹²
- (5) Adjustments which have to be made because of arbitral decisions attributing charges, such as Polish social insurance, against annuities;
- (6) The D. A. P. G. tankers case.¹³

^{10a} See vol. II, pp. 156 ff.

¹¹ See *Foreign Relations*, 1925, vol. II, pp. 133 ff.

¹² See *ibid.*, 1924, vol. I, pp. 142 ff.

¹³ See vol. II, pp. 166 ff.

No date for meeting of tanker tribunal has been fixed and it has not been possible for the other two arbitrators to get the umpire, who is busy on other matters, to fix time when he can come. It is, I think, very important that someone who is familiar with the law and the facts in this case should be on hand to lend assistance when the arbitrators sit.

(3) The Department furnishes no personnel to the Unofficial Observer except two stenographers. They have never been a staff adequate to run the office, and ever since our association with the Reparation Commission it has been the practice for that body to furnish us additional assistants. I doubt that Department would wish to accept assistants from the Commission if the proposed change be made. It would be necessary, therefore, to take over at least one of this personnel, an American who has acted as secretary for both my predecessor (Colonel Logan) and me, and who has been here for many years. He is most competent and thoroughly informed and I do not believe the work of this office could be carried on satisfactorily without him. He more than earns the \$300 a month which the Reparation Commission pays out of an allotment running to September 1, 1926. It does not seem probable that the economy would be so great as the Department thinks; at the most the saving would not be more than \$400 a month. I doubt that this amount would make up for the disadvantages of a change at this time.

I personally believe it to be advisable to continue the office in its present form but there is no insurmountable difficulty to its being embodied ultimately in the Embassy, providing that the change is delayed as I have already indicated. If the work is entrusted to someone in the Embassy, however, I think it very important that the identity of the American Observer should be maintained at least vis-à-vis the Reparation Commission. Hill.

HERRICK

462.00 R 29/4048 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

PARIS, April 23, 1926—4 p.m.

[Received 5:15 p.m.]

156. Department's No. 90, April 10, 2 p.m., and my No. 155 (H-92), April 22, 3 p.m. Mr. Hill gave you his comments on the technical side of the question; I can only add that at present time there is no space available in the chancery for a reparations section.

Division (1) of Mr. Hill's telegram presents an important political aspect. In present state of European opinion it would be most

unfortunate were the United States to make any move just now which could be taken as a lessening of our interest in European affairs. The question of the "safety clause" in debt settlement with France¹⁴ is being given much attention in the press and I greatly fear that any change in our relations with the Reparation Commission might be linked up with it and hostile criticism aroused. For foregoing reasons I strongly support suggestion that any change should be held back, at any rate until September.

HERRICK

462.00 R 29/4048 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, June 7, 1926—7 p.m.

165. H-56 for Hill. Department's No. 90, April 10, 2 p.m., Hill's H-92, April 22, 3 p.m., and the Embassy's No. 156, April 23, 4 p.m. Mr. Wilson will sail for France on June 9. The Department wishes him to work closely with Hill in order to familiarize himself thoroughly with reparation matters; it is desired that for the present he give them his preferential attention. Department also desires that Hill, if he sees no objection, make arrangements he may deem proper to have Wilson attend reparation meetings.

Department does not intend to instruct Hill to return to the Department before September 1, 1926. Definite instructions in that matter will be sent later.

KELLOGG

462.00 R 29/4124a : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, December 18, 1926—7 p.m.

332. H-108 for Hill. Department's telegram No. 90 (H-41), April 10, 2 p.m. Department wishes Hill to be prepared to turn over to Embassy the handling of reparation matters and his files as of January 31, 1927, and that he report to Department subsequent to that date. Allotment will be made for the salary of the secretary referred to in his H-92 (your 155, April 22, 3 p.m.), division (3), and if necessary for one stenographer. He will receive other instructions later.

KELLOGG

¹⁴ See vol. II, pp. 91 ff.

462.00 R 29/4138 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

PARIS, February 1, 1927—2 p.m.

[Received February 1—9:13 a.m.]

42. Reparation 1. Wilson has taken over reparation work from Hill as of today.¹⁵

HERRICK

PROPOSED DISPOSITION OF PROPERTY HELD BY THE ALIEN
PROPERTY CUSTODIAN¹⁶

763.72113 Mills Bill/75

The Secretary of State to the Secretary of the Treasury (Mellon)

WASHINGTON, December 12, 1925.

MY DEAR MR. SECRETARY: Since the Treasury plan for the return of German property now held by the Alien Property Custodian was published¹⁷ the Austrian Minister called to the attention of Mr. Castle that in some parts of the plan as published German and Austrian property were spoken of and in other parts merely German property. He was afraid there might be some misunderstanding.

The Hungarian Minister also telephoned to Mr. Castle in some agitation and asked whether this Department could not bring to the attention of the Treasury that Hungarian property was in no way mentioned. I do not know, of course, whether this was an oversight or intentional, but should suppose that the property of the nationals of the three countries would be treated in the same way.

I should be very glad if you would let me know what I may say to the Austrian and Hungarian Ministers.

I am [etc.]

FRANK B. KELLOGG

462.11 W 892/663

Memorandum by the Assistant Secretary of State (Olds)

[WASHINGTON,] February 3, 1926.

The German Ambassador came in this afternoon at my invitation and I discussed with him the possibility of reaching some general agreement for the final disposition of all outstanding claims of a

¹⁵ The transfer of the office to the Embassy was effected February 28.

¹⁶ For that portion of Executive Order No. 2729-A of Oct. 12, 1917, relating to the appointment and functions of the Alien Property Custodian, see *Foreign Relations*, 1918, supp. 2, p. 263.

¹⁷ On Dec. 10, 1925, a statement by the Treasury Department was released for publication setting forth a plan for disposing of the property held by the Alien Property Custodian and the payments of the awards of the Mixed Claims Commission, United States and Germany. This plan, with some modifications, was introduced into Congress on Mar. 29, 1926, as H. R. 10820, 69th Cong., 1st sess., and is commonly referred to as the "Mills Bill."

pecuniary nature against Germany. I pointed out that in the first place there is a certain amount of unfinished business pending before the Mixed Claims Commission.¹⁹ This includes certain claims known as the sabotage claims. A second large class of claims is those pending in the Department which have never been sent to the Mixed Claims Commission because they were filed subsequent to the date fixed by the Executive Agreement, and, therefore, do not fall within the jurisdiction of the Commission as it is defined at present.

I suggested the desirability of making some arrangement for prompt disposition of both classes of claims. With respect to the claims already before the Commission, the only complication arises from the Black Tom and other cases known as the sabotage claims. For obvious reasons it would be embarrassing to have these cases go to trial, and I expressed the hope that a way might be found to settle them without trial.

With respect to the claims which were filed too late for presentation to the Commission under the Executive Agreement, I pointed out that these claims were apparently not barred by the provisions of the treaty and that there is considerable doubt as to whether they could be effectually barred by an executive agreement not ratified by the Senate.

In conclusion I asked the Ambassador whether he had seen a draft of a proposed agreement on this whole subject which had been prepared, and as I understood it, approved by the American and German Agents.

The Ambassador seemed to be entirely familiar with the situation. He first dealt with the sabotage claims, stating that whatever else Germany may have been responsible for in the way of violations of neutrality prior to our entrance into the war, she was not responsible for these particular claims. He was prepared to admit that a trial of these sabotage cases would be unfortunate. Nevertheless, he was advised by his Government that it was ready to prove absolutely that Germany was not responsible, and he was sure that his Government would not entertain any suggestion by which Germany would be called upon, even by implication, to admit liability. I inquired whether it might not be possible to include the sabotage claims with the late claims and others in an omnibus award. The Ambassador finally agreed that this would be worth considering.

Passing to the late claims, the Ambassador insisted that they were barred by the Executive Agreement and that if Germany was to admit them now she ought to have some compensation. This brought us to the real point of the discussion. According to the Ambassador, Germany will make no agreement covering the late claims or the sabotage

¹⁹ Set up under the agreement of Aug. 10, 1922, between the United States and Germany; see *Foreign Relations, 1922*, vol. II, pp. 240 ff.

claims or anything else which is not contingent upon the return of the alien property fund to its German owners. The Ambassador was emphatic on this subject. He said he would be willing, of course, to put up any proposal that might be made, but he was perfectly sure that an unconditional agreement covering the American claims would have absolutely no chance of approval by his Government.

R[OBERT] E. O[LDS]

462.11 W 892/672

Memorandum by the Assistant Secretary of State (Olds)

[WASHINGTON,] *February 4, 1926.*

The German Ambassador came in again this afternoon at my request and I informed him that after consideration we had concluded not to enter into a conditional agreement on the subject of claims. In other words, we were not disposed to make an agreement contingent upon the action of Congress authorizing the return of the German property in the hands of the Alien Property Custodian. The Ambassador expressed disappointment and stated that our position created a deadlock. He said he understood that the Mellon plan²⁰ could not be presented and acted upon so long as the claims against Germany remained unadjusted. I endeavored to explain again to the Ambassador that in our view all of the claims under consideration were proper to be presented under the treaty, and that the so-called late claims could not be regarded as barred by the exchange of notes made when the Mixed Claims Commission was set up under the treaty. The only way eventually to bar claims is by amendment to the treaty and that has not been done. The German Government, according to the Ambassador, frankly declines to accept this view.

R[OBERT] E. O[LDS]

763.72113 Mills Bill/4

The Under Secretary of the Treasury (Winston) to the Assistant Secretary of State (Olds)

WASHINGTON, *March 17, 1926.*

DEAR MR. OLDS: I have your letter of March 16th²¹ with reference to the conversation of Mr. Prochnik, the Austrian Minister, with your Department. In preparing comprehensive legislation for settling the questions existing between Germany, its nationals, the United States and the American mixed claimants, I found it impracticable to cover in the same bill the return of the Austrian and Hungarian property.

²⁰ i. e., the Mills Bill.

²¹ Not printed.

It is the desire of the Treasury that one bill settle all war questions between the two countries and their nationals. We could do this in the case of Germany because the Mixed Claims Commission for the determination of American claims has been set up, the claims have been filed, the limitation for filing of claims has passed, most of the claims have been adjudicated, and it is possible to obtain an accurate estimate of the total amount of awards and thus fix the probable immediate liabilities of the Treasury with respect to advancing the cash to pay the awards. In the Austrian and Hungarian cases a Commission, I understand, has been set up quite recently and claims are being filed, but the period of limitation for the filing of claims has not run, and it is impossible to estimate, therefore, the total amount of claims which will be presented. It follows necessarily that no satisfactory estimate can be made of the probable amount of awards. Germany has made an arrangement for providing cash to be applied towards the payment of awards. No such arrangement has been set up by the Austrian or Hungarian Governments. The Treasury felt that it could not very well ask Congress to commit the Treasury to liabilities the amount of which could not now be estimated and the means of meeting which were not provided.

It seems to me that the considerations I have mentioned above clearly differentiate the German from the Austrian and Hungarian situations. If Congress, however, should adopt the policy along the lines indicated by our proposed bill in the case of Germany, it seems to me that this same policy logically ought to be extended to the Austrian and Hungarian situations when at some later period their liabilities for mixed claims and the means of payment therefor have been definitely established. I feel sure that the Treasury would be glad to make a statement along this line when the bill affecting the German questions is presented.

Very truly yours,

GARRARD B. WINSTON

763.72113 Mills Bill/13

The Secretary of State to the Minister in Austria (Washburn)

No. 438

WASHINGTON, *March 19, 1926.*

SIR: The Austrian Minister called at the Department on March 15, 1926, to discuss the question of the return of Austrian property now held by the Alien Property Custodian. He began by referring to the numerous Bills which have, from time to time, been introduced in the Senate and in the House of Representatives looking to the return of alien property. He pointed out that although all previous Bills which had been introduced in Congress for the return of alien property made no discrimination among German, Austrian and

Hungarian property, he had reason to believe that the so-called "Treasury Bill", which the press reports is to be introduced this week, applies only to German property, on the theory that it is in a special position, on account of the Dawes Plan,²² which provides a means of reimbursement of the United States to the extent of Germany's capacity to pay. The Austrian Minister said that it was his understanding that Austria had been omitted from the Treasury Bill because, first, the 20 year moratorium and, second, because the Austro-American Claims Commission²³ had not yet concluded its labors, in fact, had hardly begun them.

Mr. Prochnik went on to say that he did not question the wisdom of the Treasury's point of view, but wished to point out that he had been advised several times recently by his Government that, if no mention were made of Austrian property in the proposed legislation and if, so far as this legislation went, it could be assumed in Vienna that the Austrian property would be held indefinitely, a serious financial panic would occur. He said that personally he saw no reason why there should be a panic, but his advices from Vienna were insistent on this point. He did not ask that the Austrian property be returned out of hand, nor did his Government actually expect this; his Government and he merely hoped that it would be possible to include in the Bill a statement to the effect that when the Austrian Government had made arrangements suitable to this Government for the discharge of its financial obligations arising out of the war, that the Austrian property would be returned. He said that such a provision would avoid a panic in Vienna.

Mr. Prochnik said that he had frequently proposed to his Government the following plans:

(1) That the whole of the Austrian debt to the United States, the relief credits as well as the awards of the Claims Commission, be immediately funded under a sixty-two year agreement. This, he said, would, of course, presumably require the consent of the League of Nations and similar funding agreements with the other nations which had participated in furnishing relief funds and had granted a moratorium.

(2) If the above were found impracticable, that the awards of the Claims Commission be funded as soon as they were given and that a binding agreement be entered into immediately by the Austrian Government, looking to such funding and providing a funding scheme.

The Minister said that he had not received authorization from his Government to make either proposition to this Government and that

²² See *Foreign Relations*, 1924, vol. II, pp. 1 ff.

²³ Established under the terms of the agreement of Nov. 26, 1924, between the United States, Austria, and Hungary; see *ibid.*, vol. I, pp. 142 ff.

he was in some embarrassment to know whether, if his Government agreed, the United States would be willing to discuss either of the above plans. He was afraid that the United States might say that it would not discuss the relief credits until the moratorium had expired and that he, Prochnik, would be in the embarrassing position of having proposed a plan to his Government which proved entirely unacceptable to the United States.

Mr. Prochnik's views were brought to the attention of the Treasury Department, which has commented thereon in a letter dated March 17, 1926, a copy of which is transmitted herewith, for your information.²⁴ You will especially note the statement made in the final sentence of Mr. Winston's letter.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

763.72113 Mills Bill/15

The Chief of the Division of Western European Affairs (Castle) to the Under Secretary of State (Grew)

[WASHINGTON,] *March 22, 1926.*

Memorandum of conversation between the German Ambassador and Mr. Castle on Saturday, March 20, 1926.

MR. GREW: The German Ambassador came in to say that he thought the Mellon Bill, which was to be presented shortly to Congress for the settlement of American claims and the return of alien property, had been greatly improved since he talked about it in the Department with Mr. Olds and with me some time ago.²⁵ He said that he felt the new wording as to payment of late claims rather covered the point which he had made before, that the Germans would not agree to have these claims considered unless the Bill went through. In other words, that their promise must be conditional. He said that the way the Bill was worded now practically covered his objections. He left with me an informal memorandum, attached hereto,²⁶ which memorandum was drawn up to point out the few objections the Germans have left as to the settlement. Maltzan reiterated his belief in the exceeding importance of getting this Bill through promptly because all Germany had received with acclaim the belief that America was going to settle matters promptly and he felt that if now the Bill should not go through, the present friendly feeling toward America would rapidly change to a strong dislike. For another reason he said it was exceed-

²⁴ *Supra.*

²⁵ See memorandum by the Assistant Secretary of State, Feb. 4, p. 127.

²⁶ Not printed.

ingly important and this was that Germany, intending to keep up the Dawes annuities, was in the middle of a bad financial crisis and could not sufficiently export because of lack of capital in the hands of manufacturers. He said that if this money now held by the Alien Property Custodian were turned over it would immediately be expended in the United States for copper and cotton, which would be in Germany manufactured for export to Russia and that from these Russian exports Germany would receive money to pay the Dawes annuities. I made very little comment on what he had to say.

W[ILLIAM] R. C[ASTLE,] Jr.

763.72113 Mills Bill/11

The Austrian Minister (Prochnik) to the Secretary of State

No. 838/70

WASHINGTON, April 2, 1926.

YOUR EXCELLENCY: According to a formal statement made public by the U. S. Treasury Department on March 30th, the enactment of legislation providing for prompt settlement of the awards under the German-American Mixed Claims Commission, and the restoration of the sequestered property of German nationals now in the hands of the Alien Property Custodian has been recommended by the said Department to Congress and a bill embodying this plan has been introduced in the House of Representatives by Representative Mills of New York.

Although the work of the said Commission has as yet not been concluded, the amount of the awards is estimated by the Treasury at between \$180,000,000 and \$190,000,000 (plus about \$60,000,000 in interest) and the bill provides that interest earned on seized enemy (not merely German) property prior to March 4th, 1923, and deposited by the Alien Property Custodian in the U. S. Treasury (i. e. 30,000,000 Dollars) shall be retained and applied towards payment of the awards of the Mixed Claims Commission. Besides, the Treasury is to be authorized to borrow enough additional money to make all the payments under the proposed bill.

The bill further provides that all receipts by the United States from Germany on account of the Dawes annuities and in repayment of Army Costs²⁷ shall be applied for the retirement of the debt thus created by the United States for the payments required by the bill.

Now, it appears to me that in stipulating to apply the 30 Million Dollars mentioned above (the earnings made by the Treasury out of money of the Alien Property Custodian on deposit with it prior to

²⁷ See Finance Ministers' Agreement of Jan. 14, 1925, *Foreign Relations*, 1925, vol. II, pp. 145 ff.

the Winslow act ²⁸) towards the payment of awards against Germany, the proposed bill inflicts grave injustice to Austrian nationals as there is hardly any doubt that this sum of 30 Million Dollars also includes interest derived from private property seized from Austrian nationals.

Of course, I am well aware that property rights in regard to interest accrued on seized enemy property prior to March 4th, 1923, i. e. the aforementioned 30 Million Dollars, have been transferred to the United States by the Winslow act and the original owners have been deprived of the means of legally claiming this money.

Moral considerations, however, which according to the United States Treasury's own statement have led [it] to prepare the bill introduced by Representative Mills, also seem to have played their part in the stipulation to apply the money earned on seized property prior to the coming into force of the Winslow Act as part payment of the awards of the German-American Mixed Claims Commission and thus returning, if indirectly, seized German property in easing the burden placed on the German nation by the awards.

Yet, no provision seems to have been made to equally protect Austrian interest and to concede, as in the case of Germany, moral claims which Austrian nationals may have to the share in the 30 Million Dollars interest, derived from their rightful property.

May I, in addition, point out to Your Excellency certain features in the development of the subject in question, which cannot fail but deepen the depression effected on the Austrian public sentiment by the introduction of the Mills bill.

Before the enactment of the Winslow bill, there was some inclination in Congress to differentiate between Austrian and German property on the ground that, contrary to Germany, Austria had refrained from applying extraordinary war measures against American nationals, leaving them in free control of their property and business interest. This exceptional attitude maintained during the war by the Austrian Government, the comparatively small amount of seized Austrian property and the most desperate financial and economic situation of the said country had the effect that a special resolution authorizing immediate return of Austrian property was taken into consideration.

The Department of State at that time did not approve, however, a discrimination and accordingly advised Congress that legislative measures of a discriminating character may embarrass the Govern-

²⁸ H. R. 14222, introduced by Samuel E. Winslow, a Representative from Massachusetts; see 42 Stat. (pt. 1) 1511, "An Act To Amend the Trading With the Enemy Act."

ment of the United States and unfavorably act on German public opinion.²⁹

The subsequent passage of the Winslow bill shattered the hopes of the Austrians that some preference might be shown them in recognition of the treatment accorded to American nationals during the war and they slowly had to be reconciled to the idea that there could be no return of their property prior to the release of assets held by the Alien Property Custodian in the name of German owners, as the problem concerning the enemy property must be dealt with simultaneously. But a continuous retention of Austrian after the release of German property was never seen within the scope of possibility and therefore the introduction of the Mills bill in its present shape dealt a heavy blow on the expectations of the Austrian people, who in their hard struggle for economic recovery are welcoming every encouraging offer by the outer world.

There are two reasons given in the statement of the Treasury Department for the failure of including Austrian property in the present bill, viz:

1. While a commission has been constituted in the case of Austria and claims are being received, the period of limitation for filing claims has not run, and no estimate can be made of the total amount of claims which will be presented or the probable amount of awards thereunder.

2. In addition, the Dawes plan provides for payments by Germany to the United States on account of the awards, but there is no like arrangement for payment by Austria.

As strong as these two reasons may appear in a purely technical light, they seem to lose their force of conviction under the following deliberations:

It is true that American claims against Austria have as yet not been awarded and that their total amount could therefore not be determined at the present state of affairs. It is equally true that in the case of Germany the term for filing claims has expired while it has just begun for Austria. But on the other hand the organization of the Tripartite Claims Commission experienced such an unusual delay that most of the claims against Austria had been presented at the Department of State before the beginning of its functions, which is born out by the fact that only comparatively few additional claims have been filed since the commission has been constituted. From the number, extent and nature of the claims filed and from the precedence, established in the German-American procedure, some conclusion could be arrived at. It may be stated with reasonable safety that the final extent of

²⁹ Presumably the Minister is referring to the letter of the Secretary of State, Oct. 26, 1922, to Mr. Winslow, printed in *Congressional Record*, vol. 64, p. 5311.

Austrian liabilities arising from the aforementioned sources will be so insignificant as compared with the large sums involved in the seized property that it hardly can have any influence or bearing on the financial plans and transactions to be adopted by the Treasury after enactment of the Mills bill. In fact, the Austrian liabilities will in all probability comprise a total which may be safely termed a "negligible quantity" in the round sums submitted to Congress by the Treasury Department, smaller even than the amount of the still unawarded German claims, which has not been considered large enough to warrant a postponement of the return of German property.

As to the second reason I beg to recall Your Excellency's attention to the first part of my note which deals with the 30 Million Dollars of earnings from deposits made by the Alien property Custodian with the Treasury. I am confident that a careful computation of the earnings derived from Austrian property will reveal an amount which in the future will cover a large, if not the larger portion of the total of claims to be awarded in due course to American nationals by the Tripartite Claims Commission.

There is every reason to believe that this amount will more favorably compare with the final total of Austrian liabilities than the remainder of the 30 Million Dollars together with the Dawes annuities do compare with the total of German liabilities. As to the residue of the awards not covered by these earnings derived from seized Austrian property, I can assure Your Excellency the willingness of the Austrian Government to negotiate for a fair and suitable adjustment.

Reverting to the Dawes annuities I may venture the remark that from the statement issued by the Treasury Department, the impression might perhaps be gained that Germany, contrary to Austria, had made special provisions for the retirement of the money to be advanced by the United States for the payment of the awards, while in fact this obligation was assumed with no regard to the Commission's future awards against Germany. Moreover, the Dawes annuities do not represent a payment already effected but a promise for future redemption. (The afore indicated readiness of the Austrian Government to negotiate for a suitable adjustment may be recalled in this connection.) This very liberal concession made by the United States in favor of Germany emboldens me to appeal for an attitude of like generosity towards Austria.

In summing up my arguments, I pray Your Excellency to kindly weigh the following facts:

There is Austrian private property in trust with the Alien Property Custodian, which is of such a small amount that it can have no bearing whatsoever on the financial interests of the American people. This property, however, as small as it may be, means everything at present to the Austrian owners, as it would materially help them in their

efforts to revive private business in Austria, now the most essential requisite for the country's rehabilitation, if not all the progress obtained during the last three years in the successful reconstruction of the public household and stabilization of the currency shall be lost again. Furthermore, this property is held for technical reasons, to insure the payment of American claims, which in all probability will be only a portion of the small amount retained by the Alien Property Custodian and which to a large extent is already covered, when (as proposed in the German case) the earnings from deposits of Austrian property will equally be credited to the payment of Austrian liabilities. Your Excellency, I am sure, will reach the conclusion that there is a justified reason to waive in this particular instance technical considerations and to seek a way which may include the return of Austrian property in this present bill.

The Austrian Government would highly appreciate an indorsement by Your Excellency of the Austrian standpoint in this matter, and I am hopeful that with such an indorsement Congress will hardly deny to the Austrian nationals the relief sought in the immediate release of Austrian property, provided it favorably acts on the principle of the Mills bill.

Accept [etc.]

EDGAR PROCHNIK

763.72113 Mills Bill/19

*The Chief of the Division of Western European Affairs (Castle)
to the Assistant Secretary of State (Olds)*

[WASHINGTON,] April 3, 1926.

MR. OLDS: Doctor Dieckhoff³⁰ came to see me at my request this morning in the matter of the possible German taxation of property which might be returned to German owners if the bill introduced by Representative Mills goes through Congress.

I told Doctor Dieckhoff that this was, of course, a Treasury Bill and that the Department of State was taking no active part in the matter. I said, however, that certain questions might arise which the Department would be requested to answer. I told him that the eventual return of this property, if made, would be on the theory that private property should not be confiscated and that the idea was to return it to the actual private owners. I said that the question would very probably be asked in the committee as to whether the German Government would levy such special taxes on this returned property as would make it actually pass into the hands of the German Government rather than that of the original owners. Doctor Dieckhoff said at the time the Winslow Bill went through

³⁰ Counselor of the German Embassy.

Doctor Wiedfeldt, then Ambassador, had realized this question might arise and had made a statement to the Department that the German Government would not levy any special taxes. He said that Baron Maltzan, foreseeing the same possibility, had some weeks ago asked his Government and received permission to state categorically that if the property were returned no special taxes would be assessed against it.

Doctor Dieckhoff asked me if we wanted this in the form of a note. I told him that it would not be necessary, but that I should be grateful for a memorandum which could be used if the question arose. This memorandum he promised to send on Monday.

W[ILLIAM] R. C[ASTLE,] Jr.

763.72113 Mills Bill/17

The German Embassy to the Department of State

MEMORANDUM

Referring to today's conversation between Mr. Castle and Mr. Dieckhoff, the German Embassy has the honor to state, in the name of the German Government, that the German private property held by the United States, will, in case of its return to its owners, not be subjected to any kind of special taxation, but will, moreover, enjoy the privileges provided for in paragraph 18 of the German Federal Act of June 4th 1923, of which a translation is annexed hereto.⁸¹

WASHINGTON, D. C., *April 3, 1926.*

763.72113 Mills Bill/69

The Austrian Minister (Prochnik) to the Secretary of State

No. 1505/70

WASHINGTON, *June 8, 1926.*

EXCELLENCY: In my note of April 2nd, 1926, regarding the bill introduced in the House of Representatives by Mr. Mills providing for the payment of the awards of the Mixed Claims Commission and the return of property held by the Alien Property Custodian I had the honor to indicate to Your Excellency the willingness of my Government to negotiate for a fair and suitable settlement of whatever amount the Tripartite Claims Commission adjusting claims of American citizens against the Austrian Government may in its findings charge against the latter.

I have now received specific instructions which will enable me to enter into negotiations with the appropriate branch of the Govern-

⁸¹ Not printed.

ment of the United States aiming at a solution acceptable to both sides, by which Austrian property held by the Alien Property Custodian in security for payment of future awards to be stipulated by the Tripartite Claims Commission may be replaced by another security of equal or even better quality and rate, thus removing the grounds for further retention of the former.

While the Austrian property in trust with the Alien Property Custodian loses a great deal of its value as a security in face of the attitude stoutly maintained by the United States in regard to inviolability of private property, the agreement, I hope to reach, shall provide for more tangible collaterals and actual payment of the final awards of the Tripartite Claims Commission.

As I mentioned in my previous note all our efforts after successful reconstruction of the public finances, are now bent on recovering private economics. Business and production in Austria are at this very period undergoing a severe crisis which could only be overcome with the aid of foreign and domestic capital. In this connection the early release of Austrian private property held in the United States has become a problem of great importance. It is under this pressure of necessity that my Government in spite of the many obstacles of a technical and material nature undertook the rather difficult task of preparing the ground for the negotiations I have the honor to propose to Your Excellency.

Trusting that the United States Government fully realizing Austria's actual situation and need will readily support steps leading towards an early return of Austrian property by an Act of Congress, I have the honor to request Your Excellency to kindly have me advised at Your earliest convenience as to the person or persons, with whom I may take up the matter in question.

Accept [etc.]

EDGAR PROCHNIK

763.72113 Mills Bill/69

The Secretary of State to the Austrian Minister (Prochnik)

WASHINGTON, June 11, 1926.

SIR: I have the honor to acknowledge the receipt of your note of June 8, 1926, stating that you have been instructed by your Government to negotiate with the appropriate branch of the Government of the United States with respect to the release of Austrian property held by the Alien Property Custodian and the substitution thereof of other security for the payment of the awards of the Tripartite Claims Commission.

I have transmitted a copy of your note under acknowledgment to the Secretary of the Treasury, stating that I have suggested to you that you communicate with him with a view to the initiation of direct

discussion of this question between yourself and such representatives of the Treasury Department as he may care to designate.³² You, of course, realize that under existing law no disposition can be made of the Austrian property held by the Alien Property Custodian without specific legislation by the Congress, but as that body would undoubtedly refer any plan of the nature suggested by you to the Treasury Department for examination, it seems appropriate to have the matter considered in the first instance by that Department.

Accept [etc.]

For the Secretary of State:

ROBERT E. OLDS

763.72113 Au 7/2

The Austrian Minister (Prochnik) to the Secretary of State

No. 2556/70

WASHINGTON, November 10, 1926.

EXCELLENCY: With reference to previous correspondence concerning settlement of war claims and return of Austrian property I have the honor to forward to Your Excellency herewith enclosed for your kind information copy of a communication addressed to the Hon. Garrard B. Winston, Undersecretary, Department of the Treasury, under even date.

Accept [etc.]

EDGAR PROCHNIK

[Enclosure]

The Austrian Minister (Prochnik) to the Under Secretary of the Treasury (Winston)

No. 2556/70

[WASHINGTON,] November 10, 1926.

DEAR MR. UNDER SECRETARY: I take the liberty to revert to our conversation of last July concerning settlement of American war claims by the Austrian Government and return of Austrian property now held in trust with the Alien Property Custodian. I explained to you at that time how my Government is anxious to have these two problems separated from one another and to have eliminated the interdependency of cause and effect now existing between them, by offering Austrian Government bonds as a security for the payment of American war claims and by reaching in way of negotiations some agreement with the United States Government as to interest and maturity of the bonds.

Shortly after said discussion I received a letter from you requesting me to furnish you with a more specific description of the nature

³² On June 29, 1926, the Austrian Minister informed the Department that he had conferred with the Under Secretary of the Treasury (file No. 763.72113 Mills Bill/73).

of the bonds my Government intends to issue. In a letter ddo. August 2nd, addressed to you, I expressed the hope that I shall be able to comply with your request in the near future. However, some unforeseen delays and complications interfered with a speedy dispatch of this matter and it is only now that I am in a position to lay before you a complete proposal, carefully planned by my Government in a special Cabinet Council.

I would greatly appreciate an appointment by you of a certain date and hour agreeable to you, when I may lay before you this proposal and discuss it with you in detail.

For your immediate information follows roughly outlined a sketch of the offer made by my Government.

The Austrian Government is ready to turn over to the United States Government, Austrian Government bonds to the extent of the Austrian property held by the Alien Property Custodian. These bonds would serve as a security for the American claims. In case these bonds should exceed the amount of American claims awarded by the Tripartite Claims Commission, the American Government will return to the Austrian Government the portion in surplus of the claims and vice versa, the Austrian Government will issue an adequate amount of additional bonds in case the American claims reach a figure in excess of the Austrian property held by the Alien Property Custodian.

These bonds will, as far as they are covered by American claims, be a charge upon the assets and revenues of the Republic of Austria in the meaning of article 197 of the Treaty of St. Germain,^{22a} second only to the charge of the League of Nations Loan upon the proceeds from the customs and tobacco-monopoly and of the so-called relief-credits. The interest will run from the date whenever a portion of the American claims has been ascertained and awarded. The bonds will pass from such date into the public-debts of Austria and form a part thereof. They will be provided with interest-coupons. They will be issued to bearer, in denominations of \$10,000.00 each. In the wording of the text it will be clearly expressed that they are a portion of the amount due by the Government of the Republic of Austria in satisfaction of the awards rendered by the Tripartite Claims Commission.

The issue of such bonds would be in full agreement with the Austrian laws and the international obligations assumed by the Austrian Government. There is not doubt as to the fact, that the American claims awarded by the Tripartite Claims Commission come under the general lien expressed in articles 197 and 200 of the Treaty of St.

^{22a} William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1910-1923* (Washington, Government Printing Office, 1923), vol. III, pp. 3149, 3216.

Germain, ranging after the lien of the League of Nations loan (which, however, is restricted to specific sources of revenues) and after the general lien of the relief credits. The Austrian Government would not be in a position to furnish special security in addition to the aforementioned general lien provided in articles 197 and 200 of the Peace Treaty, as such a special lien would require the consent of the other allied and associated powers and the reparations commission and open questions of a delicate and intricate nature, which could only be solved under the greatest difficulties if at all.

The bonds will mature at a term to be specified by agreement and beginning from the date when the full amount of American claims has been ascertained. The Austrian Government wishes, however, to reserve its right to redeem the bonds before expiration of the stipulated term of maturity.

Further details as to the text and form of the bonds, rate of interest, maturity a. s. f. we hope to settle by mutual agreement.

Mr. Undersecretary, I am aware of the fact that the calculated extent of Austrian obligations arising from the awards of the Tripartite Claims Commission will have a bearing on the decision of your Government, whether the offer of my Government should be accepted or not. This offer is made regardless of whatever Congress will decide in connection with Austrian property, although we hope that an agreement for the settlement of the American war claims will have a favorable influence upon the deliberations of Congress concerning return of property. Technically, however, we want to divorce these two questions.

Although the work of the Tripartite Claims Commission is not yet near its termination, it has, as I understand, progressed to a point, where the American Agency could give you a safe estimate as to the maximum amount the American claims may total, or at least of the amount which they surely will not exceed. The more the work of the Tripartite Claims Commission progresses the more it becomes evident that this maximum of indebtedness, even by applying a very safe margin, comes closer and closer to the figure I always held out as the ultimate extent of our liabilities arising from war claims. With other words the Austrian obligation from war claims will be a very insignificant sum.

I shall not try to commit myself on the information you may gain from consulting the American Agency, I do want to emphasize, however, again and again the great importance which a favorable consideration by the American Government of our proposal will have on Austrian economics and I may entertain the hope that this fact will have some weight on your decision.

Expecting to hear from you, at your earliest convenience, I beg to renew [etc.]

EDGAR PROCHNIK

462.11 W 892/819a

The Secretary of State to the Chairman of the Committee on Ways and Means of the House of Representatives (Green)

WASHINGTON, December 15, 1926.

MY DEAR MR. GREEN: I received late yesterday afternoon a copy of H. R. 15009 providing "for the settlement of certain claims of American nationals against Germany and of German nationals against the United States, for the ultimate return of all property of German nationals held by the Alien Property Custodian and for the equitable apportionment among all claimants of certain available funds". While I have had no opportunity to examine it in detail I find that its provisions are not such as to remove the apprehensions which I outlined to you in our conference on November 30, 1926.

The bill appears to provide for the utilization in the first instance for the payment of certain awards of the Mixed Claims Commission, United States and Germany, of the following sums, among others:

(1) \$25,000,000 from the unallocated interest fund consisting of interest earned prior to March 4, 1923 on cash deposited in the Treasury by the Alien Property Custodian.

(2) Not more than \$50,000,000 representing 50 per cent of the appropriations to be made by Congress to pay the claims of the former owners of the German ships, radio stations and patents seized by the United States.

(3) 20 per cent of the ex-enemy property or its proceeds still held by the United States.

It appears that participation certificates repayable out of future receipts by the United States under the Paris Agreement of January 14, 1925,^{32b} would be issued in exchange for the sums thus utilized and that interest at 5 per cent, also payable out of such future receipts, would be allowed on awards of the Mixed Claims Commission until paid and on all but \$25,000,000 of the participation certificates.

As you are aware the United States is under a present obligation imposed not only by Treaty but also by the specific assurances contained in notes dated December 10, 1924 and January 4, 1925 from the American Ambassador at London to the British Government^{32c} to give appropriate credit upon its claims against Germany, for any ships or other property or its proceeds which might be finally retained. I have no assurances from any quarter that the utilization of the ex-enemy property contemplated by H. R. 15009 would not be construed by other interested Governments as a final retention within the meaning of the treaty and the above-mentioned assurances.

^{32b} *Foreign Relations*, 1925, vol. II, p. 145.

^{32c} See Department's telegrams No. 457, Dec. 9, 1924, 10 p. m., and No. 9, Jan. 3, 1925, 7 p. m., to the Ambassador in Great Britain, *ibid.*, 1924, vol. II, pp. 102 and 127.

The present right of the United States to participate in the payments made by Germany pursuant to the Dawes Plan is defined by the Paris Agreement of January 14, 1925. Article 3 of that agreement provides for the payment to the United States "for the purpose of satisfying the awards of the Mixed Claims Commission established in pursuance of the Agreement between the United States and Germany, of August 10th, 1922",^{32d} of "Two and one quarter per cent (2¼%) of all receipts from Germany on account of the Dawes Annuities available for distribution as reparations, provided that the annuity resulting from this percentage shall not in any year exceed the sum of forty-five million gold marks." While it is true that the awards of the Mixed Claims Commission by their terms carry interest at 5 per cent per annum until paid, the question might be raised as to whether, regardless of the provisions of Section 3 (*h*) of the draft bill, the application of this property as proposed would constitute a payment and therefore that the payment of interest on the participation certificates would not be justified.

Regardless of the merits of any contentions which might be advanced in respect of these questions, it is clear that were any dispute or difference of opinion to arise between the United States and the other interested Governments, the provisions of Article 26 of the Paris Agreement would be applicable. The second paragraph of that Article reads as follows:

"Any difference or dispute that may arise with the United States of America regarding the interpretation of this Agreement affecting American claims or the rights of the United States of America under this Agreement shall be referred to an arbitrator to be agreed upon between the United States of America and the Reparation Commission acting unanimously."

It is, of course, impossible to forecast the decision of an arbitrator on these points. There can be no doubt, however, that the position of the United States Government would be most embarrassing if after the enactment of legislation such as that contemplated by H. R. 15009 and the carrying into effect of its provisions a decision adverse to the United States should be rendered in any arbitration proceedings under Article 26, particularly in view of the so-called declaration of policy incorporated in Section 2 of the draft bill.

While the above questions may never be raised, nevertheless their importance is so great that I feel it incumbent upon me to place upon the record the fact that they have been called to the attention of your Committee so that no possible future misunderstanding could lead to the allegation that the Department of State had failed in its duty to inform the Congress in the premises.

I have [etc.]

FRANK B. KELLOGG

^{32d} *Foreign Relations, 1924*, vol. II, p. 262.

763.72113 Au 7/4

*Informal Memorandum Left by the Hungarian Minister (Pelényi)
With the Chief of the Division of Western European Affairs
(Castle)*

WASHINGTON, December 16, 1926.

It has come to my knowledge that the Austrians are planning to ask for the release of the seized Austrian property, and are willing to place at the disposal of the American Government bonds in an amount corresponding to the approximate amount of American claims against Austria.

I have heard further that the Austrian Minister has made protest, in some form or other, against the fact that the bill H. R. 15009, arranging for release of German property, has not included the question of the release of Austrian property.

The question of the return of Austrian and of Hungarian property has so far been considered by the American Government separately from the question of the return of German property, for the reason that while the claims against Germany have practically all been established and the work of the Mixed Claims Commission almost terminated, not even the one year term—within which all claims shall be presented to the Tripartite Claims Commission—has come to a close in the case of Austria and Hungary, and therefore not even the approximate amount of said claims can be estimated.

This distinction made by the American Government appeared perfectly natural and obvious to the Hungarian Government, which as a consequence has never pressed the American Government to release prematurely the seized alien property of Hungarian ownership.

Should the American Government see fit to change its attitude and accept an Austrian proposal for the return of Austrian property before the Tripartite Claims Commission brings its task to a close, it is my personal conviction that the Hungarian Government would still maintain the original attitude of the American Government, which is also its own, to wit: that the question of the return of Hungarian property would have to remain in abeyance till such time as the American claims against Hungary would be definitely established. Only then, and not before, can the two interested Governments deal with the second question as to the form in which claims of American nationals found to be valid could be satisfied and in which Hungarian property held as a pledge for the satisfaction of such American claims could be released.

The Hungarian Government would have to continue in this attitude even in case the American Government should offer to release Hungarian property at an earlier date, under the same conditions under which it might prove willing to release Austrian property. The agree-

ment between the United States and Austria and Hungary, ratified by Hungary on November 5, 1925,^{32e} and establishing what is known as the Tripartite Claims Commission, provides only for the "determining of the amounts to be paid" to American nationals, and obviously leaves for a future date the question as to how claims passed upon by the Commissioner should be satisfied.

This agreement was ratified by the Hungarian Legislative Assembly, by a special act, and was embodied in the laws of Hungary. In connection therewith, the above mentioned viewpoint of the Hungarian Government went on record, to wit: that the question of the satisfaction of American claims could be dealt with only after they will have been found valid and their respective amounts known definitely.

As I have no official information regarding the Austrian proposals, nor do I know the American Government's attitude in regard to same, I can naturally not speak by authority of my Government. However, I believe it is my duty to inform you at this moment, in the course of our conversation, that I do not see how my Government could change its attitude as set forth before.

It certainly does not intend to follow the Austrian lead to press for an early return of seized alien property, and sees no reason to protest in any form whatever against the non-inclusion of Hungarian property in connection with the release of German property.

Hungary has not asked and is not asking for any preferential treatment by the United States.—Thus Hungary did not ask for a moratorium but was among the three first countries to fund its indebtedness to the United States.—Similarly, Hungary is not asking for and does not believe in an earlier release of the seized property of its nationals, but expects to deal with this question when it will logically arise at the termination of the work of the Tripartite Claims Commission.

763.72113 Au 7/7

The Under Secretary of the Treasury (Winston) to the Assistant Secretary of State (Olds)

WASHINGTON, December 23, 1926.

DEAR MR. OLDS: Thank you for your letter of December 21st^{32f} enclosing a memorandum^{32g} showing the position of Hungary on the return of alien property. I have told the Austrian Minister that so far as the Treasury was concerned, it would not recommend any legislation until we received a definite estimate of the probable amount of the awards against Austria. If at that time the estimate showed

^{32e} Signed Nov. 26, 1924; *Foreign Relations*, 1924, vol. I, p. 152.

^{32f} Not printed.

^{32g} *Supra*.

the awards were far less than the amount of property held by the Alien Property Custodian, the Treasury might consider recommending a bill returning at once a part of the alien property and hold the balance until Austria had actually paid the American claims. I would not wish to complicate the present bill now in Congress by bringing Austria into the situation, so I think that my statement to the Austrian Minister will carry this matter over to the next Congress in any event.

Very truly yours,

GARRARD B. WINSTON

**SUBMISSION TO THE SENATE OF THE INTERNATIONAL CONVENTION
RELATING TO THE REGULATION OF AERIAL NAVIGATION, DONE AT
PARIS, OCTOBER 13, 1919**³³

579.6 D 1/221a

The Secretary of State to President Coolidge

WASHINGTON, June 15, 1926.

THE PRESIDENT: The undersigned the Secretary of State has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to its ratification, if his judgment approve thereof, the International Convention Relating to the Regulation of Aerial Navigation with Articles 5 and 34 amended as recommended by the International Commission for Air Navigation in the protocols of amendment approved by the Commission on October 27, 1922 and June 30, 1923, respectively. The protocols of amendments are transmitted with the Convention.

In consequence of two decisions of the Supreme Council of the Paris Peace Conference dated respectively March 12 and March 15, 1919, a Commission designated the Aeronautical Commission was organized to consider the question of regulating international air navigation. The objects of the Commission were stated to be as follows:

1. To study all air questions which might be submitted to it by the Supreme Council of the Conference of the Peace.
2. To study all air questions which the Commission might deem it their duty to submit to the Supreme Council of the Conference of the Peace.
3. To draft a Convention relating to Air Navigation.

The Commission was composed of the following Delegates: Two representatives of each of the principal Powers, United States of America, British Empire, France, Italy and Japan. One representative of each of the following seven Powers with limited interests,

³³ On Jan. 12, 1934, President Roosevelt requested the Senate to return the convention and accompanying papers. The request was granted by the Senate Jan. 15, 1934.

designated by the Supreme Council, namely, Belgium, Brazil, Cuba, Greece, Portugal, Rumania and Serbia, which were to represent all the Powers with limited interests assembled at the Peace Conference.

The United States was represented on the Commission by Admiral Knapp and General Patrick. For the purposes of drafting minutes, of the distribution of work to the Sub-Committees and of the collection of the reports of the Sub-Committees, the Commission appointed a secretariat composed of one secretary and one assistant secretary for each of the five great Powers. The representatives of the United States on the Secretariat of the Commission were Captain Morton and Lieutenant Kiely.

For the purpose of studying air questions on which the Commission presented reports to the Supreme Council of the Peace Conference, the Aeronautical Commission appointed three Sub-Committees. The representatives of the United States on these Sub-Committees were as follows:

Military Sub-Committee

Brigadier-General B. D. Foulois
Captain Luke MacNamee, U. S. N.

Technical Sub-Committee

President: Lieutenant-Colonel Butterfield
Members: Lieutenant-Colonel Butterfield
Lieutenant-Commander J. L. Callan, U. S. N.,
and
Lieutenant Ralph Kiely, U. S. N.

Legal, Commercial and Financial Sub-Committee

Commander Pollock, U. S. N.
Captain Bacon, A. S., U. S. N.
Lieutenant-Commander J. L. Callan, U. S. N.

As a result of the deliberations of the Aeronautical Commission a Convention was prepared and was signed by certain countries on October 13, 1919. The Convention lays down certain rules for the regulation of aircraft engaged in international traffic. Annexes to the Convention prescribe a number of technical rules and regulations regarding the marking of planes, the granting of certificates of airworthiness, qualifications of pilots, signals and other requirements intended to promote safety in international traffic by aircraft. The signature of the Convention was, by its terms, left open until April 12, 1920, and the time was subsequently prolonged until June 1, 1920. According to the records of the Department of State, between October 13, 1919 and June 1, 1920, the Convention was signed on the part of the following countries in addition to the United States: The British Empire, France, Italy, Japan, Belgium, Bolivia, Brazil, China, Cuba, Ecuador, Greece, Guatemala, Panama, Poland, Portugal, Rumania, the Kingdom of the Serbs, Croats and Slovenes, Siam, Czechoslovakia and Uruguay.

I am informed that the Convention, as well as the Additional Protocol of May 1, 1920, to the Convention, went into force on July 11, 1922, the following signatory States having deposited their ratifications: Belgium, Bolivia, The British Empire, France, Greece, Japan, Portugal, Kingdom of the Serbs, Croats and Slovenes, and Siam.

After the Convention as drafted had been thoroughly examined by representatives of the interested Departments of this Government it was decided to authorize Ambassador Wallace to sign the Convention and the Additional Protocol of May 1, 1920, with reservations as indicated below.

Article 3 of the Convention recognizes the right of each of the contracting States, for military reasons or in the interest of public safety, to prohibit the aircraft of the other contracting States under the penalties provided by its legislation and without distinction in this respect between its private aircraft and those of the other contracting States, from flying over certain areas of its territory. It was thought that the United States might desire to make some distinction between its own aircraft and that of other countries and that its private aircraft might conceivably be permitted to fly over areas forbidden to foreign aircraft. Ambassador Wallace was therefore instructed to make the following reservation to Article 3 at the time of signing the Convention:

“The United States expressly reserves, with regard to Article 3, the right to permit its private aircraft to fly over areas over which private aircraft of other contracting States may be forbidden to fly by the laws of the United States, any provision of said Article 3 to the contrary notwithstanding.”

Under Article 36 of the Convention, provisions relating to customs laws and regulations in connection with international air navigation are made the subject of a special agreement contained in Annex H of the Convention. The Treasury Department was consulted regarding this matter before the Convention was signed on behalf of the United States, and it advocated the making of a general reservation against including customs matters in the Convention. Accordingly, the following reservation was made with respect to customs:

“The United States reserves complete freedom of action as to customs matters and does not consider itself bound by the provisions of Annex H or any articles of the Convention affecting the enforcement of its customs laws.”

Article 5 of the Convention, as signed, provides that no contracting State shall, except by a special and temporary authorization, permit the flight above its territory of aircraft which does not possess the nationality of a contracting State.

As to this article a reservation was made at the time of signing to the effect that the United States reserves the right to enter into special treaties, conventions and agreements regarding aerial navigation with any country of the Western Hemisphere not a party to the Convention.

In the Additional Protocol of May 1, 1920 to the Convention it is stated that the High Contracting Parties declare themselves ready to grant, at the request of signatory or adhering States who are concerned, certain derogations to Article 5 of the Convention, but only where they consider the reasons involved worthy of consideration. On the same day that he signed the Convention, namely, May 31, 1920, Ambassador Wallace signed the Additional Protocol of May 1, 1920, and in doing so made the following interpretative reservation:

"The United States signs the above Protocol with the understanding that its construction and enforcement shall in no way derogate from the entire freedom of the United States to negotiate with non-contracting States of the Western Hemisphere as regards the regulation and control of aerial navigation as set forth in the Third Reservation of the United States to the Convention."

Article 34 provides for an International Commission for Air Navigation clothed with certain executive and administrative functions and charged with the duty, among others, of receiving proposals from and making proposals to the contracting states for modification or amendment of the provisions of the Convention; the collection and dissemination among the contracting parties of information concerning air navigation, wireless telegraphy, meteorology and medical science which may be of interest to air navigation, and the making of modifications in the annexes to the Convention, etc.

The Commission at a meeting held in London in October, 1922, recommended an amendment of Article 5 of the Convention, which if adopted would allow a contracting State under certain conditions to enter into special conventions with non-contracting States permitting the aircraft of the latter to fly over territory of the contracting State. The article if amended as recommended would read as follows:

"No contracting State shall, except by a special and temporary authorization, permit the flight above its territory of an aircraft which does not possess the nationality of a contracting State, unless it has concluded a special convention with the State in which the aircraft is registered. The stipulations of such special convention must not infringe the rights of the contracting parties to the present Convention and must conform to the rules laid down by the said Convention and its annexes. Such special convention shall be communicated to the International Commission for Air Navigation which will bring it to the knowledge of the other contracting States."

At a later meeting held in London in June 1923, the Commission proposed amendments to certain provisions of Article 34 of the Convention. These proposed amendments if adopted would effect certain modifications with respect to the procedure under which the representatives of the contracting States on the International Commission for Air Navigation would be permitted to cast their votes on questions coming under the jurisdiction of the Commission, and change the method of allocating the expenses of organization and operation of the Commission among the States represented thereon. The parts to be replaced, as well as the provisions to be substituted therefor, are as follows, the latter being indicated in the paragraphs underlined: ^{33a}

I. "Each of the five States first-named (Great Britain, the British Dominions and India counting for this purpose as one State) shall have the least whole number of votes which, when multiplied by five, will give a product exceeding by at least one vote the total number of the votes of all the other contracting States.

"All the States other than the five first named shall each have one vote. . . ."

"Each State represented on the Commission (Great Britain, the British Dominions and India counting for this purpose as one State) shall have one vote."

II. "Any modification of the provisions of any one of the Annexes may be made by the International Commission for Air Navigation when such modification shall have been approved by three-fourths of the total possible votes which could be cast if all the States were represented and shall become effective from the time when it shall have been notified by the International Commission for Air Navigation to all the contracting States." *

"Any modification of the provisions of any one of the Annexes may be made by the International Commission for Air Navigation when such modification shall have been approved by three-fourths of the total possible votes which could be cast if all the States were represented: this majority must, moreover, include at least three of the five following States: the United States of America, the British Empire, France, Italy, Japan. Such modification shall become effective from the time when it shall have been notified by the International Commission for Air Navigation to all the contracting States."

III. "The expenses of organization and operation of the International Commission for Air Navigation shall be borne by the contracting States in proportion to the number of votes at their disposal."

"The expenses of organization and operation of the International Commission for Air Navigation shall be borne by the contracting States: the total shall be allocated in the proportion of two shares each for the United States of America, the British Empire, France, Italy and Japan and one share each for all the other States."

^{33a} The paragraphs underlined in the original are printed in italics.

* The Commission is not authorized under the Convention to modify Annex H or any of the Articles of the Convention. [Footnote in the original.]

In addition to the provisions of the Convention and Protocol concerning which reservations were made as indicated above at the time the Convention and Protocol were signed by this Government, I consider it important to call your especial attention to certain other provisions as follows:

Under Article 34 of the Convention the International Commission for Air Navigation is placed under the direction of the League of Nations. It appears that it was proposed at the outset of the negotiations to make the Commission an integral part of the League and in some of the earlier drafts of the Convention, Article 35 indicated that this would be the status of the Commission. However, this plan was not adopted and it would seem from information recently obtained by the Department concerning the Commission's relation to the League, that it is practically autonomous. The Department was informed in January of last year that there had been seven meetings of the full Commission, three in Paris, two in London, one in Brussels and one in Rome; that while the League was invited to have a representative present it was in fact represented at but two of the sessions.

In order, however, to meet any objection to ratification of the Convention because of the provision in Article 34 regarding the League it is suggested that the Senate might desire to have the resolution giving its advice and consent to ratification of the Convention contain a reservation on this point.

Article 37 of the Convention provides that in case of a disagreement between two or more States relating to the interpretation of the Convention the question in dispute shall be determined by the Permanent Court of International Justice. It therefore is suggested that the Senate may desire to include in the resolution giving its advice and consent to ratification a reservation concerning the Permanent Court of International Justice.

Accordingly, I would recommend that, if this course meets with your approval, the Senate be requested to take suitable action advising and consenting to the ratification of the International Convention Relating to the Regulation of Aerial Navigation with Articles 5 and 34 amended as proposed, upon the conditions and understandings outlined in the following suggested resolution to be made a part of the instrument of ratification:

Resolved (two thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification on the part of the United States of the International Convention Relating to the Regulation of Aerial Navigation with Articles 5 and 34 amended as recommended by the International Commission for Air Navigation in the protocols of amendment approved by the Commission on October 27, 1922, and June 30, 1923, respectively, on the following conditions and understandings:

1. The United States expressly reserves, with regard to Article 3, the right to permit its private aircraft to fly over areas over which

private aircraft of other contracting States may be forbidden to fly by the laws of the United States, any provision of said Article 3 to the contrary notwithstanding.

2. The United States reserves the right to enter into special treaties, conventions and agreements regarding aerial navigation with any country in the Western Hemisphere if such country be not a party to this Convention, without conforming to the provisions of Article 5 of the Convention.

3. The United States reserves complete freedom of action as to customs matters and does not consider itself bound by the provisions of Annex H or any articles of the Convention affecting the enforcement of its customs laws.

4. Ratification of the present Convention shall not be taken to involve any legal relation on the part of the United States to the League of Nations or the assumption of any obligation by the United States under the covenant of the League of Nations constituting Part I of the Treaty of Versailles.

5. The United States reserves its freedom of action under Article 37 with respect to the submission to the Permanent Court of International Justice of any disagreement that may arise between the United States and any other State regarding the interpretation of the Convention.

In addition to the authenticated copies of the Convention and the Protocols of Amendment to Articles 5 and 34, I transmit herewith the following documents:

(1) Tabulated statement showing the action taken by various countries with respect to the Convention, the Additional Protocol of May 1, 1920 and the Protocols containing the proposed amendments to Articles 5 and 34.

(2) Translation of a statement dated January 15, 1926, prepared by the International Commission for Aerial Navigation, containing a brief summary of the Convention and its annexes; information concerning the work of the Commission; and the amount of the expenses of the Commission as pro-rated for the year 1926 among each of the contracting states.³⁴

(3) Publication of the International Commission for Aerial Navigation, issued in June, 1925,³⁵ showing on pages 10 to 41 inclusive the annexes to the Convention as modified by the Commission between July, 1922 and April, 1925; and on page 42 the Additional Protocol of May 1, 1920 which came into force on the same date as the Convention.

The Departments of Commerce, War and Navy and the National Advisory Committee for Aeronautics are in favor of this country's becoming a party to the Convention.

Respectfully submitted,

FRANK B. KELLOGG

³⁴ Not printed.

³⁵ International Commission for Air Navigation: *Convention Relating to the Regulation of Aerial Navigation Dated 13th October 1919* (Paris, June 1925). The annexes to the convention are not reprinted in *Foreign Relations*.

[Enclosure 1]

Draft Letter From President Coolidge to the Senate^{35a}

TO THE SENATE: I transmit herewith a report which I have received from the Secretary of State regarding a convention, relating to air navigation, concluded at Paris in 1919, an authenticated copy of which, with related papers, accompanies the report.

The Secretary of State has very properly called attention to provisions of Articles 34 and 37 having to do with the League of Nations and the Permanent Court of International Justice, respectively, and has indicated how these provisions, and certain other provisions of the convention to which this Government would not be in a position to give its unqualified approval, might be covered by reservations, a form of which he has suggested. I concur in the recommendation of the Secretary of State.

In view of the increasing importance of aviation as a means of international communication, and of the desirability of adopting uniform rules governing international traffic by aircraft, and in order that citizens of the United States may be in a position to share the benefits to be derived from international co-operation of the character contemplated by the convention, I request the advice and consent of the Senate to the ratification, with appropriate reservations, of the convention, with Articles 5 and 34 thereof amended as recommended by the International Commission for Air Navigation, in the Protocols of Amendment approved by the Commission on October 27, 1922 and June 30, 1923, respectively.

THE WHITE HOUSE,
Washington.

[Enclosure 2]

International Convention Relating to the Regulation of Aerial Navigation, Done at Paris, October 13, 1919^{35b}

THE UNITED STATES OF AMERICA, BELGIUM, BOLIVIA, BRAZIL, THE BRITISH EMPIRE, CHINA, CUBA, ECUADOR, FRANCE, GREECE, GUATEMALA, HAITI, THE HEDJAZ, HONDURAS, ITALY, JAPAN, LIBERIA, NICARAGUA, PANAMA, PERU, POLAND, PORTUGAL, ROUMANIA, THE SERB-CROAT-SLOVENE STATE, SIAM, CZECHO-SLOVAKIA AND URUGUAY,

Recognising the progress of aerial navigation, and that the establishment of regulations of universal application will be to the interest of all;

Appreciating the necessity of an early agreement upon certain principles and rules calculated to prevent controversy;

^{35a} Sent June 16, 1926.^{35b} Filed separately as unperfected treaty No. T-8.

Desiring to encourage the peaceful intercourse of nations by means of aerial communication;

Have determined for these purposes to conclude a Convention, and have appointed as their Plenipotentiaries the following reserving the righ[t] of substituting others to sign the same convention:

The President of the United States of America:

The Honourable Frank Lyon Polk, Under Secretary of State;

His Majesty the King of the Belgians:

Mr. Paul Hymans, Minister for Foreign Affairs, Minister of State;

The President of the Republic of Bolivia:

Mr. Ismaël Montes, Envoy extraordinary and Minister Plenipotentiary of Bolivia at Paris;

The President of the Republic of Brazil:

Mr. Olyntho de Magalhaës, Envoy extraordinary and Minister Plenipotentiary of Brazil at Paris;

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

The Right Honourable David Lloyd George, M. P., First Lord of this Treasury and Prime Minister;

And:

For the Dominion of Canada, by:

The Honourable Sir Albert Edward Kemp, K. C. M. G., Minister of the Overseas Forces;

For the Commonwealth of Australia, by:

The Honourable George Foster Pearce, Minister of Defence;

For the Union of South Africa, by:

The Right Honourable Viscount Milner, G. C. B., G. C. M. G.;

For the Dominion of New Zealand, by:

The Honourable Sir Thomas Mackenzie, K. C. M. G., High Commissioner for New Zealand in the United Kingdom;

For India, by:

The Right Honourable Baron Sinha, K. C., Under Secretary of State for India;

The President of the Chinese Republic:

Mr. Vikiyun Wellington Koo, Envoy extraordinary and Minister plenipotentiary of China at Washington;

The President of the Cuban Republic:

Mr. Antonio Sanchez de Bustamante, Dean of the Faculty of Law in the University of Havana, President of the Cuban Society of International Law;

The President of the Republic of Ecuador:

Mr. Enrique Dorn y de Alsúa, Envoy extraordinary and Minister plenipotentiary of Ecuador at Paris;

The President of the French Republic:

Mr. Georges Clemenceau, President of the Council, Minister of War;

His Majesty the King of the Hellenes:

Mr. Nicolas Politis, Minister for Foreign Affairs;

- The President of the Republic of Guatemala:
Mr. Joaquim Mendez, formerly Minister of State for Public Works and Public Instruction, Envoy extraordinary and Minister Plenipotentiary of Guatemala at Washington, Envoy extraordinary and Minister Plenipotentiary on special mission at Paris;
- The President of the Republic of Haiti:
Mr. Tertullien Guilbaud, Envoy extraordinary and Minister Plenipotentiary of Haïti at Paris;
- His Majesty the King of the Hedjaz:
Mr. Rustem Haïdar;
- The President of the Republic of Honduras:
Dr. Policarpe Bonilla, on special mission to Washington, formerly President of the Republic of Honduras, Envoy extraordinary and Minister Plenipotentiary;
- His Majesty the King of Italy,
The Honourable Tommaso Tittoni, Senator of the Kingdom, Minister for Foreign Affairs;
- His Majesty the Emperor of Japan,
Mr. K. Matsui, Ambassador extraordinary and Plenipotentiary of H. M. the Emperor of Japan at Paris;
- The President of the Republic of Liberia:
The Honourable C. D. B. King, Secretary of State;
- The President of the Republic of Nicaragua:
Mr. Salvador Chamorro, President of the Chamber of Deputies;
- The President of the Republic of Panama:
Mr. Antonio Burgos, Envoy extraordinary and Minister Plenipotentiary of Panama at Madrid;
- The President of the Republic of Peru:
Mr. Carlos G. Candamo, Envoy extraordinary and Minister Plenipotentiary of Peru at Paris;
- The President of the Polish Republic:
Mr. Ignace J. Paderewski, President of the Council of Ministers, Minister for Foreign Affairs;
- The President of the Portuguese Republic:
Dr. Affonso da Costa, formerly President of the Council of Ministers;
- His Majesty the King of Roumania:
Mr. Nicolas Misu, Envoy extraordinary and Minister Plenipotentiary of Roumania at London;
- His Majesty the King of the Serbs, the Croats, and the Slovenes:
Mr. Milenko R. Vesnich, Envoy extraordinary and Minister Plenipotentiary of H. M. the King of the Serbs, the Croats and the Slovenes at Paris;
- His Majesty the King of Siam:
His Highness Prince Charoon, Envoy extraordinary and Minister Plenipotentiary of H. M. the King of Siam at Paris;
- The President of the Czecho-Slovak Republic:
Mr. Karel Kramář, President of the Council of Ministers;
- The President of the Republic of Uruguay:
Mr. Juan Antonio Buero, Minister of Industry, formerly Minister of Foreign Affairs;

WHO have agreed as follows:

CHAPTER I

GENERAL PRINCIPLES

ARTICLE 1

The High contracting Parties recognise that every Power has complete and exclusive sovereignty over the air space above its territory.

For the purpose of the present Convention the territory of a State shall be understood as including the national territory, both that of the mother country and of the colonies, and the territorial waters adjacent thereto.

ARTICLE 2

Each contracting State undertakes in time of peace to accord freedom of innocent passage above its territory to the aircraft of the other contracting States, provided that the conditions laid down in the present Convention are observed.

Regulations made by a contracting State as to the admission over its territory of the aircraft of the other contracting States shall be applied without distinction of nationality.

ARTICLE 3

Each contracting State is entitled for military reasons or in the interest of public safety to prohibit the aircraft of the other contracting States, under the penalties provided by its legislation and subject to no distinction being made in this respect between its private aircraft and those of the other contracting States, from flying over certain areas of its territory.

In that case the locality and the extent of the prohibited areas shall be published and notified beforehand to the other contracting States.

ARTICLE 4

Every aircraft which finds itself above a prohibited area shall, as soon as aware of the fact, give the signal of distress provided in Paragraph 17 of Annex D and land as soon as possible outside the prohibited area at one of the nearest aerodromes of the State unlawfully flown over.

CHAPTER II

NATIONALITY OF AIRCRAFT

ARTICLE 5

No contracting State shall, except by a special and temporary authorisation, permit the flight above its territory of an aircraft which does not possess the nationality of a contracting State.

ARTICLE 6

Aircraft possess the nationality of the State on the register of which they are entered, in accordance with the provisions of Section I (c) of Annex A.

ARTICLE 7

No aircraft shall be entered on the register of one of the contracting States unless it belongs wholly to nationals of such State.

No incorporated company can be registered as the owner of an aircraft unless it possess the nationality of the State in which the aircraft is registered, unless the President or chairman of the company and at least two-thirds of the directors possess such nationality, and unless the company fulfils all other conditions which may be prescribed by the laws of the said State.

ARTICLE 8

An aircraft cannot be validly registered in more than one State.

ARTICLE 9

The contracting States shall exchange every month among themselves and transmit to the International Commission for Air Navigation referred to in article 34 copies of registrations and of cancellations of registration which shall have been entered on their official registers during the preceding month.

ARTICLE 10

All aircraft engaged in international navigation shall bear their nationality and registration marks as well as the name and residence of the owner in accordance with Annex A.

CHAPTER III

CERTIFICATES OF AIRWORTHINESS [AND] COMPETENCY

ARTICLE 11

Every aircraft engaged in international navigation shall, in accordance with the conditions laid down in Annex B, be provided with a certificate of airworthiness issued or rendered valid by the State whose nationality it possesses.

ARTICLE 12

The commanding officer, pilots, engineers and others members of the operating crew of every aircraft shall, in accordance with the conditions laid down in Annex E, be provided with certificates of

competency and licences issued or rendered valid by the State whose nationality the aircraft possesses.

ARTICLE 13

Certificates of airworthiness and of competency and licences issued or rendered valid by the State whose nationality the aircraft possesses, in accordance with the regulations established by Annex B and Annex E and hereafter by the International Commission for Air Navigation, shall be recognised as valid by the other States.

Each State has the right to refuse to recognise for the purpose of flights within the limits of and above its own territory certificates of competency and licences granted to one of its nationals by another contracting State.

ARTICLE 14

No wireless apparatus shall be carried without a special licence issued by the State whose nationality the aircraft possesses. Such apparatus shall not be used except by members of the crew provided with a special licence for the purpose.

Every aircraft used in public transport and capable of carrying ten or more persons shall be equipped with sending and receiving wireless apparatus when the methods of employing such apparatus shall have been determined by the International Commission for Air Navigation.

This Commission may later extend the obligation of carrying wireless apparatus to all other classes of aircraft in the conditions and according to the methods which it may determine.

CHAPTER IV

ADMISSION TO AIR NAVIGATION ABOVE FOREIGN TERRITORY

ARTICLE 15

Every aircraft of a contracting State has the right to cross the air space of another State without landing. In this case it shall follow the route fixed by the State over which the flight takes place. However, for reasons of general security it will be obliged to land if ordered to do so by means of the signals provided in Annex D.

Every aircraft which passes from one State into another shall, if the regulations of the latter State require it, land in one of the aerodromes fixed by the latter. Notification of these aerodromes shall be given by the contracting States to the International Commission for Air Navigation and by it transmitted to all the contracting States.

The establishment of international airways shall be subject to the consent of the States flown over.

ARTICLE 16

Each contracting State shall have the right to establish reservations and restrictions in favour of its national aircraft in connection with the carriage of persons and goods for hire between two points on its territory.

Such reservations and restrictions shall be immediately published, and shall be communicated to the International Commission for Air Navigation, which shall notify them to the other contracting States.

ARTICLE 17

The aircraft of a contracting State which establishes reservations and restrictions in accordance with Article 16, may be subjected to the same reservations and restrictions in any other contracting State, even though the latter State does not itself impose the reservations and restrictions on other foreign aircraft.

ARTICLE 18

Every aircraft passing through the territory of a contracting State, including landing and stoppages reasonably necessary for the purpose of such transit, shall be exempt from any seizure on the ground of infringement of patent, design or model, subject to the deposit of security the amount of which in default of amicable agreement shall be fixed with the least possible delay by the competent authority of the place of seizure.

CHAPTER V

RULES TO BE OBSERVED ON DEPARTURE WHEN UNDER WAY AND ON LANDING

ARTICLE 19

Every aircraft engaged in international navigation shall be provided with:

- (a.) A certificate of registration in accordance with Annex A;
- (b.) A certificate of airworthiness in accordance with Annex B;
- (c.) Certificate and licences of the commanding officer, pilots and crew in accordance with Annex E;
- (d.) If it carries passengers, a list of their names;
- (e.) If it carries freight, bills of lading and manifest;
- (f.) Log books in accordance with Annex C;
- (g.) If equipped with wireless, the special licence prescribed by Article 14.

ARTICLE 20

The log books shall be kept for two years after the last entry.

ARTICLE 21

Upon the departure or landing of an aircraft, the authorities of the country shall have, in all cases, the right to visit the aircraft and to verify all the documents with which it must be provided.

ARTICLE 22

Aircraft of the contracting States shall be entitled to the same measures of assistance for landing, particularly in case of distress, as national aircraft.

ARTICLE 23

With regard to the salvage of aircraft wrecked at sea the principles of maritime law will apply, in the absence of any agreement to the contrary.

ARTICLE 24

Every aerodrome in a contracting State, which upon payment of charges is open to public use by its national aircraft, shall likewise be open to the aircraft of all the other contracting States.

In every such aerodrome there shall be a single tariff of charges for landing and length of stay applicable alike to national and foreign aircraft.

ARTICLE 25

Each contracting State undertakes to adopt measures to ensure that every aircraft flying above the limits of its territory and that every aircraft wherever it may be, carrying its nationality mark, shall comply with the regulations contained in Annex D.

Each of the contracting States undertakes to ensure the prosecution and punishment of all persons contravening these regulations.

CHAPTER VI

PROHIBITED TRANSPORT

ARTICLE 26

The carriage by aircraft of explosives and of arms and munitions of war is forbidden in international navigation. No foreign aircraft shall be permitted to carry such articles between any two points in the same contracting State.

ARTICLE 27

Each State may, in aerial navigation, prohibit or regulate the carriage or use of photographic apparatus. Any such regulations shall be at once notified to the International Commission for Air Navigation, which shall communicate this information to the other Contracting States.

ARTICLE 28

As a measure of public safety, the carriage of objects other than those mentioned in articles 26 and 27 may be subjected to restrictions by any contracting State. Any such regulations shall be at once notified to the International Commission for Air Navigation, which shall communicate this information to the other contracting States.

ARTICLE 29

All restrictions mentioned in Article 28 shall be applied equally to national and foreign aircraft.

CHAPTER VII

STATE AIRCRAFT

ARTICLE 30

The following shall be deemed to be State aircraft :—

- (a.) Military aircraft.
- (b.) Aircraft exclusively employed in State service, such as posts, customs, police.

Every other aircraft shall be deemed to be a private aircraft.

All state aircraft other than military, customs and police aircraft shall be treated as private aircraft and as such shall be subject to all the provisions of the present Convention.

ARTICLE 31

Every aircraft commanded by a person in military service detailed for the purpose shall be deemed to be a military aircraft.

ARTICLE 32

No military aircraft of a contracting State shall fly over the territory of another contracting State nor land thereon without special authorisation. In case of such authorisation the military aircraft shall enjoy, in principle, in the absence of special stipulation the privileges which are customarily accorded to foreign ships of war.

A military aircraft which is forced to land or which is requested or summoned to land shall by reason thereof acquire no right to the privileges referred to in the above paragraph.

ARTICLE 33

Special arrangements between the States concerned will determine in what cases police and customs aircraft may be authorised to cross the frontier. They shall in no case be entitled to the privileges referred to in Article 32.

CHAPTER VIII

INTERNATIONAL COMMISSION FOR AIR NAVIGATION

ARTICLE 34

There shall be instituted, under the name of the International Commission for Air Navigation, a permanent Commission placed under the direction of the League of Nations and composed of:

Two Representatives of each of the following States: The United States of America, France, Italy and Japan;

One Representative of Great Britain and one of each of the British Dominions and of India;

One Representative of each of the other contracting States.

Each of the five States first-named (Great Britain, the British Dominions and India counting for this purpose as one State) shall have the least whole number of votes which, when multiplied by five, will give a product exceeding by at least one vote the total number of the votes of all the other contracting States.

All the States other than the five first named shall each have one vote.

The International Commission for Air Navigation shall determine the rules of its own procedure and the place of its permanent seat, but it shall be free to meet in such places as it may deem convenient. Its first meeting shall take place at Paris. This meeting shall be convened by the French Government, as soon as a majority of the signatory States shall have notified to it their ratification of the present Convention.

The duties of this Commission shall be:

(a.) To receive proposals from or to make proposals to any of the contracting States for the modification or amendment of the provisions of the present Convention, and to notify changes adopted;

(b.) To carry out the duties imposed upon it by the present Article and by Articles 9, 13, 14, 15, 16, 27, 28, 36, and 37 of the present Convention;

(c.) To amend the provisions of the Annexes A-G;

(d.) To collect and communicate to the contracting States information of every kind concerning international air navigation;

(e.) To collect and communicate to the contracting States all information relating to wireless telegraphy, meteorology and medical science which may be of interest to air navigation;

(f.) To ensure the publication of maps for air navigation in accordance with the provisions of Annex F;

(g.) To give its opinion on questions which the States may submit for examination.

Any modification of the provisions of any one of the Annexes may be made by the International Commission for Air Navigation when

such modification shall have been approved by three fourths of the total possible votes which could be cast if all the States were represented and shall become effective from the time when it shall have been notified by the International Commission for Air Navigation to all the contracting States.

Any proposed modification of the Articles of the present Convention shall be examined by the International Commission for Air Navigation, whether it originates with one of the contracting States or with the Commission itself. No such modification shall be proposed for adoption by the contracting States, unless it shall have been approved by at least two-thirds of the total possible votes.

All such modifications of the Articles of the Convention (but not of the provisions of the Annexes) must be formally adopted by the contracting States before they become effective.

The expenses of organisation and operation of the International Commission for Air Navigation shall be borne by the contracting States in proportion to the number of votes at their disposal.

The expenses occasioned by the sending of technical delegations will be borne by their respective States.

CHAPTER IX

FINAL PROVISIONS

ARTICLE 35

The High Contracting Parties undertake as far as they are respectively concerned to co-operate as far as possible in international measures concerning:

(*a.*) The collection and dissemination of statistical, current, and special meteorological information, in accordance with the provisions of Annex G;

(*b.*) The publication of standard aeronautical maps, and the establishment of a uniform system of ground marks for flying, in accordance with the provisions of Annex F;

(*c.*) The use of wireless telegraphy in air navigation, the establishment of the necessary wireless stations, and the observance of international wireless regulations.

ARTICLE 36

General provisions relative to customs in connection with international air navigation are the subject of a special agreement contained in Annex H to the present Convention.

Nothing in the present Convention shall be construed as preventing the contracting States from concluding, in conformity with its principles, special protocols as between State and State in respect of customs, police, posts and other matters of common interest in con-

nection with air navigation. Any such protocols shall be at once notified to the International Commission for Air Navigation which shall communicate this information to the other contracting States.

ARTICLE 37

In the case of a disagreement between two or more States relating to the interpretation of the present Convention, the question in dispute shall be determined by the Permanent Court of International Justice to be established by the League of Nations, and until its establishment by arbitration.

If the parties do not agree on the choice of the arbitrators, they shall proceed as follows:

Each of the parties shall name an arbitrator, and the arbitrators shall meet to name an umpire. If the arbitrators cannot agree, the parties shall each name a third State, and the third States so named shall proceed to designate the umpire, by agreement or by each proposing a name and then determining the choice by lot.

Disagreement relating to the technical regulations annexed to the present Convention, shall be settled by the decision of the International Commission for Air Navigation by a majority of votes.

In case the difference involves the question whether the interpretation of the Convention or that of a regulation is concerned, final decision shall be made by arbitration as provided in the first paragraph of this Article.

ARTICLE 38

In case of war, the provisions of the present Convention shall not affect the freedom of action of the contracting States either as belligerents or as neutrals.

ARTICLE 39

The provisions of the present Convention are completed by the Annexes A to H, which, subject to Article 34 (c), shall have the same effect and shall come into force at the same time as the Convention itself.

ARTICLE 40

The British Dominions and India shall be deemed to be States for the purposes of the present Convention.

The territories and nationals of Protectorates or of territories administered in the name of the League of Nations, shall, for the purposes of the present Convention, be assimilated to the territory and nationals of the Protecting or Mandatory States.

ARTICLE 41

States which have not taken part in the war of 1914–1919 shall be permitted to adhere to the present Convention.

This adhesion shall be notified through the diplomatic channel to the Government of the French Republic, and by it to all the signatory or adhering States.

ARTICLE 42

A State which took part in the war of 1914–1919 but which is not a signatory of the present Convention, may adhere only if it is a member of the League of Nations or, until January 1, 1923, if its adhesion is approved by the Allied and Associated Powers signatories of the Treaty of Peace concluded with the said State. After January 1, 1923, this adhesion may be admitted if it is agreed to by at least three-fourths of the signatory and adhering States voting under the conditions provided by Article 34 of the present Convention.

Applications for adhesions shall be addressed to the Government of the French Republic, which will communicate them to the other contracting Powers. Unless the State applying is admitted *ipso facto* as a Member of the League of Nations, the French Government will receive the votes of the said Powers and will announce to them the result of the voting.

ARTICLE 43

The present Convention may not be denounced before January 1, 1922. In case of denunciation, notification thereof shall be made to the Government of the French Republic, which shall communicate it to the other contracting Parties. Such denunciation shall not take effect until at least one year after the giving of notice, and shall take effect only with respect to the Power which has given notice.

THE PRESENT CONVENTION shall be ratified.

Each Power will address its ratification to the French Government, which will inform the other signatory Powers.

The ratifications will remain deposited in the archives of the French Government.

The present Convention will come into force for each signatory Power, in respect of other Powers which have already ratified, forty days from the date of the deposit of its ratification.

On the coming into force of the present Convention, the French Government will transmit a certified copy to the Powers which under the Treaties of Peace have undertaken to enforce rules of aerial navigation in conformity with those contained in it.

DONE at Paris, the thirteenth day of October nineteen hundred and nineteen in a single copy which shall remain deposited in the archives

of the French Government, and of which duly authorised copies shall be sent to the contracting States.

The said copy, dated as above, may be signed until the twelfth day of April nineteen hundred and twenty inclusively.

IN FAITH WHEREOF the hereinafter-named Plenipotentiaries whose powers have been found in good and due form have signed the present Convention in the French, English and Italian languages, which are equally authentic.

[SEAL]	HUGH C. WALLACE
[SEAL]	ROLIN-JAEQUEMYNS
[SEAL]	ISMAEL MONTES
[SEAL]	RAUL FERNANDES
[SEAL]	EYRE A. CROWE
[SEAL]	GEORGE H. PERLEY
[SEAL]	ANDREW FISHER
[SEAL]	R. A. BLANKENBERG
[SEAL]	THOMAS MACKENZIE
[SEAL]	EYRE A. CROWE
[SEAL]	V. K. WELLINGTON KOO
[SEAL]	RAFAEL MARTINEZ ORTIZ
[SEAL]	E. DORN Y DE ALSUA
[SEAL]	S. PICHON
[SEAL]	N. POLITIS
[SEAL]	GUILLERMO MATOS PACHECO
[SEAL]	VITTORIO SCIALOJA
[SEAL]	K. MATSUI
[SEAL]	ANTONIO BURGOS
[SEAL]	I. J. PADEREWSKI
[SEAL]	AFFONSO COSTA
[SEAL]	ALEX. VAIDA VOEVOD
[SEAL]	DR. ANTE TRUMBIČ
[SEAL]	CHAROON
[SEAL]	STEFAN OSUSKY
[SEAL]	J. A. BUERO

[For text of annexes, see League of Nations, *Treaty Series*, vol 11, No. 297, page 243; also Malloy, *Treaties*, 1910-1923, vol. III, page 3782. For text of Annex A, as completed by the decisions of the International Commission for Air Navigation dated July 13, 1922, Oct. 25, 1922, Feb. 28, 1923, June 26, 1923, Mar. 3, 1924, Oct. 14, 1924, and Apr. 6, 1925, see International Commission for Air Navigation, *Official Bulletin No. 8*, June 1925, page 42.]

ADDITIONAL PROTOCOL TO THE CONVENTION OF OCTOBER 13TH, 1919,
RELATING TO THE REGULATION OF AERIAL NAVIGATION

THE HIGH CONTRACTING PARTIES declare themselves ready to grant, at the request of signatory or adhering States who are concerned, certain derogations to Article V of the Convention, but only where they consider the reasons involved worthy of consideration.

The requests should be addressed to the Government of the French Republic who will lay them before the International Commission on Aerial Navigation provided for in Article 34 of the Convention.

The International Commission on Aerial Navigation will examine each request, which may only be submitted for the acceptance of the contracting States if it has been approved by at least a two-thirds majority of the total possible number of votes, that is to say, of the total number of votes which could be given if the Representatives of all the States were present.

Each derogation which is granted must by [*be*] expressly accepted by the contracting States before coming into effect.

The derogation granted will authorise the contracting State profiting thereby to allow the aircraft of one or more named non-contracting States to fly over its territory, but only for a limited period of time fixed by the text of the decision granting the derogation.

At the expiration of this period the derogation will be automatically renewed for a similar period unless one of the contracting States has declared its opposition to such renewal.

Further, the High Contracting Parties decide to fix June 1st, 1920, as the date up to which the present Protocol may be signed, and, on account of the bearing which the present Protocol has on the Convention of October 13th, 1919, to prolong until that date the period under which the above mentioned Convention may be signed.

DONE at Paris, the first of May nineteen hundred and twenty in a single copy which shall remain deposited in the archives of the Government of the French Republic, and of which authenticated copies will be transferred to the Contracting States.

The said copy, dated as above, may be signed up to and inclusive of the first day of June, nineteen hundred and twenty.

IN FAITH WHEREOF, the undermentioned Plenipotentiaries, whose powers have been found in good and due form, have signed the present

Protocol, of which the French, English and Italian text will be recognised as of equal validity.

HUGH C. WALLACE
 E. DE GAIFFIER
 J. C. ARTEAGA
 DERBY
 GEORGE H. PERLEY
 ANDREW FISHER
 THOMAS MACKENZIE
 R. A. BLANKENBERG
 DERBY
 VIKYUIN WELLINGTON KOO
 RAFAEL MARTINEZ ORTIZ
 E. DORN Y DE ALSUA
 A. MILLERAND
 A. ROMANOS
 BONIN
 K. MATSUI
 R. A. AMADOR
 ERASME PILTZ
 JOÃO CHAGAS
 D. J. GHIKA
 DR. ANTE TRUMBIĆ
 CHAROON
 STEFAN OSUSKY
 J. C. BLANCO

[Enclosure 3—Translation]

Protocol Relative to an Amendment to Article 5 to the Convention for the Regulation of Aerial Navigation of October 13, 1919^{35c}

The International Commission on Aerial Navigation in the course of its second session held at London under the Presidency of General Sir W. Sefton Brancker, assisted by Mr. Albert Roper, Secretary General, approved at the sitting of October 25, 1922, in accordance with the provisions of Article 34 of the Convention making regulations for aerial navigation, an amendment to Article 5 of the said Convention which shall be worded as follows, in French, English, and Italian:^{35d}

ARTICLE 5

No contracting State shall, except by a special and temporary authorization, permit the flight above its territory of an aircraft which does not possess the nationality of a contracting State, unless

^{35c} Filed with unperfected treaty No. T-8.

^{35d} The text of article 5 which follows is reproduced from the English text which appeared in the original protocol in columns parallel with the French and Italian texts.

it has concluded a special convention with the State in which the aircraft is registered. The stipulations of such special convention must not infringe the rights of the contracting parties to the present Convention and must conform to the rules laid down by the said Convention and its annexes. Such special convention shall be communicated to the International Commission for Air Navigation which will bring it to the knowledge of the other contracting States.

The undersigned, duly authorized thereto, declare they accept, in the name of the States they represent, the foregoing amendment which is proposed for final acceptance by the contracting States.

The protocol will be kept open for the signature of States that are now contracting Parties to the Convention; it will be ratified and the ratifications shall be deposited as soon as possible at the permanent seat of the Commission.

It shall go into force as soon as the States that are now contracting parties to the Convention shall have effected the deposit of their ratifications.

The States which will become contracting parties to the Convention may adhere to the present Protocol.

A certified copy of this Protocol shall be forwarded by the Secretary General to all the contracting States and also to the other States that have signed the Convention for the regulation of aerial navigation.

DONE in London, October twenty-seven, one thousand nine hundred twenty-two, in a single copy which will be deposited in the archives of the Commission.

W. S. BRANCKER, *Major-General,*
President of the Second Session of the I. C. A. N.

ALBERT ROPER,
Secretary General of the I. C. A. N.

Signed:

For Belgium:	E. DE GAIFFIER
For Great Britain:	ERIC PHIPPS
For the Dominion of Canada:	PETER C. LARKIN
For the Commonwealth of Australia:	JOSEPH COOK
For the Union of South Africa:	ERIC PHIPPS
For the Dominion of New Zealand:	JAMES ALLEN
For India:	ERIC PHIPPS
For France:	PIERRE ETIENNE FLANDIN
For Japan:	SHIZUMA OKUYAMA
For Portugal:	J. CHAGAS
For the Kingdom of the Serbs, Croats and Slovenes:	SPALAIKOVITCH

[In furnishing this authenticated copy of the protocol the Secretary General of the International Commission for Air Navigation indicated that the following signatures had also been deposited:

For Greece:	LEON V. MELAS
For Persia:	PRINCE SAMAD
For Siam:	CHAROON]

[Enclosure 4—Translation]

*Protocol Relative to an Amendment to Article 34 to the Convention for the Regulation of Aerial Navigation of October 13, 1919*³⁶

The International Commission on Aerial Navigation in the course of its fourth session held at London under the Presidency of General Sir W. Sefton Brancker, assisted by Mr. Albert Roper, Secretary General, approved at the sitting of June 30, 1923, in accordance with the provisions of Article 34 of the Convention making regulations for aerial navigation, amendments to certain subsections of Article 34 of the said Convention which shall be worded as follows, in French, English, and Italian:³⁷

ARTICLE 34

There shall be instituted, under the name of the International Commission for Air Navigation, a permanent Commission placed under the direction of the League of Nations and composed of:

Two Representatives of each of the following States: the United States of America, France, Italy and Japan;

One Representative of Great Britain and one of each of the British Dominions and of India;

One Representative of each of the other contracting States.

Each State represented on the Commission (Great Britain, the British Dominions and India counting for this purpose as one State) shall have one vote.

The International Commission for Air Navigation shall determine the rules of its own procedure and the place of its permanent seat, but it shall be free to meet in such places as it may deem convenient. Its first meeting shall take place at Paris. This meeting shall be convened by the French Government, as soon as a majority of the signatory States shall have notified to it their ratification of the present Convention.

The duties of this Commission shall be:

- a) To receive proposals from or to make proposals to any of the contracting States for the modification or amendment of the provisions of the present Convention, and to notify changes adopted;

³⁶ Filed with unperfected treaty No. T-8.

³⁷ The text of article 34 which follows is reproduced from the English text which appeared in the original protocol in columns parallel with the French and Italian texts.

b) To carry out the duties imposed upon it by the present Article and by Articles 9, 13, 14, 15, 16, 27, 28, 36 and 37 of the present Convention.

c) To amend the provisions of the Annexes A-G;

d) To collect and communicate to the contracting States information of every kind concerning international air navigation;

e) To collect and communicate to the contracting States all information relating to wireless telegraphy, meteorology and medical science which may be of interest to air navigation;

f) To ensure the publication of maps for air navigation in accordance with the provisions of Annex F;

g) To give its opinions on questions which the States may submit for examination.

Any modification of the provisions of any one of the Annexes may be made by the International Commission for Air Navigation when such modification shall have been approved by three-fourths of the total possible votes which could be cast if all the States were represented: *this majority must, moreover, include at least three of the five following States: the United States of America, the British Empire, France, Italy, Japan.* Such modification shall become effective from the time when it shall have been notified by the International Commission for Air Navigation to all the contracting States.

Any proposed modification of the Articles of the present Convention shall be examined by the International Commission for Air Navigation, whether it originates with one of the contracting States or with the Commission itself. No such modification shall be proposed for adoption by the contracting States, unless it shall have been approved by at least two-thirds of the total possible votes.

All such modifications of the Articles of the Convention (but not of the provisions of the Annexes) must be formally adopted by the contracting States before they become effective.

The expenses of organization and operation of the International Commission for Air Navigation shall be borne by the contracting States: *the total shall be allocated in the proportion of two shares each for the United States of America, the British Empire, France, Italy and Japan and one share each for all the other States.*

The expenses occasioned by the sending of technical delegations will be borne by their respective States.

The undersigned, duly authorized thereto, declare they accept, in the name of the States they represent, the foregoing amendments which are proposed for final acceptance by the contracting States.

The protocol will be kept open for the signature of States that are now contracting Parties to the Convention; it will be ratified and the ratifications shall be deposited as soon as possible at the permanent seat of the Commission.

It shall go into force as soon as the States that are now contracting parties to the Convention shall have effected the deposit of their ratifications.

The States which will become contracting parties to the Convention may adhere to the present Protocol.

A certified copy of this Protocol shall be forwarded by the Secretary General to all the contracting States and also to the other States that have signed the Convention for the regulation of aerial navigation.

DONE in London, June thirty, one thousand nine hundred and twenty-three, in a single copy which will be deposited in the archives of the Commission.

W. S. BRANCKER, *Major-General,*
President of the Fourth Session of the I. C. A. N.

ALBERT ROPER,
Secretary General of the I. C. A. N.

Signed:

For Belgium:	A. OBERT DE THIEUSIES
For Great Britain:	CREWE
For Canada:	PETER C. LARKIN
For Australia:	W. S. BRANCKER
For the Union of South Africa:	E. WALTON
For the Dominion of New Zealand:	J. ALLEN
For India:	CREWE
For France:	PIERRE-ETIENNE FLANDIN
For Greece:	LEON. V. MELAS
For Italy:	ROMANO AVEZZANA
For Japan:	T. SHIZUMA
	S. OKUYAMA
For Persia:	PRINCE SAMAD
For Portugal:	JOAO CHAGAS
For Siam:	CHAROON

In furnishing this authenticated copy of the protocol the Secretary General of the International Commission for Air Navigation indicated that the following signatures had also been deposited:

For the Irish Free State:	JAMES McNEILL
For the Kingdom of the Serbs, Croats, and Slovenes:	M. SPALAIKOVITCH

[Enclosure 5]

TABULATED STATEMENT SHOWING THE ACTION TAKEN BY VARIOUS COUNTRIES WITH RESPECT TO THE CONVENTION FOR THE REGULATION OF AERIAL NAVIGATION, THE ADDITIONAL PROTOCOL OF MAY 1, 1920, TO THE CONVENTION, AND THE PROTOCOLS CONTAINING THE PROPOSED AMENDMENTS TO ARTICLES 5 AND 34

Names of States	<i>Convention for the regulation of aerial navigation (Paris, Oct. 13, 1919)</i>			
	Date of signature	Date of accession	Date of deposit of ratifications	Date of adhesion
I. CONTRACTING STATES				
Belgium.....	Oct. 13, 1919		June 1, 1922	
British Empire:				
Great Britain and Northern Ireland.....	do		do	
Dominion of Canada.....	do		do	
Commonwealth of Australia.....	do		do	
Union of South Africa.....	do		do	
Dominion of New Zealand.....	do		do	
Irish Free State.....	do		do	
India.....	do		do	
Bulgaria.....				July 5, 1923
France.....	Oct. 13, 1919		June 1, 1922	
Greece.....	do		do	
Italy.....	do		Mar. 13, 1923	
Japan.....	do		June 1, 1922	July 11, 1922
Persia.....				
Poland.....	Oct. 13, 1919		Nov. 26, 1924	
Portugal.....	do		June 1, 1922	
Rumania.....	do		May 31, 1924	
Kingdom of the Serbs, Croats and Slovenes.....	do		June 1, 1922	
Siam.....	do		do	
Czechoslovak Republic.....	do		Nov. 23, 1923	
Uruguay.....	do		July 13, 1924	
II. SIGNATORY STATES				
United States of America.....	do			
Bolivia *.....	do		June 1, 1922	
Brazil.....	do			
China.....	do			
Cuba.....	do			
Ecuador.....	do			
Guatemala.....	do			
Liberia.....		Mar. 29, 1922		
Nicaragua.....		Dec. 31, 1920		
Panama.....	Oct. 13, 1919			
Peru.....		June 22, 1920		

* The Convention has been denounced by Bolivia with effect as from the 30th August 1924.

NOTE: The dates in tabulation are those given by the International Commission for Air Navigation. The Department of State is informed that Chile has decided to adhere to the convention.

TABULATED STATEMENT SHOWING THE ACTION TAKEN BY VARIOUS COUNTRIES WITH RESPECT TO THE CONVENTION FOR THE REGULATION OF AERIAL NAVIGATION, THE ADDITIONAL PROTOCOL OF MAY 1, 1920, TO THE CONVENTION, AND THE PROTOCOLS CONTAINING THE PROPOSED AMENDMENTS TO ARTICLES 5 AND 34—Continued.

Names of States	<i>Additional protocol to the convention (Paris, May 1, 1920)</i>			
	Date of signature	Date of accession	Date of the deposit of ratifications	Date of adhesion
I. CONTRACTING STATES				
Belgium.....	May 1, 1920	-----	June 1, 1922	
British Empire:				
Great Britain and Northern Ireland.....	do	-----	do	
Dominion of Canada.....	do	-----	do	
Commonwealth of Australia.....	do	-----	do	
Union of South Africa.....	do	-----	do	
Dominion of New Zealand.....	do	-----	do	
Irish Free State.....	do	-----	do	
India.....	May 1, 1920	-----	do	
Bulgaria.....	-----	-----	-----	Nov. 28, 1924
France.....	May 1, 1920	-----	June 1, 1922	
Greece.....	do	-----	do	
Italy.....	do	-----	Apr. 10, 1923	
Japan.....	do	-----	June 1, 1922	
Persia.....	-----	-----	-----	July 11, 1922
Poland.....	May 1, 1920	-----	Nov. 26, 1924	
Portugal.....	do	-----	Oct. 7, 1922	
Rumania.....	do	-----	May 31, 1924	
Kingdom of the Serbs, Croats and Slovenes.....	do	-----	June 1, 1922	
Siam.....	do	-----	do	
Czechoslovak Republic.....	do	-----	Nov. 23, 1923	
Uruguay.....	do	-----	-----	
II. SIGNATORY STATES				
United States of America*.....	May *1, 1920	-----	-----	
Bolivia.....	do	-----	June 1, 1922	
Brazil.....	-----	June 28, 1921	-----	
China.....	May 1, 1920	-----	-----	
Cuba.....	do	-----	-----	
Ecuador.....	do	-----	-----	
Guatemala.....	do	-----	-----	
Liberia.....	-----	Mar. 29, 1922	-----	
Nicaragua.....	-----	Dec. 31, 1920	-----	
Panama.....	May 1, 1920	-----	-----	
Peru.....	-----	June 22, 1920	-----	

*The protocol was by its terms left open for signature up to and including June 1, 1920. It was signed on behalf of the United States on May 31, 1920.

TABLED STATEMENT SHOWING THE ACTION TAKEN BY VARIOUS COUNTRIES WITH RESPECT TO THE CONVENTION FOR THE REGULATION OF AERIAL NAVIGATION, THE ADDITIONAL PROTOCOL OF MAY 1, 1920, TO THE CONVENTION, AND THE PROTOCOLS CONTAINING THE PROPOSED AMENDMENTS TO ARTICLES 5 AND 34—Continued.

Names of States	Protocol relative to an amendment to article 5 of the convention (London, Oct. 27, 1922)		Protocol relative to an amendment to article 34 of the convention (London, June 30, 1923)	
	Date of signature	Date of the deposit of ratifications	Date of signature	Date of the deposit of ratifications
I. CONTRACTING STATES				
Belgium.....	Dec. 22, 1922	Apr. 19, 1923	Sept. 11, 1923	Oct. 19, 1923
British Empire:				
Great Britain and Northern Ireland.....	Mar. 28, 1923	Dec. 19, 1923	Sept. 28, 1923	Nov. 20, 1924
Dominion of Canada.....	Apr. 6, 1923	do.....	Mar. 17, 1924	Do.
Commonwealth of Australia.....	Mar. 28, 1923	do.....	Dec. 19, 1923	Do.
Union of South Africa.....	do.....	do.....	Dec. 13, 1923	Do.
Dominion of New Zealand.....	do.....	do.....	Nov. 27, 1923	Do.
Irish Free State.....	do.....	do.....	Sept. 23, 1924	Do.
India.....	Mar. 28, 1923	do.....	Dec. 14, 1923	Do.
Bulgaria*.....				
France.....	Nov. 21, 1922	Dec. 26, 1924	June 30, 1923	Dec. 26, 1924
Greece.....	Dec. 1, 1923	Mar. 7, 1925	Dec. 1, 1923	Mar. 7, 1925
Italy*.....			Jan. 24, 1924	June 13, 1924
Japan.....	Mar. 10, 1923	Aug. 4, 1925	Aug. 27, 1923	Aug. 4, 1925
Persia.....	Apr. 7, 1924	July 8, 1925	Apr. 7, 1924	Nov. 10, 1925
Poland.....				
Portugal.....	Feb. 2, 1923	July 30, 1924	Dec. 3, 1923	
Rumania.....				
Kingdom of the Serbs, Croats and Slovenes.....	May 18, 1923		Jan. 15, 1925	
Siam.....	Aug. 21, 1923	Feb. 20, 1924	Nov. 6, 1923	July 7, 1925
Czechoslovak Republic*.....				
Uruguay.....				
II. SIGNATORY STATES				
United States of America.....				
Bolivia.....				
Brazil.....				
China.....				
Cuba.....				
Ecuador.....				
Guatemala.....				
Liberia.....				
Nicaragua.....				
Panama.....				
Peru.....				

*Italy, Bulgaria and Czechoslovakia which were not parties to the Convention at the time that the Protocol of Amendment to Article 5 was adopted by the International Commission for Air Navigation have since given notice of their adhesion to this Protocol. Bulgaria and Czechoslovakia have given notice of their adhesion to the Protocol of Amendment to Article 34.

**CONVENTION BETWEEN THE UNITED STATES AND OTHER POWERS
REVISING THE INTERNATIONAL SANITARY CONVENTION OF JANUARY 17, 1912,* SIGNED JUNE 21, 1926**

512.4 B 2/-

The French Ambassador (Daeschner) to the Secretary of State

[Translation]

WASHINGTON, February 25, 1925.

MR. SECRETARY OF STATE: The French Government, which had received on various occasions propositions looking to a revision of

* Malloy, *Treaties, 1910-1923*, vol. III, p. 2972.

the International Sanitary Convention of January 17, 1912, had not up to date been able under the circumstances to gratify those requests. I have the honor to inform Your Excellency that it now seems possible for the French Government to contemplate the meeting of a conference which would be given charge of that revision.

The Committee of the International Office of Public Hygiene conducted at several of its sessions a study of the amendments that it might be advisable to introduce in the text of the said convention.

It was suggested to constitute into a conference the Committee of the International Office of Public Hygiene, whose members furnished with full powers would draw up and sign a new convention. It did not seem possible to proceed in this way as there are countries that are not parties to the Office and as certain States would like to assign technical officers on commercial and navigation questions to their delegates, who are specialists in hygiene questions.

But it would be advantageous to have the countries that belong to the Office of Hygiene include their representatives therein among their delegates. In order to save these last-named gentlemen duplicated travelling expenses the French Government suggests that the date for the opening of the Sanitary Conference be one close to that of the end of one of the sessions of the Committee of the Office.

I should then be very much obliged to Your Excellency if you would kindly let me know whether the Government of the United States intends to send delegates with full powers to a Sanitary Conference that would be held in Paris and whether it accepts the date of Monday, October 26, 1925, as the date of the opening of the said Conference.³⁹

I have the honor to beg you kindly to have the draft of revision, forwarded herewith in seven copies, of the Sanitary Convention of January 17, 1912, as drawn up by the Committee of the International Office of Public Hygiene,⁴⁰ examined by the hygienic departments of the Federal Government and to forward to me in good time the remarks of such departments, together, as far as possible, with a French translation.

Be pleased [etc.]

E. DAESCHNER

512.4 B 2/1

The Secretary of State to the French Ambassador (Daeschner)

WASHINGTON, October 8, 1925.

EXCELLENCY: I have the honor to inform you that your note of February 25, 1925, concerning participation by the United States,

³⁹ In despatch No. 5271, June 10, 1925, the Ambassador in France reported that the Conference had been postponed until May 10, 1926.

⁴⁰ Enclosure not printed.

by delegates with full powers, in an International Conference to be held at Paris in May 1926 for the purpose of revising the International Sanitary Convention of January 17, 1912, has had the careful consideration of the appropriate health officials of the United States, as has had also the draft of revision enclosed with your note.

These officials are of the opinion that it is extremely advisable to have a revision of the existing sanitary convention. The draft of revision which you furnished is in general approved by them when considered in connection with certain changes and explanations adopted by the Committee of the International Office of Public Hygiene as reported upon pages 279, *et seq.*, of the Procès-Verbaux of the October, 1924 session. The Government of the United States is, therefore, pleased to inform you, in reply to the two inquiries of your note, that as at present advised, it will send a delegate, or delegates, with full powers to the International Conference at Paris for the purpose of revising the International Sanitary Convention of January 17, 1912.

However, certain suggested changes in the draft are now having the consideration of the Public Health officials, and the Government of the United States reserves to itself the right to propose these later.

At this time the Government of the United States desires to indicate the importance it attaches to American representation on the International Quarantine Board at Alexandria, Egypt, in view of the increased number of American vessels now passing through the Suez Canal, or trading directly with Egypt, and to give notice of its desire that the question of appropriate American representation on the Board be given a place in the agenda of the Conference.

Accept [etc.]

FRANK B. KELLOGG

512.4 B 2/13

The Secretary of State to the French Ambassador (Bérenger)

WASHINGTON, *March 24, 1926.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of March 16 [15], 1926,⁴¹ concerning participation by the United States in the International Conference to meet at Paris on May tenth, next, for the purpose of revising the International Sanitary Convention of 1912, and to inform you in reply that while the representatives of the United States to this Conference have not yet been actually appointed, the American Ambassador at Paris was instructed by cable on March eighteenth ⁴¹ to advise your Government that they will be Surgeon General Hugh S. Cumming, Senior Surgeon Taliaferro Clark and Surgeon W. W. King, all of the Public Health Service, and that the Counselor of the American Embassy at Paris will

⁴¹ Not printed.

also be delegated in case other governments intend to send diplomatic representatives as well as technical ones.⁴² The Embassy was also instructed to inform your Government that the representatives of the United States at the Conference will be furnished with Full Powers.

Accept [etc.]

For the Secretary of State:

J. BUTLER WRIGHT

Treaty Series No. 762

*Convention Between the United States and Other Powers Revising the International Sanitary Convention of January 17, 1912, Signed at Paris, June 21, 1926*⁴³

INTERNATIONAL SANITARY CONVENTION

[List of heads of states and plenipotentiaries is omitted.]

Who, after depositing their full powers, found to be in good and due form, have agreed to the following provisions:

PRELIMINARY PROVISIONS

For the purposes of this Convention, the high contracting parties adopt the following definitions:

1. The word *circonscription* designates a fully defined part of territory, for example: a province, a government, a district, a department, a canton, an island, a commune, a city, a city district, a village, a port, a community, et cetera, regardless of the area and population of those parts of territory.

2. The word *observation* means isolation of the persons either on board a ship or in a sanitary station before they are given free pratique.

The word *surveillance* means that the persons are not isolated, are immediately given free pratique, but are reported to the health authorities in the several places they are to visit and subjected to a medical examination by which their health condition is ascertained.

3. The word *équipage* includes all persons who are not on board for the mere purpose of being carried from one country to another, but who are employed in any capacity whatsoever in the service of the ship or persons on board, or of the cargo.

4. The word *jour* means an interval of twenty-four hours.

⁴² On Mar. 24 Ambassador Herrick informed the Department that technical delegates would suffice.

⁴³ Signed and proclaimed in the French language; this translation is reprinted from the Department of State Treaty Series. Ratification advised by the Senate, with understandings and conditions, Mar. 22, 1928; ratified by the President, Apr. 7, 1928; ratification of the United States deposited with the Government of the French Republic, May 22, 1928; proclaimed by the President, June 21, 1928.

TITLE I. GENERAL PROVISIONS

CHAPTER I—PROVISIONS TO BE OBSERVED BY THE GOVERNMENTS OF THE COUNTRIES PARTICIPATING IN THE PRESENT CONVENTION ON THE APPEARANCE OF PLAGUE, CHOLERA, YELLOW FEVER, OR CERTAIN OTHER INFECTIOUS DISEASES IN THEIR TERRITORY

SECTION I.—*Notification and subsequent communications to other countries*

ARTICLE 1

Each Government shall immediately notify the other Governments and, at the same time the International Office of Public Hygiene;

- (1) The first authentic case of plague, cholera, or yellow fever discovered in its territory;
- (2) The first authentic case of plague, cholera, or yellow fever which occurs outside the limits of local areas already affected;
- (3) The existence of an epidemic of typhus or of smallpox.

ARTICLE 2

Every notification prescribed in Article 1 shall be accompanied, or very promptly followed, by detailed information as to—

- (1) Where the disease has appeared;
- (2) The date of its appearance, its source and its type;
- (3) The number of established cases and the number of deaths;
- (4) The extent of the area or areas affected;
- (5) In the case of plague, the existence of that disease or of an unusual mortality among rats;
- (6) In the case of cholera, the number of germ carriers when these have been discovered;
- (7) In the case of yellow fever, the presence and relative prevalence (index) of *stegomyia calopus* (*aedes Egypti*);
- (8) The measures taken.

ARTICLE 3

The notifications contemplated in Articles I and II are to be addressed to the Diplomatic Missions or failing them to consular offices in the capital of the infected country and shall be held at the disposition of consular officers established in its territory.

These notifications shall also be addressed to the International Office of Public Hygiene which shall communicate them immediately to all diplomatic missions, or failing them, to the Consulates, in Paris, as well as to the principal public health authorities of the participat-

ing countries. Those prescribed under Article I shall be addressed by telegram.

The telegrams addressed by the International Office of Public Hygiene to the Governments of countries participating in the present Convention or to the principal public health authorities of these countries, and the telegrams transmitted by these Governments and by these authorities under this Convention, are treated like State telegrams and enjoy the priority accorded to such telegrams by Article V of the International Telegraphic Convention of July 10/22, 1875.

ARTICLE 4

The notification and the information contemplated in Articles 1 and 2 shall be followed by subsequent communications sent regularly to the International Office of Public Hygiene so as to keep the Governments informed of the progress of the epidemic.

These communications, which shall be as frequent and as complete as possible and shall take place at least once a week with regard to the number of cases and deaths, shall indicate in particular the precautions adopted with a view to preventing the spread of the disease. They shall specify the measures enforced upon the departure of vessels to prevent exportation of the disease, and especially the measures taken with regard to rats or insects.

ARTICLE 5

The Governments undertake to reply to any request for information which is made to them by the International Office of Public Hygiene in regard to epidemic diseases mentioned in the Convention, which occur in their territory, and in regard to circumstances likely to affect the transmission of these diseases from one country to another.

ARTICLE 6

Since rats* are the principal agents by which bubonic plague is spread, the Governments undertake to make use of all means in their power to diminish this danger and constantly to keep themselves informed of the condition of the rats in their ports as regards plague infection, by frequent and periodical examinations; and in particular to carry out the systematic collection and the bacteriological examination of rats in every plague-infected area, during a period of not less than six months from the finding of the last plague-infected rat.

The methods and the results of these examinations shall be communicated in ordinary circumstances at regular intervals, and in the

*The provisions of this Convention regarding rats are applicable to the case of other rodents, and in general to other animals known to be the means of spreading plague. [Footnote in the original.]

case of plague every month, to the International Office of Public Hygiene in order that Governments may be kept uninterruptedly informed by that Office of the condition of ports in regard to plague amongst rats.

On the first discovery of plague among rats on land, in a port free from infection during the previous six months, the communications shall be sent by the most rapid ways.

ARTICLE 7

In order to facilitate the fulfilment of duties put upon it by this Convention, and having regard to the benefits derived from the information furnished by the epidemiological intelligence service of the League of Nations, including its Eastern Bureau at Singapore, and of other analogous bureaus, as well as by the Pan-American Sanitary Bureau, the International Office of Public Hygiene is empowered to make the needful arrangements with the Health Committee of the League of Nations, as well as with the Pan-American Sanitary Bureau and other similar organizations.

It stands understood that the relations established under the arrangements above indicated will not involve any derogation from the provisions of the Convention of Rome of December 9, 1907, and cannot work the effect of substituting any other sanitary body for the International Office of Public Hygiene.

ARTICLE 8

As it is of primary importance that the foregoing provisions be promptly and scrupulously complied with, the Governments recognize the necessity of giving instructions to the appropriate services in regard to the application of these provisions.

As notification is of no value unless every Government be itself informed, in good time, of cases of plague, cholera, yellow fever, typhus, or smallpox, and also of suspected cases of these diseases which occur in its territory, countries participating in the Convention undertake to make it compulsory to declare such cases.

ARTICLE 9

It is recommended that neighboring countries should make special arrangements, with the object of organizing direct exchange of information between the head of the department concerned as regards territories that are contiguous or have close commercial relations. These arrangements shall be communicated to the International Office of Public Hygiene.

SECTION II.—*Conditions which warrant considering that the measures prescribed by the convention are or have ceased to be applicable to arrivals from particular areas*

ARTICLE 10

The notification of imported cases of plague, cholera or yellow fever shall not lead to the adoption of the measures prescribed in the following Chapter II in regard to arrivals from the area in which they occurred.

But the measures may be adopted when a first case of plague or yellow fever has occurred which is recognized as a non-important case, or when the cases of cholera from a *foyer*,* or when exanthematous fever or smallpox exists in epidemic form.

ARTICLE 11

In order that the measures prescribed in Chapter II may be limited to places which are actually stricken, Governments must restrict their application to arrivals from defined local areas in which the diseases coming under the present Convention have appeared under the conditions indicated in the second paragraph of Article 10.

But this limitation of an infected local area must be accepted only on the express condition that the Government of the country in which this area is comprised shall take the measures necessary (1) for checking the spread of the epidemic and (2) for applying the measures prescribed by Article 13 below.

ARTICLE 12

The Government of a country in which an infected area is situated will inform other Governments and the International Office of Public Hygiene in the manner specified in Article 3, when the danger of infection from that area has ceased, and when all the preventive measures have been taken. From the time of this information the measures prescribed in Chapter II will no longer be applicable to arrivals from the area in question, except in exceptional circumstances, which must be established.

SECTION III.—*Measures at the ports and on the departure of vessels*

ARTICLE 13

The competent authority shall be obliged to take effectual measures—

* A "*foyer*" exists when the occurrence of new cases outside the immediate surroundings of the first cases proves that the spread of the disease has not been limited to the place where it began. [Footnote in the original.]

(1) To prevent the embarkation of persons showing symptoms of plague, cholera, yellow fever, exanthematous typhus or smallpox, and of persons in such relations with the sick as to render them liable to transmit the infection of these diseases;

(2) In the case of plague, to prevent rats gaining access to ships;

(3) In the case of cholera, to see that the drinking water and food-stuffs taken on board is wholesome, and that water taken in as ballast is disinfected if necessary;

(4) In the case of yellow fever, to prevent mosquitoes gaining access to ships;

(5) In the case of exanthematous typhus, to secure the delousing of all suspects before their embarkation;

(6) In the case of smallpox, to subject to disinfection worn garments and rags before they are compressed.

ARTICLE 14

Governments undertake to maintain in and around their large ports and, as far as possible, in and around their other ports, a sanitary service possessing an organization and equipment capable of carrying out the application of the prophylactic measures in the case of the diseases coming under this Convention and especially the measures laid down in Articles 6, 8 and 13.

The said Governments will supply at least once a year to the International Office of Public Hygiene a statement showing in the case of each of their ports the condition of its sanitary organization commensurate with the provisions of the preceding paragraph. The Office will forward such information through the proper channels to the principal health authorities of the participating countries either directly or through some other international sanitary organization in accordance with the arrangements concluded under Article 7.

CHAPTER II—MEASURES OF DEFENSE AGAINST THE DISEASES MENTIONED IN CHAPTER I

ARTICLE 15

Any ship, whatever port it comes from, may be subjected by the sanitary authority to a medical inspection, and if circumstances require it, to a thorough examination.

The sanitary measures and actions to which a ship may be subjected on arrival shall be determined by the actual condition found to exist on board and the sanitary particulars of the voyage.

It rests with each Government, taking into account the information furnished under the provisions of Section I, Chapter I, and of Article 14 of this Convention, as well as the obligations placed upon it by Section II, Chapter I, to determine what procedure is applicable

in its own ports to arrivals from any foreign port, and in particular to decide whether, from the point of view of the procedure to be applied, a particular foreign port should be considered as infected.

The measures as provided in this Chapter must be regarded as constituting a maximum within the limits of which Governments may regulate the procedure to be applied to ships on their arrival.

SECTION I.—*Notification of measures prescribed*

ARTICLE 16

Every Government is bound to communicate immediately to the Diplomatic Mission or, failing that, to the Consul of the infected country, residing in its capital, as well as to the International Office of Public Hygiene which shall immediately make them known to the other Governments, the measures which it considers necessary to prescribe with regard to arrivals from that country. Such information will in like manner be held at the disposition of other diplomatic or consular representatives established in its territory.

It also is bound to communicate, through the same channels, the withdrawal of these measures or any modifications thereof.

In the absence of a Diplomatic Mission or a Consulate in the capital, the communications shall be made direct to the Government of the country concerned.

SECTION II.—*Merchandise and baggage—Importation and transit*

ARTICLE 17

Subject to the provisions of the last paragraph of Article 50, the entry of merchandise and baggage arriving by land or by sea for import or for transit may not be prohibited nor may merchandise or baggage be detained at land frontiers or in ports. The only measures which may be prescribed with regard to such merchandise and baggage are specified in the following paragraphs:

(a) In the case of plague, body linen, wearing apparel and bedding which have been in recent use may be subjected to disinsectisation, and, if necessary, to disinfection.

Merchandise coming from an infected local area and likely to harbor plague-infected rats may be unloaded only on condition that the precautions necessary to prevent the escape of rats and to ensure their destruction are taken as far as practicable.

(b) In the case of cholera, body linen, wearing apparel and bedding which have been in recent use may be subjected to disinfection.

In derogation of the provisions of this Article, the importation of fresh fish, shellfish and vegetables may be prohibited unless they have undergone a treatment calculated to destroy cholera vibrios.

(c) In the case of exanthematous typhus, body linen, wearing apparel and bedding which have been in recent use, as well as rags not carried as merchandise in large quantities, may be subjected to disinsectisation.

(d) In the case of smallpox, body linen, wearing apparel and bedding which have been in recent use, as well as rags not carried as merchandise in large quantities, may be subjected to disinfection.

ARTICLE 18

It rests with the authority of the country to which the merchandise and things are consigned to decide in what manner and at what place disinfection shall be carried out and what shall be the methods adopted to secure the destruction of rats or insects (fleas, lice, mosquitos, et cetera). These operations must be performed in such a fashion as to injure articles as little as possible. Clothes and other articles of small value, including rags not carried in [as] merchandise in large quantities, may be destroyed by fire.

It rests with each State to settle questions of compensation for damage caused by disinfection, deratisation or disinsectisation, or by the destruction of the things referred to above.

If, on account of these measures, charges are levied by the sanitary authority, either directly or indirectly through a company or an individual, the rates of these charges must be in accordance with a tariff made public beforehand and so drawn up that the State and the sanitary authority shall, on the whole, derive no profit from its application.

ARTICLE 19

Letters and correspondence, printed matter, books, newspapers, business documents, et cetera, shall not be subject to any sanitary measure. Post parcels shall be subjected to restriction only if their contents include articles on which the measures provided by Article 17 of the present Convention may be enforced.

ARTICLE 20

When merchandise or baggage has been subjected to the operations prescribed in Article 17, any interested party can require the sanitary authorities to issue a free certificate showing the measures that have been taken.

SECTION III.—*Provisions relating to emigrants*

ARTICLE 21

The sanitary authorities in a country of emigration must subject its emigrants to a medical examination before their departure.

It is recommended that special arrangements be made between the countries of emigration, immigration and transit, with a view to laying down the conditions under which this examination shall be considered satisfactory by them, so that rejections on medical grounds at the frontier of the countries of transit and destination may be reduced to a minimum.

It is also recommended that these arrangements should determine what preventive measures against infectious diseases shall be applied to emigrants in the country of departure.

ARTICLE 22

It is recommended that, at the towns or ports of embarkation for emigrants, there should be an adequate health and sanitary administration having especially (1) a service for medical examination and treatment, as well as the necessary medical and prophylactic equipment; (2) an establishment supervised by the State where emigrants may be subjected to the health formalities, temporarily housed, and undergo all necessary medical examinations and have their food and drinking supplies examined; (3) premises situated at the port where medical examinations shall be made at the time of the final embarkation.

ARTICLE 23

It is recommended that emigrant ships be provided with a sufficient quantity of vaccines (anti-smallpox, anti-cholera, et cetera), in order to permit, if necessary, of vaccinations during the voyage.

SECTION IV.—*Measures at ports and marine frontiers*

A. PLAGUE

ARTICLE 24

A ship shall be regarded as *infected*:

- (1) if it has a case of human plague on board;
- (2) or if a case of human plague broke out more than six days after embarkation;
- (3) or if plague-infected rats are found on board.

A ship shall be regarded as *suspected*:

- (1) if a case of human plague broke out in the first six days after embarkation;
- (2) or if investigations regarding rats have shown the existence of an unusual mortality without determining the cause thereof.

The ship shall continue to be regarded as suspicious until it has been subjected to the measures prescribed by this Convention at a suitably equipped port.

A ship shall be regarded as *uninfected*, notwithstanding its having come from an infected port if there has been no human or rat plague on board either at the time of departure, or during the voyage, or at the time of arrival, and the investigations regarding rats have not shown the existence of an unusual mortality.

ARTICLE 25

Plague-infected ships shall undergo the following measures:

- (1) Medical inspection;
- (2) The patients shall immediately be landed and isolated;
- (3) All persons who have been in contact with the patients and those whom the health authority of the port has reason to consider suspect[s] shall be disembarked if possible. They may be subjected to observation or surveillance, or to a period of observation followed by surveillance,* provided that the total duration of these measures does not exceed six days from the time of arrival of the ship.

It rests with the sanitary authority of the port, after taking into consideration the date of the last case, the condition of the ship and the local possibilities, to take that one of these measures which seems to it preferable. During the same period the crew may be prevented from going ashore except on duty made known to the sanitary authority;

- (4) Bedding which has been used, and such soiled linen, wearing apparel and other articles as are, in the opinion of the sanitary authority, infected shall be disinfected and, if there be occasion, disinfected;

- (5) The parts of the ship which have been occupied by persons suffering from plague or which, in the opinion of the sanitary authority, are infected, shall be disinfected and, if there be occasion, disinfected;

- (6) The sanitary authority may order deratisation before the discharge of cargo, if it is of opinion, having regard to the nature of the cargo, and the way in which it is loaded, that it is possible to effect a total destruction of rats without removing it. In this case, the ship cannot be subjected to a new deratisation after discharge. In other cases the complete destruction of rats on board must be effected when the holds are empty. In the cases of ships in ballast, this shall be done as soon as possible before taking cargo.

* In all cases where the present Convention refers to "Surveillance" the sanitary authority may substitute "Observation" as an exceptional measure in the case of persons who do not offer adequate sanitary guarantees.

Persons under observation or surveillance must submit to all clinical or bacteriological investigations which are considered necessary by the sanitary authority. [Footnote in the original.]

Destruction of rats shall be carried out so as to avoid, as far as possible, damage to the ship and cargo (if any). The operation must not last longer than twenty-four hours. All charges made in respect to these operations of deratisation as also all contingent indemnity claims, shall be settled in accordance with the principles laid down in Article 18.

If a ship is only to discharge a part of its cargo, and if the port authorities consider that it is impossible to undertake complete deratisation, the said ship shall be allowed to remain in the port for the time required to discharge that part of its cargo, provided that all precautions, including isolation, are taken to the satisfaction of the sanitary authority to prevent rats from passing from ship to shore, either with unladen goods or otherwise.

The discharge of cargo shall be carried out under the supervision of the sanitary authority, who shall take all measures necessary to prevent the men employed on this duty from becoming infected. The men shall be subjected to observation or to surveillance for a period not exceeding six days from the time when they have ceased to work at the unloading of the ship.

ARTICLE 26

Plague-suspected ships shall undergo the measures indicated in Nos. 1, 4, 5 and 6 of Article 25.

In addition, the crew and passengers may be subjected to surveillance which shall not exceed six days, reckoned from the date of the ship's arrival. The crew may be prevented during the same period from going ashore except on duty made known to the Sanitary Authority.

ARTICLE 27

Ships uninfected with plague shall be given free pratique immediately, with the reservation that the sanitary authority of the port of arrival may prescribe the following measures with regard to them:

(1) Medical inspection to determine whether the condition of the ship corresponds to the definition of a healthy ship;

(2) Destruction of rats on board under the conditions specified in (6) of Article 25 in exceptional cases and for well-founded reasons which will be communicated in writing to the Captain of the ship;

(3) The crew and passengers may be subjected to surveillance during a period which shall not exceed six days reckoned from the date on which the ship left the contaminated port. The crew may be prevented during the same period from going ashore except on duty made known to the sanitary authority.

ARTICLE 28

All ships, except those employed in national coastwise service, must be periodically deratised, or be permanently kept in such a condition that rat population is reduced to the minimum. In the first case they receive Deratisation Certificates, and in the second Deratisation Exemption Certificates.

Governments shall make known through the International Office of Public Hygiene those of their ports possessing the equipment and personnel necessary for the deratisation of ships.

A deratisation certificate or a deratisation exemption certificate shall be issued only by the sanitary authority of the aforesaid ports. The certificate shall be valid for six months. One additional month however may be allowed in the case of a ship proceeding to its home port.

If no valid certificate is produced, the sanitary authority at the ports mentioned in the second paragraph of this Article may after inquiry and inspection:

(a) Directly perform the deratisation of the vessel, or cause it to be done under its direction and supervision. When completed to its satisfaction it shall issue a dated Deratisation Certificate. It shall decide on each case what process shall be employed practically to exterminate the rats on board, particulars of the mode of deratising applied and of the number of rats destroyed must be entered on the Certificate. Destruction of rats must be accomplished in a manner that will as far as possible save the ship and cargo (if any) from injury. The operation must not last longer than 24 hours. In the case of vessels in ballast, it must be done before loading. All charges on account of these operations of deratization and all claims, if any, for damages shall be settled according to the terms of Article 18.

(b) Issue a Deratisation Exemption Certificate stating the date and grounds if it is satisfied that the ship is maintained in such a condition that the rat population is reduced to a minimum.

The deratisation and deratisation exemption certificates shall be drawn up as far as possible in a uniform manner. Forms of such certificates will be prepared by the International Office of Public Hygiene.

The competent authority of each country undertakes each year to furnish the International Office of Public Hygiene with a statement of the measures taken under this article and the number of ships which have been subjected to deratisation, or which have been granted deratisation exemption certificates, at the ports referred to in the second paragraph of this Article.

The International Office of Public Hygiene is requested to take in accordance with Article 14 all steps for the interchange of in-

formation as to the action taken under this Article and the results obtained.

The provisions of this Article do not affect the rights accorded to sanitary authorities by Articles 24–27 of this Convention.

The Governments shall see that all requisite and practicable measures are taken by the competent authorities to accomplish the destruction of rats in ports and the dependent and neighboring parts as well as on lighters and coastwise vessels.

B. CHOLERA

ARTICLE 29

A ship shall be regarded as *infected* if there is a case of cholera on board, or if there has been a case of cholera during the five days previous to the arrival of the ship in port.

A ship shall be regarded as *suspected* if there has been a case of cholera at the time of departure or during the voyage, but no fresh case in the five days previous to arrival. The ship shall continue to be regarded as suspect until it has been subjected to the measures prescribed by the present Convention.

A ship shall be considered *uninfected* notwithstanding that it came from an infected port or that it may have on board persons proceeding from an infected area if there has been no case of cholera at the time of departure, during the voyage, or on arrival.

Cases presenting the clinical symptoms of cholera in which no cholera vibrios have been found or in which vibrios not strictly showing the characteristics of cholera vibrio have been found, shall be subject to all measures required in the case of cholera.

Germ carriers discovered on the arrival of the ship shall be submitted after disembarkation to all the obligations which may be imposed on such a case by the laws of the country of arrival on its own nationals.

ARTICLE 30

Cholera infected ships shall be subjected to the following measures:

- (1) Medical inspection:
- (2) The patients shall be immediately landed and isolated;
- (3) The crew and passengers may also be landed and either be kept under observation or subjected to surveillance during a period not exceeding five days reckoned from the date of arrival.

However, persons who can show that they have been immunized from cholera by vaccination effected less than six months, and more than six days before, may be subjected to surveillance but not to observation.

(4) Bedding which has been used, soiled linen, wearing apparel and other articles, including foodstuffs, which in the opinion of the sanitary authority of the port have been recently contaminated, shall be disinfected;

(5) The parts of the vessel which have been occupied by cholera patients or which are considered by the health authorities as being contaminated, shall be disinfected;

(6) Unloading shall be carried out under the supervision of the sanitary authority, who will take all measures necessary to prevent the infection of the men engaged in unloading. They shall be subjected to observation or to surveillance which shall not exceed five days from the time when they cease unloading;

(7) When the drinking water stored on board is considered suspicious it shall be turned off after being disinfected and replaced after disinfection of the tanks by a supply of water of good quality;

(8) The health authority may prohibit the turning off without previous disinfection of water ballast if it has been taken in at an infected port;

(9) It may be forbidden to let run or throw human dejections or the residuary waters of the vessel into the waters of the port, unless they are first disinfected.

ARTICLE 31

Vessels suspected of cholera shall be subjected to the measures prescribed under Nos. (1), (4), (5), (7), (8) and (9) of Article 30.

The crew and passengers may be subjected to a surveillance not to exceed five days from the arrival of the vessel. It is recommended that the landing of the crew be prevented during the same period except for purposes connected with the service and made known to the sanitary authority of the port.

ARTICLE 32

If the ship has been declared infected or suspected only because of cases on board presenting the clinical features of cholera, and two bacteriological examinations, made with an interval of not less than 24 hours between them, have not revealed the presence of cholera or any other suspicious vibrios, it shall be classed as uninfected.

ARTICLE 33

Vessels uninfected with cholera shall be granted pratique, immediately.

The health authority of the port of arrival may order in their case the measures provided under Nos. (1), (7), (8) and (9) of Article 30.

The crew and the passengers may be subjected to a surveillance not to exceed five days from the date of arrival of the ship. The

landing of the crew may be forbidden during the same period except for purposes connected with the service and made known to the sanitary authority of the port.

ARTICLE 34

Since anti-cholera vaccination is a method of proved efficacy in checking cholera epidemics, and consequently in lessening the likelihood of the spread of the disease, it is recommended that sanitary administrations will, in the largest measure possible, and as often as practicable, apply specific vaccination in cholera hotbeds and grant certain advantages as regards restrictive measures to persons who agree to be vaccinated.

C. YELLOW FEVER

ARTICLE 35

A ship shall be regarded as *infected* if there is a case of yellow fever on board, or if there was one at the time of departure or during the voyage.

A ship shall be regarded as *suspected* if it had no case of yellow fever but arrives after a voyage of less than six days from an infected port or from an uninfected port in close relation with endemic centers of yellow fever, or if when it arrived having been more than six days out there is reason to believe that it may carry winged *Stegomyia (Aedes Egypti)* from the said port.

A ship shall be regarded as *uninfected*, notwithstanding its having come from a yellow fever infected port, if having had no case of yellow fever on board and arrived after more than six days on the way there is no reason to believe that it carries winged *Stegomyia*, or when it proves to the satisfaction of the sanitary authority of the port of arrival:

(a) That during its stay in the port of departure it kept at a distance of more than 200 metres from the inhabited land and at such a distance from the pontoons as to make the access of *Stegomyia* improbable;

(b) Or that at the time of departure it was subjected to effective fumigation in order to destroy mosquitoes.

ARTICLE 36

Ships infected with yellow fever shall undergo the following measures:

(1) Medical inspection;

(2) The patients shall be landed, and those of them who are in the first five days of the disease shall be isolated so as to prevent contamination by mosquitoes;

(3) The other persons who land shall be subjected to observation or surveillance not exceeding six days reckoned from the time of landing;

(4) The ship will be moored at least 200 metres from the inhabited land and at such a distance from the pontoons as will render the access of *Stegomyia* improbable;

(5) Mosquitoes at all stages of evolution shall be destroyed on board as far as possible before discharge of cargo. If unloading takes place before the destruction of mosquitoes, the personnel in charge of that work will be subjected to observation or to surveillance for not more than six days from the time when they ceased unloading.

ARTICLE 37

Ships suspected of yellow fever may be subjected to the measures specified in (1), (3), (4) and (5) of Article 36.

Nevertheless, if the voyage has lasted less than six days and if the ship meets the conditions specified under letters (a) and (b) in the subsection of Article 35 relating to uninfected ships, it shall only be subjected to the measures prescribed by Article 36, (1) and (3) and to fumigation.

When 30 days have elapsed after the departure of the ship from the infected port, and no case has occurred during its voyage, the ship may be granted free pratique subject to preliminary fumigation should the sanitary authority deem it necessary.

ARTICLE 38

Ships uninfected with yellow fever shall be granted free pratique after medical inspection.

ARTICLE 39

The measures prescribed in Articles 36 and 37 concern only those regions in which the *Stegomyia* exists, and they shall be applied with due consideration to the climatic conditions prevailing in the countries concerned and also the *Stegomyian* index.

In other regions they shall be applied to the extent considered necessary by the sanitary authority.

ARTICLE 40

The masters of ships which have touched at ports infected with yellow fever are specially advised to cause a search to be made for mosquitoes and their larvae during the voyage and to secure their systematic destruction in all accessible parts of the ship, particularly in the store rooms, galleys, boiler rooms, water tanks and other places specially likely to harbor *Stegomyia*.

D. EXANTHEMATOUS TYPHUS

ARTICLE 41

Ships which, during the voyage have had or at the time of their arrival, have a case of typhus on board, may be subjected to the following measures:

- (1) Medical inspection;
- (2) The patients shall immediately be landed, isolated and deloused;
- (3) Other persons reasonably suspected to harbor lice, or to have been exposed to infection, shall also be deloused, and may be subjected to surveillance for a time to be specified, but which shall never be more than 12 days, reckoned from the date of delousing;
- (4) Bedding which has been used, and such linen, wearing apparel, and other articles as the sanitary authority of the port considers to be infected, shall be disinfected;
- (5) The parts of the ship which have been occupied by persons ill with typhus, and that the sanitary authority regard as infected, shall be disinfected.

The ship shall immediately be given free pratique.

It rests with each Government to take after disembarkation the measures which it considers appropriate to secure the surveillance of persons who arrive on a ship which had no case of exanthematous typhus on board, but who left an area where typhus is epidemic less than 12 days before.

E. SMALLPOX

ARTICLE 42

Ships which have had a case of smallpox on board either during the voyage or at the time of arrival, may be subjected to the following measures:

- (1) Medical inspection;
- (2) The patients shall immediately be landed and isolated;
- (3) Other persons reasonably suspected to have been exposed to infection on board, and who, in the opinion of the sanitary authority, are not sufficiently protected by recent vaccination, or by a previous attack of smallpox, may be subjected to vaccination followed by surveillance, the period of surveillance being specified in each case according to the circumstances, but never to exceed 14 days, reckoned from the date of arrival;
- (4) Bedding which has been used, soiled linen, wearing apparel, and other articles which the sanitary authority of the port considers to be infected, shall be disinfected;

(5) Only those parts of the ship which have been occupied by persons ill with smallpox and which the sanitary authority regards as infected shall be disinfected.

The ship shall immediately be given free pratique.

It rests with each Government to take after disembarkation the measures which it considers appropriate to secure the surveillance of persons who are not protected by vaccination and arrive on a ship that had no smallpox on board, but left an area where smallpox is epidemic less than 14 days before.

ARTICLE 43

It is recommended that ships calling in countries where smallpox is epidemic, shall take all precautions possible to secure the vaccination or revaccination of the crew.

It is also recommended that governments should make vaccination and revaccination as general as possible, especially in ports and border regions.

F. COMMON PROVISIONS

ARTICLE 44

The captain and the ship's physician must answer all questions that are put to them by the sanitary authority with regard to the health of the ship during the voyage.

When the captain and the physician declare that there has not been any case of plague, cholera, yellow fever, exanthematous typhus or smallpox, and no unusual mortality among rats on the ship since the time of its departure, the sanitary authority may require them to make a solemn or sworn declaration.

ARTICLE 45

In applying the measures set forth in the preceding subsections A., B., C., D. and E, the sanitary authority will take into account the presence of a physician on board and the actual preventive measures taken in the course of the voyage, especially for the destruction of rats.

The sanitary authorities of the countries that find it convenient to come to an agreement on the matter may exempt from medical inspection and other measures uninfected ships carrying a physician specially commissioned by their country.

ARTICLE 46

It is recommended that Governments take into account, as to the treatment to be applied to arrivals from another country, measures taken in the latter country to combat infectious diseases and to prevent their transmission to other countries.

Ships arriving from ports which fulfill the conditions set out in Articles 14 and 51, do not derive from that alone any right to special advantages at the port of arrival, but the Governments agree to take into the fullest consideration the measures already taken in those ports, so that all the measures taken at the port of arrival with regard to ships coming from those ports shall be reduced to a minimum. To that end and in order to put shipping, commerce and traffic to as little inconvenience as possible, it is recommended that special arrangements in accordance with Article 57 of this Convention be made in all cases where it would seem advantageous to do so.

ARTICLE 47

Ships arriving from an infected area which have been submitted to sufficient sanitary measures to the satisfaction of the sanitary authority, shall not undergo those measures again on their arrival at another port, whether or not the latter belongs to the same country, provided nothing has happened since which would call for the application of the sanitary measures above referred to and the ships have not called at an infected port, except for coaling.

A ship shall not be considered as having stopped at a port, when without having been in communication with the shore it has landed passengers only and their luggage and the mail, or has taken on board only mails [*sic*] or passengers, with or without their luggage, who have not communicated with the port or with a contaminated area. In the case of yellow fever the vessel must, in addition, have kept wherever possible not less than two hundred metres from inhabited land and at such a distance from the pontoons as to make access of *Stegomyia* improbable.

ARTICLE 48

The port authority who imposes sanitary measures shall, whenever requested, deliver to the captain, or any other interested person, a certificate specifying the nature of the measures and the methods employed, the parts of the ship treated, and the reasons why the measures have been applied.

It may also in the same way, on demand, issue free of charge to passengers who have arrived by an infected ship a certificate stating the date of their arrival and the measures to which they and their luggage have been subjected.

SECTION V.—*General Provisions*

ARTICLE 49

It is recommended—

- (1) That bills of health be issued free in all ports;

(2) That fees for consular visas be reduced by way of reciprocity, so as not to represent more than the cost of the service rendered;

(3) That the bill of health be made out in at least one of the languages known to maritime world, in addition to that of the country where it is issued;

(4) That special agreements in the spirit of Article 57 of this Convention be made with a view to doing away gradually with consular visas and bills of health.

ARTICLE 50

It is desirable that the number of ports furnished with an organization and equipment sufficient for the reception of a ship, whatever its health conditions may be, should be in each country commensurate with the importance of the trade and shipping. However, without prejudice to the right of Governments to make agreements for the establishment of common sanitary stations, every country must provide at least one port on each of its seacoasts with the above-mentioned organization and equipment.

Furthermore, it is recommended that all large seaports should be so equipped that uninfected ships at least may undergo immediately upon their arrival, the prescribed sanitary measures without being sent to another port for this purpose.

Every infected or suspected ship which arrives in a port not equipped for its reception must proceed, at its own risk and peril, to one of the ports opened to ships of the category to which it belongs.

Governments shall make known to the International Office of Public Hygiene what ports are open to arrivals from ports infected with plague, cholera, or yellow fever, and in particular those open to infected or suspected ships.

ARTICLE 51

It is recommended that there be set up in large seaports:

(a) A regular port medical service, and permanent medical surveillance of the health condition of crews and of the inhabitants of the port;

(b) An outfit for the transport of the sick and suitable premises for their isolation, and for keeping suspected persons under observation;

(c) Installations necessary for efficient disinfection and disinsection; bacteriological laboratory, and a force prepared to attend to urgent vaccination against smallpox or against other diseases;

(d) A supply of drinking water of quality beyond suspicion for the use of the port, and a system affording all possible security for the removal of waste, filth and waste water;

(e) A competent and adequate staff and necessary equipment for the deratisation of ships, yards, docks and warehouses;

(f) A permanent organization for the detection and examination of rats.

It is also recommended that warehouses and docks should as far as possible be rat proof, and that the sewer system of the port be separate from that of the town.

ARTICLE 52

Governments will refrain from making any sanitary inspection of ships passing through their territorial waters* without stopping at the ports or on the coasts of their respective countries.

If the ship, for any reason whatever, should stop at a port or on the coast, it would be subjected to the sanitary laws and regulations of the country to which the port or coast belongs as far as permitted by international conventions.

ARTICLE 53

Special measures may be prescribed regarding any ship in an exceptionally bad sanitary condition likely to facilitate the spread of the diseases mentioned in this Convention, especially crowded ships.

ARTICLE 54

Ships unwilling to comply with obligations imposed by the port authority, in virtue of the provisions of this Convention, shall be at liberty to put out to sea.

Such ships may, however, be permitted to land goods if the ship is isolated and if the goods are subjected to the measures provided by Chapter II., Section II., of this Convention.

Such ships may also be authorized to disembark passengers at their request, on the condition that such passengers submit to the measures prescribed by the sanitary authority.

The ship, while kept isolated, may also take on fuel, stores and water.

ARTICLE 55

Each Government undertakes to have a single sanitary tariff only, which shall be published, and the charges therein shall be moderate. This tariff will be applied in ports to all ships, without distinction being made between the national and foreign flags, and to foreigners in the same conditions as to the country's own nationals.

*The expression "territorial waters" must be understood in its strictly juridical sense. It does not include Suez, Panama and Kiel Canals. [Footnote in the original.]

ARTICLE 56

International coasting traffic will come under special regulations, to be agreed upon by the countries concerned. Nevertheless the provisions of Article 28 of the present Convention shall be applicable to them in all cases.

ARTICLE 57

The Governments, taking into account their peculiar situation, may conclude special agreements amongst themselves, in order to make the sanitary measures prescribed by this Convention more efficacious and less cumbersome. The text of such agreements shall be communicated to the International Office of Public Hygiene.

SECTION VI.—*Measures at land frontiers—Travellers—Railways—Frontier Zones—River-Ways*

ARTICLE 58

Observations shall not be established at land frontiers.

Persons showing symptoms of the diseases mentioned in this Convention alone may be detained at frontiers.

This principle does not deprive a State of the right to close a portion of its frontiers if need be. The places through which border traffic will exclusively be allowed shall be designated, and in such cases duly equipped sanitary stations shall be set up at the places thus designated. Notice of these measures shall immediately be given to the neighboring country concerned.

Notwithstanding the provisions of the present Article, persons having been in contact with a person ill with pulmonary plague, may be retained at land frontiers under observation for not more than seven days reckoned from the time of arrival.

Persons who have been in contact with a person ill with exanthematous typhus may be submitted to delousing.

ARTICLE 59

In trains coming from infected areas it is important that the railway crew keep watch on the way over the state of health of the travellers.

Medical intervention shall be limited to inspection of travellers and care of the sick and the latter's companions if there be occasion. When this inspection is resorted to, it shall, as far as possible, be combined with the Custom examination in order that travellers may suffer as little delay as possible.

ARTICLE 60

Railway cars running in countries where yellow fever exists must be so arranged as to be as little suited as possible for the transport of *Stegomyia*.

ARTICLE 61

Travellers coming from an area which lies under the conditions coming under the second paragraph of Article 10 of this Convention may be subjected on arrival at their destination to surveillance for not more than six days reckoned from the date of their arrival in the case of plague, five days in the case of cholera, six days in the case of yellow fever, twelve days in the case of exanthematous typhus, or fourteen days in the case of smallpox.

ARTICLE 62

With respect to diseases coming under this Convention, Governments, notwithstanding the foregoing provisions, reserve the right in exceptional cases to take special measures in regard to certain classes of persons who do not offer satisfactory sanitary guarantees, especially persons travelling or crossing the frontier in bands. The provisions of this paragraph are not applicable to emigrants save the provisions of Article 21.

These measures may include the establishment at frontiers of sanitary stations, sufficiently equipped, to ensure the surveillance, and the observation if necessary, of the persons concerned, as well as for their medical examination, disinfection, disinsectisation and vaccination.

As far as possible, these exceptional measures should be made the subject of special arrangements between adjoining States.

ARTICLE 63

Railway cars for passengers, mails or luggage and freight cars may not be detained at the frontier.

If, however, one of the carriages is infected or has been occupied by any person suffering from plague, cholera, exanthematous typhus, or smallpox, it shall be detained all the time required to undergo the prophylactic measures indicated for each case.

ARTICLE 64

The measures concerning the crossing of frontiers by railroad and postal employees are within the province of the administrations concerned. They shall be combined so as not to hinder the service.

ARTICLE 65

The regulation of frontier traffic and questions pertaining thereto, shall be left to special arrangements between the contiguous countries in accordance with the provisions of this Convention.

ARTICLE 66

It shall be the province of the Government of the riparian Nations to regulate the sanitary régime of lakes and river routes by means of special arrangements.

TITLE II. SPECIAL PROVISIONS FOR THE SUEZ CANAL AND NEIGHBORING COUNTRIES

SECTION I.—*Measures with respect to ordinary vessels hailing from contaminated northern ports and appearing at the entrance of the Suez Canal or in Egyptian ports*

ARTICLE 67

Ordinary *uninfected* vessels hailing from a plague or cholera infected port of Europe or the basin of the Mediterranean and presenting themselves for passage through the Suez Canal shall be allowed to pass through in quarantine.

ARTICLE 68

Ordinary *uninfected* vessels wishing to make a landing in Egypt may stop at Alexandria or Port Said.

If the port of departure is contaminated by plague, Article 37 will be applicable.

If the port of departure is contaminated by cholera, Article 33 will be applicable.

The sanitary authority of the port may substitute for surveillance observation either on board or in a quarantine-station.

ARTICLE 69

The measures to which *infected* or *suspected* vessels shall be subjected which hail from a plague or cholera infected port of Europe or the shores of the Mediterranean or the Black Sea, and which desire to effect a landing in one of the Egyptian ports or to pass through the Suez Canal, shall be determined by the Sanitary, Maritime and Quarantine Board of Egypt in conformity with the stipulations of the present Convention.

ARTICLE 70

The regulations of the Sanitary, Maritime and Quarantine Board of Egypt shall be revised with the least possible delay to conform with the stipulations of this Convention. In order to become effective, they must be accepted by the several Powers represented on the Board. They shall establish the régime to which ships, passengers and merchandise are to be subjected. They shall decide

the minimum number of medical officers to be attached to each station, the method of recruitment, the salaries, and duties of such medical officers and all officials appointed to carry out under the orders of the Sanitary, Maritime and Quarantine Board of Egypt the supervision and the execution of preventive measures.

The names of the physicians and officials shall be proposed to the Egyptian Government by the Sanitary, Maritime and Quarantine Board of Egypt, through its President.

SECTION II.—*Measures in the Red Sea*

A. MEASURES WITH RESPECT TO ORDINARY VESSELS HAILING FROM THE SOUTH AND APPEARING IN PORTS OF THE RED SEA OR BOUND TOWARD THE MEDITERRANEAN

ARTICLE 71

Independently of the general provisions in Title I, concerning the classification of and the régime of infected, suspected, or uninfected vessels, the special provisions contained in the ensuing articles are applicable to ordinary vessels coming from the south and entering the Red Sea.

ARTICLE 72

Uninfected ships.—Uninfected ships may pass through the Suez Canal in quarantine. When the ship is to touch at an Egyptian port:

(a) If the port of departure is infected by plague, the ship must have been six full days on the way else the passengers who land and the crews shall be kept under surveillance until the six days are completed.

Loading and unloading of cargo will be allowed with due observance of the necessary measures to prevent the landing of rats;

(b) If the port of departure is infected by cholera, the ship may receive free pratique, but every passenger or member of the crew who disembarks when five days have not elapsed since the date of departure from the infected port, will be subjected to surveillance until the completion of that time.

The sanitary authority of the port may in all cases where that authority considers it necessary, substitute observation on board or in a quarantine station for surveillance. In all cases the sanitary authority may make the bacteriological examinations which it considers necessary.

ARTICLE 73

Suspected ships.—Suspected ships having a physician on board may, if regarded by the sanitary authority as presenting sufficient guarantees, be allowed to pass through the Suez Canal in quarantine under the regulations provided for in Article 70.

When the ship is to stop at an Egyptian port:

(a) In the case of plague, the provisions of Article 6 are applicable, but surveillance may be replaced by observation;

(b) In the case of cholera, the provisions of Article 31 are applicable with the same reservation as to observation instead of surveillance.

ARTICLE 74

Infected ships.—(a) *Plague.*—The measures laid down in Article 25 are applicable. Where danger of infection exists, the ship may be required to moor at Moses' Wells or any other place named by the sanitary authority of the port.

Passage in quarantine may be granted before the expiration of the six days required by the regulations, if the sanitary authority of the port considers it possible.

(b) *Cholera.*—The measures laid down in Article 30 are applicable. The ship may be required to moor at Moses' Wells or any other place, and in case of a serious outbreak on board, may be sent off to Tor so that vaccination and, if occasion demands, the treatment of the patients may take place.

The ship cannot be authorized to pass through the Suez Canal until the sanitary authority is satisfied that the ship, passengers and crew no longer present any danger.

B. MEASURES WITH RESPECT TO ORDINARY VESSELS HAILING FROM THE INFECTED PORTS OF HEDJAZ DURING THE PILGRIMAGE SEASON

ARTICLE 75

If plague or cholera prevails in Hedjaz during the time of the Mecca pilgrimage, vessels coming from the Hedjaz or from any other part of the Arabian coast of the Red Sea without having embarked there any pilgrims or similar groups of persons, and which have not had any suspicious occurrence on board during the voyage, shall be placed in the category of ordinary suspected vessels. They shall be subjected to the preventive measures and to the treatment imposed on such vessels.

If they are bound for Egypt they may undergo, in a sanitary establishment designated by the Sanitary, Maritime, and Quarantine Board, an observation of five days for cholera and six days for the plague from the date of their embarkation. They shall be subjected, moreover, to all the measures prescribed for suspected vessels (disinfection, et cetera), and shall not be granted pratique until they have passed a favorable medical examination.

It shall be understood that if the vessels have had suspicious occurrences during the voyage they shall pass the observation period at Moses Spring, which shall last five days for cholera and six days for the plague.

SECTION III.—*Organization surveillance*

ARTICLE 76

The medical inspection prescribed by the Regulations may take place at night on ships that come up to pass through the canal if lighted by electricity, and whenever the sanitary authority of the port is satisfied that the lighting facilities are adequate.

The supervision and performance of the prophylactic measures applied in the Suez Canal, and at the quarantine establishments, shall be entrusted to a corps of sanitary guards. These guards shall have the status of police officers with the right to make requisitions in cases where the sanitary regulations are infringed.

SECTION IV.—*Passage through the Suez Canal in quarantine*

ARTICLE 77

The health authority of the port of Suez shall grant the passage through in quarantine, and the Sanitary Maritime and Quarantine Board shall be immediately informed thereof. Doubtful cases shall be decided by that Board.

ARTICLE 78

As soon as the permit provided for in the preceding article is granted, a telegram shall be sent to the authority of the port named by the Captain as his next port of call and also to the port of final destination. The despatch of the telegram is at the expense of the vessel.

ARTICLE 79

Each country shall establish penalties against vessels which abandon the route indicated by the captain and unduly approach one of the ports within its territory, cases of *vis major* and enforced sojourn being excepted.

ARTICLE 80

Upon a vessel's being spoken, the captain shall be obliged to declare whether he has on board any gangs of native stokers or of wage-earning employees of any description who are not inscribed on the crew list or the register kept for this purpose.

The following questions in particular shall be asked the captains of all vessels arriving at Suez from the south, and shall be answered under oath or solemn declaration:

Have you any helpers: stokers or other workmen, not inscribed on your crew list or on the special register? What is their nationality? Where did you embark them?

The sanitary physicians shall ascertain the presence of these helpers and if they discover that any of them are missing they should carefully seek the cause of their absence.

ARTICLE 81

A health officer and at least two guards of the sanitary service shall board the vessel and accompany her to Port Said. Their duty shall be to prevent communications and see to the execution of the prescribed measures during the passage through the canal.

ARTICLE 82

All embarkations, landings, and transshipments of passengers or cargo are forbidden during the passage through the Suez Canal.

However, passengers may embark at Suez or Port Said in quarantine.

ARTICLE 83

Vessels passing through in quarantine shall make the trip from Suez to Port Said or vice versa, without lying up.

In case of stranding or of being compelled to lie up, the necessary operations shall be performed by the personnel on board, all communications with the employees of the Suez Canal Company being avoided.

ARTICLE 84

When troops are conveyed through the canal on suspicious or infected vessels passing through in quarantine, the trip shall be made in the daytime only. If it is necessary to stop at night in the canal, the vessels shall anchor in Lake Timsah or the Great Lake.

ARTICLE 85

Vessels passing through in quarantine are forbidden to stop in the harbor of Port Said except in the cases contemplated in articles 82 and 86.

The supply and preparation of food on board vessels shall be effected with the means at hand on the vessels.

Stevadores or any other persons who may have gone on board shall be isolated on the quarantine barge. They shall undergo the regulation measures.

ARTICLE 86

When it is absolutely necessary for vessels passing through in quarantine to take on coal or oil at Suez or Port Said, they shall perform this operation under the necessary guarantee for isolation and sanitary surveillance that may be ordered by the Sanitary, Maritime and Quarantine Board of Egypt. When it is possible

to maintain a strict supervision of coaling on board the vessel and to prevent all contact with the persons on board, the coaling of the vessel by the workmen of the port may be permitted. At night the place where the coaling is done should be efficiently illuminated by electric lights.

ARTICLE 87

The pilots, electricians, agents of the Company, and sanitary guards must leave the vessel at Port Said outside of the port between the jetties, and thence conducted directly to the quarantine barge where they shall undergo the measures that may be deemed necessary.

ARTICLE 88

The war vessels hereinafter specified shall enjoy the benefits of the following provisions when passing through the Suez Canal:

They shall be recognized by the quarantine authority as uninfected upon the production of a certificate issued by the physicians on board, countersigned by the commanding officer, and affirming under oath or solemn declaration:

(a) That there has not been any case of plague or cholera on board either at the time of departure or during the passage;

(b) That a careful examination of all persons on board, without any exception, has been made less than twelve hours before the arrival in the Egyptian port, and that it revealed no case of these diseases.

These vessels shall be exempted from the medical examination and immediately receive pratique.

The quarantine authorities shall nevertheless have a right to cause their agents to perform the medical examination on board war vessels whenever they deem it necessary.

Suspicious or infected war vessels shall be subjected to the regulations in force.

Only fighting units shall be considered as war vessels, transports and hospital ships falling under the category of ordinary vessels.

ARTICLE 89

The Sanitary, Maritime, and Quarantine Board of Egypt is authorized to organize through Egyptian territory, by rail, in quarantine trains the transit of the mails and ordinary passengers coming from infected countries.

SECTION V.—*Sanitary measures applicable to the Persian Gulf*

ARTICLE 90

The sanitary régime established by Title I of the present Convention shall be applied, as regards vessels navigating the Persian Gulf, by the health authorities of the ports both of departure and arrival.

TITLE III. PROVISIONS SPECIALLY APPLICABLE TO PILGRIMAGES

CHAPTER I—GENERAL PROVISIONS

ARTICLE 91

The provisions of Article 13 are applicable to persons and objects bound for Hedjaz or the Kingdom of Irak and who are to be embarked on a pilgrim ship, even if the port of embarkation is not infected.

ARTICLE 92

When cases of plague or cholera or other epidemic disease exist in the port, no embarkation shall be made on pilgrim ships until after the persons, assembled in groups have been subjected to an observation for the purpose of ascertaining that none of them is stricken with those diseases.

It shall be understood that, in executing this measure, each Government may take into account the local circumstances and possibilities.

In the case of cholera the persons agreeing to being vaccinated there and then by the physician of the sanitary authority shall be submitted to the medical inspection only at the time of the vaccination. They shall not be required to submit to the observation provided for in this article.

ARTICLE 93

Pilgrims must be provided with a round trip ticket or have deposited sufficient money for the return journey, and, if circumstances permit, prove that they command the means necessary for the accomplishment of the pilgrimage.

ARTICLE 94

Only mechanically propelled ships shall be permitted to carry pilgrims on long voyages.

ARTICLE 95

Pilgrim ships that are Red Sea coasters intended for short passages known as "coasting voyages" shall be subject to the provisions in the special regulations published by the Sanitary, Maritime and Quarantine Board of Egypt.

ARTICLE 96

A ship, which, in addition to ordinary passengers, among whom pilgrims of the upper classes may be included, carries pilgrims in less proportion than one pilgrim per 100 tons gross, shall not be considered a pilgrim-ship.

This exemption applies only to the ship, and the pilgrims carried therein, irrespective of class, shall remain subject to all measures prescribed for them in this Convention.

ARTICLE 97

The captain or the agent of the shipping company, as the sanitary authority may elect, must pay all sanitary taxes that may be levied on pilgrims. These taxes must be included in the price of the ticket.

ARTICLE 98

As far as possible, pilgrims who embark or disembark at sanitary stations must have no contact with one another at the landing-places.

Pilgrims who are landed must be distributed at the camp in as small groups as possible.

They must be supplied with good drinking water, obtained either from local sources or by distillation.

ARTICLE 99

Victuals brought by pilgrims shall be destroyed if the sanitary authority considers it necessary.

CHAPTER II—PILGRIM SHIPS—SANITARY STATIONS

SECTION I.—*General Conditions Applying to Ships*

ARTICLE 100

The ships must be capable of accommodating the pilgrims in the between-decks. Outside of the space reserved for the crew, it must provide for each person, irrespective of age, an area of 1.50 square metres, i. e. 16 English square feet, and a height between-decks of at least 1.80 metres, i. e. about 6 English feet.

It is forbidden to accommodate pilgrims under the first between-deck, that is below the water line.

Satisfactory ventilation must be ensured and below the upper between-deck must be supplemented by mechanical ventilation.

In addition to the space reserved for pilgrims, the ship must provide, on the upper deck, for each person, irrespective of age, a free area of not less than 0.56 square metres, i. e. about 6 English square feet, in addition to the area upon the upper deck, reserved for temporary hospital, the crew, shower baths, and latrines, and for the working of the ship.

ARTICLE 101

On deck places must be set apart, screened from view, of which a sufficient number must be for the exclusive use of women.

These places shall be provided with water pipes under pressure, and provided with taps or douches in such a way as to furnish at all times sea water for the use of the pilgrims even if the ship is lying at anchor.

There shall be one tap or douche for every hundred or fraction of 100 pilgrims.

ARTICLE 102

The vessel must be provided, in addition to closets for the crew, with latrines, fitted with a flushing apparatus or with a water tap.

Some of these latrines shall be reserved exclusively for women.

Latrines must be in the proportion of two per 100 pilgrims, or fraction of 100.

There must be no water closets in the hold.

ARTICLE 103

The vessel must have two places for cooking set apart for the use of the pilgrims.

ARTICLE 104

Infirmaries meeting proper conditions of safety and wholesomeness must be reserved for the accommodation of the sick. They must be on the main deck unless in the opinion of the sanitary authority equally healthy accommodations can be provided elsewhere.

They must be constructed so as to allow persons suffering from infectious diseases and persons who have been in contact with them, to be isolated according to the nature of their illness.

The infirmaries, including temporary infirmaries, must be capable of accommodating at the rate of 3 square metres, i. e. about 32 English square feet per patient, not less than 4 per 100 or fraction of 100 of the pilgrims taken on board.

The infirmaries must be provided with special latrines.

ARTICLE 105

Every vessel shall have on board the medicines, disinfectants, and articles necessary for the care of the sick. The regulations made for this kind of vessels by each Government shall determine the nature and quantity of the medicines. Every vessel must also carry the needful immunizing agents, especially cholera and smallpox vaccines. The care and the remedies shall be furnished free of charge to the pilgrims.

ARTICLE 106

Every vessel embarking pilgrims shall have on board a physician holding a regular diploma who must be acceptable to the Govern-

ment of the country of the first port in which pilgrims embarked on the outward journey. A second physician meeting the same conditions shall be embarked as soon as the number of pilgrims carried by the vessel exceeds one thousand.

ARTICLE 107

The captain shall be obliged to have handbills posted on board in a position which is conspicuous and accessible to those interested. They shall be in the principal languages of the countries inhabited by the pilgrims embarked, and show:

1. The destination of the vessel;
2. The price of the tickets;
3. The daily ration of water and food allowed to each pilgrim according to the regulations of the country of origin;
4. A price list of victuals not comprised in the daily ration and to be paid for extra.

ARTICLE 108

The heavy baggage of the pilgrims shall be registered and numbered. The pilgrims will be allowed to keep with them only such articles as are absolutely necessary. The regulations made by each Government for its vessels will determine the nature, quantity, and dimensions of the said articles.

ARTICLE 109

Extracts from the provisions of Chapters I, II (sections I, II and III), and III of the present Title shall be posted, in the form of regulations, in the language of the nationality of the vessel as well as in the principal language of the countries inhabited by the pilgrims embarked, in a conspicuous and accessible place on each deck and between decks on every vessel carrying pilgrims.

SECTION II.—*Measures to be taken before departure*

ARTICLE 110

At least three days before departure the captain, or in the absence of the captain the owner or agent, of every pilgrim ship must declare his intention to embark pilgrims to the competent authority of the port of departure. In ports of call the captain, or in the absence of the captain the owner or agent, of every pilgrim ship must make this same declaration twelve hours before the departure of the vessel. This declaration must indicate the intended day of sailing and the destination of the vessel.

ARTICLE 111

Upon the declaration prescribed by the preceding article being made, the competent authority shall proceed to the inspection and measurement of the vessel at the expense of the captain.

The inspection only shall be made if the captain is already provided with a certificate of measurement issued by the competent authority of his country, unless it is suspected that the document no longer corresponds to the actual state of the vessel.

ARTICLE 112

The competent authority shall not permit the departure of a pilgrim ship until he has ascertained:

(a) That the vessel has been put in a state of perfect cleanliness and, if necessary, disinfected;

(b) That the vessel is in a condition to undertake the voyage without danger; that she is provided with the necessary plant and appliances for use in case of shipwreck, accident or fire, particularly a wireless apparatus for sending and receiving messages, that may be operated independently of the main engine-room; that she carries a sufficient number of life-saving devices; that she is properly outfitted, appointed, ventilated, and provided with awnings of sufficient thickness and size to shelter the decks, and that there is nothing on board that is or may become injurious to the health or safety of the passengers;

(c) That, in addition to the stores for the vessel and the crew, there are provisions and fuel of good quality on board in places where they can be suitably stored and in sufficient quantity for all the pilgrims and for the entire duration of the voyage;

(d) That the drinking water taken on board is of good quality; that there is a sufficient quantity thereof; that the tanks of drinking water on board are protected against all tainting and closed in such a way that the water can only be let out through the stop cocks or pumps. The devices for letting water out called "suckers" are absolutely forbidden;

(e) That the vessel had a distilling apparatus capable of producing at least 5 liters of water per head each day for every person embarked, including the crew;

(f) That the vessel has a disinfecting chamber whose safety and efficiency have been ascertained by the health authority of the port of embarkation of the pilgrims;

(g) That the crew comprises a physician holding a diploma and as well informed as possible on questions of maritime health and exotic pathology, and who must be acceptable to the Government of the first port where pilgrims embarked on the outward journey,

and that the vessel has a supply of medicines in accordance with Article 105;

(h) That the deck of the vessel is free from all cargo and other encumbrances;

(i) That the arrangements of the vessel are such that the measures prescribed by Section III hereinafter may be executed.

ARTICLE 113

The captain shall not sail until he has in his possession :

1. A list viséed by the competent authority and showing the name and sex, of the pilgrims who have been taken on board, and total number of the pilgrims whom he is authorized to embark;

2. A document stating the name, nationality, and tonnage of the vessel, the name of the captain and of the physician, the exact number of persons embarked (crew, pilgrims, and other passengers), the nature of the cargo, and the port of departure.

The competent authority shall indicate on the bill of health whether the number of pilgrims allowed by the regulations is reached or not, and, in case it is not reached, the additional number of passengers which the vessel is authorized to embark in subsequent ports of call.

SECTION III.—*Measures to be taken during the passage*

ARTICLE 114

The deck intended for the pilgrims shall remain free from encumbering objects during the voyage and shall be reserved day and night for the persons on board and be placed gratuitously at their service.

ARTICLE 115

Every day the space between decks shall be cleaned carefully and scrubbed with sand while the pilgrims are on deck.

ARTICLE 116

The latrines intended for the passengers as well as those for the crew shall be kept neat and be cleansed and disinfected three times a day, and oftener if needed.

ARTICLE 117

The excretions and dejections of persons showing symptoms of plague or cholera, dysentery or any other disease preventing their using the infirmary latrines shall be collected in vessels containing a disinfecting solution. These vessels shall be emptied into the infirmary latrines which shall be thoroughly disinfected after each projection of matter.

ARTICLE 118

Articles of bedding, carpets, and clothing which have been in contact with the patients mentioned in the preceding article shall be immediately disinfected. The observance of this rule is especially recommended with regard to the clothing of persons who come near to these patients and which may have become soiled.

Such of the articles mentioned above as have no value shall be thrown overboard, if the vessel is neither in a port nor a canal, or else destroyed by fire. The others shall be disinfected as directed by the ship physician.

ARTICLE 119

The quarters occupied by the patients and referred to in Article 104 shall be thoroughly and regularly disinfected.

ARTICLE 120

The quantity of drinking water allowed daily to each pilgrim free of charge, whatever be his age, shall be at least 5 liters.

ARTICLE 121

If there is any doubt about the quality of the drinking water or any possibility of its contamination either at the place of its origin or during the course of the voyage, the water shall be boiled or otherwise sterilized, and the captain shall be obliged to throw it overboard at the first port in which a stop is made and in which he is able to procure a better supply. He may only take it on board after the tanks shall have been disinfected.

ARTICLE 122

The physician shall examine the pilgrims, attend the patients, and see that the rules of hygiene are observed on board. He shall especially:

1. Satisfy himself that the provisions dealt out to the pilgrims are of good quality, that their quantity is in conformity with the obligations assumed, and that they are suitably prepared;
2. Satisfy himself that the requirements of article 120 relative to the distribution of water are observed;
3. If there is any doubt about the quality of the drinking water, remind the captain in writing of the provisions of Article 121;
4. Satisfy himself that the vessel is maintained in a constant state of cleanliness, and especially that the latrines are cleaned in accordance with the provisions of Article 116;
5. Satisfy himself that the lodgings of the pilgrims are maintained in a healthful condition, and that, in case of transmissible disease, they are disinfected in conformity with Article 119;

6. Keep a diary of all the sanitary incidents occurring during the course of the voyage and present on request this diary to the competent authority of the port of call or arrival.

ARTICLE 123

The persons intrusted with the care of patients suffering with the plague, cholera or other diseases shall alone have access to them and shall have no contact with the other persons on board.

ARTICLE 124

In case of a death occurring during the voyage, the captain shall make note of the death opposite the name on the list viséed by the authority of the port of departure, besides entering on his journal the name of the deceased person, his age, where he comes from, the presumable cause of his death according to the physician's certificate, and the date of the death.

In case of death by a transmissible disease, the body shall be wrapped in a shroud saturated with a disinfecting solution and thrown overboard.

ARTICLE 125

The captain shall see that the prophylactic measures executed during the voyage are recorded in the ship's journal. This journal shall be presented by him to the competent authority of the port of arrival.

In each port of call the captain shall have the list prepared in accordance with Article 113 viséed by the competent authority.

In case a pilgrim is landed during the course of the voyage, the captain shall note the fact on the list opposite the name of the pilgrim.

In case of an embarkation, the persons embarked shall be mentioned on this list in conformity with the aforementioned Article 113 and before it is viséed again by the competent authority.

ARTICLE 126

The bill of health delivered at the port of departure shall not be changed during the course of the voyage. If this requirement is not complied with, the vessel may be treated as an infected vessel.

It shall be viséed by the health authority of each port of call, who shall note thereon :

1. The number of passengers landed or embarked in that port;
2. The incidents occurring at sea and affecting the health or life of the persons on board;
3. The sanitary condition of the port of call.

SECTION IV.—*Measures to be taken on the arrival of pilgrims in the Red Sea*

A. SANITARY MEASURES APPLICABLE TO PILGRIM SHIPS BOUND FROM THE SOUTH TOWARD HEDJAZ

ARTICLE 127

Pilgrim ships hailing from the south and bound for Hedjaz shall first stop at the sanitary station of Camaran, where they shall be subjected to the measures prescribed in the following articles.

ARTICLE 128

Vessels recognized as *uninfected* after a medical inspection shall obtain pratique when the following operations are completed:

The pilgrims shall be landed; take a shower or sea bath; and their soiled linen and the part of their wearing apparel and baggage which appears suspicious in the opinion of the health authority shall be disinfected. The duration of these operations, including debarkation and embarkation, shall not exceed forty-eight hours. Provided the time limit be not exceeded, the sanitary authority may perform such bacteriological examinations as may be deemed necessary.

If no real or suspected case of plague or cholera is discovered during these operations, the pilgrims shall be reembarked immediately and the vessel shall proceed toward Jeddah.

Vessels found, on medical inspection, to be uninfected shall not undergo the measures prescribed hereinabove, if the following conditions are fulfilled:

- (1) All pilgrims on board have been immunized against cholera and smallpox;
- (2) The requirements of this Convention have been strictly followed;
- (3) There is no reason to doubt the declaration of the captain and doctor of the ship to the effect that no case of plague, cholera or smallpox has occurred on board, either at the time of departure or during the voyage.

For plague, the provisions of Article 27 shall be applied with regard to the rats which may be found on board the vessels.

ARTICLE 129

Suspicious vessels on board of which there were cases of plague in the six days following the embarkation and on board of which an unusual mortality of rats is discovered or cases of cholera at the time of departure but no new case in the last five days, shall be treated in the following manner:

The pilgrims shall be landed; take a shower or sea bath; and their soiled linen and the part of their wearing apparel and baggage which

appears suspicious in the opinion of the health authority shall be disinfected; the parts of the vessel that have been occupied by the patients shall be disinfected. The duration of these operations, including debarkation and embarkation, shall not exceed forty-eight hours. Provided this period is not exceeded, such bacteriological examination as may be considered necessary by the sanitary authority may be made.

If no real or suspected case of plague or cholera is discovered during these operations, the pilgrims shall be reembarked immediately and the vessel shall proceed to Jeddah.

For plague, the provisions of Article 26 shall be applicable with regard to the rats which may be found on board.

ARTICLE 130

Infected vessels, that is, those having cases of plague or cholera on board or having had cases of plague more than six days after embarkation, or cholera on board within five days, or on board of which rats infected by plague have been discovered, shall undergo the following treatment:

The persons stricken with plague or cholera shall be landed and isolated at the hospital. The other passengers shall be landed and isolated in groups comprising as few persons as possible, so that the whole number may not suffer with and for a particular group in which plague or cholera should develop.

The soiled linen, wearing apparel, and clothing of the crew and passengers, as well as the vessel, shall be disinfected.

However the local health authority may decide that the unloading of the heavy baggage and the cargo is not necessary, and that only a part of the vessel need be disinfected.

The passengers shall remain in the Camaran establishment five or six days according as whether the case is plague or cholera. If a new case should occur after disembarkation, the period of observation shall be extended by five days for cholera and six days for plague, to date from the isolation of the last case.

For plague, the measures prescribed by Article 25 shall be applied with regard to the rats which may be found on board the vessels.

When these operations have been completed, the ship, having reembarked its pilgrims, shall be sent on to Jeddah.

ARTICLE 131

Ships, to which Articles 128, 129 and 130 apply, will be subject to medical inspection on board on arrival at Jeddah.

If the result is favorable, the ship shall receive free pratique.

If, on the other hand, well established cases of plague or cholera have occurred on board during the voyage, or at the time of arrival

at Jeddah, the sanitary authority of the Hedjaz may take all necessary measures subject to the provisions of Article 54.

ARTICLE 132

Every sanitary station designed to receive pilgrims should be provided with a trained, experienced, and sufficiently numerous staff, as well as with all the buildings and apparatus necessary to insure the application, in their entirety, of the measures to which said pilgrims are subject.

B. SANITARY MEASURES APPLICABLE TO PILGRIM SHIPS HAILING FROM NORTH OF PORT SAID AND BOUND TOWARD HEDJAZ

ARTICLE 133

If plague or cholera is not found to exist in the port of departure or its neighborhood, and if no case of plague or cholera has occurred during the passage, the vessel shall be immediately granted pratique.

ARTICLE 134

If plague or cholera is known to exist in the port of departure or its vicinity, or if a case of plague or cholera has occurred during the voyage, the vessel shall be subjected at Tor to the rules established for vessels coming from the south and stopping at Camaran. The vessels shall thereupon be granted pratique.

SECTION V.—*Measures to be taken upon the return of pilgrims*

A. PILGRIM SHIPS RETURNING NORTHWARD

ARTICLE 135

Every vessel bound for Suez or for a Mediterranean port, having on board pilgrims or similar masses of persons, and hailing from a port of Hedjaz or from any other port on the Arabian coast of the Red Sea, must repair to Tor in order to undergo there the observation and the sanitary measures indicated in Articles 140 to 142.

ARTICLE 136

Pending the creation at the port of Akaba of a quarantine station meeting the requirements, pilgrims going from the Hedjaz to Akaba by sea shall undergo the necessary quarantine measures at Tor before landing at Akaba.

ARTICLE 137

Vessels bringing pilgrims back toward the Mediterranean shall pass through the canal in quarantine only.

ARTICLE 138

The agents of navigation companies and captains are warned that, after completing their observation period at the sanitary station of Tor, the Egyptian pilgrims will alone be permitted to leave the vessel permanently in order to return thereupon to their homes.

Only those pilgrims will be recognized as Egyptians or as residents of Egypt who are provided with a certificate of residence issued by an Egyptian authority and conforming to the established model.

Pilgrims other than Egyptians, can not be landed in an Egyptian port after leaving Tor, except by special permit under special conditions imposed by the Egyptian health authority, in accord with the Sanitary, Maritime and Quarantine Board of Egypt. Consequently, navigation agents and captains are warned that the transshipment of pilgrims not residents of Egypt at Tor, Suez, Port Said, or Alexandria is forbidden except under a special permit for each case.

Vessels having pilgrims on board who are not Egyptian nationals shall be subject to the rules applicable to these pilgrims and shall not be received in any Egyptian port of the Mediterranean.

ARTICLE 139

Egyptian pilgrims shall undergo an observation of three days and a medical examination and if there be occasion, disinfection and disinsectisation at Tor, or any other station designated by the Sanitary, Maritime and Quarantine Board of Egypt; pilgrims shall not be permitted to enter any Egyptian port in the Mediterranean.

ARTICLE 140

If plague or cholera is found to exist in Hedjaz or in the port from which the vessel hails, or if it has existed in Hedjaz during the course of the pilgrimage, the vessel shall be subjected at Tor to the rules adopted at Camaran for infected vessels.

The persons stricken with plague or cholera shall be landed and isolated in the hospitals. The other passengers shall be landed and isolated in groups composed of as few persons as possible, so that the whole number may not suffer with any particular group in which the plague or cholera should develop.

The soiled linen, wearing apparel, and clothing of the crew and passengers, as well as the baggage and cargo suspected of contamination shall be landed and disinfected. Their disinfection as well as that of the vessel shall be thorough.

However, the local health authority may decide that the unloading of the heavy baggage and the cargo is not necessary, and that only a part of the vessel need undergo disinfection.

The measures provided in Article 25 shall be applied with regard to the rats which may be found on board.

All the pilgrims shall be subjected to an observation of six full days from the day on which the disinfecting operations are completed, in the case of plague and five days in the case of cholera. If a case of plague or cholera has appeared in one section, the period of six or five days shall not begin for this section until the day on which the last case was discovered.

ARTICLE 141

In the case contemplated in the preceding article, the Egyptian pilgrims shall be subjected, besides, to an additional observation of three days.

ARTICLE 142

If plague or cholera is not found to exist either in Hedjaz or in the port from which the vessel hails, and has not been known to exist in Hedjaz during the course of the pilgrimage, the vessel shall be subjected at Tor to the rules adopted at Camaran for uninfected vessels.

The pilgrims shall be landed and take a shower or sea bath, and their soiled linen or the part of their wearing apparel and baggage which may appear suspicious in the opinion of the health authority shall be disinfected. The duration of these operations shall not exceed seventy-two hours.

However, a pilgrim ship, if it has had no plague or cholera patients during the course of the voyage from Djeddah to Yambo or Tor and if the individual medical examination made at Tor after debarkation establishes the fact that it contains no such patients, may be authorized by the Sanitary Maritime and Quarantine Board of Egypt to pass through the Suez Canal in quarantine even at night when the following four conditions are fulfilled:

1. Medical attendance shall be given on board by one or several physicians graduated and duly accepted;
2. The vessel shall be provided with disinfecting chambers in good working order;
3. It shall be shown that the number of pilgrims does not exceed that authorized by the pilgrimage regulations;
4. The captain shall bind himself to repair directly to the port which he names as his next call port.

The sanitary tax to be paid to the Quarantine administration shall be the same as the pilgrims would have paid had they remained in quarantine three days.

ARTICLE 143

A vessel which has had a suspicious case on board during the voyage from Tor to Suez may be sent back to Tor.

ARTICLE 144

The transshipment of pilgrims is strictly forbidden in Egyptian ports except by special permit and on the conditions laid down by the Egyptian Sanitary authority in accord with the Maritime Sanitary and Quarantine Board of Egypt.

ARTICLE 145

Vessels leaving Hedjaz and having on board pilgrims who are bound for a port on the African shore of the Red Sea shall proceed directly to the quarantine station named by the territorial authority to which that port belongs, where they shall submit to the same quarantine procedure as at Tor.

ARTICLE 146

Vessels sailing from Hedjaz or from a port on the Arabian coast of the Red Sea, in which neither the plague nor cholera prevails, which have no pilgrims or similar groups of people on board, and have had no suspicious occurrence during the voyage, shall be granted pratique at Suez after a favorable medical inspection.

ARTICLE 147

Passengers coming from the Hedjaz who have accompanied the pilgrimage shall be subject to the same measures as pilgrims. The appellation of merchant or any other will not exempt them from the measures applicable to the pilgrims.

B. RETURNING PILGRIMS GOING NORTH BY CARAVAN**ARTICLE 148**

Whatever the sanitary condition in the Hedjaz may be, pilgrims travelling by caravan must repair to one of the quarantine stations upon their route, there to undergo according to circumstances the measures prescribed by Articles 140 or 142 for pilgrims who have been landed.

C. PILGRIMS RETURNING SOUTHWARD**ARTICLE 149**

In the event of the pilgrimage being infected, pilgrim ships, returning to places south of the Straits of Bab-el-Mandeb, may be required, by directions of the Consular Authority of the countries to which the pilgrims are going to stop at Camaran and there undergo medical inspection.

SECTION VI.—*Measures applicable to pilgrims travelling by the Hedjaz Railway*

ARTICLE 150

The Governments of the countries through which the Hedjaz railway passes shall make all necessary arrangements to organize the sanitary supervision of pilgrims during their journey to the Holy Places, and the application of prophylactic measures in order to prevent the dissemination of infectious diseases presenting epidemic features bearing in mind the principles of the present Convention.

SECTION VII.—*Sanitary information concerning the pilgrimage*

ARTICLE 151

The Sanitary Maritime and Quarantine Board of Egypt will transmit periodically, and if occasion arises, by the speediest route, to the sanitary authorities of all the countries interested, and concurrently, to the International Office of Public Hygiene under the conditions provided by this convention, all sanitary information and reports that may come to its knowledge during the pilgrimage concerning the sanitary condition of the Hedjaz and the countries through which the pilgrims pass. It will also get up an annual report which shall be sent to the said authorities and the International Office of Public Hygiene.

CHAPTER III—SANCTIONS

ARTICLE 152

Every captain convicted of not having conformed, in the distribution of water, provisions, or fuel, to the obligations assumed by or for him, shall be liable to a fine of not more than fifty francs (gold) for every failure. This fine shall be collected for the benefit of the pilgrim who shall have been the victim of the default, and who shall prove that he has vainly demanded the execution of the agreement made.

ARTICLE 153

Every infraction of Article 107 shall be punished by a fine of not more than 750 francs (gold).

ARTICLE 154

Every captain who has committed or knowingly permitted any fraud whatever concerning the list of pilgrims or the bill of health provided for in Article 113 shall be liable to a fine of not more than 150 francs (gold).

ARTICLE 155

Every captain of a vessel arriving without a bill of health of the port of departure, or without a visé of the ports of call, or who is not provided with the list required by the regulations and regularly kept in accordance with Article 113 and Articles 125 and 126, shall be liable in each case to a fine of not more than three hundred francs (gold).

ARTICLE 156

Every captain convicted of having or having had on board more than 100 pilgrims without the presence of a graduated physician according to the provisions of Article 106 shall be liable to a fine of not more than 7500 francs (gold).

ARTICLE 157

Every captain convicted of having or having had on board a greater number of pilgrims than that which he is authorized to embark according to the provisions of subsection (1) of Article 113 shall be liable to a fine of not more than 125 francs (gold) for each pilgrim in excess.

The pilgrims in excess of the regular number shall be landed at the first station at which a competent authority resides, and the captain shall be obliged to furnish the landed pilgrims with the money necessary to pursue their voyage to their destination.

ARTICLE 158

Every captain convicted of having landed pilgrims at a place other than their destination, except with their consent, or excepting cases of *vis major*, shall be liable to a fine of not more than 500 francs (gold) for each pilgrim wrongfully landed.

ARTICLE 159

All other infractions of the provisions relative to pilgrim ships are punishable by a fine of not less than 250 nor more than 2500 francs (gold).

ARTICLE 160

Every violation proven in the course of a voyage shall be noted on the ship's papers as well as on the list of pilgrims. The competent authority shall draw up a report thereof and deliver it to the proper party.

ARTICLE 161

Contraventions of Articles 152 to 159 inclusive will be certified by the sanitary authority of the port at which the ship has called.

Penalties will be imposed by the competent authority.

ARTICLE 162

All agents called upon to assist in the execution of the provisions of the present Convention with regard to pilgrim ships are liable to punishment in conformity with the laws of their respective countries in case of faults committed by them in the application of the said provisions.

TITLE IV. SURVEILLANCE AND EXECUTION

I. SANITARY, MARITIME, AND QUARANTINE BOARD OF EGYPT

ARTICLE 163

The stipulations of Appendix III of the Sanitary Convention of Venice of January 30, 1892,⁴⁴ concerning the composition, powers and duties, and operation of the Sanitary, Maritime, and Quarantine Board of Egypt, are confirmed as they appear in the khedival decrees under date of June 19, 1893, and December 25, 1894, as well as in the ministerial decision of June 19, 1893.⁴⁵

The said decrees and decisions are annexed to the present convention.

Notwithstanding the provisions of the said decrees and decisions the high contracting parties agree that—

I. The number of Egyptian delegates on the Egyptian Sanitary, Maritime and Quarantine Board shall be increased to five:

- (1) The President of the Board, appointed by the Egyptian Government, and who will only have a casting vote;
- (2) A European doctor of medicine, Inspector-General of the Sanitary, Maritime and Quarantine Service;
- (3) Three delegates appointed by the Egyptian Government.

II. The Veterinary Service of the Sanitary, Maritime and Quarantine Board shall be transferred to the Egyptian Government.

The following conditions shall be observed:

- (1) The Egyptian Government will collect sanitary taxes on imported cattle not to exceed those now collected by the Egyptian Sanitary, Maritime and Quarantine Board;
- (2) The Egyptian Government undertakes in consequence to pay annually to the Sanitary, Maritime and Quarantine Board a sum representing the average of the excess of receipts over the expenditures of the said service during the three budgetary years preceding the date on which the present Convention is put into force.

⁴⁴ *British and Foreign State Papers*, vol. LXXXIV, p. 12.

⁴⁵ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3013, 3018, and 3019; 45 Stat. (pt. 2) 2533, 2536, 2537.

(3) The measures to be taken for the disinfection of cattle ships, of skins, and of other animals' derivatives, shall be as in the past in charge of the Sanitary, Maritime and Quarantine Board.

(4) The foreign personnel now in the veterinary service of the Sanitary, Maritime and Quarantine Board will be granted the benefit of the salaries appropriated by Law No. 28 of 1923, regarding the conditions of service and the retirement or discharge of officials, employees or agents of foreign nationality.

Grading of salaries shall be as provided by the above-mentioned law. The other details will be fixed by an agreement between the Egyptian Government and the Sanitary, Maritime and Quarantine Board.

III. On account of the great distance between the Port of Suakim and the headquarters of the Egyptian Sanitary, Maritime and Quarantine Board at Alexandria, and the fact that the pilgrims and passengers who disembark in this port of Suakim concern from the sanitary point of view only the territory of the Soudan, the sanitary administration of this port will be detached from the said Board.

ARTICLE 164

The ordinary expenses resulting from the provisions of the present convention, especially those relating to the increase of the personnel belonging to the Sanitary, Maritime, and Quarantine Board of Egypt, shall be covered by means of an annual supplementary payment by the Egyptian Government of the sum of 4,000 Egyptian pounds, which may be taken from the surplus revenues from the lighthouse service remaining at the disposal of said Government.

However, the proceeds of a supplementary quarantine tax of ten tariff dollars per pilgrim to be collected at Tor shall be deducted from this sum.

In case the Egyptian Government should find difficulty in bearing this share of the expenses, the Powers represented in the Sanitary, Maritime, and Quarantine Board shall reach an understanding with that Government in order to insure the participation of the latter in the expenses contemplated.

ARTICLE 165

The Sanitary, Maritime, and Quarantine Board of Egypt shall undertake the task of bringing the provisions of the present convention into conformity with the regulations at present enforced by it in regard to the plague, cholera, and yellow fever, as well as with the regulations relative to arrivals from the Arabian ports of the Red Sea during the pilgrim season.

To the same end it shall, if occasion arises, revise the general regulations of the sanitary, maritime, and quarantine police at present in force.

These regulations, in order to become effective must be accepted by the various powers represented on the Board.

II. MISCELLANEOUS PROVISIONS

ARTICLE 166

The proceeds from the sanitary taxes and fines collected by the Sanitary, Maritime and Quarantine Board shall in no case be employed for objects other than those within the province of the said Board.

ARTICLE 167

The High Contracting Parties agree to have a set of instructions prepared by their health departments for the purpose of enabling captains of vessels, especially when there is no physician on board, to enforce the provisions contained in the present convention with regard to plague, cholera, and yellow fever.

TITLE V. FINAL PROVISIONS

ARTICLE 168

The present Convention supersedes, as between the High Contracting Parties, the provisions of the Convention signed at Paris on January 17th, 1912, and also, the case arising, those of the Convention signed at Paris on December 3rd, 1903. These two last named Conventions will remain in force as between the High Contracting Parties and any State which is a party thereto and is not a party to the present Convention.

ARTICLE 169

The present Convention will bear to-day's date and may be signed up to October 1st of the current year.

ARTICLE 170

The present Convention shall be ratified and the ratifications shall be deposited at Paris as soon as possible. It shall not come into force until it has been ratified by ten of the High Contracting Parties. Thereafter it will take effect as regards each High Contracting Party from the date of the deposit of its ratification.

ARTICLE 171

The States which have not signed the present convention shall be permitted to adhere thereto upon request. Notice of this adhesion shall be given through diplomatic channels to the Government of the French Republic and by the latter to the other Contracting Parties.

ARTICLE 172

Any of the High Contracting Parties may declare, at the moment either of his signature, ratification or accession, that his acceptance of the present Convention does not include neither all nor any of the protectorates, colonies, possessions or mandated territories, and may subsequently accede, in accordance with the preceding Article, on behalf of any one of its protectorates, colonies, possessions or mandated territories excluded by such declaration.

In faith whereof the respective Plenipotentiaries have signed the present Convention.

Done at Paris the twenty-first day of June, nineteen hundred and twenty-six, in a single copy, which will remain deposited in the archives of the Government of the French Republic; and of which certified copies will be transmitted through the diplomatic channel to the other Contracting Parties.

For Afganistan :	ISLAMBEK KHOUDOJAR KHAN
For Albania :	DR. OSMAN
For Germany :	FRANOUX HAMEL
For Argentina :	F. A. DE TOLEDO
For Austria :	DR. ALFRED GRUNBERGER
For Belgium :	VELGHE
For Brazil :	CARLOS CHAGAS GILBERTO MOURA COSTA
For Bulgaria :	B. MORFOFF TOCHKO PÉTROFF
For Chile :	ARMANDO QUEZADA
For China :	S. K. YAO SCIE TON FA
For Colombia :	MIGUEL JIMÉNEZ LOPEZ
For Cuba :	R. HERNANDEZ PORTELA
For Denmark :	TH. MADSEN
For Danzig :	CHODZKO STADE

For the Dominican Republic:	BETANCES
For Egypt:	FAKHRY Dr. M. EL GUINDY
For Ecuador:	J. ILLINGOURTH
For Spain:	MARQUIS DE FAURA Dr. F. MURILLO
For the United States of America:	H. S. CUMMING W. W. KING
For Ethiopia:	LAGARDE, DUC D'ENTOTTO
For Finland:	ENCKELL
For France:	CAMILLE BARRÈRE HARISMENDY NAVAILLES Dr. A. CALMETTE LÉON BERNARD
For Algeria:	Dr. RAYNAUD
For West Africa:	Dr. PAUL GOUZIEN
For East Africa:	THIROUX
For Indo-China:	Dr. L'HERMINIER Dr. N. BERNARD
For the States of Syria, Grand-Liban, Alaouïtes and Djebel-Druse:	HARISMENDY
For all other colonies, protectorates, possessions and territories under French mandate:	AUDIBERT
For the British Empire:	G. S. BUCHANAN JOHN MURRAY J. A. AMYOT W. C. SAWERS SYDNEY PRICE JAMES D. T. CHADWICK
For Canada:	PHILIP STOCK
For Australia:	AL. C. CARAPANOS
For New Zealand:	D. MATARANGAS
For India:	FRANCISCO A. FIGUEROA
For the Union of South Africa:	GEORGES AUDAIN Dr. MAHMOUD HAMOUDÉ RUBÉN AUDINO AGUILAR Dr. CH. GROSCHE ALBERT LUTRARIO
For Greece:	GIOVANNI VITTORIO REPETTI ODOARDO HUETTER G. ROCCO GIUSEPPE DRUETTI
For Guatemala:	
For Haiti:	
For Hedjaz:	
For Honduras:	
For Hungary:	
For Italy:	

For Japan :	H. MATSUSHIMA MITSUZO TSURUMI
For Liberia :	R. LEHMANN N. OOMS
For Lithuania :	Dr. PR. VAICIUSKA
For Luxembourg :	Dr. PRAUM
For Morocco :	HARISMENDY Dr. RAYNAUD
For Mexico :	R. CABRERA
For Monaco :	F. ROUSSEL Dr. MARSAN
For Norway :	SIGURD BENTZON
For Paraguay :	R. V. CABALLERO
For The Netherlands :	DOUDE VAN TROOSTWYK N. M. JOSEPHUS JITTA DE VOGEL VAN DER PLAS
For Peru :	P. MIMBELA
For Persia, <i>ad referendum</i> :	Dr. ALI KHAN PARTOW AZAM MANSOUR CHARIF
For Poland :	CHODZKO
For Portugal :	RICARDO JORGE
For Rumania :	Dr. J. CANTACUZÈNE
For San Marino :	Dr. GUELPA
For the Kingdom of the Serbs, Croats and Slovenes :	M. SPALAIKOVITCH
For Salvador :	CARLOS R. LARDÉ-ARTHÈS
For the Soudan :	OLIVER FRANCIS HAYNES ATKEY
For Switzerland :	DUNANT CARRIÈRE
For Czechoslovakia :	Dr. LADISLAV PROCHAZKA
For Tunis :	NAVAILLES
For Turkey :	A. FÉTHY
For the Union of the Soviet Socialist Republics :	J. DAVTIAN J. MAMMOULIA L. BRONSTEIN O. MEBOURNOUTOFF N. FREYBERG AL. SYSSINE V. EGORIEW A. HEROSA
For Uruguay :	
For Venezuela, <i>ad referendum</i> :	JOSÉ IG. CARDENAS

ANNEXES

[Here follow the texts of the khedival decrees of June 19, 1893, and December 25, 1894, and the ministerial decision of June 19, 1893, referred to in article 163, p. 222.]

PROTOCOL OF SIGNATURE

The undersigned Plenipotentiaries met on the date of this day for the purpose of signing the International Sanitary Convention.

The Plenipotentiaries of the German Empire referring to Article 25 make express reservations as to the power granted by the Convention to several governments to enforce the observation in case of bubonic plague.

The Plenipotentiaries of Brazil declare they are empowered to sign the Convention and referendum under the reservations entered in the minutes of the last plenary session.

The Plenipotentiaries of Chili declare that they join in the reservations made by the Plenipotentiaries of Brazil and Portugal.

The Plenipotentiaries of China express reservations in the name of their Government concerning the engagement appearing in Article 8, 2nd Section, that it would be compulsory to declare the diseases coming under the Convention.

In the name of their Government the Plenipotentiaries of Egypt renew the express reservations made by them concerning the presence at the Convention of a delegate representing the Soudan. They furthermore declare that the said presence could not in any way affect the rights of sovereignty of Egypt.

The Plenipotentiaries of Spain declare they make in the name of their Government a reservation identical with that of the Plenipotentiaries of the United States of America concerning article 12.

The Plenipotentiaries of the United States of America formally declare that their signing the International Sanitary Convention of this date is not to be construed to mean that the United States of America recognizes a régime or entity acting as Government of a signatory or adhering Power when that régime or entity is not recognized by the United States as the Government of that Power. They further declare that the participation of the United States of America in the International Sanitary Convention of this date does not involve any contractual obligation on the part of the United States to a signatory or adhering Power represented by a régime or entity which the United States does not recognize as representing the Government of that Power, until it is represented by a Government recognized by the United States.

The Plenipotentiaries of the United States of America declared, furthermore, that their Government reserves to itself the right to

decide whether from the standpoint of the measures to be applied a foreign district is to be considered as infected and to decide what measures shall be applied to arrival in its own ports under special circumstances.

The great work accomplished by the International Sanitary Convention and the many new provisions carried could not be referred by telegraph to Her Majesty the Queen of the Kings and to His Imperial and Royal Highness Prince Tafari Makonnen, Heir to and Regent of the Empire and the Delegate of the Ethiopian Empire declares that he must refrain from signing the Convention before he receives the necessary instructions.

The British Plenipotentiaries declare that their signing does not bind any part of the British Empire that is a distinct member of the League of Nations and would not sign separately or adhere to the Convention.

They further declared that they reserve the right not to apply the provisions of the 2nd subsection of article 8 to all the Protectorates, Colonies, Possessions or Countries under the British mandate which might be parties to the Convention and which on practical grounds might be unable to give full effect to those provisions relative to the compulsory declaration of the diseases referred to in the said article.

The Delegate of Canada reserves for his Government the right to decide whether from the viewpoint of the measures to be applied a foreign district is to be considered as infected and to decide what measures shall be applied to arrivals in Canadian ports under special circumstances. Subject to that reservation the Delegate from Canada declares that his Government is ready to take into consideration the obligations of article 12 of the Convention and the official information it may receive concerning the existence of the diseases in foreign countries.

The Delegate of India declares that he is authorized to sign the International Sanitary Convention under the reservation that on grounds of a practical nature India is not in a position to assume the obligations resulting from article 8 in so far as it has to do with the obligatory declaration of the diseases named in said article, except in large cities or in cases of epidemic.

The British Plenipotentiaries declare and wish to have it made a record that the reservation of the Plenipotentiaries of Persia about article 90 cannot in any way modify the present *status quo* pending an agreement to be arrived at between the Persian and British Governments.

The Plenipotentiaries of the Finnish Republic declare that immunization from cholera does not constitute a sufficient guarantee and that their Government reserves to itself notwithstanding the

provisions of article 30, the right to make, if the occasion arises, immune persons undergo observation.

On the other hand, considering that the traffic of the Finnish border could only go over two railways in the east very close to each other and a single railway in the west which does not make it permissible to contemplate a partial closing of the frontier, Finland in order to avoid the complete closing in case of epidemic reserves to itself the right to set up observation if occasion arises notwithstanding the provisions in article 58.

The Plenipotentiaries of Japan declare that their Government reserves to itself the right: 1. To forward through the Eastern bureau of Singapore the notices and information, the mailing of which to the International Office of Public Hygiene is required by the Convention; 2. To take such measures as the sanitary authorities may deem necessary with regard to carriers of cholera vibrios.

The Plenipotentiaries of Lithuania declare that though adhering to the Convention, they make special reservations as to its being put into practice between Lithuania and Poland as long as normal relations between the two countries shall not have been restored.

These reservations are of particular importance with respect to the provisions in articles 9, 16, 57 and 66.

The Plenipotentiaries of The Netherlands declare in the name of their Government that it reserves to itself with regard to the Dutch East Indies to enforce the measures provided in article 10, sub-section 2 in the same degree to arrivals from districts afflicted with *murine plague*.

They further declare that their Government reserves to itself with respect to the Dutch East Indies the right to put on article 27-2 a construction to the effect that the destruction of rats referred to in that article may be applied to vessels taking a cargo from a district afflicted with *murine plague* when the sanitary authority believes that the cargo is likely to carry rats and is stowed in such a way as to make it impossible to affect the search provided in the last sub-section of article 24.

The Plenipotentiaries of Persia declare that there is nothing warranting any special provision concerning the Persian Gulf being retained in the Convention. The fact that there is in the Convention article 90 constituting Section V of Title II, prevents their signing without making the most express reservations. The Plenipotentiaries of Persia further declare that the *status quo* could not in any way bind their Government. Again they reserve for their Government the right not to apply the provisions of article 8 relative to the obligatory declaration of the diseases coming under the said article.

The Plenipotentiary of Portugal declares that he is authorized by his Government to sign the Convention *ad referendum* with the reservations entered in the minutes of the last plenary session.

The Plenipotentiary of Turkey declares that Turkey would not relinquish by any treaty the right of being represented in the Sanitary, Maritime and Quarantine Board of Egypt. On the other hand taking into consideration the stipulations in the Convention of the Straits signed at Lausanne and the special conditions of the Straits of Bosphorus and Dardanelles, he reserves the right for the Sanitary Administration of Turkey to put a sanitary guard on board any merchant vessel going through the Straits without a physician and coming from an infected port so as to prevent that vessel from calling at any Turkish port. It is understood, however, that the delay and expenses that such a guard may entail will be very slight.

The Plenipotentiaries of the Union of the Soviet Socialist Republics, calling to mind the declarations made by them on May 26, at the session of the first Commission concerning article 7 of the draft of Convention declare they have no objection to offer to the provisions relative to the right of the International Office of Public Hygiene to make arrangements with other sanitary agencies; but they are of the opinion that that right flows from the arrangement of Rome of 1907 which defines the functions of the Office. They therefore believe that the provision hereinabove referred to is but a confirmation of that right and should only appear in the minutes and not be made an article of the Convention itself.

The Plenipotentiaries of the Union of the Soviet and Socialist Republics call to mind that at the time article 12 of the Convention was under consideration they cast their votes against the provision granting the Governments the right to prolong in exceptional cases the application of sanitary measures notwithstanding the declaration of the State concerned that there is no longer any danger of the disease.

They hold that that provision may infringe upon one of the fundamental principles of the previous conventions and become a cause of misunderstanding that could arise from its application.

They therefore declare that in the spirit of the Convention that provision can only be considered in exceptional cases when the Government to which the afflicted district belongs does not meet the obligations laid down by the Convention in that respect.

The Plenipotentiaries of the Soviet Socialist Republics call to mind that the reservations already made by them in second Commission concerning the functions, duties and powers of the sanitary, maritime and quarantine board of Egypt. They particularly wish to emphasize the fact that articles 70 and 164 in particular confer upon

that board the right to set up different sanitary, maritime and quarantine police regulations on condition that those regulations in order to be capable of execution must be accepted by the different Powers represented in the Council. Inasmuch as the Union of the Soviet Socialist Republics is not yet represented in the sanitary, maritime and quarantine board of Egypt, the Delegation of the Union wishes to reserve the rights of its Government to accept or not to accept the measures worked out by that board.

The undersigned make a formal acknowledgment of the reservations hereinabove set forth and declare that their own countries reserve to themselves the right to invoke the benefit thereof as against the countries in whose name they were made.

In witness whereof, the Plenipotentiaries have signed this Protocol.

Done in Paris, June 21, 1926.

For Afghanistan:	ISLAMBECK KHOUDOIAR KHAN
For Albania:	DR. OSMAN
For the German Empire:	FRANOUX HAMEL
For the Argentine Republic:	F. A. DE TOLEDO
For Austria:	DR. ALFRED GRUNBERGER
For Belgium:	VELCHE
For Brazil:	CARLOS CHAGAS GILBERTO MOURA COSTA
For Bulgaria:	B. MORFOFF TOCHKO PÉTROFF
For Chile:	ARMANDO QUEZADA
For China:	S. K. YAO SCIE TON FA
For Colombia:	MIGUEL JIMÉMEZ LOPEZ
For Cuba:	R. HERNANDEZ PORTELA
For Denmark:	TH. MADSEN
For Dantzig:	CHODZKO STADE
For the Dominican Republic:	BETANCES
For Egypt:	FAKHRY DR. M. EL GUINDY
For Ecuador:	J. ILLINGOURTH
For Spain:	MARQUIS DE FAURA DR. F. MURILLO
For the United States of America:	H. S. CUMMING W. W. KING
For Ethiopia:	LAGARDE DUC D'ENTOTTO
For Finland:	ENCKELL

For France:	CAMILLE BARRÈRE HARISMENDY NAVAILLES DR. A. CALMETTE LÉON BERNARD
For Algeria:	DR. RAYNAUD
For Western Africa:	DR. PAUL GOUZIEN
For Eastern Africa:	THIROUX
For Indo-China:	DR. L'HERMINIER DR. N. BERNARD
For the States of Syria, the Great Lebanon, Alaouïtes and Djebel-Druse:	HARISMENDY
For all of the other colonies, Protectorates, Possessions and Territories under the rule of France:	AUDIBERT
For the British Empire:	G. S. BUCHANAN JOHN MURRAY J. A. AMYOT W. C. SAWERS SYDNEY PRICE JAMES D. T. CHADWICK
For Canada:	
For Australia:	
For New Zealand:	
For India:	
For the Union of South Africa:	PHILIP STOCK AL C. CARAPANOS D. MATARANGAS
For Greece:	FRANCISCO A. FIGUEORA GEORGES AUDAIN DR. MAHMOUD HAMOUDÉ RUBÉN AUDINO AGUILAR DR. CH. GROSCH ALBERT LUTRARIO GIOVANNI VITTORIO REPETTI ODOARDO HUETTER G. ROCCO GUISEPPE DRUETTI
For Guatemala:	
For Haiti:	
For the Hedjaz:	
For Honduras:	
For Hungary:	
For Italy:	
For Japan:	H. MATSUSHIMA MITSUZO TSURUMI
For the Republic of Liberia:	R. LEHMANN N. OOMS
For Lithuania:	DR. PR. VAICIUSKA
For Luxemburg:	DR. PRAUM
For Morocco:	HARISMENDY DR. RAYNAUD

For Mexico:	R. CABRERA
For Monaco:	F. ROUSSEL DR. MARSAN
For Norway:	SIGURD BENTZON
For Paraguay:	R. V. CABALLERO
For the Netherlands:	DOUDE VAN TROOSTWYK N. M. JOSEPHUS JITTA DE VOGEL VAN DER PLAS P. MIMBELA
For Peru:	DR. ALI KHAN PARTOW AZAM
For Persia, <i>ad referendum</i> :	MANSOUR CHARIF
For Poland:	CHODZKO
For Portugal:	RICARDO JORGE
For Rumania:	DR. J. CANTACUZÈNE
For San Marino:	DR. GUELPA
For the Kingdom of the Serbs, Croats and Slovenes:	M. SPALAÏKOVITCH
For Salvador:	CARLOS R. LARDÉ-ARTHÈS
For the Soudan:	OLIVER FRANCIS HAYNES ATKEY
For Switzerland:	DUNANT CARRIÈRE
For Czechoslovakia:	DR. LADISLAV PROCHAZKA
For Tunis:	NAVAILLES
For Turkey:	A. FÈTHY
For the Union of the Soviet Socialist Republics:	J. DAVTIAN J. MAMMOULIA L. BRONSTEIN O. MEBOURNOUTOFF N. FREYBERG AL. SYSSINE V. EGORIEW A. HFROSA
For Uruguay:	JOSÉ IG. CARDENAS
For Venezuela, <i>ad referendum</i> :	

Treaty Series No. 762

Procès-Verbal of the Deposit of Ratifications of the International Sanitary Convention by Belgium, Spain, France, Great Britain, Monaco, and the Soudan

[Translation]

Pursuant to Article 170 of the International Sanitary Convention signed at Paris June 21, 1926, the instrument of ratifications of that International Act by:

His Majesty the King of the Belgians
 His Majesty the King of Spain
 The President of the French Republic
 His Majesty the King of Great Britain, Ireland and British
 territories beyond the seas, Emperor of India
 His Serene Highness the Prince of Monaco
 The Governor General representing the sovereign authority of
 Soudan,

found to be in good and due form, have been deposited in the
 archives of the Government of the French Republic, in the name of

His Majesty the King of the Belgians
 by His Excellency BARON GAIFFIER D'HESTROY
 His Ambassador at Paris;

His Majesty the King of Spain
 by His Excellency Mr. QUINONES DE LEON
 His Ambassador at Paris

The President of the French Republic
 by Mr. BRIAND, Minister of Foreign Affairs of the French Republic

His Majesty the King of Great Britain, Ireland and the British
 territories beyond the seas, Emperor of India
 by His Excellency Marquis CREWE
 His Ambassador at Paris,

His Serene Highness the Prince of Monaco
 by Count de MALEVILLE,
 His Minister at Paris;

The Governor General representing the sovereign authority of
 Soudan
 by His Excellency Marquis CREWE, Ambassador of His Britannic
 Majesty at Paris,

The instrument of ratifications of His Majesty the King of Spain
 contains the following reservations:

First Reservation on Article 12 of the Convention

“The Government of His Catholic Majesty declares that ratifica-
 tion of the International Sanitary Convention is not to be construed
 to mean that Spain recognizes a régime or entity acting as Govern-
 ment of a signatory or adhering Power when that régime or entity
 is not recognized by Spain as the Government of that Power; it
 further declares that the participation of Spain in the International
 Sanitary Convention does not involve any contractual obligation on
 the part of Spain to a signatory or adhering Power represented by
 a régime or entity which Spain does not recognize as representing
 the Government of that Power until it is represented by a Govern-
 ment recognized by Spain.”

Second Reservation

"The Government of His Catholic Majesty reserves to itself the right to decide whether, from the standpoint of the measures to be applied to a foreign district, it is to be considered as infected and to decide what measures shall be applied under special circumstances to arrivals in its own ports."

Reservations to Article 49 of the Convention

"The Government of His Catholic Majesty, while approving in principle the recommendations in Article 49 of the Convention and feeling desirous of hereafter succeeding in freely delivering bills of health and reducing consular fees for the visa of said bills of health, under the head of reciprocity, so that they shall represent only the cost of the service rendered, can not refrain from calling attention to the fact that at present the law in force in Spain does not make it possible to grant those concessions which in any event could only be granted in accordance with the law of Spain."

"It is further declared that the instrument of ratifications by His Catholic Majesty does not apply to the Spanish territories in the Gulf of Guinea which shall form the subject of a special adhesion as provided in Articles 171 and 172 of the Convention when the sanitary measures that are contemplated shall have been promulgated for those territories."

In accordance with Article 172 of the Convention, the instrument of ratifications by His Majesty the King of Great Britain, Ireland and the British territories beyond the seas, Emperor of India, states that the said ratifications applied:

"Only to Great Britain and Northern Ireland, the Dominion of New Zealand (including the mandate territory of West Samoa) and the Union of South Africa (but not the mandate territory of Southern and Western Africa) without prejudice, however, to the right hereafter to ratify with regard to the Dominion of Canada, the Commonwealth of Australia, and the Empire of India, or the right of hereafter adhering to everything in which the Dominions, Colonies, Possessions or mandate Territories hereby excluded from this ratification are concerned."

In accordance with Article 172 of the Convention, the instrument of ratifications by the President of the French Republic says that they apply:

"To France, Algeria, French West Africa, French East Africa, the French Colonies and Protectorates in Indo-China, or of the other French colonies and possessions, the mandate States of Syria, Great Lebanon, "Alaouites" and Jebel Druze, the mandate territories of Togo and of Cameroon."

A certified copy of this procès-verbal shall be sent to the contracting Powers.

IN WITNESS WHEREOF the undersigned have drawn up this procès-verbal and affixed their seals thereto.

Done at Paris March 10, 1928.

[SEAL]	E. DE GAIFFIER
[SEAL]	J. QUINONES DE LÉON
[SEAL]	A. BRIAND
[SEAL]	CREWE
[SEAL]	HENRI DE MALEVILLE
[SEAL]	CREWE

Treaty Series No. 762

Procès-Verbal of the Deposit of Ratifications of the International Sanitary Convention by Czechoslovakia

[Translation]

In accordance with the provisions of Article 170 of the International Sanitary Convention signed at Paris June 21, 1926, the Minister of the Czechoslovak Republic this day called at the Ministry of Foreign Affairs of the French Republic and deposited the instrument of ratifications of that International Act by His Excellency the President of the Czechoslovak Republic.

The instrument being, upon examination, found to be in good and due form, has been entrusted to the Government of the French Republic to be kept in its archives.

A certified copy of this procès-verbal shall be sent to the contracting Powers.

Done at Paris March 28, 1928.

[SEAL]	A. BRIAND
[SEAL]	STEFAN OSUSKY

Treaty Series No. 762

Procès-Verbal of the Deposit of Ratifications of the International Sanitary Convention by the United States of America

[Translation]

In accordance with the provisions of Article 170 of the International Sanitary Convention signed at Paris June 21, 1926, the Ambassador of the United States of America at Paris this day called at the Ministry of Foreign Affairs of the French Republic and deposited the instrument of ratifications by His Excellency the President of

the Republic of the United States of America, of that International Act, the following reservations being made:

1. The ratification of this international sanitary convention is not to be construed to mean that the United States of America recognizes a régime or entity acting as government of a signatory or adhering power when that régime or entity is not recognized by the United States as the government of that power.

2. The participation of the United States of America in this international sanitary convention does not involve any contractual obligation on the part of the United States to a signatory or adhering power represented by a régime or entity which the United States does not recognize as representing the government of that power until it is represented by a government recognized by the United States.

3. The government of the United States of America reserves to itself the right to decide whether from the standpoint of the measures to be applied a foreign district is to be considered as infected and to decide what measures shall be applied to arrival in its own ports under special circumstances.

This instrument being, upon examination, found to be in good and due form, has been entrusted to the Government of the French Republic to be kept in its archives.

A certified copy of this proces-verbal shall be sent to the contracting Powers.

IN WITNESS WHEREOF the undersigned have drawn up this proces-verbal and affixed their seals thereto.

Done at Paris, May 22, 1928.

[SEAL]

A. BRIAND

[SEAL]

MYRON T. HERRICK

**PRELIMINARY CONFERENCE ON OIL POLLUTION OF NAVIGABLE
WATERS, WASHINGTON, JUNE 8-16, 1926⁴⁶**

Treaty Series No. 736A

*Final Act of the Preliminary Conference on Oil Pollution of
Navigable Waters*⁴⁷

At the invitation of the Government of the United States a preliminary conference of experts met at Washington on June 8, 1926, to consider questions relating to the pollution of navigable waters by oil, the object of the conference being to facilitate an exchange of views on technical matters and to consider the formulating of

⁴⁶ For proceedings of the Conference, see *Preliminary Conference on Oil Pollution of Navigable Waters, Washington, June 8-16, 1926* (Washington, Government Printing Office, 1926).

⁴⁷ Not printed in the Department of State Treaty Series; but printed in the separate pamphlet *Final Act of the Preliminary Conference on Oil Pollution of Navigable Waters (and Annex), Signed June 16, 1926* (Washington, Government Printing Office, 1926), and also in *Preliminary Conference*, p. 430.

proposals for dealing with the problem of oil pollution of navigable waters through international agreement.

The Governments participating in the Conference and their representatives were:

The United States of America: by

The Honorable Joseph S. Frelinghuysen.

Judge Stephen Davis, Solicitor of the Department of Commerce.

Dr. Arthur N. Young, Economic Adviser of the Department of State.

Belgium:

Baron Joseph van der Elst, Secretary of the Belgian Embassy at Washington.

British Empire:

Mr. C. Hipwood, Principal Assistant Secretary, Mercantile Marine Department, Board of Trade.

Mr. Albert E. Laslett, Deputy Engineer Surveyor in Chief of the Mercantile Marine Consultive Department.

Captain the Honorable A. Stopford, R. N., Naval Attaché at Washington.

Engineer Commander A. Knothe, R. N., Assistant Naval Attaché at Washington.

Mr. Archibald Maclean, Technical Assistant, Representative of British Shipowners.

Canada:

Mr. W. W. Cory, Deputy Minister of the Interior.

Mr. Charles Duguid, Chief Naval Constructor, Department of Marine and Fisheries.

Engineer Commander T. C. Phillips, Consulting Naval Engineer, Royal Canadian Navy, Department of National Defense.

Mr. Jean Désy, Counselor, Department of External Affairs.

Denmark:

Captain Th. Borg, R. D. N. R., Director of the Port of Copenhagen.

France:

Captain Edmond D. Willm, Naval Attaché at Washington.

Engineer Lieutenant P. Gripon, Assistant Naval Attaché at Washington.

Germany:

Dr. P. S. Lahr, Ministerial Counselor in the Reichs Ministry of Transportation.

Captain W. Drechsel, of the Association of German Shipowners.

Italy:

Commander Count Ettore Sommati di Mombello, formerly Naval Attaché at Washington.

Commander Alberto Lais, Naval Attaché at Washington.

Japan:

Mr. S. Sawada, Counselor of the Japanese Embassy at Washington.

Japan:

Captain I. Yamamoto, I. J. N., Naval Attaché at Washington.

Engineer Commander R. Shibuya, I. J. N., Naval Inspector.

Mr. M. Tokuhisa, Expert in the Department of Agriculture and Forestry.

Netherlands:

Jonkheer Dr. H. van Asch van Wyck, Chargé d'Affaires of the Netherlands at Washington.

Mr. A. Kruk, Government Inspector of Shipping.

Mr. F. C. Haanebrink, Nautical Inspector, Phs. van Omeren's Shipping Business, Ltd.

Norway:

Mr. Alexis H. G. O. Lundh, Commercial Counselor of the Norwegian Legation at Washington.

Spain:

Commander Adolfo H. de Solás, Naval Attaché at Washington.

Sweden:

Mr. Gustaf Weidel, Commercial Counselor of the Swedish Legation at Washington.

The Conference had before it the Report on Oil Pollution of Navigable Waters made by an American Interdepartmental Committee to the Secretary of State of the United States dated March 13, 1926,* and it was agreed that the estimate of the facts as to oil pollution and of the causes of oil pollution presented in that Report corresponded in the main with the view taken by those present at the conference.

The representative of the Netherlands stated that the oil nuisance in his country had been reduced to negligible proportions and was no longer troublesome. So far as it existed he considered that it arose much more from oil-burning vessels than from oil-carrying vessels.

The representative of Canada stated that he considered that bilge water was an important factor in causing oil pollution and recommended that any measures directed towards preventing oil pollution should take into account that factor.

With these qualifications, the statements as to the facts of oil pollution and the estimates as to causes contained in the United States Report were regarded as forming a sound basis for the work of the Conference. The passages of the Report to which reference is made are as follows: as to facts concerning conditions in different countries, pages 18-23 and 104-119; as to causes, pages 23-24.

It was agreed that there has been a marked diminution of oil pollution, since attention was first called to it, due both to the action of the Governments and to the voluntary cooperation of the interests

* Government Printing Office, Washington, D. C., 119 pages, price 20 cents. [Footnote in the original.]

concerned, but that the evil is still serious in some waters and that it can only be dealt with satisfactorily by international action.

The principal causes of oil pollution are vessels and land installations and terminals. As sources of pollution on land are largely limited to territorial waters and are being dealt with, and can only be dealt with, by the Governments concerned, this branch of the subject was not pursued by the Conference, and attention was concentrated on the other principal cause of pollution, vessels.

It was agreed that the only vessels which need be taken into account as potential sources of oil pollution, for the purposes of this Conference, are sea-going vessels carrying crude, fuel or diesel oil, in bulk as cargo, or as fuel for boilers or engines, and that these classes of vessels should be covered by any regulations that may be adopted.

Two classes of vessels require special mention, war vessels and small craft. War vessels are usually dealt with as a separate class, and it is assumed that the naval authorities of each country will take the necessary measures to ensure that those classed as war vessels take every possible precaution to prevent oil pollution. Small craft may find it difficult to comply fully with the regulations that may be laid down, and special provisions may have to be made to meet their case, but they should be required to do all that is reasonable and practicable to avoid oil pollution, and any special provisions should apply only to vessels of limited bunker content.

There is no hard and fast line dividing oily mixtures which are harmful from those practically innocuous, and opinions may differ as to the precise point at which the line should be drawn; but the Conference, after hearing the experts, came to the conclusion that a mixture containing more than .05 of one per cent of crude, fuel or diesel oil should be regarded as constituting a nuisance, and that for all practical purposes a mixture containing this percentage of oil or less need not, at any rate beyond territorial limits, be regarded as constituting a nuisance. Oily mixtures constituting a nuisance can generally be recognized by the film visible to the naked eye in daylight in clear weather which they produce on the surface of the sea.

The Conference is not in agreement at this time as to the extent and effects of pollution caused by deposit of oily mixtures on the high seas at distances greater than 50 miles from shore. One opinion is that such pollution already exists, that ocean fisheries are thereby endangered, and that oily discharges on the high seas tend to preserve their character for an indefinite period and may be borne by winds and currents into coastal waters and contribute to coastal pollution. For that reason the representatives of some Governments considered that after a specified period of notice the discharge of oily mixtures constituting a nuisance should be prohibited every-

where, and that in the meantime a system of areas should be established within which no such discharge should be allowed. The other opinion was to the effect that a sufficient case had not been made out for prohibition everywhere and that the establishment of an effective system of areas would provide a complete or almost complete cure for the evils complained of.

Both parties agree that the first measure is the establishment of a system of areas and both parties agree that such a system, if properly established and properly worked, will go a very considerable way toward curing the evil.

The Conference therefore agreed to recommend that a system of areas should be established on the coasts of maritime countries, and on recognized fishing grounds, within which no oil or oily mixtures, which constitute a nuisance, should be discharged.

Each country can determine what the width of the areas off its own coasts should be, in the light of its own special circumstances and conditions, such as prevailing winds, currents and the extent of its fishing grounds, and after consultation with its neighbors where this appears necessary. The general rule in the case of coasts bordering the open sea should be that the width of the area should not exceed 50 nautical miles, but that in exceptional cases, where the peculiar configuration of the coast or other special circumstances render such a course necessary, the width might be extended to 150 nautical miles.

Full information as to the extent of all areas, in the form of marked charts or otherwise, should be circulated to all governments concerned, and it would greatly facilitate the establishment and working of the system of areas under international agreement if one government were to undertake the duty of receiving, coordinating and circulating information upon the subject.

There are already a number of vessels equipped with apparatus for the separation of oil from their oily mixtures, and it is contemplated that the number of such vessels will materially increase. One obstacle to the installation of such apparatus lies in the apprehension in the minds of those concerned that under the laws of some countries vessels installing it might either incur some penalty in the matter of payment of dues based upon tonnage or might not receive any benefit from the resulting sacrifice of cargo space. It is recommended that necessary changes in admeasurement laws be made by the various governments to the end that such disadvantages may be removed.

The Conference has reached an agreement on the following recommendations to the respective governments for adoption by international agreement:

(1) That the Governments concerned provide for a system of prescribed areas in waters off their coasts beyond territorial limits

(if necessary, after consultation with neighboring governments) within which vessels of the classes mentioned in recommendation No. 4 shall not discharge crude, fuel or diesel oil or mixtures having an oil content greater than that stated in recommendation No. 5.

(2) That along coasts bordering the open sea, such areas shall not extend more than 50 nautical miles from the coast, except, that if such extent is in particular instances found insufficient because of the peculiar configuration of the coast line or other special conditions, the Government affected may extend its area to a width of not exceeding 150 nautical miles, after consultation with neighboring governments, if necessary.

(3) That due notice of the establishment of any areas shall be given to the governments concerned in the form of marked charts or otherwise.

(4) That the regulations adopted with respect to prescribed areas shall be applicable to all sea-going vessels other than war vessels, carrying crude, fuel or diesel oil, in bulk as cargo or as fuel for boilers or engines, due consideration being given to the special necessities of small vessels. It is assumed that the naval authorities of each country will take the necessary measures to ensure that vessels classed as war vessels shall take every possible precaution to prevent oil pollution.

(5) That the discharge of oil or oily mixtures be prohibited within such areas if the oil content exceeds .05 of one per cent, that is, if it is sufficient to constitute a film on the surface of the sea visible to the naked eye in daylight in clear weather.

(6) That each government agrees to use all reasonable means to require its vessels to respect all such areas.

(7) That no penalty or disability of any kind whatever in the matter of tonnage measurement or payment of dues be incurred by any vessel by reason only of the fitting of any device or apparatus for separating oil from water.

(8) That dues based on tonnage shall not be charged in respect of any space rendered unavailable for cargo by the installation of any device or apparatus for separating oil from water.

(9) That the term "device or apparatus for separating oil from water" as used in recommendations Nos. 7 and 8 shall include any tank or tanks of reasonable size, used exclusively for receiving waste oil recovered from the device or apparatus, and also the piping and fittings necessary for its operation.

(10) That each government should carefully observe the operation and effect of the area system off its coasts, and exchange information thereon with the other interested governments, so that if, after reasonable experience, any government may consider that such areas do not sufficiently protect its coasts, or that pollution beyond such

areas has become or threatens to become a menace, such government may be in position to raise with the other governments the question whether the discharge beyond the limit of such areas of oil or oily mixtures constituting a nuisance should be prohibited.

(11) That a central agency be established as soon as practicable for receiving, coordinating and circulating to the governments concerned information of interest relating to the system of areas, the establishment of which is suggested in the foregoing recommendations, the experience with that system, and other data deemed advisable.

For the purpose of facilitating the conclusion of an international agreement the annexed draft of a convention is submitted for the consideration of the respective governments.

Done at the City of Washington this sixteenth day of June, one thousand nine hundred and twenty-six.

JOSEPH S. FRELINGHUYSEN
STEPHEN DAVIS
ARTHUR N. YOUNG
J. VAN DER ELST
C. HIPWOOD
ALBERT E. LASLETT
A. STOPFORD
A. KNOTHE
ARCHD MACLEAN
W. W. CORY
CHARLES DUGUID
T. C. PHILLIPS
JHAN DÉSY
TH. BORG
E. WILLM
P. GRIPON
E. SOMMATI DI MOMBELLO
DR. LAHR
W. DRÉCHSEL
S. SAWADA
I. YAMAMOTO
R. SHIBUYA
M. TOKUHISA
H. VAN ASCH VAN WYCK
A. KRUK
HAANEBRINK
A. LUNDH
ADOLFO H. DE SOLÁS
GUSTAF WEIDEL

ANNEX

DRAFT OF CONVENTION

The Governments of

desiring to take action by common accord to prevent pollution of navigable waters by oil or oily mixtures discharged from vessels, have resolved to conclude a Convention for this purpose, and have appointed as their Plenipotentiaries:

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed as follows:

I

The respective Governments may establish areas in waters adjacent to their coasts within which discharge from the vessels specified in Article III of oil or oily mixtures as defined in Article II shall be prohibited, in accord with the following principles:

(a) In the case of coasts bordering the open sea, such areas shall not extend more than 50 nautical miles from the coast, except that, if such extent is in particular instances found insufficient because of peculiar configuration of the coast line or other special conditions, such areas may be extended to a width not exceeding 150 nautical miles.

(b) In case the government of any country desires to prescribe an area any part of which may be within 150 nautical miles of the coast of another country, that Government shall inform the Government of such other country before the area is prescribed.

(c) Due notice of the establishment of any area or areas, and of any change thereof, shall be given to the Governments of maritime states, in the form of charts or otherwise, by the central agency mentioned in Article VII.

II

The discharges which may be prohibited in any area prescribed pursuant to Article I are (a) crude, fuel or diesel oil, or (b) any mixture containing more than .05 of one per cent of such oil, or having a content of such oil sufficient to form a film on the surface of the sea visible to the naked eye in daylight in clear weather.

III

The vessels which may be affected pursuant to the provisions of Article I are all sea-going vessels other than war vessels, carrying crude, fuel or diesel oil, in bulk as cargo or as fuel for boilers or en-

gines. Special provisions may be adopted to meet the case of small vessels, of limited bunker capacity, but such vessels shall be required to take all reasonable precautions to prevent oil pollution.

IV

The respective Governments agree to take the necessary measures to ensure that vessels classed as war vessels shall take every possible precaution to prevent oil pollution.

V

Each Government will require vessels of the class specified in Article III, flying its national flag, when within any area prescribed pursuant to Article I, to refrain from discharging oil or oily mixtures as defined in Article II.

VI

The respective Governments agree :

(a) That no penalty or disability of any kind whatever in the matter of tonnage measurement or payment of dues be incurred by any vessel by reason only of the fitting of any device or apparatus for separating oil from water.

(b) That dues based on tonnage shall not be charged in respect of any space rendered unavailable for cargo by the installation of any device or apparatus for separating oil from water.

(c) That the term "device or apparatus for separating oil from water", as used in paragraph (a) and (b) of this Article, shall include any tank or tanks, of reasonable size, used exclusively for receiving waste oil recovered from the device or apparatus, and also the piping and fittings necessary for its operation.

VII

The Government of _____ is invited to establish a central agency for the purpose of receiving, coordinating and circulating to the Governments of maritime states information relating to the system of areas established under the terms of this Convention, the experience with that system, and other data pertaining to the problem of oil pollution of navigable waters and means for dealing with that problem.

In the event of this invitation being accepted the other contracting Governments undertake to forward to the central agency the data specified in paragraph (c) of Article I hereof and also all other information which they consider appropriate for the purposes of this Article.

VIII

The Government of the United States will invite the Governments of maritime states other than the signatories to adhere to the present Convention. Such adherence shall be notified to the Government of the United States and by the latter to all the other Governments signatories to the Convention.

IX

The Present Convention shall take effect as soon as the ratifications of five of the Governments represented at the Washington Conference of June, 1926, shall have been notified to the Government of the United States. It may be denounced by any Government on notification to the Government of the United States to take effect one year from the date upon which such notification shall have been made.

**SYMPATHETIC ATTITUDE OF THE UNITED STATES TOWARD EFFORTS
BY THE LEAGUE OF NATIONS FOR THE SUPPRESSION OF SLAVERY**

550.48 B 1/3

*The Secretary General of the League of Nations (Drummond) to the
Secretary of State*

C.L.123.1925.VI

GENEVA, 12 October, 1925.

[Received October 31.]

SIR: I have the honour to communicate to you below the text of a resolution adopted by the Council of the League of Nations on September 28th, 1925:

“The Council decides to communicate the draft Convention on the Slave Trade, slavery and similar conditions, which was recommended for approval by the Sixth Assembly on September 26th, 1925, and the report of the Sixth Committee concerning this Convention to the Members of the League and to the following Governments: Afghanistan, Ecuador, United States of America, Egypt, Germany, Mexico, Russia, Sudan and Turkey, with the request that they will:

a) forward to the Secretary-General not later than June 1st, 1926, any observations they may desire to make regarding the provisions of this draft;

b) make every effort to adopt at once all possible measures in conformity with the provisions of the draft Convention in question;

c) assist one another forthwith in the abolition of the slave trade, slavery and conditions analogous thereto, by all practicable means, and in particular by the conclusion of special agreements and arrangements.”

In pursuance of this resolution, I am sending you herewith the draft Convention in question and the Sixth Committee's report upon it.⁴⁸ I have the honour to draw your Government's special attention to paragraphs *b*) and *c*) quoted above, and I should be very glad if you would be good enough to forward before June 1st, 1926, any observations it may desire to make regarding the draft Convention.

I am also sending, for your information, the report submitted to the Council on September 28th, 1925,⁴⁹ on this subject by Viscount Cecil of Chelwood, representative of the British Empire.

I have [etc.]

ERIC DRUMMOND

550.48 B 1/32 : Telegram

The Secretary of State to the Minister in Switzerland (Gibson)

WASHINGTON, May 17, 1926—4 p. m.

72. Your 98, May 6, 3 p. m.⁵⁰ Communicate following reply to Drummond in usual manner:

"The Secretary of State of the United States of America has received with appreciation the communication of the Secretary General of the League of Nations, dated October 12, 1925, enclosing a draft convention on the question of slavery and requesting that the United States furnish any observations it might care to make on the provisions of the draft.

While the Secretary of State is not in a position at this time to make any detailed contribution to a study of this subject, he is pleased to inform the Secretary General that slavery and the slave trade are prohibited under the fundamental laws of the United States and by the laws and statutes in force in its several possessions.

The Government of the United States is, furthermore, in accord with its traditional policy, deeply interested in any movement which looks toward the abolishment of all forms of involuntary servitude."

KELLOGG

550.48 B 1/45 : Telegram

The Minister in Switzerland (Gibson) to the Secretary of State

BERNE, June 2, 1926—9 p. m.

[Received June 3—10:09 a. m.]

104. Department's telegram number 72, May 17, 4 p. m. Decision whether eventual slavery conference is to be strictly a League affair or

⁴⁸ For texts of report and draft convention, see League of Nations, *Official Journal*, Special Supplement No. 39: Records of the Sixth Assembly (Geneva, 1925), p. 50.

⁴⁹ For text of report, see League of Nations, *Official Journal*, Oct. 1925, p. 1534.

⁵⁰ Not printed.

an autonomous conference including nonmember states will probably be made by Council at June 7 meeting. I learn most informally that Drummond is in real quandary as to interpretation to be placed on final sentence of Department's 72. As indicated in Winslow's despatch number 856, May 10, 1926,⁵¹ Council's decision as to nature of conference will probably depend largely on whether United States would be disposed to attend autonomous conference if invited. I understand that the League is most anxious to avoid embarrassment of inviting United States to conference if invitation is likely to be refused. While I realize that Department may not be able to give definite answer to this question in advance, I believe that you should be advised of existing situation in case you should wish me to express to Drummond prior to Council meeting June 7 any opinion as to the probable attitude of the United States Government if it should be invited by the League to attend an international conference to consider draft slavery convention.

GIBSON

550.48 B 1/45 : Telegram

The Secretary of State to the Minister in Switzerland (Gibson)

BERNE, June 4, 1926—3 p. m.

75. Your 104, June 2, 9 p. m. Reference United States attendance at autonomous conference on slavery.

While it is impossible for the Department to make definite commitment at this time prior to the receipt of the text of the invitation, you may, if you think it desirable, let Drummond know informally that an invitation to attend an autonomous international conference on slavery would be given the most sympathetic consideration by this Government, in view of its relationship to previous international conventions on this subject.⁵²

KELLOGG

⁵¹ Not printed.

⁵² An autonomous international conference on slavery was not called. The text of an international convention for the suppression of slavery was drawn up by the Assembly of the League of Nations and was opened for signature on Sept. 25, 1926. See Department of State Treaty Series No. 778: *Convention between the United States and Other Powers—Slavery*; also 46 Stat. (pt. 2) 2183.

STATEMENT TO CERTAIN FOREIGN GOVERNMENTS REGARDING
EFFORTS OF THE UNITED STATES TO CONTROL THE PRODUCTION
OF AND TRAFFIC IN NARCOTIC DRUGS^{52a}

511.4 A 1/1972a

*The Secretary of State to the Diplomatic Officers of the United States
Accredited to the Governments Party to The Hague Convention of
January 23, 1912*^{52b}

WASHINGTON, October 14, 1926.

SIR: It is desired that you bring formally and officially to the attention of the government to which you are accredited the following observations:

In 1912 the United States participated with other nations in a conference held at The Hague for the purpose of considering means for the control of the traffic in narcotic drugs.^{52c} There was drawn up as the result of the deliberations of that conference an international agreement looking to the "progressive suppression of the abuse of opium, morphine, cocaine, as well as drugs prepared and derived from these substances giving rise, or which may give rise, to analogous abuses".^{52d} The alarming growth of the abuse of such drugs within its territories made apparent the need not only for domestic legislation to the end that the production of, and traffic in, such drugs in the United States might be controlled, but also for international cooperation in the control of the traffic between nations. The convention drawn up and adopted by that conference was ratified by the United States on December 15, 1913. It contains the following articles:

[Here follow articles 9 to 14, inclusive, of Chapter III; see *Foreign Relations, 1912*, pages 199 to 200.]

The Congress of the United States proceeded at once to the enactment of the legislation which would provide for control of the production and traffic in the dangerous drugs mentioned in The Hague Convention within territory under its jurisdiction, as well as the participation in the international traffic in such drugs by its citizens or those within its jurisdiction. The substance of this domestic legislation is briefly summarized below, copies of the law and the regulations drawn up for their enforcement being enclosed.^{52e}

The question of the domestic production and traffic in drugs was dealt with by the Act of December 17, 1914,^{52f} amended by Sections

^{52a} For previous correspondence, see *Foreign Relations, 1924*, vol. i, pp. 89 ff.

^{52b} This circular instruction was sent to the following missions: Albania, Austria, Belgium, Bolivia, Brazil, Bulgaria, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Finland, France, Germany, Great Britain, Greece, Guatemala, Haiti, Honduras, Hungary, Italy, Japan, Latvia, Liberia, Luxemburg, Mexico, The Netherlands, Norway, Panama, Peru, Poland, Portugal, Rumania, Salvador, Serbia (Yugoslavia), Siam, Spain, Sweden, Switzerland, Uruguay, and Venezuela.

^{52c} See *Foreign Relations, 1912*, pp. 182 ff.

^{52d} *Ibid.*, p. 196.

^{52e} Enclosures not printed.

^{52f} 38 Stat. 785.

1006 and 1007 of the Revenue Act of 1918,^{52g} and by Section 703 of the Revenue Act of 1926.^{52h} This act gives the Government of the United States control, within territory over which it has jurisdiction, over the importation, manufacture, compounding, sale, dealing in, dispensing, and giving away of opium, coca leaves, their salts, derivatives or preparations thereof. This act, as you will note, requires that every importer, manufacturer, producer, compounder, seller, or anyone otherwise interested in disposing of opium or coca leaves or any compound, manufacture, salt, derivative, or preparation thereof, register with the Collector of Internal Revenue of the District his name or style, place of business and place or places where such business is to be carried on. Persons not so registered may not lawfully manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the drugs or their derivatives mentioned in the act. The act makes it unlawful for persons registered to deal in or handle any such drugs except in the original stamped packages or from the original stamped packages; the absence of appropriate tax-paid stamps from any of the drugs being made prima facie evidence of a violation of the law by the person in whose possession they may be found. It is made unlawful for any person to sell or otherwise dispose of any of the drugs mentioned in the act except in pursuance of a written order on a form issued for that purpose by the Commissioner of Internal Revenue. The law provides for the keeping by druggists, chemists, surgeons, dentists, physicians, veterinarians, et cetera, of accurate records of all drugs dispensed, administered, or otherwise disposed of by them (except to patients personally attended) and requires that all such records be kept in such a way as to be readily accessible to inspection by the officers of the Government whose duty it is to make such inspections. The provisions of this law are extended to the Territory of Alaska, the Territory of Hawaii, the insular possessions, including the Philippine Islands, and the Canal Zone.

The matters of the domestic production and traffic in drugs were also dealt with by the Act of January 17, 1914, (38 Stat. 277) which imposed a commodity tax upon smoking opium manufactured in the United States of \$300.00 per pound and required the filing of a bond by each manufacturer of smoking opium in a penal sum not less than \$100,000.00. Severe penalties were imposed by the Act for violation of the terms thereof, the purpose being to impose prohibitive restrictions upon the manufacture of smoking opium, and the result has been that smoking opium is not being legally manufactured in the United States as recognized by Section 3 of the Act of May 26, 1922, known as the Narcotic Drugs Import and Export Act, which enacted that on and after July 1, 1913, all smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported after April 1, 1909.⁵²ⁱ

Participation by American citizens and those within the jurisdiction of the United States in the international traffic in narcotic drugs

^{52g} Approved Feb. 24, 1919; 40 Stat. 1057, 1130, 1132.

^{52h} Approved Feb. 26, 1926; 44 Stat. (pt. 2) 9, 96.

⁵²ⁱ See 38 Stat. 275 and 42 Stat. 596, both amending the Act of Feb. 9, 1909 (35 Stat. 614).

is controlled under a second Act of January 17, 1914,^{52j} and the Act of May 26, 1922,^{52k} amendatory thereof, known as the "Narcotic Drugs Import and Export Act".

Exportations of narcotic drugs are by that law restricted to shipments only to a country which has ratified and become a party to the International Opium Convention of 1912, and then only if (1) such country has instituted and maintains, in conformity with that convention, a system of permits or licenses for the control of imports of such narcotic drugs which the Federal Narcotics Control Board, consisting of the Secretaries of State, the Treasury, and Commerce, deems adequate; (2) the narcotic drug is consigned to an authorized permittee; and (3) there is furnished to the Federal Narcotics Control Board proof deemed adequate by it that the narcotic drug is to be applied exclusively to medical and legitimate uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and legitimate uses within such country. An individual permit for each shipment is issued by the Federal Narcotics Control Board upon proper application accompanied by an import certificate issued by a duly authorized official of the country of destination covering information required under (2) and (3), as stated in the preceding sentence, fulfillment of (1) being prerequisite to the issuance of such an import certificate.

No exportation is permitted by post. No permit is issued for the exportation of crude opium or coca leaves as such. All exporters must be properly qualified under the internal revenue law and all narcotic products exported are duly sealed with United States internal revenue stamps.

Importations are by this law restricted to crude opium and coca leaves, and are limited to such quantities thereof as are considered necessary by the Federal Narcotics Control Board for legitimate and medical uses only. Individual import licenses for specified quantities within such limits are issued by this Board to manufacturers, properly qualified under the internal revenue law, having apparatus or equipment in use in the manufacture of derivatives of opium and coca leaves. The American Consul at the port of exportation will not certify the invoice covering such shipments until duly informed of the issuance of such a permit. All narcotic drugs arriving in the United States without due authorization are subject to seizure and confiscation.

In-transit shipments of smoking opium or opium prepared for smoking are forbidden by law. Other narcotic drugs may be shipped through the United States or a port thereof only upon permission of the Federal Narcotics Control Board. The general policy of this Board with respect to the issuance of permits authorizing in-transit shipments is the same as that for exports, i. e., a permit for an in-transit shipment will be issued only if a permit for exportation could properly have been issued. This policy is based on the theory that this Board should not permit the in-transit facilities of the United States to be used for transactions forbidden by its laws if occurring within the jurisdiction of such laws, such theory

^{52j} 38 Stat. 275.

^{52k} 42 Stat. 596.

being especially supported by the fact that the same law is the authority for both the export and the in-transit permits.

As late as the year 1914 morphine and other narcotic drugs could be freely manufactured and purchased in the United States without restriction. Government reports indicate that in 1920 the importation of crude opium into the United States amounted to 628,896 pounds and that in the same year 230,388 pounds were exported leaving 398,508 pounds either consumed in the country or exported as derivatives. For the year ending June 30, 1925, imports had been reduced to 105,014 pounds.

The Government of the United States, while gratified at the results of the enforcement of this domestic legislation, is constantly made aware of the fact that its efforts to control the consumption of these dangerous drugs within territory subject to its jurisdiction are being nullified to an alarming extent by the activities of smugglers who appear to find little difficulty in acquiring large quantities of these drugs for the purpose of introducing them secretly into the United States.

Large quantities of morphine (chiefly morphine hydrochloride, of which little is manufactured in the United States), heroin (not manufactured in the United States after June 7, 1924), and cocaine are landed illegally on the east coast of the United States from ships arriving from European ports. Due to extensive shipping and the ease with which these drugs may be concealed customs officers experience difficulty in making seizures. Seizures made at ports and borders during the year ended June 30, 1924, under the Narcotic Drugs Import and Export Act, are as follows:

Opium	2,486 pounds (avoirdupois)
Morphine	2,504 ounces
Heroin	313 "
Miscellaneous opium derivatives	93 "
Cocaine	761 "

Seizures made at ports and borders during the year ended June 30, 1925, under the Narcotic Drugs Import and Export Act, are as follows:

Opium	1,178 pounds (avoirdupois)
Morphine	2,425 ounces
Heroin	282 "
Miscellaneous opium derivatives	6 "
Cocaine	548 "

This Government believes that only a small part of the drugs manufactured in the United States is diverted to illicit channels, and that the most of the narcotic drugs illicitly consumed in this country are smuggled drugs. The conviction has been reached that no great improvement in this situation is possible until there is a control, in countries other than the United States, over the manufacture and export of narcotic drugs which will prevent their sale to any but licensed importers in countries which maintain an import license system or, in the case of countries which do not have such a system, to any but reputable firms or individuals and in quantities commensurate with the estimated legitimate medical needs of the country.

The United States does not suggest that the method which it has adopted to control the importation and manufacture of dangerous drugs within its jurisdiction and their export therefrom represents all that can be accomplished in the way of legislation, but it does feel that considerable success has attended this legislation by enabling it to follow the raw material that goes into its factories and to know exactly what comes out of the factories and into whose hands the product of the factory goes. The fact that large quantities of the products of factories in other countries constantly reach its ports in the hands of smugglers brings the conviction that the quantity of such illicit drugs might be much reduced if a stricter control over the operation of those factories could be exercised. As a step in this direction a control which would provide an accurate public record of manufacture and sales, showing exactly to whom sales are made, would be very helpful.

In communicating the above views of this Government to the government to which you are accredited you will state that a similar communication is being made to other countries party to The Hague Opium Convention of 1912. You will say that it is the hope of this Government that in its efforts to control the manufacture and sale of narcotic drugs within its territories the country to which you are accredited will take into consideration the situation herein described and comment thereon offering any suggestions that may occur to it arising out of its experience in dealing with a similar situation, if such exists, within its own jurisdiction. You may state that this Government is prepared to cooperate with it in efforts to accomplish the ends aimed at by the provision of The Hague Convention above quoted and express this Government's hope that the government to which you are accredited will find it possible to lend its aid to that end.

I am [etc.]

FRANK B. KELLOGG

**EFFORTS BY THE UNITED STATES TO PREVENT THE INJECTION OF
POLITICAL QUESTIONS INTO THE PROCEEDINGS OF THE BOLÍVAR
CONGRESS AT PANAMA**

819.415C/-

The Minister in Panama (South) to the Secretary of State

No. 678

PANAMA, April 2, 1925.

[Received April 14.]

SIR: I have the honor to transmit herewith a copy with translation of a note just received from the Minister for Foreign Affairs⁵³ inviting the United States Government to be represented by delegates at a Congress which will be held in this city on June 18, 1926, in celebration of the first centennial of the Bolívar Congress of 1826.

I have [etc.]

J. G. SOUTH

⁵³ Not printed; see Republica de Panama, *Congreso Pan-Americano conmemorativo del de Bolívar 1826-1926* (Panama, Imprenta Nacional, 1927), p. 17.

819.415C/- : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, April 24, 1925—2 p. m.

33. Your despatch No. 678, April 2, 1925. Department assumes congress to which invitation refers will be of a purely ceremonial and commemorative nature and that no discussion of international matters is contemplated. Discreetly verify and report by cable.

KELLOGG

819.415C/1 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, April 28, 1925—3 p. m.

[Received 3:30 p. m.]

50. Department's telegram 33, April 24, 2 p. m. Minister for Foreign Affairs assures me that Congress is purely ceremonial. Official program has been transmitted to Pan American Union.

SOUTH

819.415C/1 : Telegram

The Acting Secretary of State to the Minister in Panama (South)

WASHINGTON, May 11, 1925—6 p. m.

35. Your despatch 678, April 2, and telegram 50, April 28, 3 p. m. You may inform Minister for Foreign Affairs that Government of United States accepts with thanks invitation courteously extended.

GREW

819.415C/46d : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, May 29, 1926—3 p. m.

37. Delegates appointed by President to Bolivian [*Bolívar*] Centenary Congress are you, as Chairman; Dr. Charles W. Hackett, Associate Professor of Latin American history, University of Texas; and William Jennings Price, your predecessor.

KELLOGG

819.415C/54a : Telegram

The Secretary of State to the Minister in Panama (South)

[Paraphrase]

WASHINGTON, June 3, 1926—10 a. m.

40. Refer to Department's telegram dated May 29, 3 p. m. and previous correspondence.

Inasmuch as it is the understanding of the Department that you have been assured by the Panaman Foreign Minister that the Bolívar Congress is purely ceremonial and commemorative, and that the topics in the program accompanying your despatch No. 727 of May 22, 1925, represent merely possible themes for previously prepared monographs of academic and historical interest which express the personal views of the delegates and not those of their Governments, the Department does not deem it expedient or essential to give you any specific instructions as chairman of the American delegation. However, should any efforts be made, despite the assurances of the Government of Panama, to inject into the proceedings of the Congress general discussions of matters of a political or controversial nature, you will refrain from participating therein, and from voting on any nonroutine resolutions unless the Department has previously instructed you. If necessary, you will state that you will be glad to transmit to the Government of the United States for its consideration any matters of interest to the Congress.

The Department is sending you by next pouch a memorandum dealing with the genesis and history of the Congress of 1826.⁵⁴

KELLOGG

819.415C/72 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, June 22, 1926—6 p. m.

21. American Legation Panama reports that at the Bolívar Congress the delegate of Honduras, Trejo Castillo, made remarks unfriendly to the United States when each delegation was responding last Friday night⁵⁵ to the President's address of welcome. He introduced a resolution on Saturday urging the United States to free Porto Rico. This resolution was referred to the Executive Committee which decided not to report it.

Please take this matter up immediately with the Honduran Government and ask for a definite answer whether Castillo was acting under instructions. If he was not please ask that his action be publicly disavowed and that appropriate steps be taken to prevent a repetition thereof by him.

KELLOGG

⁵⁴ Not printed.

⁵⁵ June 18.

819.415C/74a : Telegram

The Acting Secretary of State to the Minister in Panama (South)

WASHINGTON, June 24, 1926—2 p. m.

52. Associated Press despatch from Panama dated June 22, states that a resolution recommending common action by Pan American states against any aggressor state has been unanimously adopted by the Bolívar Congress.

Please report fully. In this connection refer to Department's telegram 33, April 24, 2 p. m. 1925, your 50, April 28, 3 p. m. 1925, Department's 320, June 17, 1925, your 854, October 31, 1925,⁵⁶ and further correspondence regarding assurance of Panaman Government that the Congress is purely ceremonial.

GREW

819.415C/73 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, June 24, 1926—3 p. m.

[Received 11:30 p. m.]

50. The Bolívar Congress this morning adopted by an overwhelming majority, a resolution recognizing the desirability of an American League of Nations, recommending that a conference be called to draw up a treaty constituting such a league, and charging Panama with the duty of taking preliminary steps toward convening.

[Paraphrase.] Of course the American delegates refrained from voting. I intended to explain the position of the delegation as governed by the Department's instructions, but later considered that course inadvisable. Last night, in executive committee, all heads of official delegations being present, I made a statement setting forth the position of the delegation in objecting to the submission to the Congress of another resolution of a political character. I learned that my statement had created the impression that our delegation was trying to stifle free discussion at the Congress, so I was reluctant to take any further steps which might strengthen that impression. Sentiment for the resolution was so enthusiastic that anything like opposition from our delegation would have given rise to a most unfavorable impression, and all the more so, because during the debate very friendly statements towards the United States had been expressed by the supporters of the resolution. [End paraphrase.]

SOUTH

⁵⁶ Last two telegrams not printed.

819.415C/75 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, June 25, 1926—11 a. m.

[Received 2:30 p. m.]

43. The Foreign Office telegraphed to the Chargé d'Affaires of Honduras at Panama June 22, prior to the receipt of your telegram No. 21, June 22, 6 p. m., requesting a report regarding Trejo's reported actions.

The Minister for Foreign Affairs has expressed regrets. He states that Trejo was not acting under instructions, that disavowal will be published this afternoon and that Trejo has ceased to be the [delegate of Honduras].

SUMMERLIN

819.415C/77 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA [,undated].

[Received June 25, 1926—10 p. m.]

51. Department's June 24, 2 p. m. Resolution referred to reads as follows:

"Whereas the nations of the New World are united by eternal bonds of democracy and by the same conception of justice and liberty; and,

Whereas the logic of the principles which they have maintained and still maintain and of the interests which affect them, should determine a close unity in action to better insure the greatest efficiency of the former and the free development of the latter;

Be it resolved: To recommend to the nations of the New World that they adopt as their policy in their international relations, the principle that every act carried out against one of them, violating the universally recognized precepts of international law, shall constitute an offense for all and, therefore, provoke among them a uniform and common reaction."

The proponents of the measure stated in debate that the "common reaction" referred to would be confined to moral sympathy and expressions in the press until such time as the American nations were ready to make treaties providing for more active mutual assistance. The motion was introduced and passed at a single session. The American delegation of course refrained from voting; but as the motion was passed by acclamation, without opposition, the impression was perhaps created that the action was unanimous. As there was no opportunity to obtain the Department's instructions,

and as the expression of what was admittedly merely partially wish [*sic*] did not appear sufficiently important to justify telegraphing, the matter was reported only by mail. In view of passage yesterday of resolution advocating Pan American League of Nations, however, the delegation considered it advisable to state clearly its position with regard to this and other resolutions of a political character. This morning therefore I read and had placed in the record the following statement:

As the Government of the United States had understood that the Bolívar Centenary Congress would be a gathering exclusively of a ceremonial and commemorative nature, it had not expected that the Congress would seek to adopt conclusions or make recommendations of a political character. The delegates of the United States have therefore no instructions which would authorize them to vote on such conclusions or recommendations. Without implying, therefore, any expression one way or the other, either of their own views or of the views of their Government, the delegation has refrained from discussing or [voting] upon some of the resolutions which have been before the Congress. In view of the importance of these resolutions, however, the delegates of the United States will take pleasure in reporting them to their Government for its information.

SOUTH

819.415C/76 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, June 25, 1926—7 p. m.

[Received 10:38 p. m.]

52. The Bolívar Congress adjourned this afternoon. At the final session the Congress debated a resolution offered by Gutierrez Navas of Nicaragua recommending that the Sixth Pan American Congress consider the transfer of the seat of the Pan American Union to Panama. Gutierrez withdrew his motion after Ricardo Alfaro⁵⁷ speaking on behalf of the President of Panama opposed it in very strong and able speech on the ground that its adoption would be an unfriendly act toward the United States.

While the delegation considered it inadvisable for obvious reasons openly to oppose the resolution it discreetly assured itself before the session of Alfaro's assistance and of the votes of several other delegations against the resolution.

SOUTH

⁵⁷ Delegate of the Pan American Union; Panaman Minister to the United States.

TACNA-ARICA ARBITRATION: TERMINATION OF THE PLEBISCITE⁵⁸

723.2515/1760 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, January 4, 1926—3 p. m.

1. While Department's views on settlement outside plebiscite remain as stated in my No. 63, October 31, 2 p. m.,⁵⁹ it is becoming more and more apparent that effective settlement by means of plebiscite is well nigh impossible to attain. Position is more difficult as it seems that neither party desires the plebiscite. It appears that Peru would prefer to have moral victory over Chile, maintaining the issue which is an asset in internal politics rather than to have matter settled through plebiscite. Military party in Chile also welcomes prolongation of issue as it furnishes excuse for keeping up military establishment.

The Government of Chile, however, appears to desire settlement of matter by compromise which will save prestige of both nations and will at same time settle once for all whole question of Pacific by including Bolivia. Department has not as yet had any indication of views of President Leguía and influential members of Peruvian Congress on settlement outside plebiscite. It is evident of course that at present stage while General Pershing⁶⁰ is forced to take serious issue with the Chileans, that the Peruvians are content to do nothing until further developments. It seems likely, however, that after rules and regulations for registration are promulgated, time may come when General Pershing or his temporary successor will have to take serious issue with Peruvians to make them send in their voters in order not to delay the proceedings, and to put to practical test question whether conditions in provinces are such that plebiscite can be held. Dr. Dodds,⁶¹ who has just returned from Arica, expresses opinion, in which I

⁵⁸ Continued from *Foreign Relations*, 1925, vol. 1, pp. 304-431.

On the subject matter of this section, reference may be made to the following publications:

The Plebiscitary Commission, Tacna-Arica Arbitration, *Press Releases*, Arica, August 1925-July 1926.

Peru, Ministerio de Relaciones Exteriores, *Documentos relativos al plebiscito de Tacna y Arica* [1, 1926-27], 6 vols. ([Lima], Lit. Tip. "Almirante Grau") and *El Arbitraje de Tacna y Arica: Actas de la Comisión Plebiscitaria* (texto español), 2 vols. (Lima, Imprenta Torres Aguirre, 1928).

Chile, *Memoria del Ministerio de Relaciones Exteriores, Junio de 1923 a Diciembre de 1926* (Santiago, Balcels & Co. [1, 1927]), pp. 43 ff.

Bolivia, *Anejos a la Memoria que presenta el Ministro de Relaciones Exteriores y Culto al H. Congreso de 1927* (La Paz, Imp. Edelman & Co. [1, 1927]), pp. 35 ff.

Agustín Edwards, *Memoria presentada al Supremo Gobierno por el Miembro-Representante de Chile en la Comisión Plebiscitaria (Arbitraje de Tacna y Arica)*, etc. (Santiago, Soc. Imp. "Universo," 1926).

⁵⁹ *Foreign Relations*, 1925, vol. 1, p. 409, footnote 73.

⁶⁰ Gen. John J. Pershing, president of the Plebiscitary Commission.

⁶¹ Harold W. Dodds, technical adviser with the American delegation.

incline to concur, that at that stage of proceedings Peru may decline to carry out plebiscite. It is evident that should she maintain that attitude, plebiscite would have to be held without her cooperation; when that becomes evident it is possible that there may be disposition in Peru to make settlement outside plebiscite.

I want you, for foregoing reasons, to follow matter very closely with President Leguía and others, and to report as soon as you have any intimation of their probable attitude. Of course, you will appreciate necessity of keeping Arbitrator's position clear in matter.

As references which follow to statements in cables from Ambassador Collier in Chile and my reply will show, it is possible that some of Latin American diplomats in Lima may broach subject to Government of Peru, perhaps after consultation with you. Should any such steps be taken, they should not be discouraged. You will guide yourself by my telegram to Collier, December 22, 1 p. m., which is summarized hereafter.

On December 15 Collier reported⁶² that the Bolivian Chargé d'Affaires had discussed the situation with him at length, and had expressed the view that President Figueroa of Chile would be willing to make settlement with Bolivia and Peru. Chargé thought that it would be more difficult to obtain consent of Peru, but he believes that sufficient pressure may be brought to obtain it, and he suggested possibility that some of the South American nations suggest to Chile and Peru that they request President of the United States to settle matter by diplomacy. Chargé thought that Brazil or Uruguay might be in position to ascertain President Figueroa's views on matter, and that their Ministers in Peru should be instructed to urge Peruvian Government to consent to make settlement.

The Uruguayan Minister to Chile also spoke to Collier and stated belief that partition of the territory was only way to settle question, and that if the Government of the United States did not wish to suggest this to the parties to the controversy and would not deem it offensive for Uruguay to suggest to both Chile and Peru that they agree upon some such settlement and to ask Arbitrator to accept it instead of holding plebiscite, the Minister said he believed that Uruguayan Government would be willing to take the step. He was emphatic on point that there would be no interference with the United States, as both he and his country fully approve course we have taken.

On December 17 Collier reported⁶² that Argentine Ambassador had stated as his personal view that the Government of the United States having consented to solve question, no other Power should interfere in any way, but that he was convinced that plebiscite could never be

⁶² Telegram not printed.

entirely satisfactory settlement. He referred to enlarged jurisdiction given British Crown in settlement of Argentine-Chilean boundary,⁶⁴ and urged desirability of sounding out Chile and Peru to see if they would not advise the President of the United States that they appreciated fact that a more comprehensive settlement should be made than was thought of when question was submitted for arbitration, and that they felt that equitable as well as legal principles should be taken into consideration. The Ambassador expressed view that his Government would be willing to instruct Argentine Minister in Peru to sound out Peruvian Government and if it showed reluctance, he stated that he would favor identic representations by all Latin-American Ministers at Lima. He believed that President Leguía would not hold out against such expression of sentiment. He said that he had discussed matter with the Brazilian Ambassador to Chile, and that latter had stated that this suggestion was one of few ways in which matter could be settled.

On December 22, 1 p. m., I replied to Collier by telegram, summarized as follows:

There is no question about desirability of settlement by agreement, if that be possible. There is no reason why we should object to Governments of Argentina and Uruguay or any other government making suggestions to either Chile or Peru, or both, regarding desirability of settlement believed to be fair, and advisability of having Chile and Peru ask good offices of this Government to effect a settlement. In other words, if interested Governments can bring about request from Chile and Peru to ask our good offices, we would be very glad to offer them and to try to bring the parties to an agreement. The Government of the United States would not stand in way of any processes favorable to an adjustment as long as it is not compromised; that is, the integrity of the arbitration and the impartiality of Arbitrator must be maintained. Correct attitude is to maintain this impartiality and to be ready to use our good offices with both the parties on invitation emanating from them, not being committed by any understanding that we would bring pressure on either one, but that we would be willing to use our good offices to bring about settlement fair and agreeable to both.

We should avoid creating impression that if one of the parties is willing to adopt a certain course of action, we would bring pressure on the other to induce acquiescence. Anything affording an opportunity to assert an understanding that we were to try to bring about particular sort of settlement would only embarrass effective use of good offices if these be asked. I would not communicate formally with Argentine Ambassador or with Uruguayan Minister, as they might construe such action as asking them to intervene, but if opportunity should offer, you may say that the foregoing expresses the views of this Government.

KELLOGG

⁶⁴ Boundary agreement between the Governments of Chile and Argentina, Santiago, Apr. 17, 1896; *British and Foreign State Papers*, vol. LXXXVIII, p. 553.

723.2515/1807 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, *January 6, 1926—noon.*

[Received 2:37 p. m.]

8. I have just received from our Legation at Montevideo a copy of the Minister's despatch No. 118 to you, of December 31, 1925,⁶⁵ which you will probably receive about January 18. In it Mr. Grant-Smith says that Uruguayan Minister for Foreign Affairs has received from their Legation here at Santiago reports of conversations with me in regard to possibility of his ascertaining whether Chile might be willing to extend powers of the Arbitrator and whether the Governments of Uruguay, Argentina, and, possibly, Brazil might feel disposed to offer advice in this direction to the Governments of Chile and Peru. Mr. Grant-Smith says that Uruguayan Minister for Foreign Affairs feels he can take no step in matter because neither Uruguayan Minister at Washington nor American Minister at Montevideo have at any time received instructions or been informed from you in regard to the matter. Mr. Grant-Smith also says that Uruguayan Minister for Foreign Affairs said he would talk over matter with Argentine Minister for Foreign Affairs, who is in Montevideo today.

I now believe that it would be a wise act for you to instruct our representatives in Argentina and Uruguay and possibly to discuss the matter with the representatives of those two countries in Washington. My only conversations with my Argentine and Uruguayan colleagues have been fully and correctly reported.

COLLIER

723.2515/1807 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *January 7, 1926—9 p. m.*

4. Embassy's No. 8, January 6, noon, last sentence. It is not clear to Department whether you have had an opportunity to make statement to Argentine Ambassador and Uruguayan Minister authorized in Department's No. 85, December 22, 1925, 1 p. m.⁶⁶ Please inform Department definitely on this point stating exactly what you said to them so that I may be in better position to consider what instructions should be sent our representatives in Argentina and Uruguay.

KELLOGG

⁶⁵ Not printed.

⁶⁶ Not printed; see summary in telegram No. 1, Jan. 4, to the Ambassador in Peru, p. 260.

723.2515/1818 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, January 8, 1926—3 p. m.

[Received January 9—1:25 a. m.]

9. [Paraphrase.] Department's No. 4, January 7, 9 p. m. On receiving Department's No. 85, December 22, 6 [7] p. m.,⁸⁷ I informally stated to Argentine Ambassador that, although the United States could not suggest to Chile and to Peru any method of settlement except the plebiscite and could not even ask or suggest to any other nation that it make suggestions of that nature to Chile and to Peru, the United States does not question the right, nor would it regard the action as an impropriety, were his Government, of its own accord, to suggest to Chile and to Peru that they ask the Arbitrator to amplify his powers in way he had suggested to me, as I reported in my No. 144, of December 17.⁸⁸

I told the Ambassador that any suggestion by Argentine Government could not affect impartiality of Arbitrator, however, or integrity of the plebiscite; that Arbitrator would not make any suggestion whatever to the litigants and that plebiscite would have to proceed without interruption unless both nations should request another mode of procedure. I stated that nothing should be done implying criticism of the award, and he concurred.

I made exactly the same statement, informally, in its entirety, a day or so later, to the Uruguayan Minister, adding as my personal opinion, that I thought suggestion made by Argentine Ambassador better than that of Uruguayan Minister (already reported to Department). The Minister said that Argentine Ambassador had told him of the latter's suggestion to me.

On December 26 the Uruguayan Minister sent a long despatch to his Government about his separate conversations with the Argentine Ambassador and with me. I did not learn of this action until yesterday when I called on him and he read me the complete text of his despatch. The Minister made it quite clear to his Government that the United States would make no suggestion whatever to the parties litigant, but would offer no objection to course that Argentine Ambassador had suggested.

Uruguayan Minister practically stated to his Government that Argentine plan was preferable to his own. Mr. Grant-Smith evidently misunderstood the Uruguayan Minister for Foreign Affairs and has reported to Department that the Uruguayan Minister for Foreign Affairs had been informed by Uruguayan Minister here that

⁸⁷ Not printed; see summary in telegram No. 1, Jan. 4, to the Ambassador in Peru, p. 260.

⁸⁸ Not printed.

I had been instructed to sound out Chilean Foreign Office in the matter. The Uruguayan Minister understands exactly the contrary, however, and has reported in that wise to his Government. Not in any way have I ever mentioned to Chilean Government possibility of anything but plebiscitary solution since my report to Department on October 28, 1925, following Department's instruction of October 26, 1925.⁶⁹

I think that our Embassy in Argentina and our Legation in Montevideo should now be instructed; if Department desires, Embassy here could repeat to them my No. 144 of December 17, and Department's No. 85 of December 22, or such portions as Department would authorize, or they could be mailed Saturday evening, arriving Buenos Aires and Montevideo next Tuesday.

When the Uruguayan Minister read me his despatch yesterday, I learned incidentally, that he reported in it that a short time before my first talk with him, President Figueroa had informally asked him and Argentine Ambassador if their Governments would not intervene in the matter. I have not yet ascertained whether he suggested any specific plan, but I believe that that suggestion and suggestion of Argentine Ambassador to me are being considered together by Uruguayan Foreign Office. [End paraphrase.]

El Diario Ilustrado has published editorial commenting on United Press despatch reported in my number 7 of January 5th⁷⁰ and strongly favors diplomatic settlement but adds that neither Chile nor Peru will dare to take initiative and that the United States, as the impartial nation, ought to take it. Today same paper commenting on recent incident in Tacna⁷¹ as indicative of impossibility of repressing popular feeling and guaranteeing orderly plebiscite, again calls on United States as impartial nation friendly to both litigants to advise them to settle diplomatically.

[Paraphrase.] From the foregoing it looks as if the Argentine suggestion might meet with favorable reception here should Argentine Government be disposed to make it.

I have just been told by Chilean Minister for Foreign Affairs that Chilean Government has instructed *Intendente* of Tacna to make thorough investigation of recent incident and to have guilty punished and order maintained at all cost. Minister also says that Mathieu,⁷²

⁶⁹ Neither printed.

⁷⁰ Not printed; the press despatch which was from Washington stated, without attribution to any official source, that the Arbitrator would be favorably disposed if both Chile and Peru should inform him that the best method of reaching a settlement would be through diplomatic negotiations instead of a plebiscite.

⁷¹ See telegram from the consul at Arica, Jan. 8, *infra*.

⁷² Beltran Mathieu, formerly Chilean Ambassador in the United States, who was en route to Chile to become Minister for Foreign Affairs.

who is now ill in hospital at Ancon, will be unable to be in Santiago before February 1. Minister also said that Edwards⁷⁴ was returning to Arica in entire sympathy with views of the new administration. From another source, however, I am reliably informed that close relations between Edwards and Mathieu have not existed for a long time. [End paraphrase.]

COLLIER

723.2515/1817 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase—Extract]

ARICA, January 8, 1926—5 p. m.

[Received January 9—9:30 p. m.⁷⁵]

From Pershing: On January 6 the Peruvians began to repatriate voters who had been expelled from Tacna, and some thirty were sent up in the morning train from Arica. Several of my staff were eyewitnesses of events attending arrival of Peruvians at Tacna; following is summary of their account:

Peruvians arrived 10:25 a. m., and crowd estimated at about two hundred fifty had gathered about platform and station, rough elements predominating. Crowd greeted arrival of train with threatening outcries, such as: "Kill them." When train had stopped the Peruvians began to descend, carrying hand baggage. Despite no provocative action on their part toward Chileans, the crowd immediately assaulted them. Twelve policemen who at outset made some effort to restrain mob became ineffective almost immediately; thereafter, their action appeared half-hearted. Peruvians, assailants, and police surged through the station and out into the street where the mob increased to four or five hundred and the police to about twenty-five, but no real attempt was made to check mob. As crowd moved up street Peruvians were brutally attacked for a distance of about four blocks, being knocked down, stoned, kicked, and beaten with clubs and fists. The principal attackers seemed to be organized into some half dozen groups consisting of 6 to 10 men each. Several soldiers and two men wearing uniforms of commissioned officers in the Chilean Army were observed among the onlookers, the spectacle affording them an occasion for much laughter. No arrests were made during the attacks, nor were efforts to make arrests apparent in cases which flagrantly demanded such action. The exact number of Peru-

⁷⁴ Agustín Edwards, Chilean member of the Plebiscitary Commission.

⁷⁵ Telegram in three sections.

vians injured and extent of injuries has not yet been reported. Actions of Peruvians at the railway station and in the street were confined to instinctive and ineffectual efforts at defense. The majority of the Peruvians finally reached shelter in the house of General Pizarro, of the Peruvian delegation.

The Chilean press has alleged that General Pizarro fired a shot into the mob from the balcony of his house. He positively denies the allegation and I do not give it credence.

On the evening of the same day, Dr. Valverde, the legal adviser of the Peruvian delegation, another member of the delegation, and Captain Rotaldi, Peruvian naval officer, who were proceeding to Tacna from Arica by motor car found the way barred by rocks near Tacna. When they started to walk to the station they were attacked by a group apparently lying in wait for them, and Valverde and Rotaldi were brutally beaten and cut. The same night there was demonstration against the house into which Valverde and Rothaldi had been taken to be cared for.

On the morning of January 7, several Peruvians who arrived from Tacna by regular train were met at station by threatening crowd which attempted to close in on Peruvians but latter were protected by police and troops.

The situation at Tacna is unsettled and threatening.

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The importance of the incidents described and the incendiary activities of local press can not be overestimated. Action, prompt and vigorous, must be taken.

Unless Edwards, on his arrival, shall promptly and publicly admit responsibility, punish the guilty, make proper public apologies, and give adequate and public guarantees for long period, it is my firm opinion that it will be wrong to take responsibility of encouraging Peruvians to persevere in their endeavors to return to their homes and to take part in plebiscite. Only by an immediate and public declaration of changed policy, accompanied by the prompt, severe, and public punishment of the guilty element and by public and adequate guarantees of good government, can the situation be saved.

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I feel compelled to place this matter before Edwards immediately upon his return to Arica which is expected on January 10. Pershing.

VON TRESCKOW

723.2515/1818 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, January 9, 1926—4 p. m.

5. Yesterday, acting on your suggestions, I called in separately the Argentine Ambassador and the Uruguayan Minister and informed them of the talks you had had in Santiago with the Bolivian Chargé and the Uruguayan Minister, as you reported to the Department on December 15,⁷⁶ and your talk with Argentine Ambassador to Chile, as you reported on December 17;⁷⁶ I then informed them of the attitude of this Government as set forth in Department's telegram No. 85 to you, of December 22, 1 p. m.⁷⁷

Today I have telegraphed our Ambassador in Argentina,⁷⁶ with instructions to repeat to Brazil and Uruguay, my instructions to you and to Ambassador Poindexter about United States intervention, also the substance of your conversations with the Uruguayan Minister and the Argentine Ambassador, which you reported on December 15 and December 17, and the substance of my telegram No. 85 to you. I have told them that they are not to approach the Governments to which they are accredited but are to be ready to explain attitude of this Government if they are approached.

In my conversations with the Argentine Ambassador and the Uruguayan Minister they expressed themselves doubtful that time had arrived when Peru would listen to any suggestions from any country about a settlement. I think they will report to their Governments, however, entire willingness of this Government for them to make suggestions as I cabled you.

Department has received your telegram No. 9, of January 8, 3 p. m. I am pleased to learn that you reported accurately to the Argentine and Uruguayan representatives. The information that has come to Department from Tacna and Arica about clashes between Chileans and Peruvians is not encouraging for success of the plebiscite. I shall probably have Mr. Cox⁷⁸ return to Washington. The President will appoint for General Pershing's place someone who has not been at Tacna and Arica and has not been in any way heretofore connected with the plebiscite. The new appointee will probably be on the ground before Mathieu arrives in view of delay caused by latter's illness.

⁷⁶ Telegram not printed.

⁷⁷ Not printed; see summary in telegram No. 1, Jan. 4, to the Ambassador in Peru, p. 260.

⁷⁸ Raymond E. Cox, Foreign Service officer, detailed for duty with the Plebiscitary Commission, July 11, 1925.

I shall give full consideration with the President to suggestions you have made about advisability of this Government's offering its good offices for a diplomatic settlement.

KELLOGG

723.2515/1830 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, January 9, 1926—5 p. m.

[Received January 12—10:28 a. m.⁷⁹]

1. Department's No. 1, January 4, 3 p. m. I shall be glad to follow out instructions if suggestions such as you describe are made to me by the representatives of Argentina, Bolivia, and Brazil, or other countries. I have talked recently with the representatives of the countries named, however, and all have expressed views and sentiments which are quite the contrary of those reported from Santiago as coming from representatives of these countries there. Bolivian representative here has advised me that satisfactory agreement had been reached between him and President Leguía that should Peru win plebiscite, she would give Bolivia a port in Province of Arica. President Leguía confirmed this in conversation with me, stating that he was quite willing to sign such an agreement in writing should it be desired, and subsequently made same statement in public speech.

Both Argentine Minister and Brazilian Chargé d'Affaires have recently expressed opinion to me that plebiscite should be held as provided in award and under conditions stipulated by General Pershing in the orders and findings lately made by Plebiscitary Commission and approved by General Pershing. Both Minister and Chargé, however, recognize difficulty of enforcing these conditions as long as policing of plebiscite and execution of orders of Commission remain under Chile's control, thus leaving Commission subject to will and desires of one of parties to the controversy. Many observers here have commented on fact that Chilean delegate on Commission has made public and formal announcement that Chile would not comply with Commission's orders except when they comported with Chilean approval of Commission's jurisdiction; and also on ex-President Alessandri's public declarations that Chile would never surrender the provinces. They have also commented on statement made by Barros Jarpa, when Chilean Minister for Foreign Affairs, that Chile looked on plebiscite as a disguised cession of the provinces, and the same observers comment generally on anomalous position in which such declarations leave General Pershing and the Plebiscitary Commission, together

⁷⁹ Telegram in five sections.

with Chile's failure to comply with either letter or spirit of word [*work?*] of Commission already effected and the violent attacks which have been made on General Pershing and other Americans on the Commission by a Chilean official. On the facts of Chile's conduct affecting the plebiscite, representatives of Latin American countries and other disinterested observers here are disposed to accept opinions of General Pershing and the other members of American delegation instead of Chilean charges of partiality and prejudice, though all seem to recognize difficulties of situation created by this attitude of Chile's and by power left in her hands to block proceedings.

In regard to your suggestion that General Pershing's successor might be compelled to direct Peru to send in her voters in order to test practically the question of whether conditions in the provinces are such that plebiscite can actually be held, news has arrived here from Arica, since receipt of Department's telegram, of mob attacks on group of Peruvian plebiscitary workers and voters already arrived in the provinces. Detailed reports of the affair can doubtless be obtained from the Commission. It is possibly true that Peru might assert that, as long as that condition exists and also in consideration of the comparatively helpless situation of the Peruvians in the provinces, no further tests are required.

In regard to statement in Department's telegram that neither party desires a plebiscite, I am assured, after complete information from highest Government sources as well as from other sources, that Peru is very desirous that plebiscite should be held if freedom of movement of Peruvian citizens in the provinces, their freedom to carry on legitimate plebiscitary work and propaganda, their freedom to express their opinions, and their safety when voting should be guaranteed along lines to some extent already indicated by General Pershing. It is also probably true that Peru would refuse to proceed without the guarantees, just stated, actually being put into effect; and, while I have carefully withheld expressing myself on any phase of the subject here, my opinion is that such action on Peru's part would meet with approval of Argentine, Brazilian, and other Latin American representatives here.

Peru is confident that she can win the plebiscite if given fair chance at polls (this outcome would be conclusive political victory for Leguía regime), and believes that if holding of plebiscite is rendered impossible by Chile, either through official acts of Chilean Government or through turbulence of Chileans in the provinces, the President of the Plebiscitary Commission will be obliged to call off plebiscite and place onus for this act squarely on Chile, an outcome which would also be great political success for President Leguía, as it would be popularly accepted here as great moral victory for Peru. Feeling is running so high in Peru that were the Government to accept a com-

promise no matter how favorable, through diplomatic pressure or otherwise, it would almost inevitably be overthrown, and I do not believe that the President will take that risk.

On other hand, while I have heard statement made as coming from Chile, since recent developments in Plebiscitary Commission, that Chile through influence of Army and Navy does not desire plebiscite to be held, I feel sure that Chile does desire it to take place if it can be held under her control and under existing conditions to which General Pershing has already declared his objections. Peru is beginning to send her voters into the provinces, apparently confident that a way will be found to support General Pershing and to enforce the orders of the Plebiscitary Commission and that intent of orders already made will be observed. I have referred above to reception in Arica of one group; other and larger groups are in preparation for early passage and President Leguía has given orders for preparation of cantonments to receive them.

In accordance with instructions in Department's telegram under reference, I shall report promptly any information that may come to me of views of Peruvian Government or officers in regard to a possible settlement outside the plebiscite. I note your statement that so far the Department has no information regarding views of President Leguía and influential members of Peruvian Congress on this point; I beg to refer to previous communications from this Embassy on it, specifically to my No. 75, October 27, 1925, 11 a. m.,⁸⁰ wherein I reported, after having made careful inquiry, that such a suggestion would come as a distinct shock to Peru and that the Peruvian Government would not consider any proposition to divide the provinces. At a later date I referred to the remarks made to me in the Embassy by Mr. Mariategui, President of the Chamber of Deputies and one of the most influential members of Congress, to the effect that Peru would not consider any offer, no matter how favorable, from Chile on this subject and that the Peruvian Government would insist that the whole matter be settled by the United States. Still later I informed the Department that, in an interview with President Leguía, he had expressed the hope that the plebiscitary formula would be fulfilled to the letter; and that the leading Peruvian newspaper, *El Comercio*, had denied an assertion appearing in *New York World* that identity of the Arbitrator could be kept distinct from that of Chief Executive of the United States and had made assertion that as President of the United States had accepted task of arbitration the prestige and good work of the United States is gravely involved.

No matter what the facts may be, the activity of Latin American countries looking toward a further arbitration [or?] diplomatic set-

⁸⁰ *Foreign Relations*, 1925, vol. I, p. 404.

tlement is regarded here as Chilean intrigue. Any connection of the American representatives in those several countries with such a movement would be prejudicial to American prestige here. The question is asked what use would there be of a further arbitration when Chile refuses, as it is alleged, to comply with the award already made? The suggestion is then added that there is no more reason to expect that Chile would comply with another award if it were unfavorable to her, or not in accordance with her wishes, than there is to expect a compliance with the one already rendered.

In regard to a diplomatic settlement, Mr. Mariategui and others point out that futile efforts toward a settlement of that nature have been undertaken from time to time during the last 40 years, and that in view of the recent declarations made by Chilean spokesmen it is plainly less reasonable to hope for a favorable result from further efforts to that end now than it was heretofore. I believe that these expressions fairly represent all public opinion of any weight here.

I am satisfied in my own mind, however, that if those Latin American countries who may indicate an active interest in settlement of question could induce Chile through their good offices to consent to a neutralization of the provinces during plebiscite period, and could in this way succeed in bringing about an arrangement by which plebiscite could in every respect be held actually under control of the representatives of the three countries composing the Plebiscitary Commission as provided for in award, Peru would go through with it very willingly and would abide by the result in good faith. The assertion could not well be made that a plebiscite under those conditions would be unfair to Chile or that Chile, if willing to consent to a fair plebiscite as implied in Treaty of Ancon⁸¹ and protocol of Washington,⁸² could either reasonably object to an arrangement of that sort or could refuse to abide by the result. Question has been asked here what would be done should Chile refuse to accept result of plebiscite if it were adverse. I do not believe that this question is of much moment here at present, and in my interview with President Leguía the middle of last December he pointed out that it might well be left for future determination.

The suggestion has also been made that if military party in Chile desires continuance of issue over the provinces (as stated in Department's telegram), it would use its influence against settlement by any other means should it be successful in preventing holding of a fair plebiscite.

I realize fully difficulties of situation with which Department has to deal, and I shall cooperate fully with Department in any aspect

⁸¹ *Foreign Relations*, 1883, p. 731.

⁸² *Ibid.*, 1922, vol. I, p. 505.

of representations which may arise here; but if I may be permitted the suggestion, I am of opinion that easiest and at same time best solution of these difficulties would be firm and strong support of General Pershing in the spirit, intent, and letter of conclusions he has reached and by a clear declaration of the Arbitrator stating it.

POINDEXTER

723.2515/1836 : Telegram

The Minister in Uruguay (Grant-Smith) to the Secretary of State

MONTEVIDEO, *January 10, 1926—4 p. m.*

[Received January 12—11:55 a. m.]

2. Interview by Argentine Minister for Foreign Affairs now visiting Montevideo appears in *La Mañana* this morning. Referring to press telegram from Washington of possible request for the participation of Argentine and Brazil in efforts to bring about settlement of Tacna-Arica arbitration, Dr. Gallardo⁸³ stated that in such case the influence of his Government would be thrown on the side of the execution of the arbitral award or of broadening the powers of the Arbitrator. He would deeply deplore a failure to reach a solution as a serious blow to the practice of arbitration.

Translation by pouch; repeated by mail to Buenos Aires and Rio de Janeiro.

GRANT-SMITH

723.2515/1817 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *January 11, 1926—3 p. m.*

For Pershing: Department exceedingly disquieted over report of recent disturbances at Tacna. Deplorable as incident is, nevertheless it can not, in my opinion, properly be made basis for delivery at this stage of anything in nature of an ultimatum to effect that unless Chile adopts certain punitive and preventive measures the plebiscite must be abandoned. Obvious course is to place matter before Edwards with view to impressing upon him and, through him, Chilean Government the fact that responsibility for maintaining order in Tacna-Arica rests squarely upon Chile as power charged with administration of the territory.

Both Chile and Peru filed briefs here Saturday night. Chile abandons appeal as far as schedule of dates in resolution of December 9,

⁸³ Dr. Angel Gallardo, Argentine Minister for Foreign Affairs.

1925,⁸⁴ is concerned, but Arbitrator is requested to deal with conditions and assumptions embodied in paragraphs 6 and 7 of the resolution and, in consequence, to pass upon powers of the Plebiscitary Commission. Other resolutions, although not specifically appealed from, may be incidentally involved and Arbitrator will possibly undertake in the Opinion (which it is hoped will be delivered at end of this week or beginning of next) to clarify situation by carefully delimiting status and powers of the Plebiscitary Commission as distinguished from those of Chile as the administrative authority carrying responsibility for maintaining order and governing provinces during period of the plebiscite. Some controversial points, such as question of when plebiscitary period begins may be cleared up by forthcoming Opinion. You will, I feel sure, appreciate vital importance of doing all that is possible to avoid precipitation of any new crisis in meantime.

KELLOGG

723.2515PC/338a : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, January 11, 1926—7 p. m.

4. For General Lassiter.⁸⁵

(1) The President has asked me to notify you that he formally appoints you as Chairman of the Plebiscitary Commission under the Tacna-Arica Arbitration to take the place of General Pershing who must resign, at least temporarily, on account of health and desires you to sail on the *Cleveland* as soon as possible. The *Cleveland* will have instructions from the Navy. You can, of course, take an aide with you.

(2) I should much prefer to have had a personal conversation with you and explained the situation in Tacna and Arica but this is impossible on account of time. You should, therefore, as soon as you can after your arrival read all the cable and other correspondence between General Pershing and myself during his administration of the plebiscite. I shall ask him to furnish it to you. The President thought it best to select some one who had not heretofore had any connection with the Tacna and Arica plebiscite. The situation there, not only between Chile and Peru but now between Chile on the one hand and General Pershing and his American advisers on the other, is very strained and bitter. I cannot here comment on the history of the

⁸⁴ For text of resolution, see telegram, Jan. 15, to president of Plebiscitary Commission, p. 277.

⁸⁵ Maj. Gen. William Lassiter, commanding the American forces in the Panama Canal Zone.

plebiscite or the cause of these disagreements and the bitterness. They render a satisfactory plebiscite exceedingly difficult but it is the duty of the President and he desires to do everything in his power within his legal rights to hold a plebiscite. If it fails, the blame must rest on one or both of the countries involved.

(3) The President, as Arbitrator, realizing that all of the acts of the Plebiscitary Commission are subject to review by him on appeal, has desisted from making any suggestions or giving directions to General Pershing. I have, however, as you will see, from time to time made suggestions to him in an advisory capacity. My object has been to keep the Arbitrator's record clear, to do everything possible to hold a plebiscite, and to prevent a break so that if the time came when a plebiscite could not be held, the responsibility would not be on the Arbitrator but would be on the party making the plebiscite impossible. I feel very earnestly that this course should be pursued. You should, as I know you will, take the greatest pains, to be strictly impartial between the two countries in their conflicting views. On the one hand, I have made it perfectly plain to Peru that the President has no power under the Treaty of Ancon and the convention by which the question was submitted to the President to take over the administrative control of Tacna and Arica. That remains in Chile. On the other hand, I have advised General Pershing that Chile has no right to use her administrative control to interfere with or frustrate a fair plebiscite. While it may eventually be impossible to satisfy both or either of the countries fully, an impartial and careful adherence to the terms of the Award is absolutely essential. I think the greatest caution should be taken to avoid getting into a position where it can be claimed that the Arbitrator or his representatives on the Commission is fighting the battles of either party. Very bitter charges have been made by Chile against the advisers of General Pershing as to their conduct of investigation and complaints have been made to us that they have not shown tact and discretion in such work. I am, of course, unable to judge at this distance accurately between the conflicting charges of these countries, but without in any way impairing a reasonably fair and honest plebiscite, I think every effort should be made to maintain a frank and friendly attitude towards both parties. You, of course, will be better able to judge on the ground after you have talked with General Pershing and with all of the advisers but I should expect you to inform yourself and exercise your own judgment.

Mathieu, who has been Chilean Ambassador in Washington for seven years, is now to be the Minister of Foreign Affairs in the new Government of President Figueroa. He is a high-minded, courageous and a perfectly fair man. He has done very much to induce the

Chilean Government to comply with Pershing's demands as to protection to the plebiscite in Tacna and Arica and I am sure will exercise his authority to the fullest extent he can to carry out the plebiscite. He is now, I am informed, in the Ancon hospital but expects to stop at Arica and have a conference with General Pershing and I hope you can be there and talk with him as I believe he will be of very great assistance. The danger in this plebiscite is that the bitter feeling between the Chileans and Peruvians may break out into open conflicts when the voters come to register and go to the ballot. While public feeling in Chile may be such as to render it impossible for Mathieu to accomplish what he desires, I feel that he should be given a chance as far as it is consistent with your duties as Chairman of the Plebiscitary Commission, to bring about and maintain conditions insuring a reasonably fair election. Granting that ideal conditions can probably not be obtained, it may still be possible to hold a plebiscite which would do substantial justice to the parties, and we are bound to exhaust every expedient to that end.

Another thing we should constantly bear in mind is that this question has been a long standing political controversy and the risk of the blame being thrown on the United States is very great. I have great confidence in your ability and fairness to handle this matter. Formal appointment will be telegraphed to you at Arica.⁸⁶

KELLOGG

723.2515/1849 : Telegram

The Minister in Uruguay (Grant-Smith) to the Secretary of State

MONTEVIDEO, January 13, 1926—4 p.m.

[Received 6:30 p.m.]

5. Interview given to correspondent of the Buenos Aires *Critica* by the Uruguayan Minister for Foreign Affairs which appears in *La Mañana* this morning follows the same line as that by the Argentine Minister for Foreign Affairs reported in my telegram number 2, January 10, 4 p.m. Blanco⁸⁷ speaks of remote contingency of Uruguay being asked to aid which would take form of support of and enlargement of powers of arbitration; a policy of watchful waiting and complete reserve will be followed by his Government. Editorial comment merely points out accord in views of Uruguay and Argentine Governments.

GRANT-SMITH

⁸⁶ General Lassiter was formally commissioned on Jan. 27.

⁸⁷ Dr. Juan Carlos Blanco, Uruguayan Minister for Foreign Affairs.

723.2515/1756 : Telegram

*The Secretary of State to the President of the Plebiscitary Commission
(Pershing)*

WASHINGTON, *January 15, 1926*—[9 p. m.?]]

The following is the Arbitrator's opinion and decision :

"In the matter of the arbitration between the Republic of Chile and the Republic of Peru, with respect to the unfulfilled provisions of the Treaty of Peace of October 20, 1883, under the Protocol and Supplementary Act signed at Washington July 20, 1922.⁸⁸

Opinion and Decision of the Arbitrator upon the appeal from the decision of the Plebiscitary Commission made on the ninth day of December 1925.

1. On December 9, 1925 the Plebiscitary Commission adopted a resolution to the following effect :

(a) The Commission declined to accept a schedule of dates proposed by the Chilean member for the adoption of registration and election regulations, for the commencement of the functioning of registration boards, for the early disposition of appeals from rulings of the registration boards, and for the taking of the plebiscitary vote.

(b) The Committee appointed by the Commission to prepare drafts of registration and election regulations was directed to report as soon as practicable with a view to the adoption and enactment of such regulations on or before January 15, 1926.

(c) The registration and election boards were directed to begin their functions on February 15, 1926 or as soon thereafter as practicable and to continue to function for a period of one month.

(d) Proceedings to review rulings by the registration boards were required to be expedited so that appeals from such rulings should be decided within three weeks following the close of registration.

(e) The date of the plebiscitary vote was fixed at April 15, 1926 or as soon thereafter as the Commission should deem practicable.

(f) It was provided :

Section 6. "That the foregoing schedule of dates is based upon the assumption that both parties to the plebiscite will proceed expeditiously and in good faith to give full effect to the resolutions and regulations heretofore adopted or which may hereafter be adopted by the Commission, to the end that a fair and orderly plebiscite may be held, it being understood that the schedule is subject to change from time to time if, in the judgment of the Commission, any such change shall appear to be necessary or advisable."

(g) It was further provided :

Section 7. "That the Commission hereby respectfully calls upon His Excellency the Chilean member formally to advise the Commission clearly and specifically whether or not the Chilean Government

⁸⁸ For text of treaty of Oct. 20, 1883, see *Foreign Relations*, 1883, p. 731; for texts of the protocol and supplementary act of July 20, 1922, see *ibid.*, 1922, vol. I, p. 505.

is prepared henceforth to cooperate effectively with the Commission and especially to instruct its officials and representatives in Tacnamarca, effective as of the date of the Chilean member's reply hereto, thereafter to cooperate adequately in carrying out the regulations and resolutions heretofore adopted or which may hereafter be adopted by the Commission, always having the right of appeal to the Arbitrator in accordance with the provisions of his Opinion and Award and the rules of procedure of the Commission."

(h) The President of the Commission was instructed to transmit an authenticated copy of the resolution to the Chilean member who was in turn instructed to bring the resolution to the attention of the proper Chilean authorities.

2. On December 16, 1925 the Plebiscitary Commission by resolution certified to the Arbitrator⁸⁹ under the appropriate provisions of the Opinion and Award of March 4, 1925⁹⁰ that portion of "the dissenting opinion and request for certifications on appeal" of the Chilean member "which sets forth a dissent and appeal from the action of the Commission on December 9, 1925 in substituting for a resolution to fix the date of the plebiscite introduced by the Chilean member, a resolution on the same subject introduced by the President of the Commission, and in adopting the latter" as presenting "a question of general importance in relation to the holding or result of the plebiscite". Under the same resolution of December 16, 1925, the Plebiscitary Commission transmitted to the Arbitrator all other portions of the said dissenting opinion for such consideration as the Arbitrator might deem proper on his own motion.

3. On December 22, 1925 the Arbitrator made an order allowing the appeal so certified and reserving for further consideration the question of entertaining an appeal with respect to other matters than those embraced in the resolution of December 9, 1925, and as to these matters the Arbitrator directed the party seeking appeal to present in writing on or before January 15, 1926 a statement showing with suitable precision, the action, or resolution of the Plebiscitary Commission of which complaint is made. The order further provided that the Commission's authority should not be regarded as suspended pending the appeal and that the Commission should proceed with the performance of its duties under the Opinion and Award of March 4, 1925. Pursuant to the said order of the Arbitrator, the parties on January 9, 1926, filed briefs accompanied by the pertinent documents required for consideration of the appeal and of the other matters referred to in the dissenting opinion and in the resolution of December 16, 1925.

4. The Agent for the Republic of Chile, on January 9, 1926, filed on behalf of his Government a communication addressed to the Arbitrator, which, among other things, declares that the appeal of Chile from the resolution of December 9, 1925 "is respectfully withdrawn in so far as such resolution fixes the time for the submission and adoption of rules and regulations governing the plebiscite and also the times for registration of voters, appeals and casting of the ballots". This

⁸⁹ See undated telegram from the president of the Plebiscitary Commission, *Foreign Relations*, 1925, vol. I, p. 428.

⁹⁰ *Ibid.*, p. 305.

communication proceeds to state: "as to other portions of the resolution, however, which make the fixing of such times dependent or conditional upon Chile's giving full effect to certain resolutions and regulations heretofore adopted or which may hereafter be adopted by the Plebiscitary Commission, Chile continues her appeal and submits herewith, in addition to the documents set forth in Your Excellency's order of December 22, 1925, a memorandum pointing out the provisions in the said resolution of December 9, 1925 to which Chile particularly objects as especially affecting the operation of the last mentioned resolution. The Agent for Chile further declares that her appeal upon the resolution of December 9, 1925, is prosecuted in this sense "in order that the resolution may be amended or modified by eliminating therefrom the objectionable assumptions and conditions." From the memorandum referred to by the Agent for Chile and accompanying his communication, it appears that the "objectionable assumptions and conditions" thus drawn into question are found in the provisions of Sections 6 and 7 of said resolution hereinabove quoted.

5. The Arbitrator on due consideration is of opinion that permission to withdraw the appeal, in so far as the schedule of dates fixed by the resolution of December 9, 1925, is concerned, should be granted.

When the order allowing the appeal was made on December 22, 1925, the only specific decision of the Plebiscitary Commission certified for review was apparently the rejection of one schedule of dates and the adoption of another. On examining the two provisions of the resolution to which Chile objects on this appeal, the Arbitrator is of the opinion that Section 6 should not be taken as setting forth conditions modifying or limiting the action of the Plebiscitary Commission in fixing the schedule of dates but rather as intended to express the desire and request that both parties should give their earnest cooperation to the end that a fair and orderly plebiscite may be held in accordance with the terms of the Opinion and Award. Section 7 would seem to be a similar appeal addressed particularly to the Chilean Government as the party charged with the responsibility of administration in the plebiscitary area. These requests do not appear to the Arbitrator to furnish grounds for objection or to constitute specific action of the Commission requiring review. The Commission under the terms of the Opinion and Award has authority to change the dates fixed by the resolution in question and the reference to this authority in the resolution, and the manifest desire that the exercise of this authority should not be required, does not in the opinion of the Arbitrator present ground of appeal.

6. The Arbitrator is not disposed however, to take a technical view of the situation, and desires, in a considerate and helpful spirit, to assist, so far as he can, in eliminating the differences which have arisen between the parties, acting of course within the limits of the powers which the parties themselves have conferred upon him.

The holding of the plebiscite is but the execution of the agreement of the parties as found in the Treaty of Ancon. In the submission to the Arbitrator, it was explicitly agreed that the Arbitrator was empowered "to determine the conditions" of the plebiscite. The agreement for a plebiscite manifestly would not be satisfied by the holding of a plebiscite as a mere matter of form and the purpose in empower-

ing the Arbitrator to determine the conditions of the plebiscite was to the end that there should be proper safeguards for the holding of a fair plebiscite. Hence the Arbitrator concluded, as the Award states, that the conditions of the plebiscite should be such as would "work substantial justice between the parties in the present circumstances." As it was plainly impossible that all the requisite conditions should be fixed in detail by the Award, it was necessary that a suitable agency should be constituted. The Arbitrator stated in the Award that it was obvious "that the holding of the plebiscite should be appropriately supervised by competent and impartial authority." It was for this purpose, and as one of the conditions determined by the Arbitrator under the submission, that the Plebiscitary Commission was established. The construction of its powers and duties should be determined in the light of the end to be achieved, that is, the holding of a fair plebiscite in accordance with the agreement of the parties.

It was provided in the Award that the Plebiscitary Commission should have "in general complete control over the plebiscite." The specification of the particular powers of the Commission in relation to registration and the casting and counting of the vote was not intended by the Arbitrator to detract from this "complete control" and this control, for which the Award provides, embraces all authority necessary for the determination of the prerequisites of a fair plebiscite. The action of the Commission in determining these prerequisites, and in making its requirements accordingly, is at all times subject to review by the Arbitrator upon proper appeal. But the determinations and requirements of the Commission taken in the exercise of the full authority thus conferred by the Award constitute conditions of the plebiscite with the same force and effect as if prescribed by the Arbitrator directly under the submission, and these conditions are binding upon both parties. From the very moment of its organization, the conditions for the holding of a fair plebiscite in Tacna and Arica became the primary concern of the Plebiscitary Commission. It was and is the duty of the Plebiscitary Commission, in order that appropriate requirements for a fair plebiscite might be made, to take note of the actual situation in the plebiscitary territory and to form its own judgment with respect to appropriate measures.

This authority of the Plebiscitary Commission does not derogate from the administrative powers of Chile conferred by the Treaty of Ancon over the plebiscitary territory. As the Arbitrator pointed out in the Award, it was not deemed to be necessary to discuss any question of sovereignty over this territory. It was sufficient to take the express words of the Treaty under which the territory was to be in Chile's possession and subject to Chilean laws and authority pending the plebiscite. But this retention of possession and administrative authority were subject to the provision for the taking of the plebiscite and it was stated in the Award that the exercise by Chile of legislative, executive and judicial power should not go to the extent of frustrating the provision for a plebiscite. As both parties had agreed to a plebiscite, both parties were bound to take proper action that it should be fairly held. The agreement of Chile and Peru that the Arbitrator should establish the conditions of the plebiscite carried with it the undertaking to abide by these conditions and these conditions prescribed by the Award include, as has been

said, the requirements made by the Plebiscitary Commission under the authority conferred by the Award. The execution of these requirements is but the exercise by both parties of their jurisdiction respectively in accordance with their agreement. The carrying out of these requirements of the Commission in the plebiscitary area is not in derogation of the administrative authority of Chile but is the use of that authority in accordance with the terms of the Treaty and the Award. This does not involve the assumption either by the Arbitrator or by the Commission of any authority other than that of determining the conditions upon which a fair plebiscite may be held, and if these conditions are not observed by either party the responsibility must rest upon the party or parties to which the failure may be attributed.

CONCLUSION

The Arbitrator accordingly decides upon the present appeal:

1. That the appeal from that portion of the resolution of December 9, 1925 which fixes the time for the submission and adoption of rules and regulations governing the plebiscite, and also the times for registration of voters, for the institution and conclusion of proceedings to review the rulings of the registration boards, and for the taking of the plebiscitary vote, having been withdrawn, be and the same is hereby dismissed of record.

2. That Sections 2, 3, 4 and 5 of the resolution of December 9, 1925 be and they are hereby construed as an order of the Commission fixing "the date for the plebiscite and the time and places of registration and voting", subject to the power of the Commission to change the same as provided in the Opinion and Award, but not conditioned by or dependent upon any of the other provisions or recitals contained in said resolution.

Calvin Coolidge
Arbitrator.

By the Arbitrator
Frank B. Kellogg
Secretary of State.
January 15, 1926."

KELLOGG

723.2515PC/347 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

ARICA, January 18, 1926—6 p. m.

[Received January 19—12:35 a. m.]

From Pershing.

1. With reference to my contemplated absence from Arica and from duty in connection with the Plebiscitary Commission, Tacna-Arica Arbitration on account of illness and further reference to Arbitrator's ruling that no one can be designated as commissioner ad interim, I hereby tender my resignation as commissioner in order that an American member may be appointed in my place.

2. I consider it important that the president of the Commission be here in the territory or near at hand at all times and therefore recommend that my resignation be accepted to take effect upon my departure from Arica and that General Lassiter be appointed to take effect at the same time.

3. General Lassiter is expected to arrive on the 21st and I shall leave as soon thereafter as practicable and shall notify you the exact date when determined.⁹¹

VON TRESCKOW

723.2515/1872 : Telegram

*The Secretary of State to the President of the Plebiscitary Commission
(Lassiter)*

WASHINGTON, January 28, 1926.

The following is the Arbitrator's order :

"In the matter of the arbitration between the Republic of Chile and the Republic of Peru, with respect to the unfulfilled provisions of the Treaty of Peace of October 20, 1883, under the Protocol and Supplementary Act signed at Washington, July 20, 1922.⁹²

Order of the Arbitrator.

Whereas, the Plebiscitary Commission, by Resolution dated December 16, 1925,⁹³ certified and transmitted to the Arbitrator, for such consideration as he might deem proper on his own motion, certain portions of the 'dissenting opinions and request for certification on appeal' dated December 11, 1925 and filed by the Chilean Member with the Plebiscitary Commission on December 14, 1925; and

Whereas, the Arbitrator, by his Order of December 22, 1925, reserved for further consideration the question of entertaining an appeal with respect to such matters and directed that in relation thereto the party seeking such appeal should present to the Arbitrator in writing on or before the 15th day of January 1926 a statement showing with suitable precision the action or resolution of the Plebiscitary Commission of which the said party complains; and

Whereas, the Republic of Chile, on the 15th day of January, 1926, presented to the Arbitrator in writing a memorandum and statement relating to the preliminary recitals of the Resolution of the Plebiscitary Commission adopted on December 9, 1925; and

Whereas, it is the opinion of the Arbitrator that the matters so referred to, other than those dealt with in the Opinion and Decision of the Arbitrator made on the 15th day of January 1926, do not call for further action by the Arbitrator.

⁹¹ General Pershing left Arica Jan. 27, 1926.

⁹² For text of treaty, see *Foreign Relations*, 1883, p. 731; for texts of protocol and supplementary act, see *ibid.*, 1922, vol. I, p. 505.

⁹³ For text of resolution, see undated telegram from the president of Plebiscitary Commission, *ibid.*, 1925, vol. I, p. 428.

Now, therefore, the Arbitrator decides:

That as to those portions of the 'dissenting opinion and request for certification on appeal' transmitted to him for such consideration as he may deem proper on his own motion, no appeal is entertained; and orders that in so far as an appeal other than that disposed of by the Arbitrator's Opinion and Decision of January 15, 1926 may be regarded as pending, the same be and is hereby dismissed. Signed Calvin Coolidge, Arbitrator. By the Arbitrator Frank B. Kellogg, Secretary of State. January 28, 1926."

KELLOGG

723.2515/1886 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, February 1, 1926—1 p. m.

[Received February 2—12:01 a. m.]

From Lassiter. At the meeting on January 30 of the Plebiscitary Commission, Mr. Edwards made five motions for reconsideration and amendment of six articles of registration code and election regulations. Peruvian member moved reconsideration and amendment of one article. All motions were defeated. I am not certain whether appeals will be made within five days, but if they are, it is very important that their consideration be expedited and resulting delay in carrying out schedule adopted by Commission be reduced to minimum.

The new Chilean Foreign Minister, Mr. Mathieu, was here yesterday and presumably is now fully informed on situation. I had a long conversation with him and explained, as I have to Edwards, that all my efforts are being directed toward expediting carrying out of plebiscite, but that at same time I am keeping careful watch on situation to determine whether conditions exist to make possible reasonably fair plebiscite. I told Mathieu that much information is coming to me indicative of constant threat of intimidation hanging over Peruvians, and that many alleged overt acts of interference and intimidation are being brought to my attention. I told him that some of my own American representatives, moreover, are being subjected to a constant surveillance and are meeting interference while endeavoring to obtain information for me of what is going on in the plebiscitary area. For example, Peruvians are prevented from talking freely to them, sometimes from speaking at all; that there is evidence of an organized campaign by civilian societies to browbeat Peruvians; and that in my opinion if plebiscite is to be brought to successful conclusion, it is indispensable that authorities of province be impressed with necessity for drastic measures to prevent intimidation or unjust interference, and also to suppress unlawful activities of civil societies.

Mr. Mathieu did not dissent from my point of view; indeed, he gave me to understand that he agreed with it. Situation is most unstable; and even if we are able to keep both sides in the contest, task of carrying through registration and election would involve long and elaborate series of challenges and appeals, acrimonious discussions, brawls, and possibly serious disorders.

I feel that I must know in advance how to act if further prosecution of task appears impossible, either on account of one party's dropping out, or because I myself reach conclusion that reasonably fair plebiscite is impossible; I should be glad to have advice coming from Department's broader outlook on procedure to be followed should either eventuality arise.

My relations with both parties seem to be very cordial, and I hope to keep them that way. Lassiter.

VON TRESCKOW

723.2515/1896 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *February 3, 1926—noon.*

7. For some time I have felt concern over nature of public addresses of President Leguía and utterances by him which have appeared in the press. I feel that it is duty of those in power in both Chile and Peru to use their influence in all ways that are proper to bring about settlement of the differences existing between the two countries, and that they should set example to people of those countries by deprecating any warlike or unaccommodating attitude, when we are endeavoring so hard to carry out a plebiscite. The holding of a plebiscite is clearly rendered more difficult if not impossible, if public feeling is deliberately aroused by the leaders of the two countries. There have been many comments on President Leguía's speeches and our dealings with Chile have been rendered more difficult thereby. I do not wish to exceed my province by saying anything that would be discourteous to President Leguía, for whom I have the highest regard, but if opportunity offers you might personally suggest these considerations if it can be done without offense.

On January 15 the Peruvian Ambassador called on me to give an account of incidents which took place at Tacna early in January. Mr. Velarde said that this situation is bringing about a serious condition; the Peruvian population is much exercised and feeling is so high that popular rising is likely. He added that Peru desires a plebiscite and is quite determined to carry out terms of award; that no matter how great their good will the situation may get entirely out

of hand, and Peru would in that event be unable to participate unless guarantees were given.

In substance, my reply was that General Pershing was fully informed and had demanded of Chilean Commissioner that the offenders be tried and punished and that these assaults should cease. In regard to neutralization, I did not understand what was meant, but that if Mr. Velarde meant that the United States take over the government of the provinces, that would be impossible under the Treaty of Ancon, the terms of the submission and the award; administrative, judicial, and legislative control of the provinces is in Chile's hands; and neither the Arbitrator nor this Government has any right or power to take over that administration. In award it was provided that Chile and Peru should enact appropriate legislation for apprehension, trial, and punishment of whoever is guilty of intimidation, bribery, fraud, or other offense in connection with registration for the plebiscite or with the voting, or of interference with the Plebiscitary Commission. The limit of action was to investigate and, after the facts had been verified, to bring these facts to attention of Chilean authorities and to demand that guilty be punished and that measures be taken to have these practices stopped. It was impossible to do more than this.

The Ambassador called attention to Chile's failure in past to punish those guilty of crimes, and said that no faith could be placed in Chilean guarantees, and that some formal guarantees of neutralization were expected. I asked Mr. Velarde to state specifically what he thought the United States could do, and again pointed out to him our inability to take over government of provinces. He reflected a moment; then said that he supposed that was all that could be done for the present but that he was bringing matter to my attention so that were events to develop later which would make holding of plebiscite impossible and thereby render Peru's abstention necessary, I would be fully informed on antecedents of the matter and would know that Peru's action was correct.

I regard it as important that there should be no misunderstanding in Peru over powers and duties of the Arbitrator and of the Government of the United States. Not only does this Government possess no right or power to intervene with armed forces, but it will not do so. I feel very strongly that question between Peru and Chile is matter to be settled through plebiscite by means of ordered procedure and not through use of force by this Government; and any statements by those in authority which would create any sentiment whatever to contrary are greatly to be deprecated.

KELLOGG

723.2515/1886 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *February 4, 1926—4 p.m.*

For Lassiter. Your February 1, 1 p.m.

(1) I hope that appeal will not be taken. In interest of expediting plebiscite you may be able to dissuade parties from doing so. If appeal should be taken, however, endeavor to have parties agree to summary disposition, without hearing, or the submission of written evidence. Arbitrator is not forced to grant hearings; he would prefer to have parties agree in advance to submission on cable record. He will, in any event, be ready to dispose of any and all appeals which may be taken to him.

(2) I am not unmindful of your feeling and that of others that fair plebiscite may prove impossible. I think that we must assume at this stage of the proceedings, however, that a plebiscite can be held and should be held, and cannot be abandoned on record as it now stands or on information we now possess. I do not think we should now contemplate an abandonment no matter how difficult and unpromising the conditions may appear. On what may happen in the future, I think we shall have to reach our decisions in light of concrete conditions as they arise, after regulations are in force, and registration and election are attempted. At this stage or under present conditions, a finding that plebiscite is impossible would raise questions of fact which could not be finally determined satisfactorily to both parties, and would only serve to embitter and perpetuate existing controversy, besides making it possible for one or both of the parties to place blame on the Arbitrator.

Award contemplates that election might be held which Commission and Arbitrator might hold invalid on ground that plebiscite vote as announced had been affected by intimidation, bribery, or fraud to such an extent that result reached did not represent will of people of Tacna and Arica having the right to vote; in such event, the Plebiscitary Commission and the Arbitrator may set election aside and decree new plebiscite within three months (pp. 46-49 of award). Award contains no provision which looks to abandonment of the proceedings because in opinion of Plebiscitary Commission, or of a majority of it, conditions will not permit fair plebiscite, and will not justify it in holding one. Award looks to holding of a plebiscite and determination afterwards of question whether proceedings are vitiated by fraud, intimidation, or bribery to extent that will of people of Tacna and Arica is defeated.

Only contingency which could justify failure now to hold plebiscite is encountering of obstacles which would render physically impossible

functioning of the election machinery—should Chilean Government, for instance, practically exclude activities of Plebiscitary Commission. I give this as an instance.

I do not think we are justified in abandoning plebiscite on conditions as now reported in various past investigations. In regard to future, I am clear that plebiscite should not be abandoned despite adverse circumstances or any general preliminary opinion at which you may arrive to the effect that fair plebiscite cannot be held, thus placing you and the Arbitrator in the position of being obliged to justify an abandonment of the plebiscite on any disputed issues of fact.

Should the Commissioner either of Chile or Peru be withdrawn by his respective Government, you have complete authority to appoint another and to continue with the plebiscite (award, pp. 43, 44). I think that, in spite of the discouraging conditions, the thing for you to do is to give Chile and Peru to understand that you are going ahead to hold an election and that if that election is vitiated by intimidation or fraud or bribery by either party you will vote to have election set aside, and a new one authorized. It might happen that the circumstances in which plebiscite was held or frustration of a proper plebiscite might justify Arbitrator in not ordering a new plebiscite and in deciding that plebiscite as contemplated by the treaties had been rendered impossible. If the parties to the plebiscite are given this understanding I doubt that they will try to jockey you into position of abandoning present plebiscite when you or Arbitrator might be blamed for failure. To put it differently, I feel that if Chile and Peru understand that result of their failure to cooperate and to protect election may result in having plebiscite set aside (an action which would be in nature of a judicial decision against country violating the election) they will hesitate.

(3) I am pleased that your relations with both parties are cordial and I hope they will remain so, for your personal relation at this juncture is supremely important. I feel that your position will be almost impregnable through maintaining scrupulously impartial and judicial attitude towards both parties.

(4) It is probable that the investigations which have been pursued in the past few months were necessary in order to permit intelligent formation of rules and regulations. As you know, these investigations and manner of making them have been subject of bitter criticism by one of parties. I am not disposed to justify this criticism, but I suggest whether you will not be able (in addition to keeping generally informed about what is going on) to place upon the power charged with the administration of the territory the responsibility of maintaining order and to impress upon it the consequences of any failure.

723.2515/1928 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, February 10, 1926—11 p. m.

[Received February 13—10:10 a. m.⁹⁴]

From Lassiter.

(1) Department's February 4, 4 p. m. The Peruvian Commissioner called on me yesterday and in substance stated that his Government wanted statement from him on whether conditions here would permit a fair plebiscite; that Peru would have to spend large amount of money to get its thirty-five hundred or four thousand voters into the territory; that conditions for obtaining protection or for establishing conditions consistent with fair plebiscite looked hopeless; and that there was only brief time remaining before plebiscite was supposed to begin.

In reply I said that it had been my view that we must push forward, start the registration, and do all that is possible to carry out the plebiscite. He asked if it were necessary to sacrifice a number of Peruvians in order to have evidence on conditions. He then proposed a long postponement to see whether conditions could be improved and stated, in reply to question from me, that if postponement were not accorded Peru would probably withdraw from plebiscite. I said that I could not see what could be gained by a postponement, for the situation would only become still more embittered, and I assured him that question he raised was one to which I was giving deep consideration, but on which I did not yet have an opinion to express, and that in meantime I was endeavoring to expedite carrying out of the plebiscite.

(2) I do not think that Señor Freyre will embarrass me by presenting and pressing motion looking either toward long postponement or toward abandonment of plebiscite without giving me reasonable notice; but were he to present such a motion and to press for a vote, I should be in most difficult position. For that reason it seems essential that I should have Department's views at earliest possible moment that is consistent with adequate consideration and after full consultation with General Pershing.

(3) In telegram of February 4 Department appears to indicate that in contingency of Peruvian motion to abandon plebiscite on ground that conditions did not permit fair plebiscite, I should vote against it; and after appeal had been taken to Arbitrator and rejected and Peruvians had withdrawn, that I should appoint some one to replace

⁹⁴ Telegram in four sections.

Peruvian Commissioner and go ahead. Should this happen, subsequent proceedings would consist chiefly in recording Chilean vote, and from my previous committal I would then be expected to vote in favor of certifying to Arbitrator that result be accepted. I could not do this, and, moreover, I do not believe any acceptable person could be found here who would be willing, under these conditions, to act as Peruvian Commissioner.

(4) It is quite plain to anyone on ground that under existing conditions what we would call reasonably fair plebiscite is entirely out of question. This situation results from fact that one party to controversy is in complete control of territory; that deepest animosities are intense; that nationalistic sentiment is deeply stirred; and that local authorities are not only not making any serious effort to maintain law and order so far as plebiscitary matters are touched, or matters affecting citizens of the other party in accordance with treaty obligations, but are instead hand in glove with the lawless elements in whom reliance is placed to win plebiscite, and who in turn rely confidently upon these same authorities to protect them from any punishment for acts of violence and intimidation which they commit. It follows that that party to the controversy not in control of the territory is constantly under threat of intimidation, besides having its partisans constantly subjected to persecution and to interference of various kinds, many of which are violent in nature.

(5) My deep personal conviction is that these conditions can not be changed by anyone, and that the sooner we stop proceedings and eliminate constantly increasing bitterness and the mounting expense of further prosecution of the plebiscite, the better it will be for the relations between Chile and Peru, for the suffering Peruvians here, and for our own prestige.

(6) I am aware how bitterly this conclusion will disappoint the Department and the Arbitrator, and how much they hope that Mr. Mathieu's advent to the Chilean Ministry for Foreign Affairs will bring about such an improvement of conditions as will make possible a fair plebiscite, and I shall cheerfully subordinate my opinion to Department's as far as I can without impairing my usefulness to the Department and the Arbitrator. For this reason I suggest the following final effort to save plebiscite and to meet, as far as can be met, the views of the Department.

I appreciate that what I am about to recommend, though less vigorous than is required, in my own opinion, still does not conform to views expressed in Department's telegram of February 4; but I feel that I should be shirking my duty to the Arbitrator did I not frankly and fully submit my recommendation together with my reasons for making it.

(7) As immediate action is necessary in this case, it is my opinion that I should have personal and informal conversation with Chilean Commissioner (either Mr. Edwards or his successor) at once, go over entire situation with him in spirit of frankness and candor, and say to him that unless an immediate and radical change of conditions in the province is brought about and maintained, I shall be obliged to present in the Plebiscitary Commission and to press for immediate passage a resolution declaring in substance that Chilean authorities in Tacna-Arica have frustrated the free, fair, and orderly plebiscite which was contemplated by the award. If the Department approves my proposal it could at same time communicate in the same sense with Chilean Minister for Foreign Affairs. I repeat that I do not believe that even with best of intentions will Mr. Mathieu be able to cope with the political situation and to reverse currents now running; but to give him the opportunity to do so under stimulus of kindly and wholly confidential communication which I suggest, seems to me to be the last untried expedient for carrying out plebiscite under the award. My advisers are in accord with this plan.

In support of my proposal I wish to add the following:

(a) Issue should be faced now rather than later. It was my original view that we should press ahead to a conclusion or until situation became wholly impossible, but I see plainly now that that would mean assumption of very great responsibility without corresponding increase in chances of successful outcome. Many people in this territory already have suffered greatly from the efforts to carry out the plebiscite. If it is persisted in under conditions obtaining at present and the Peruvians do not withdraw, there will be bloodshed, suffering, and probability of ending in midst of serious disorders. If Peruvians withdraw for reason that they can not obtain adequate protection, then plebiscite would be farce and I could not put my name to it; hence no good purpose is fulfilled by going blindly ahead, hoping something will turn up, and steadily adding to bitterness between the two parties, thus risking either a wreck or a justified Peruvian withdrawal.

(b) In regard to legal difficulty in stopping proceedings now, provided that conditions are not radically changed, rather than to wait until plebiscite has been held and then declaring it void, the opinion of my legal advisers is that Plebiscitary Commission and Arbitrator have the power to decide that Chile has frustrated the plebiscite without waiting for actual election, and in support of this view they submit following considerations:

1. There is, it is true, no express term in award providing for abandonment of proceedings because in opinion of Plebiscitary Commission or of Arbitrator conditions will not permit fair plebiscite to

be held. Arbitrator could not readily foresee or make express provision against deliberate failure to maintain order and to accord Peruvians in plebiscitary territory equal protection of the law. While the Treaty of Ancon provided for a plebiscite, it did not expressly require Chile not so to govern the territory as to frustrate a plebiscite; Arbitrator, however, found no difficulty in holding that there was implied condition to that effect. Likewise, when the litigant parties submitted their difficulties to Arbitrator "without appeal" there was implied agreement to abide by his award and not to frustrate it. The Arbitrator has expressly held that:⁹⁵

"The determinations and requirements of the Commission taken in the exercise of the full authority thus conferred by the award constitute conditions of the plebiscite with the same force and effect as if prescribed by the Arbitrator directly under the submission, and these conditions are binding upon both sides. From the very moment of its organization, the conditions for the holding of a fair plebiscite in Tacna and Arica became the primary concern of the Plebiscitary Commission," and "The agreement of Chile and Peru that the Arbitrator should establish the conditions of the plebiscite carried with it the undertaking to abide by these conditions, and these conditions prescribed by the award include, as has been said, the requirements made by the Plebiscitary Commission [under the] authority conferred by that [the] award . . . and if these circumstances [conditions] are not observed by either party the responsibility must rest upon the party or parties to which the failure may be attributed."

2. The prerequisites resolution, for which there was believed to be authority, was passed by the Commission in order to give effect to the implied duty of the party governing the territory to govern it in such a way as to admit of a fair plebiscite. That resolution has been only partially complied with and the hoped-for change in conditions has not been effected. The next logical step is notice that plebiscite will be abandoned unless conditions are changed, and actual abandonment if there is failure to respond. Legal justification for this course rests on same basis as prerequisites resolution. Contention could hardly be made that Commission is compelled to proceed to election if one of conditions expressly prescribed by Arbitrator, e. g., enactment of legislation in aid of plebiscite, were disregarded by one of parties to it, but there is no legal or logical difference between disregard of express conditions and a disregard of implied condition to maintain law and order in the plebiscitary territory and not to frustrate a fair plebiscite.

3. Arbitrator has held that Plebiscitary Commission's complete control over plebiscite is not limited by enumeration of particular powers. Reasoning analogously, Arbitrator's power to enforce implied condition that award should not be frustrated is not limited by specific provision for setting aside election tainted by bribery, intimidation, and fraud.

4. To concede that physical obstruction of Commission would justify decision that plebiscite could not be held, is fatal to contention that similar decision could not properly be rendered in clear case when physical obstruction in question is somewhat more remote, consisting in such intimidation of voters as to make obvious in advance the impossibility of holding fair election.

⁹⁵ Quoted passage not paraphrased. For exact text, see the Arbitrator's opinion and decision in telegram to Arica, Jan. 15, p. 277.

5. To concede that Arbitrator, upon setting aside a particular plebiscite as void, has power to decide that further plebiscite is impossible because actual conditions prevent just expression of will of electors, is to admit, *a fortiori*, that analogous power exists before plebiscite. It is submitted that existence of this power before a plebiscite is supported by plainest implication, whereas its existence after plebiscite, while it is also implied, is not so clear, as language of the award, directed specifically to consequence of a just plebiscite having been thwarted by improper conditions, provides expressly for only one remedy; namely, to proceed again to plebiscite within three months. (Award p. 49.)

6. The law does not compel doing a useless thing, particularly at cost of blood and treasure.

(c) The party in control of the plebiscitary territory, instead of complying with the implied condition to abide by award and not to frustrate a fair plebiscite, has throughout acted and continues daily to act in bad faith and in flagrant disregard of the award.

(d) After the Tacna outrages of January 6, General Pershing wrote a personal letter to Edwards requesting prompt, adequate, and public punishment of guilty. In reply Edwards promised everything in general terms and the matter was referred, on his motion, to a Special Tribunal created by Chile under award. This Special Tribunal has now whitewashed the proceedings with a verdict which admits that Chief of Police had two hours' notice of arrival of Peruvians and of probable attacks on them, and that he had 47 policemen and secret agents at and about station, but finds that police did their full duty to quell mob (which, according to judge's figures, contained at start only about six persons to one policeman); that police were too busy protecting Peruvians to make arrests, and there is insufficient evidence to convict anyone. Large part of Special Tribunal's opinion is devoted to case against Peruvian General Pizarro which is judged not proven, apparently on theory that this forbearance offsets failure to convict members of the mob. So the principal Tacna outrage of January 6 is to go unpunished, while Edwards maintains in the Commission that Tribunal's decision must not even be discussed.

The Tribunal found four workmen guilty of attack on Captain Rotaldi and his companions on evening of January 6, and sentenced three of them to 4 years' imprisonment in the south, which means banishment to Santiago. It remains to be seen whether they ever serve their sentences.

(e) Of minor importance as compared with Tacna affair are other attacks on Peruvians of daily occurrence. I have just referred to Special Tribunal two incidents which took place in Arica on February 2, one involving serious injuries to several Peruvians. At cost of 2 days' delay the judge returned the papers because three unimportant documents were not translated into Spanish. In his Tacna decision he

maintains that a 6 days' delay (caused by Edwards' absence) contributed to failure to obtain convictions.

(f) Investigation of alleged deportation of Ramos, a Peruvian, has gone far enough to convince any reasonable man acquainted with situation here that Ramos was deported in January to Iquique. One of the Chilean secret service agents who assisted in the deportation now asserts that Ramos, who refused to leave, was helped away in order to escape Peruvian persecution. Ramos, brought here from Iquique under subpoena, denies this statement, and says he was forced to leave by Chilean agents. It is quite unbelievable that this sort of thing can go on apart from knowledge and approval of higher authorities. Our consul at Iquique informs me that at present no Peruvians are permitted to leave there for the north. This measure is not a matter of written instructions but is enforced by rigid police surveillance at the pier.

(g) No decision to abandon plebiscite either before or after an election can ever be based on anything but "a disputed issue of fact"; and, with due respect, I submit that we are in much better position to join issue on facts now than we will be if we are induced to proceed to registration and election, when, even if we escape disaster and Peruvian reproach, it will be said that we have condoned everything up to day of election and that we can not prove sufficient fraud and intimidation were used on election day to invalidate the result. It will be impossible ever to show adequately the situation here by record evidence while far greater part of native witnesses are living in abject terror and foreigners here are under pressure to safeguard personal and business interests. As far as I know, no American who has served with Plebiscitary Commission thinks that under present conditions a fair plebiscite can be held.

(h) I believe that should Department be called upon to consider problem of Peru's withdrawal and its justification, it should be borne in mind that up to the present Peru has been kept in this arbitration, first, by Arbitrator's assurances in his ruling and observations of April 9, 1925,⁹⁶ to effect that the powers of the Commission as provided in the award are ample to guarantee full assurances of personal protection to every qualified voter, as well as the assurance that his vote may be freely cast and that it will be freely counted, and by fact that the President has chosen a Commissioner who in his character and personality embodies every guarantee; and, second, by repeated personal assurances, which I understand have been given the Peruvians by General Pershing and his advisers, that fair conditions would be established before proceeding to registration and election.

⁹⁶ *Foreign Relations*, 1925, vol. I, p. 355.

It was believed that these assurances accorded with views of Department and of Arbitrator. To tell the Peruvians at this juncture that they must go through with the election regardless of conditions and trust to having election held void because of conditions which are perfectly patent now, instead of telling the Chileans that they must change these conditions, will, I am firmly convinced, put the American delegation in a humiliating and an impossible position.

(i) If and when necessity of saying that there can be no plebiscite becomes unavoidable, I recommend that statement be made in such a way as to cause minimum of bitterness and of prejudice to our subsequent relations to the parties to the plebiscite, while at same time we fulfill our judicial duty and follow out logic of the award. I do not think that any elaborate fixing of responsibility should be attempted, but that Plebiscitary Commission should say in effect that as party holding the plebiscitary territory has failed to establish and maintain conditions which would permit of a fair plebiscite, the Commission is convinced that reasonably fair plebiscite can not be held, and reports in this sense to the Arbitrator. If a resolution of that sort by the Commission were approved by Arbitrator it would effectively dispose of question of plebiscite and leave way open for further good offices in other directions in connection with further efforts to arrive at solution.

(j) In meantime everything that American delegation can do to expedite plebiscite is being done, but exasperating delays continually arise as agreements between the two litigant parties have to be reached every step of the way. About 20 of Canal Zone registration officers will arrive soon, and 60 more are to sail on February 12.

(8) I had another interview with Peruvian Commissioner after the above was drafted, and I pointed out what an unfortunate impression would be created if they were now to default or were to show intention of prolonging proceedings unduly; I expressed the opinion that the thing to do now was to get qualified voters into the plebiscitary territory as quickly as possible and to push forward all necessary procedures for registration. The Commissioner said that his Government could see no possibility of obtaining protection for its nationals; that practically none of guarantees asked for has been granted; that plebiscite voters in Peru were terrified by the stories which had been received there on conditions in the provinces, and that Peruvian Government was very loath to take part in a game where opposing player held all the cards. I replied that matters having gone as far as they have, issue should now be joined and conclusion reached, even if it meant blood, sacrifices, suffering, and much expenditure of money. I said that I could not commit myself in any way whatever except to say that in the end I would not certify to the result as acceptable

unless I believed the plebiscite to have been conducted with reasonable fairness, under the circumstances, to both Chile and Peru. The Commissioner said he would communicate with his Government. I took this step, I may say, in connection with part (7) of this telegram, and it does not imply any modification in further steps that program calls for. Lassiter.

VON TRESCKOW

723.2515/1929a : Telegram

*The Secretary of State to the President of the Plebiscitary Commission
(Lassiter)*

WASHINGTON, February 11, 1926—[3 p. m.]

The following is copy of Arbitrator's order allowing the recent appeals and determining the time and manner in which and the record upon which the appeals shall be submitted:

"In the matter of the arbitration between the Republic of Chile and the Republic of Peru, with respect to the unfulfilled provisions of the Treaty of Peace of October 20, 1883, under the Protocol and Supplementary Act signed at Washington July 20, 1922.

Order Allowing Appeals from Certain Decisions of the Plebiscitary Commission made on the 30th day of January 1926.

Whereas—

(a) On the 27th day of January 1926 the Plebiscitary Commission adopted registration and election regulations governing the plebiscite.

(b) On the 30th day of January 1926 the Plebiscitary Commission rejected a Resolution introduced by the Chilean Member requesting certain modifications of Article 5 of said regulations and also rejected a Resolution introduced by the Chilean Member repealing Article 159 (renumbered as Article 123) of said regulations and proposing a new Article in lieu thereof.

(c) On the 30th day of January 1926 the Plebiscitary Commission rejected a Resolution introduced by the Peruvian Member requesting certain modifications of Article 5 of said regulations.

(d) On the 4th day of February 1926 the Chilean and Peruvian Members each filed a dissenting opinion and request for certification on appeal setting forth a dissent and appeal from the action of the Commission adverse to their proposals respectively.

(e) On the 8th day of February 1926 the Plebiscitary Commission certified to the Arbitrator both of said dissenting opinions, together with the documents accompanying them respectively, as presenting questions which involve the interpretation of the award and which are of general importance in respect to the holding or result of the plebiscite.

Now, therefore, it is ordered:

1. That the said appeals be and they are hereby entertained and allowed.

2. That said appeals shall be determined upon the documents referred to in Section 2 of the Resolution of the Plebiscitary Commission certifying the same, to wit:

(a) Articles 5 and 159 (the latter renumbered as Article 123) of the registration and election regulations adopted by the Plebiscitary Commission on January 27, 1926.

(b) The Resolutions introduced by the Chilean and Peruvian Members on January 30, 1926, including the preambles thereof respectively.

(c) The Chilean Member's note No. 128 dated February 4, 1926.⁹⁷

(d) The Peruvian Member's note dated February 4, 1926.⁹⁷

and upon such other document or documents as may be transmitted by cable to the Arbitrator by either or both of the appellants on or before the 14th day of February 1926 in accordance with the provisions of Section 3 of the Resolution of the Plebiscitary Commission certifying said appeals.

3. That until the further order of determination of the Arbitrator, the Plebiscitary Commission shall proceed with the performance of its duties under the Opinion and Award dated March 4, 1925, and that this Order shall not be construed as suspending its authority.

Calvin Coolidge
Arbitrator.

By the Arbitrator
Frank B. Kellogg
Secretary of State.
February 11, 1926."

KELLOGG

723.2515/1934 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, February 15, 1926—8 p. m.

[Received February 16—8:30 p. m.]

9. Department's No. 7, February 3, noon. I shall seek a favorable opportunity to convey your views to President Leguía. It is my impression that his speeches have been much misrepresented. In certain instances I positively know this to be true; and much of the attention directed to his utterances has emanated from Chilean sources.

I know that the Peruvian Government has made preparations of a military nature; at same time reports are constantly being received in Lima of extensive naval and military preparations being made by Chile, and these reports naturally tend to aggravate the situation.

While Peru has been pleased by General Pershing's conduct and also that of General Lassiter, insofar as there has been opportunity to judge it, and while Peruvian Government recognizes that under arbi-

⁹⁷ Not printed.

tral award the ordinary government is to remain under Chile's control, it is recognized also that by the award and subsequent decisions of Arbitrator on matters which have arisen under the award, the ordinary government of the provinces does not extend to the plebiscite either in regard to actual taking of the vote or the preparation for it. The expectation was that the orders of Plebiscitary Commission on questions arising in the several phases of the plebiscitary process would be regarded as entirely distinct from jurisdiction of Chilean authorities over the ordinary government, and that Commission would decide these questions and administer the decisions under the power and authority of the Arbitrator. Submission of plebiscitary questions to decision and control of the Chilean tribunals and authorities has created feeling of humiliation in Peru which at times tends to express itself. I believe that view held here is that under the award there are two contemporaneous authorities in the provinces entirely independent the one of the other, namely, the Plebiscitary Commission with authority over plebiscitary affairs and the Chileans with authority over ordinary governmental affairs; and considerable resentment is felt when attacks by Chileans upon Peruvians who are engaged in plebiscitary work are submitted for redress to Chilean tribunals, and when actual establishment of the so-called guarantees ordered by the Commission is confided to Chilean officials. The animosity which Peruvians in the provinces have encountered accentuates this feeling and as result there is feeling of uncertainty in regard to possibility of carrying out award under these conditions.

POINDEXTER

723.2515/1935 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, *February 16, 1926—10 a. m.*

[Received 11:20 p. m.]

From Lassiter.

(1) Yesterday the Commission finally voted to promulgate the registration and election regulations, and they are promulgated as of that date. There is disagreement about certain instructions on registration blanks, but it will probably be settled soon. The greater part of the necessary printing will be begun at La Paz immediately; and we hope that it will be completed by end of the month, and that all election paraphernalia will also be on hand.

(2) Mr. Edwards departed yesterday and his legal adviser, Mr. Samuel Claro, has assumed duties of Chilean Commissioner. I had a long talk with both gentlemen in which both strongly protested that conditions are going to be such as to permit a fair plebiscite.

(3) The Peruvian Commissioner called on me yesterday and showed me a cable message received from his Government, substance of which was that it appeared Peru was now being hurried into the plebiscite with undue rapidity, that suitable postponement should be granted, and that if it were not granted then Peruvian Government would have to consider what action to take. I told Mr. Freyre that I had made careful analysis of situation and that after a full study of the matter I was prepared to agree to postponement until March 15. I explained that full month would thus be given for registration which would certainly be ample time for preparation and for registration of all personnel. We went over matter thoroughly and Mr. Freyre said he would report to Peruvian Government. He intimated his fear that Peru might withdraw. I am informed that Peru has not been at all active in making preparations and is not very energetic in pushing ahead. It must be recognized, however, that conditions make work uncertain and that no chance should be given for reasonably asserting that there is undue haste.

(4) I talked with Mr. Edwards on matter of postponement but he declined to concur and at meeting of the Commission he refrained from voting on resolution for postponement until March 15; the motion was carried, however.

(5) The two questions we now face are what action Peru will take and whether Chilean authorities will really bring about conditions more favorable to fair plebiscite. Lassiter.

VON TRESCKOW

723.2515/1936b : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *February 16, 1926—5 p. m.*

10. I have come to the conclusion that time has arrived to present directly to Governments of Chile and Peru the opportunity to adjust Tacna-Arica controversy outside terms of award. The former president of the Plebiscitary Commission, General Pershing, the present president, General Lassiter, and their advisers have stated definitely that in their opinion actual conditions are such that celebration of a fair plebiscite is impossible. They place blame squarely upon Chile, and I am convinced that in absence of some agreement for a settlement along different lines it may become necessary for Plebiscitary Commission eventually to make finding that fair plebiscite is impossible or else that plebiscite has failed through fault of Chile; result would be that this dispute of long standing will remain still unsettled for indefinite period. General Pershing has reported a very

significant conversation he had with Edwards before leaving Arica. He says that Edwards stated specifically that Chile was ready to make adjustment on general basis of neutralization of entire territory. As for Peru I am led to believe that now for first time that Government may also be ready to discuss a settlement on this or some other reasonable basis. It becomes my duty, under these circumstances, to place situation fully before both Chile and Peru and to ascertain, if that be possible, what, if anything, they are disposed to do. To that end you will immediately seek a personal and confidential interview with Minister for Foreign Affairs, explain to him fully seriousness of situation, and invite expression of his views. Naturally, Chile and Peru must decide for themselves whether they shall insist on going ahead under present conditions, with immediate risk to Chile of having plebiscite abandoned or held void by Plebiscitary Commission on a finding which will fix responsibility upon her for failure. Should Minister for Foreign Affairs prove receptive to this suggestion, you will endeavor to elicit some indication in regard to extent of distance Chilean Government would be disposed to go in direction of settling at earliest possible moment some matters in principle. For example, should Chilean Government express informally willingness to proceed on basis of neutralization, that expression would mark definite progress and would be point of departure for future discussion. Details, of course, could be left for later consideration. You should make it quite plain to him that this Government has no interest beyond affording to both Chile and Peru every opportunity to clear up dispute with least possible embarrassment to either.

In order that there may be record made of proposal, you will read to Minister for Foreign Affairs and will leave with him following memorandum:⁹⁸

“I am instructed by the Secretary of State to inquire whether the Government of Chile would be disposed to avail itself of the good offices of the United States in an endeavor to arrive at a friendly adjustment of the existing differences with Peru concerning the provinces of Tacna and Arica, it being understood that pending the consideration of any adjustment other than by the celebration of a plebiscite the authority of the Plebiscitary Commission and the general arrangement made by it for the holding of a plebiscite under the terms of the award shall be maintained unimpaired.”

The above, except for the text of the memorandum quoted, is for your information, and I leave to your discretion how much of the foregoing you will impart to Minister for Foreign Affairs as well as manner of its presentation. I think that you should be careful not

⁹⁸ Text of memorandum not paraphrased.

to give impression that Chile is going to be given opportunity to shift blame for failure of plebiscite to this Government, by abandonment of plebiscite in advance of the note.

I am telegraphing today text of memorandum *mutatis mutandis*, identic with one quoted above to you, to Ambassador Poindexter. He will have personal interview with Peruvian Minister for Foreign Affairs and with President Leguía if possible and will leave text of memorandum with them.

KELLOGG

723.2515/1928 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *February 16, 1926—6 p. m.*

For Lassiter. Your February 10, 11 p. m.

(1) Department agrees with you and your advisers that although award contains no express provision for finding and declaring that fair plebiscite can not be held, power to find and declare is necessarily implied. It was not possible to provide expressly in award for such a contingency, as Arbitrator was bound to assume that both parties to the plebiscite would proceed in good faith and would do all that might be required to carry out both letter and spirit of the arrangement. The failure of either or of both of the parties, particularly that of Chile as administrator of the territory, to cooperate in establishing and maintaining conditions consistent with a fair plebiscite, manifestly entails abandonment provided such failure to cooperate can be adequately and convincingly established.

It has never been thought that this proceeding should be pushed relentlessly to its logical and legal conclusion against a properly supported conviction that actual celebration of plebiscite would be a vain and useless act, especially if it appeared with reasonable certainty that there might be serious disorder and possible bloodshed without any reasonable expectation of realizing actual settlement of controversy.

(2) From beginning, possibility that situation might develop in such a manner as to afford opportunity and to enforce duty of making definite effort to bring about settlement outside terms of award has been kept in mind. The policy has been to maintain consistently the technical position under award and to seize opportunity if and when it came.

For the last few weeks I have patiently explored various avenues of approach to parties involved and I am now in possession of a body of reliable information concerning their respective attitudes. Taking

all evidence which has been assembled into consideration, together with recommendations of General Pershing, of yourself, and of your advisers, I have reached conclusion that time has arrived to make direct representation to both parties on this subject. I do not feel that this step could have been taken earlier and I am equally of opinion that it should not be longer delayed.

(3) Procedure to be followed is exceedingly important. For the moment we are standing in favorable position which should not be disturbed by any measure which might tend to alter attitude of the two parties which I am led to believe may be receptive. For some time Chile has intimated willingness to entertain suggestions for settlement. Peru has evidently adopted policy of pushing on toward an ultimate plebiscite, partly through confidence of winning it on face of returns, partly through the feeling that in any event developments were providing her at least a moral victory. Two factors have recently appeared that shake this confidence and that will possibly act to reverse this policy. The regulation allowing railroad employees to vote and practical difficulties in way of sending her voters to provinces and in voting them are, as you have reported, causing Peru to pause and to consider question of withdrawal from plebiscite. From all information available I am convinced, for first time, that Peru might welcome opportunity to discuss matter of adjustment on new lines.

(4) New complications are to be avoided. Chances of adjustment would, in my opinion, be diminished instead of enhanced through any action by which Peru might be induced to burn her bridges and to withdraw from plebiscite. For this reason you should for the present make no commitment to either party on question of abandonment of plebiscite. Procedure, outlined in part (7) of your telegram under acknowledgment, of delivering something in nature of an ultimatum to Chilean Commissioner seems to me to involve heavy risk which we need not at present assume. Peru should not be advised either directly or indirectly that you are ready to call off plebiscite and put blame on Chile, and to my mind there is much danger of word being conveyed to Peruvian representatives if you talk with Chilean Commission as you have proposed. I am sure that best interests of all concerned will be promoted if at this juncture you continue to maintain correct attitude of withholding judgment and of proceeding with plebiscite in accordance with terms of award and not permitting any intimation to escape of what action you will ultimately be disposed to take.

(5) Program which is being pursued and which I outline below for your information is as follows:

(a) Decision on pending cross appeals will not be rendered until further notice.

(b) Simultaneously with this message to you I am sending instructions to Ambassadors Collier and Poindexter to discuss present situation confidentially and personally with Foreign Ministers of Chile and Peru respectively, and to leave with them an identic memorandum.⁹⁹

(6) Foregoing has approval of both General Pershing and Mr. Hughes.¹

KELLOGG

723.2515/1936a : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *February 16, 1926—6 p. m.*

12. I have come to conclusion that time has arrived to present directly to Governments of Chile and Peru the opportunity to adjust Tacna-Arica controversy outside terms of the award. I feel I should not be doing my full duty if I did not exhaust every reasonable expedient for reaching an amicable adjustment of this long-standing dispute. I have followed every detail of plebiscite not only with greatest care but with much anxiety. I am convinced that even if holding of plebiscite be possible, it is highly doubtful whether by it controversy would ever really be settled and bitterness between these two countries allayed.

It is unnecessary for me to say to you that General Pershing did everything within his legal rights to make plebiscite succeed or to emphasize now the difficulties, for you are familiar with them. As you know, I have hitherto taken position that the Arbitrator was holding plebiscite under terms of Treaty of Ancon and of the agreement of submission, and that it was not his purpose to give either party opportunity to say that he was going outside award to reach a settlement, thereby abandoning his duty, but it seems to me that in interests of both Chile and Peru and in interest of harmony and of a settlement of this question, time has come when I should ask both Governments if they are willing to accept the good offices of the Government of the United States.

If you are met with a receptive attitude I should be pleased to receive any intimations about basis of adjustment which Government of Peru would be willing to discuss. It has occurred to me that perhaps the neutralization of the entire territory might prove acceptable as basis for discussion, as this solution would not result in turning territory in dispute over to either country. As far as I am con-

⁹⁹ See telegram No. 10, Feb. 16, to the Ambassador in Chile, p. 298.

¹ Charles Evans Hughes, Secretary of State, March 5, 1921–March 5, 1925; Mr. Hughes advised and consulted with Secretary Kellogg throughout the period of the plebiscite.

cerned, I am willing to suggest to Chile and Peru either the division of the territory, or neutralization, or any other basis which gives promise of any possibility of success.

I think that you should make it clear to the Minister for Foreign Affairs and to President Leguía that this step is not a move by Arbitrator to abandon plebiscite or to shirk any duty resting upon him within his proper legal powers under both agreement of submission and award.

In view of the above I desire you at earliest possible moment to seek interview with Minister for Foreign Affairs and President of Peru, discuss matter with them and leave with them following memorandum:²

"I am instructed by the Secretary of State to inquire whether the Government of Peru would be disposed to avail itself of the good offices of the United States in an endeavor to arrive at a friendly adjustment of the existing differences with Chile concerning the provinces of Tacna and Arica, it being understood that pending the consideration of any adjustment other than by the celebration of a plebiscite the authority of the Plebiscitary Commission and the general arrangement made by it for the holding of a plebiscite under the terms of the Award shall be maintained unimpaired."

Similar instructions are being forwarded to Ambassador Collier who will leave with Chilean Minister for Foreign Affairs identic memorandum, *mutatis mutandis*.

It is of great importance that I should have an answer as promptly as possible, as I do not wish in any way to delay or prejudice the proceedings of the plebiscite.

KELLOGG

723.2515/1944 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, February 18, 1926—3 p. m.

[Received 11:40 p. m.]

20. Department's No. 10, February 16, 5 p. m. Yesterday afternoon I called on the Minister for Foreign Affairs, read him the memorandum and left it with him, and impressed him thoroughly with the seriousness of the situation. Minister was somewhat surprised and keenly regrets conclusion you have reached, as he accepted his position here hoping to obtain plebiscite satisfactory to the United States.

Since early in January public opinion has gained impression that retirements of Pershing and Edwards had produced harmony; and the

² Quoted memorandum not paraphrased.

insistence of press and of Government that order be maintained was being reasonably well complied with, although there were many who feared that new clashes might occur if enough Peruvians should return to the province to make Chilean element doubtful of success.

Lately the general feeling among Chileans has been that earlier suggestions of a diplomatic settlement had been abandoned and that a plebiscite would surely be held; the newspapers, particularly those which belong to Edwards, have been constantly urging the Chileans in the plebiscitary territory to do nothing to justify delay and above all to avoid any sort of conduct which would permit Arbitrator to declare plebiscite impracticable. Confidence exists generally that Chile will win in honest plebiscite, though overwhelming majority once predicted is not now expected. The sentiment which three months ago was strongly in favor of a diplomatic settlement has changed greatly, and any move now by Chilean Government to accept settlement except through plebiscite will encounter some bitter opposition. It is probable, however, that the President, the Minister for Foreign Affairs, and certain business and political elements who have influence would be willing to accept and possibly to favor by means of a diplomatic settlement either the independence of the province with neutralization, or partition, or cession in return for a proper compensation; but they will need a little time for sounding out and preparing public opinion and to shape events.

. . . It is my personal belief that a diplomatic settlement can be brought about that will not offend national feeling, but care must be exercised in regard to manner in which it is presented and to form it takes. I think a delay in deciding appeals taken about two weeks ago would facilitate diplomatic settlement.

COLLIER

723.2515/1947: Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Extract]

LIMA, February 18, 1926—3 p. m.

[Received February 20—6:10 p. m.^a]

10. Your 12, February 16, 6 p. m., slightly garbled in transmission, being corrected. On yesterday by appointment I accompanied Mr. George Duval, head of the New York commercial house of Wessel, Duval and Company having establishments in Peru and Chile and which has been in business on this coast for 100 years, to see President Leguía on a visit of courtesy. Mr. Duval and President Leguía

^a Telegram in two sections.

exchanged quite an extended friendly and more or less intimate conversation. President Leguía asked Mr. Duval how he found business in Peru. Mr. Duval replied that business at this time in Peru was slack. At this point I stated that Mr. Duval had informed me that he was of the opinion that business in Peru would be greatly improved if the Tacna-Arica question were settled. President Leguía seemed quite interested; and Mr. Duval at some length confirmed my statement, pointing out the abundance of capital now accumulated in the United States, the increasing interest in South American trade and the encouraging agricultural riches of Peru, but that he had found in talking with New York capitalists hesitation in making investments in Chile or Peru at the present time on account of the uncertainty as to the stability of government aroused by the bitterness of the controversy over Tacna and Arica, and Duval stated that if this question could be settled by some kind of a peaceable compromise a great impetus would be given to American investment in the two countries. The President immediately responded that that would not be acceptable; that the Tacna-Arica question was a matter of sentiment with Peru. He added that as the Peruvians looked upon the provinces as captive Peruvian provinces and as Chile had not complied in good faith with the terms of the Treaty of Ancón, the bitterness of feeling in Peru over the question could be ended only by the restoration of the provinces to Peru. Duval at this point asked the President how such a disposition would put a stop to the bitter feeling in Chile. The President stated that he did not know but that if the provinces should be restored to Peru good feeling and friendly relations could at once be reestablished between Peru and Chile insofar as Peru was concerned.

POINDEXTER

723.2515/1948 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, February 19, 1926—midnight.

[Received February 20—9:07 a. m.]

22. The Minister for Foreign Affairs called at the Embassy this evening and left a memorandum for me of which the following is a translation :

“With reference to the memorandum dated the 17th instant which the Ambassador of the United States of America has presented to the Ministry of Foreign Relations for the purpose of inquiring if the Government of Chile would be disposed to accept the good offices of the Government of the United States in order to seek a friendly solution

of the difficulties which separate Chile and Peru, the Government of Chile declares that, in accordance with articles 2, 3 and 6 of the conventions of The Hague for the peaceful settlement of international disputes,⁶ it would accept the good offices which the Government of the United States spontaneously offers, with the understanding that the proceedings or steps taken in the exercise of such good offices will not impede, as we [*sic*] set forth in the memorandum which Your Excellency was good enough to deliver to me, the plebiscitary proceedings provided for in the arbitral award, and that any solution which may be reached must be submitted to the respective constitutional bodies for their approval”.

Spanish text will be mailed and should reach you March 15.

COLLIER

723.2515/1952 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, February 20, 1926—3 p. m.

[Received February 21—12:25 p. m.⁷]

23. After the Minister for Foreign Affairs had handed me his memorandum last night, he entered into conversation and made several statements which, he said, were not at all to be thought as limiting, or qualifying, or even as interpreting his formal memorandum accepting our good offices. He said that as I had given him some idea of feeling of American Government on serious situation growing out of difficulties placed in way of honest plebiscite, he felt he ought to give me views of Chilean Government, as well as his own, especially some idea of what he thought to be limit of concession which the Government could get Chilean Congress to approve.

The Minister said that the tender of good offices came at time when plebiscitary situation was thought by all Chileans who had exact knowledge of it to be most favorable to Chile; that Chile had given the irrevocable guarantees that had been demanded and had reduced her military and police force in the province to comply with wishes of the Commission, and was at present time maintaining as reasonable degree of order as it was possible to expect in human affairs; that Chile's demand for adoption of electoral law had at last been complied with; that qualifications for voters had been determined; and that Chile would win by majority of not less than one or two thousand. He thought that when the American Government exercises its good offices, it should take these facts into consideration.

I believe sincerity of Minister's statement about Chilean confidence. When Mathieu was in Washington he doubted that Chile would be

⁶ *Foreign Relations*, 1907, pt. 2, p. 1181.

⁷ Telegram in four sections.

successful, but since his visit to Arica he is convinced Chile will win. This confidence is general but not universal. . . .

Mr. Mathieu also said that treaty of 1904 between Bolivia and Chile⁸ created certain obligations for Chile towards Bolivia as well as rights with reference to port of Arica and Arica-La Paz railroad; and that inasmuch as large majority of population and practically all business and industry of Arica were Chilean, the Government believed that Chilean Congress would not consent to surrendering Department of Arica at this time, but would be willing to give entire Department of Tacna to Peru. He said that the Government believed that the most important thing for Chile, however, was to obtain Bolivian friendship; and that at once after acquiring definite title to Arica, it would negotiate with Bolivia to give that country a port, but that compensation would be expected for it, and intimated that commercial concessions would be satisfactory.

I explained to Mathieu that I had no instructions from you to ask him any questions and that he must not infer from any I asked either that you wished the information or that it indicated any idea or plan you were entertaining; then I inquired if he thought that it would be wise to attempt to adjust the entire Pacific question now, including Bolivian aspirations. Mathieu replied that that would complicate matters. He said that your tender of our good offices spoke only of the difficulties between Peru and Chile, and he thought that limiting the matter in this way would be better, leaving Bolivian question for subsequent negotiations between that country and Chile.

I inquired if Chile were willing to give Bolivia a strip 5 kilometers wide both sides the railway, Peru in turn to do the same. Mathieu said he thought it might be arranged that way, but he did not appear to have given the question very careful study. He said more than once in his conversation that Chile would accept almost any arrangement which did not take the Department of Arica away from her.

It is my impression that Chile wants to use Arica for trading purposes, and earnestly wishes an arrangement with Bolivia; but that she will be apt to exact a heavy price for it or impose conditions Bolivia will not be disposed to accept. If question is postponed and is left to direct negotiations, these will be protracted and may possibly not terminate successfully, an outcome that would be disturbing to South American harmony and that would create a new delicate situation. If Peru and Chile can nevertheless be induced to agree to a partition of the territory, as Mathieu suggested, this arrangement will be in accord with racial majorities in each of the two departments, and may save each nation from mortification of complete defeat. That outcome would be great step forward and we

⁸ *Foreign Relations*, 1905, p. 104.

could then afford to leave Bolivian question to the future, especially if great difficulty be met in getting Chile entirely agreeable with Bolivia as well as Peru at present time.

I assume that Chile will yield more than Mathieu set forth in his conversation yesterday with me. It is even possible that Chile might be persuaded to settle Bolivian question now or even to consent to independence and neutralization of entire territory as Edwards has suggested. It is reported that ex-President Alessandri would support this way of solution if plebiscite cannot be held; but Mathieu foresees certain difficulties and much opposition in Congress.

If Chile really believes that Plebiscitary Commission is going to declare plebiscite impracticable, placing responsibility for this result on Chile, she will naturally yield a great deal, but care must be taken that no formal or written statement be made to Chile to the effect that Commission is likely to take action of this sort, if we wish Chile to accept any other proposition that we may want to make at the time; for it would be interpreted as a threat and, no matter what the peril Chile would run, the Government probably would reject any new proposition and would defiantly challenge indictment Commission would make.

When I presented your memorandum to Mathieu I spoke to him personally in strong manner about the conditions in the province. He was much impressed and I believe that my statements influenced Government's decision to accept our good offices, but last night he told me that he would not have dared tell the Government that I had made any such statement formally, as effect would have been to arouse anger and to cause rejection of your offer.

Mathieu also yesterday made some reference to the economic interdependence of Tacna and Arica; he also referred to Chile's having erected some public works which served needs of the respective departments, possibly, in some instances, both departments. He was of opinion that Chile's expenditures for these purposes ought to be given consideration by the President when he exercises his good offices; he also hinted that Chile might invite consideration of old loans made to Peruvian governments, and to certain debts, all of them dating, it seems to me, from period of the War of the Pacific or to efforts made by Chileans to maintain Peruvian governments in power after Chilean occupation of Lima.

Mathieu did not, however, lay much stress on points in last paragraph. He again told me yesterday that he was continually meeting with stiff opposition from within the Cabinet.

723.2515/1953 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, *February 20, 1926—7 p. m.*

[Received February 21—12:40 a. m.]

From Lassiter.

(1). Your February 16, 6 p. m. I hope very much that the Department's offer of its good offices may prove fruitful. No action I have so far taken prejudices negotiations proposed.

(2). In meantime it is most important for me to know immediately what the Department's policy involves. Is it desired that I should push ahead actively with the plebiscite? To start registration on March 15 will require intensive effort by all concerned for every minute of time from now till then. Great deal depends on combined work of all three parties. The Department's interposition may cause slackening in duties and I do not wish to press for action unless it is policy of the Department to do so. If we are really to go on with plebiscite I must take strong stand on the adoption of measures necessary to render conditions under which it takes place fair to both parties, such as the facilitating of entry of Peruvians from both Chile and Peru and protection [in the] territory, as otherwise we should be committing ourselves to a farce. On other hand, if I take that stand then friction will develop. If the Department has reasonable hope of successful negotiations, I think that it would be better to defer registration, avoid friction of every kind, and avoid getting registration boards scattered all over the country. If this opinion meets Department's views, I suggest that you inform me officially that action on the pending appeal will not be taken until about 1st of March.

It is absolutely necessary, however, for me to make decision at once on line of action to be taken; and I request that I be informed without delay whether I should do everything possible and reasonable to have registration start on March 15 or whether a postponement to 1st of April would be more appropriate. Lassiter.

VON TRESCKOW

723.2515/1953 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *February 23, 1926—1 p. m.*

For Lassiter. Your February 20, 7 p.m. In answer to inquiry made your paragraph (2), I see no course for you but to push actively

ahead with plebiscite. Pending the negotiations referred to in my memorandum to Governments of Chile and Peru, the authority of the Plebiscitary Commission and the general arrangement it has made for the holding of the plebiscite must be maintained unimpaired. For that reason you should not defer registration, in my opinion, but should proceed with all dispatch and in accordance with program. I have received a favorable response from Chile in reply to my memorandum, but no answer has yet come from Peru, apparently because presentation of memorandum has been delayed.

The Arbitrator is now prepared to hand down his decision in the cross appeals. Will a delay of a few days embarrass or delay you in any way? As printing is going on, I had assumed it would not. Please reply immediately.

KELLOGG

723.2515/1947: Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, February 23, 1926—1 p. m.

14. Your number 10, February 18, received somewhat garbled. Failure to deliver immediately to Minister for Foreign Affairs and to President Leguía memorandum quoted in my No. 12 of February 16, 6 p.m., is both disappointing and embarrassing. Delivery was requested at earliest possible moment. As stated in my memorandum arrangements for holding a plebiscite are to be maintained unimpaired during the negotiations suggested, and of course General Lassiter will continue actively to proceed with his program without regard to the negotiations. Registration and other plebiscitary activities will not be postponed on this account.

Your telegram contains certain suggestions which are very disquieting, as they indicate misconceptions which I had supposed were no longer possible. The first is that the Plebiscitary Commission has concurrent jurisdiction with Chilean authorities in the government of Tacna and Arica; this is absolutely erroneous. The Treaty of Ancon and the award give the Commission no administrative control whatever over the provinces. Administrative control remains in Chile, and on Chile rests exclusive responsibility for all measures having to do with policing the territory, maintenance of order, protection of Plebiscitary Commission, and establishment of local conditions for executing the plebiscitary regulations. All that the Plebiscitary Commission can do is to demand that Chile take action necessary to these ends.

In the second place, I had thought it had already been made quite clear in my communications and in my conversations with Ambassador Velarde, which were cabled to you, that the Government of the United States not only has no authority to bring pressure by force directly or indirectly upon either Chile or Peru but also does not entertain the slightest intention of doing so. The Plebiscitary Commission can not be supported and will not be supported by any form of forcible intervention from the United States. Under no circumstances would the leverage of a naval visit or other manifestation of force be contemplated.

In the third place, in the event of a settlement this Government will not join in guarantees of any kind, political or economic.

I had hoped to have Peru's reply before now. If you have not already presented memorandum, please do so at once, and cable reply at earliest possible moment.

KELLOGG

723.2515/1966 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, February 24, 1926—6 p. m.

[Received February 25—4 p. m.]

From Lassiter.

(1) There is increasing evidence since I cabled you yesterday^{8a} that the Peruvians will assert they are not ready to begin registration on March 15. I am doing all I can to remove obstructions, and I am sure that necessary mechanism for registration can be ready, but if Peruvians [omission in text] or that their voters in Chile are prevented from returning to provinces they will demand postponement.

(2) In regard to Peruvians who are now in Chile, I am sending an officer to Iquique to advertise his presence as a representative of the Plebiscitary Commission to receive the statements of those who assert right to return. The Chilean Commissioner agrees fully with this action, and says that instructions will be given the Chilean authorities to facilitate return, though outcome is, of course, more or less doubtful. Would it be possible for American Consuls at Antofagasta, Valparaiso, and Santiago to announce in like manner that they will receive statements from applicants who desire to return to plebiscitary territory? If you think plan feasible and will inform me at once and will give the Consuls notice, I will ask the Chilean Commissioner to make arrangements with his Government. If done at all, it must be without delay. Lassiter.

VON TRESCKOW

^{8a} Telegram not printed.

723.2515/1967a : Telegram

The Secretary of State to the President of the Plebiscitary Commission (Lassiter)

WASHINGTON, February 25, 1926.

The following is the decision of the Arbitrator upon the appeals made on January 30:

"In the matter of the arbitration between the Republic of Chile and the Republic of Peru, with respect to the unfulfilled provisions of the Treaty of Peace of October 20, 1883, under the Protocol and Supplementary Act signed at Washington July 20, 1922.

Decision of the Arbitrator upon the Appeals from Certain Decisions of the Plebiscitary Commission made on the 30th day of January, 1926.

1. On the 11th day of February, 1926, the Arbitrator made an Order allowing appeals from certain decisions of the Plebiscitary Commission made on the 30th day of January, 1926, and determining the time and manner in which, and the record upon which, the said appeals should be submitted. These appeals which were taken both by Chile and by Peru challenged the interpretation and application by the Plebiscitary Commission of that provision of the Award which declares that 'no person shall acquire a vote through residence in said territory . . . if during any part of such required period of residence he . . . has been a government official or civil employee in the political, judicial or fiscal service of either country, or has received compensation as such'. The interpretation and application of this provision was embodied in Article 5 of the registration and election regulations adopted by the Plebiscitary Commission on January 27, 1926, which reads as follows:

‘ARTICLE FIVE

Scope of the phrase "Government, official or civil employee in the political, judicial or fiscal service" of Chile or Peru.

(A) The several registration and election boards will treat the following government officials or civil employees as falling within the scope of the phrase quoted at the beginning of the present article, to wit:

1. The Presidents, Vice Presidents, Ministers, cabinet officers and other executive officials of the two republics. 2. The Chilean *intendant* [*e*]s. 3. The Chilean Governors. 4. The Chilean sub-delegates. 5. The Peruvian prefects and subprefects. 6. The maritime governors. 7. The captains of ports. 8. District inspectors. 9. The judges and the members of all courts. 10. The fiscals. 11. Recording officers charged with the keeping of court records and registers of all kinds; of the public record of births, baptisms, deaths, marriages, incorporations, partnerships and other like statistics and facts; and of records relating to the title to, and liens on real estate. 12. Notaries public. 13. Public prosecutors

and lawyers whose public duty it is to prosecute or defend civil or criminal actions in the courts or to give legal advice; and persons serving permanently or for fixed periods of time as receivers or trustees of estates or interests in litigation and under the control or supervision of the courts; excluding, however, lawyers who are voluntarily retained in each cause and who serve private interests for compensation paid by the latter. 14. Officials and employees of the customs, the internal revenue and the tax collecting services. 15. Officials and employees of the treasury and of the financial departments of the two governments. 16. Officials and employees of the quarantine, the hygiene, and the public health services. 17. Civilian (or other) officials or employees who, as a regular duty or employment act, as surgeons, physicians or dentists to the army and the navy and the military and naval services; also surgical and medical officials and employees on duty at the army and navy hospitals. 18. Civilian (or other) officials, artificers and employees on duty at the arsenals, public docks, public factories and repair shops engaged in constructing, providing, maintaining or storing arms or ammunition or both for the army and navy, or ships for use by the army, the navy, the lighthouse service, the customs, the internal revenue, the quarantine or other similar services. 19. Civilian (or other) navigating and executive officers on public ships, other than those engaged in a purely commercial service. 20. Mayors and other executive officials of the cities and municipal corporations of either nation or of any other political subdivisions of the Chilean or Peruvian Governments. 21. Legislators and aldermen. 22. Officials, superintendents and teachers in the public schools. 23. Officials, superintendents and inspectors of the public markets. 24. Secretaries, stenographers, clerks, assistants, and employees of every nature and kind who cooperate or collaborate or assist in the work entrusted to the officials, superintendents, or others mentioned above. 25. Officials and employees whose duty falls within the scope of the present paragraph or includes some of the duties of the army, navy, carabineers, secret or other police, the secret service or the *gendarmérie*, even though such duty falls also within the scope of paragraph (B) of this article.

(B) The several registration and election boards will treat the following government officials or civil employees (provided they do not discharge, in part, the duties of the government officials or civil employees mentioned in the preceding paragraph) as not included within the scope of the phrase quoted at the beginning of the present article, to wit:

1. Officials and employees of the Arica La Paz Railway. 2. Officials and employees of enterprises of a private nature, despite their receiving subsidies from the public treasury. 3. Secretaries, stenographers, clerks, assistants, and employees of every nature and kind, who cooperate or collaborate or assist in the work entrusted to the officials, superintendents, or others, previously in the paragraph mentioned.

(C) The several registration and election boards will treat all government officials and civil employees whose status is not fixed

by the two preceding paragraphs of the present article as being within the scope of the phrase quoted at the beginning of the present article. The true status of such officials and employees will be determined as promptly as practicable by the appeals board, in the event of appeals being taken.'

2. Chile appealed from the finding and decision of the Plebiscitary Commission with respect to the classes of government officials and civil employees enumerated in items numbered 11, 12, 13, 16, 20, 21, 22 and 23 of paragraph A of said Article 5; and also from the refusal of the Plebiscitary Commission to include officials and employees of the telegraph and postal service among the classes enumerated in paragraph B of said Article 5. Chile further appealed from the refusal of the Plebiscitary Commission to reconsider and modify Article 159 (subsequently renumbered as Article 123) of the regulations, but on February 13, 1926 withdrew the appeal as to that Article.

3. Peru appealed from the finding and decision of the Plebiscitary Commission with respect to the classes enumerated in items 1, 2 and 3 of paragraph B of said Article 5.

4. The Arbitrator has received and duly considered all of the documents referred to in the Resolution of the Plebiscitary Commission certifying the said appeals and also such other documents as have been transmitted to him pursuant to the Order of February 11, 1926.

Now, therefore, the Arbitrator decides:

1. That the appeal of Chile in so far as it concerns said Article 159 (renumbered as Article 123), having been withdrawn, be and it is hereby dismissed of record.

2. That the finding and decision of the Plebiscitary Commission as to all other matters involved in the pending appeal by Chile, that is to say with respect to the classes of government officials and civil employees enumerated in items numbered 11, 12, 13, 16, 20, 21, 22 and 23 of paragraph A and with respect to the officials and employees of the telegraph and postal service which the Plebiscitary Commission refused to include among the classes enumerated in paragraph B of said Article 5 of the registration and election regulations adopted on January 27, 1926, be and the same are hereby affirmed.

3. That the finding and decision of the Plebiscitary Commission as to all matters involved in the appeal by Peru, that is to say with respect to the classes of government officials and civil employees enumerated in items 1, 2 and 3 of paragraph B of said Article 5 of the regulations be and the same are hereby affirmed.

CALVIN COOLIDGE,
Arbitrator.

By the Arbitrator
Frank B. Kellogg
Secretary of State.
February 25, 1926."

KELLOGG

723.2515/1971 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, *February 25, 1926—6 p. m.*

[Received February 26—3:28 p. m.]

From Lassiter.

(1) On being notified of the Department's offer of its good offices to Governments of Chile and Peru, I assumed that Department saw reasonable chance of escape by that route from this impossible situation. I at once asked what attitude to take here to further your negotiations, as you desired me to press ahead with the preparations for registration. I have done so, but the days go by; I hear nothing further from you, and in meantime we are becoming more and more committed to a dangerous situation. Conditions are no more favorable here to a fair plebiscite than they have been . . . Edwards told me frankly that between frustrated plebiscite and plebiscite in which Chile would be declared loser, she preferred the former alternative.

(2) My definite opinion was that we should stop proceedings before becoming further committed; but the Department has insisted on our going ahead, and we have drifted into a position where we are about to commit ourselves definitely by proclaiming commencement of registrations on March 15. What, exactly, will happen cannot be foreseen fully; . . . If break has to come, Chileans will retain their grip on affairs, and may be in position to assert that, as precedent conditions had been accepted and plebiscite had been commenced, there was no adequate proof that conditions had materially changed.

(3) My recent cables have been for purpose of informing Department of local situation, as I thought information might affect your negotiations. I see no evidence that either Peruvian or Chilean Commissioner is aware of those negotiations. Purpose of present cable is to furnish Arbitrator and Department with my estimate of general situation confronting me.

(4) My recommendations are as follows:

(a) If Peru has accepted Department's good offices, cable me at once to suspend further proceedings here and to withdraw American personnel as quickly as conditions permit.

(b) If Peru has not replied to Department's offer, or has replied in negative, ask her reasons for declining. If her reason is simply that she prefers plebiscite, we are then warranted in going ahead. If her reply is that she prefers plebiscite but insists that conditions be made such as to give reasonable promise of fair one, then cable me to suspend operations and have a vote of the Plebiscitary Commission.

I would then introduce resolution stating that conditions were not such as to warrant expectation of fair plebiscite, and that there were no indications that the necessary conditions would be established, and asking instructions from Arbitrator.

(5) May I have an immediate preliminary reply on the above recommendations? I have assumed that avoidance of delay and strong stand on pressing forward with work here would favor your negotiations, but if that is not so, then I should like to know as soon as possible for what policy to prepare myself. Lassiter.

VON TRESCKOW

723.2515/1966 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *February 26, 1926—11 a. m.*

For Lassiter. Your February 24, 6 p.m.

(1) Question of further postponement of registration must be decided by Plebiscitary Commission in light of conditions appearing at time issue arises. It seems to me that you are maintaining the safe and correct attitude by assuming that present program can and will be carried out, and by taking care that responsibility for any deviation from program must be shouldered by one or both of the parties themselves.

Yesterday I received an unfavorable response from Peru⁹ to my suggestion for settlement through good offices of this Government, but it is still possible that I may receive further word from Peru on matter in next one or two days, when I shall advise you. It did not appear wise to withhold decision on cross appeals from the regulations, and decision went forward last night.

(2) I regret that consular officers of this Government can not be authorized to act for Plebiscitary Commission. The official organization of this Government should not in any way be drawn into participation in the plebiscitary functions, as this procedure would only afford additional pretext for trying to make United States accept responsibility for carrying out plebiscite and for enforcing decisions of the Commission. I suggest for your serious consideration, moreover, question whether Commission itself has jurisdiction to operate in this way outside plebiscitary area.

KELLOGG

⁹ Telegram not printed.

723.2515/1972 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, February 26, 1926—11 p. m.

[Received February 27—9:15 a. m.]

16. Received the following at 8:10 this evening from the President in writing:

"Memorandum by the President of Peru. The Government of Peru is thankful to the Government of the United States for the new offer of its good offices in an endeavor to arrive at a friendly adjustment with Chile, concerning the Provinces of Tacna and Arica, but cannot help thinking that no safer means of accomplishing such a purpose could, at the present time, be found than by faithfully carrying out the plebiscite under the guarantees provided for in the award, and which, although not yet accorded to it, the American Plebiscitary Commission has repeatedly asked for from Chile.

The Government of Peru would, however, be pleased to attempt any adjustment other than by the celebration of a plebiscite, provided that the United States be party to it and as such sign the agreement that might be arrived at, as otherwise the Government of Peru feel positive, from past and present experience, that Chile would not comply with its terms and would find a way of causing war, once more, with Peru. Lima, 26th February, 1926."

POINDEXTER

723.2515/1971 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, February 27, 1926—5 p. m.

For Lassiter. Your telegram February 25, 6 p. m., received late yesterday afternoon. This morning I have received final reply from Peru reading as follows:

[Here follows the text of the memorandum quoted in telegram No. 16, February 26, from the Ambassador in Peru, *supra*.]

Mr. Velarde, Peruvian Ambassador, called yesterday afternoon. Apparently he had no knowledge of tender of good offices by us, and had called to say that ship with about 230 Peruvians had sailed from Callao for Arica, that another ship with some 300 Peruvian candidates for registration was about to embark, and that these two ships would be followed by others.

Mr. Velarde also said that, as Chile had not put into effect all prerequisite resolutions voted by Plebiscitary Commission and as plebiscitary atmosphere which the Commission desired had not yet been

established, the Peruvians would have no guarantees for their personal safety except those which might be furnished by the Commission. Accordingly, he requested on behalf of the Government of Peru that I recommend that such measures be taken as you could take for protection of these Peruvians. I told Mr. Velarde that I would inform you of what he had said, and that I was sure you would do all you could in regard to the matter.

It is evident now that both parties to this controversy intend to maintain their respective technical positions intact by going on with all formalities for celebrating plebiscite. I think that it is also reasonably clear that neither party has faith in the plebiscite as solution of the problem but neither one will take the responsibility for calling it off by withdrawal or otherwise. Both are determined to fasten responsibility for failure of plebiscite upon the United States. They have no right to do so, and it should not be permitted. I am not yet able to reconcile myself to idea of playing into their hands by making an advance finding, based on disputable issues of fact, to effect that reasonably fair plebiscite is absolutely impossible. Outcome of this proceeding will be either decision by plebiscite that can be sustained or clear conclusion that plebiscite has been frustrated by Chile. It is difficult to see how case for frustration can be deemed complete and closed until attempt, at least, to carry through registration phase has been made.

In the second of your recommendations where you refer to Peru's rejection of tender of good offices, you say that if the reason is simply that she prefers plebiscite, we are then warranted in going ahead. That is what has happened. Peru has rejected offer, has indicated that she prefers plebiscite, and is actually sending into the territory her candidates for registration. She is not saying anything more about withdrawing.

With both parties insisting on the plebiscite, we have no choice in matter, and dominant consideration from now on must be to conduct proceedings with all care to protect Arbitrator and ultimately to place blame for failure where it belongs. I can see no way clear to accomplish this aim save by taking both parties at their word and by going on with plebiscite, which they have said they want, until Plebiscitary Commission is in fact blocked by either or both of them. If at this juncture the Commission should take initiative in calling off plebiscite in face of avowed desire of both contestants to carry on, Commission's action would plainly provide them with opportunity they are looking for to put responsibility for failure upon Commission and the Arbitrator. As matters now stand, Peru has assumed responsibility of rejecting tender of good offices made to her while Chile accepted tender; and if, eventually, Chile frustrates a fair plebiscite, we have only to lay facts before world opinion.

We can no longer run risk of being blamed for any disorders that may take place. Plebiscitary Commission and Arbitrator are not in position of having pushed proceedings relentlessly toward such crisis. Chile and Peru themselves are doing this. Peru has been given her chance to avoid disastrous complications of this character and has rejected it, deliberately choosing to go ahead, her eyes open to the danger. If trouble should follow, the responsibility for it cannot fail to rest upon Peru and Chile.

KELLOGG

723.2515/1972 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, *March 2, 1926—2 p. m.*

18. Please deliver at once to the President and the Minister of Foreign Affairs the following memorandum.

"I am instructed by the Secretary of State to acknowledge the receipt of the memorandum by the President of Peru¹⁰ which the Secretary of State understands to be a rejection by the Government of Peru at this juncture of the offer of good offices by the United States for the friendly adjustment outside the terms of the award of the existing differences between Peru and Chile concerning the provinces of Tacna and Arica and to indicate that the Government of Peru prefers the solution by plebiscite under the conditions provided in the award. The Secretary of State feels certain that the Government of Peru fully appreciates that this offer was made by him in the sincere belief that the renewed effort to adjust the differences in this way would serve the interests of both countries and furnish a reasonable opportunity for the restoration of amicable relations between them.

The Secretary deeply regrets the inability of the Government of Peru to avail itself of such tender of good offices at this time. I am further instructed by the Secretary of State to say that the suggestion contained in the second paragraph of the memorandum by the President of Peru is not acceptable to the United States. The Secretary of State authorizes me to say that if the Government of Peru should later take a different view and desire to avail itself of the good offices of the United States, the offer may be regarded as open for consideration."

You may state orally to the President and the Minister of Foreign Affairs, that Chile had accepted the tender.

KELLOGG

¹⁰ See telegram No. 16, Feb. 26, from the Ambassador in Peru, p. 317.

723.2515/1974 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Extract]

LIMA, March 2, 1926—9 p.m.

[Received March 3—10:37 a.m.]

18. I have just [seen] the Minister for Foreign Affairs and the President and delivered to each of them your memorandum¹¹ in writing. Shortly before this I had received a message from the President requesting me to call at the palace, which I did. The President handed me a copy of a letter just received by the Minister for Foreign Affairs from the Minister of Peru in Montevideo, in which the Peruvian Minister confirmed his telegram in which he explained the circumstances of the visit of the Minister for Foreign Affairs of Argentina to Montevideo and stated that at that time Mr. Gallardo proposed to the Minister for Foreign Affairs of Uruguay that the President of Uruguay should offer his mediation in the question of Tacna and Arica and proposed certain conditions for the division of the provinces. The President of Peru apparently looked upon this alleged offer of the Argentine Minister, which was refused by the Uruguayan Government, as having been prompted by Chile. The President then referred to your memorandum offering the good offices of the United States and his reply thereto. He stated that he had been giving the matter considerable thought and that he had great reluctance in rejecting any proposition by the United States and reiterated his willingness to accept any settlement which might be made by the United States, provided the United States would be a party to the agreement; and he suggested that if the United States did not desire to become a party to such an agreement that the United States enter into an alliance with Peru and cited the case of Great Britain and Portugal as an example of such an arrangement, or that in some such way the effect of a guarantee of the United States be indirectly accomplished. I stated to the President that you had been very explicit in the rejection of anything of this character and that I was thoroughly satisfied that it could not be considered but at his request would cable to you what he had said. . . .

POINDEXTER

¹¹ See telegram No. 18, Mar. 2, 2 p. m., to the Ambassador in Peru, *supra*.

723.2515/1974 : Telegram

*The Acting Secretary of State to the Ambassador in Peru
(Poindexter)*

[Paraphrase]

WASHINGTON, *March 4, 1926—3 p. m.*

21. Department does not understand that your conversation with Minister for Foreign Affairs and President Leguía which you report in your No. 18, March 2, 9 p. m., makes any change in situation. If you think it important or necessary in order to eliminate any possible misunderstanding, you may explain to President and to Minister for Foreign Affairs that it is the Secretary's view that an acceptance of our tender of good offices with a condition annexed cannot be accepted by the United States, that it is equivalent to rejection of offer as made . . . He wholly approves position you took in your recent conversation. It is clear that the United States cannot undertake to guarantee any settlement, and that all speculation over ways to accomplish that aim indirectly is futile.

At same time, I am sure you appreciate importance of leaving no doubt in minds of President and Minister for Foreign Affairs that tender of good offices stands, and that the Secretary will receive any later indication of its acceptance by Peru in spirit and on terms in which offer has been made.

GREW

723.2515/1994 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, *March 9, 1926—11 a. m.*

[Received March 10—9:10 a. m.¹²]

From Lassiter. At meeting of Plebiscitary Commission yesterday afternoon, Peruvian Commissioner read long statement setting forth Chilean delinquencies, and concluded by offering resolution to postpone commencement of registration and all other acts connected with plebiscite election until conditions in plebiscitary territory were satisfactorily reformed.

¹² Telegram in two sections.

Just before the meeting of the Commission, Mr. Freyre came to me to say that he was going to submit resolution calling for what he termed indefinite postponement; and that if resolution were voted down, he had instructions from his Government to withdraw. His action is based on the conditions which culminated on March 5 in Tacna when procession of Peruvians which included members of Peruvian plebiscitary delegation was stoned. Freyre said that these men telegraphed their Government stating that conditions were intolerable and recommending that Peru go no further with the plebiscite.

Chilean Commissioner said he wanted time to communicate with his Government. Accordingly, the vote on the resolution is delayed a couple of days, but with things as they are here it is indispensable that decision be reached promptly.

Conditions are not now compatible with fair plebiscite and responsibility rests with Chile. Merely to postpone plebiscitary operations would be useless. There are only two possible courses: (1) State candidly that conditions are incompatible with fair plebiscite, but continue with registration in hope that they may be improved; (2) terminate plebiscitary operations now and fix responsibility on Chile, where it belongs.

I am convinced that it is quite useless to proceed to registration in hope of amendment of conditions unless Department moves energetically to support such course by advising Chile that failure immediately to establish and maintain plebiscitary conditions which are satisfactory to the Commission will result in termination of plebiscitary operations with responsibility definitely fixed on her. . . .

After hearing from Department I intend to write to Freyre advising him of the two courses outlined above, except insofar as plan suggested involves action by the Department; and then to offer as substitute resolution one or other of the two courses suggested, whichever he may choose, unless he himself offers such a substitute.

Lassiter
VON TRESCKOW

723.2515/2003 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, March 10, 1926—5 p. m.

[Received 11:05 p. m.]

30. Cruchaga was unanimously confirmed as Ambassador today.¹³ This is supposed to assure a representative in Washington heartily in

¹³ Miguel Cruchaga Tocornal, Chilean Ambassador at Washington.

sympathy with present Government's determination to secure a fair plebiscite.

[Paraphrase.] Mathieu called me to his office today and said that he was much disturbed by reports from Arica that Mr. Freyre, the Peruvian delegate, had asked for, or will ask for an indefinite postponement of proceedings until atmosphere more favorable to Peru exists. Mathieu feels that this request is equivalent to demand by Peru that the plebiscite be postponed until Peru is sure that she can win. In his opinion the Peruvians are in the minority, so that Peru has all the time been seeking to avoid the plebiscite instead of participating in it. He said that the feeling among the Chilean populace over the protracted delay that has taken place is such that it will be nearly humanly impossible to prevent an outbreak. It is difficult at best, he said, to prevent one, bearing in mind antipathy of resident Chilean white population to submit to a Peruvian sovereignty which would be won by a large block of radicals containing a large colored element.

Naturally I am not as conversant with situation as Lassiter is; but it is my personal opinion, which of course I have not revealed to Government here, that if Peru's request for a postponement be denied, the Peruvian Government may be inclined in that event to accept new tender of good offices.

Government of Chile feels that to compel departure of persons from province who are not now holding any official position simply for the reason that they are acquainted with the voters and have influence over them, is wholly improper and is a denial of right Chile has to present her case through any lawful agency; and that consistency would require that a large number of persons who are campaigning for Peru be expelled. There has been tension here during the last few days.

If ever the time comes when we have to discontinue the plebiscite, alleging that blame for doing so rests on Chile, I hope that we can put it on ground of her inability to control the people of the plebiscitary territory rather than to charge a breach of faith against the Chilean Government; and I hope likewise that reasons given in resolution for discontinuance will not be such as to cause those unfriendly to us throughout Latin America to start a concerted campaign against us and to make invidious allusions to electoral practices in our southern States by which the negroes are deprived of their constitutional rights of suffrage. There have already been insinuations of an unpleasant nature to that effect.

I continue to impress upon Chilean Government necessity for fairness as well as of order. [End paraphrase.]

723.2515/1994 : Telegram

*The Acting Secretary of State to the Consul at Arica
(Von Tresckow)*

[Paraphrase]

WASHINGTON, *March 10, 1926—6 p. m.*

For Lassiter. Your March 9, 11 a. m. Peruvian Commissioner's resolution together with his informal statement to you that his Government has instructed him to withdraw should resolution be voted down, presents no new question and is important chiefly as indicating evident disposition on part of Peru to precipitate issue at this time.

Department does not understand that general conditions bearing upon possibility of ultimately celebrating fair plebiscite have materially changed during past few weeks. Incidents such as those of March 5 at Tacna are cumulative but, as far as we can form opinion from reports, are not sufficiently conclusive to justify sudden reversal of existing policy. It seems that Peru is taking incident of March 5 as pretext for action she has contemplated for some time. In an interview here on March 8 with Ambassador Velarde he gave no intimation of withdrawal or even of desire for postponement, but on contrary he discusses ways for future avoidance of such trouble as occurred on March 5.

Second alternative stated in your telegram, to terminate plebiscitary operations at once and to place responsibility on Chile, involves, as has been previously explained, a premature finding of fact which would draw Commission into controversial attitude toward one of parties to the plebiscite, both dangerous and unnecessary at this stage. Department does not think that Commission should allow itself to be forced into such a position. Your other alternative is also seemingly open to same objection, as it calls for a finding that present conditions are incompatible with holding of a plebiscite and provides for continuing proceedings only in hope that conditions may improve. In many ways this course would be worse than calling off plebiscite at once, as it would amount to official notice that strong presumption for that cause existed in minds of the Commissioners and as result entire plebiscitary process would henceforth be virtually condemned in advance to failure.

Precise problem presented is to find way to carry on until time arrives for determining finally question whether fair plebiscite can in fact be held. As Department intimated in its telegram February 27, 5 p. m., Commission can not safely make this decision until registration stage has been entered and perhaps concluded. Any other course appears, in Department's view, bound to impose upon Plebiscitary Commission and Arbitrator responsibility far greater

than they ought to take, as well as to diminish chances of placing blame where it belongs. Department is strongly of opinion that Peruvian resolution for indefinite postponement should not, at this juncture, be considered and if pressed to a vote it should be rejected on ground that issue is prematurely raised. On record as it stands, this question of existence of conditions or of a so-called plebiscitary atmosphere favorable to fair vote is one which has been before the Commission for months and various attempts have been made to force hand of Commission in regard to it. Department does not see how the record justifies decision practically calling off plebiscite today any more than it did two months ago.

Department does not think it wise to engage in written communications with Peruvian Commissioner, as you suggest. Department thinks that it is highly advisable, however, for you to have informal conversations with both Freyre and the Chilean member of the Commission for purpose of making clear to them that your mind is open on possibility of abandoning plebiscite or of postponing it indefinitely; that you will consider that question later, if necessary; and that if pending resolution comes to vote you will either vote against it or will vote for its postponement, placing your reason for such action upon the record. This action on your part, in Department's view, makes it very difficult for Peru to carry out her threat of withdrawal.

Doubtless you have already observed that Freyre's resolution is drawn so as to leave Peru in position to contend that she has reserved her right to a plebiscite under the treaty. She is asking now only indefinite postponement, and question of abandoning plebiscite would still be before Plebiscitary Commission even if resolution were passed. Resolution is accordingly another attempt to get rid of plebiscite without taking blame for it, and to maintain at same time Peru's technical position that she wants plebiscite. Department is convinced more than ever that Commission cannot afford to do otherwise than to continue with plebiscitary arrangements until point is reached where responsibility for change can be allocated definitely and conclusively to either Chile or to Peru, or to both.

GREW

723.2515/2005 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, *March 11, 1926—2 p. m.*

[Received 7:45 p. m.]

From Lassiter. Acting Secretary's telegram, March 10, 6 p. m.

(1) Essence of Department's stand is that it has not yet been proved that fair plebiscite cannot be held and that I must somehow find way to

go ahead until it is proved. Department ignores entirely fact that my advisers and I are in close touch with situation; that I have stated categorically in my telegram of March 9, 11 a.m., that conditions are not now compatible with fair plebiscite and that responsibility rests on Chile. I have informed Chilean member of the Commission twice in last two weeks that these were my views, and he has so informed his Government.

(2) Department appears to think that I must do something to force Peru to push on blindly into a contest where, it is my conviction, she has no fair chance to register and cast her vote and where suffering and bloodshed will follow. If Peru goes ahead it must be on her own initiative; she states she will not go ahead until conditions have been changed radically for the better. Peru might go on if Chile were formally notified by Commission that conditions are unsatisfactory and that responsibility for improving them rests on her.

(3) Alternative is that Peru withdraw. If she takes that step, I have not faintest idea where I could find anyone willing to be the Peruvian member, and there is no personnel available for the Peruvian registration boards, appeal courts, etc., which requires in all more than one hundred persons. As all Peruvians, moreover, would abstain from the plebiscite, it would be mere farce which I should disown at the end.

(4) Situation is intensely strained and any postponement would precipitate trouble. I believe my plan¹⁴ can be carried out with minimum of friction. Alternative resolutions mentioned in my March 9 telegram can be sustained by the record; they are conservative in character and are calculated to avoid stirring up bitterness. I do not think they would greatly surprise Chilean member.

(5) Not possible to delay my decision beyond evening of March 12, if proper instructions are to reach personnel at a distance by time set for beginning registration. My legal advisers and the secretary general of the Commission are unanimously agreed that my plan is only one to take under circumstances. We have canvassed situation thoroughly and are unable to reach any other solution, though manner of presentation of plan will be suitably modified. I must go ahead with it, unless the Arbitrator desires to appoint some one else to take my place.

(6) No additional personnel should be sent here, as it would be wholly unjustifiable to add to already enormous expense of this plebiscite. Lassiter.

VON TRESCKOW

¹⁴ See telegram Mar. 9, from the consul at Arica, p. 321.

723.2515/2003 : Telegram

The Acting Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *March 11, 1926—7 p. m.*

20. Please deliver following memorandum immediately to the Minister for Foreign Affairs:¹⁵

"I am instructed by the Secretary of State to refer to his recent memorandum in which inquiry was made as to whether the Government of Chile would be disposed to avail itself of the good offices of the United States in an endeavor to arrive at a friendly adjustment of the existing differences with Peru concerning the provinces of Tacna and Arica;¹⁶ and also to refer to the memorandum of the Minister for Foreign Affairs in reply thereto signifying the acceptance of the said offer by Chile.¹⁷ Attention is also drawn to the subsequent notification conveyed through the Ambassador of the United States at Santiago of the fact that Peru had not been able to accept the offer and of the further declaration by the Secretary of State that the offer of good offices might be regarded as remaining open for the consideration of both parties whenever they might desire to avail themselves of it. Further consideration of this subject in view of the continued pendency of the offer of good offices and the obvious desirability of providing against any possible misunderstanding concerning its nature and scope prompts the Secretary of State to make the following observations by way of explanation and interpretation:

The term 'good offices' is not employed in any limited or technical sense. It was and is the purpose of the Secretary of State to give the term its widest possible intendment. Consequently, it is the Secretary's view that if the offer were accepted by both parties the Government of the United States should be prepared to exercise its good offices to any extent reasonably consistent with the main object of effecting a genuine and lasting settlement of the differences referred to. The Secretary of State would, if the parties desired, place at their disposition his services as mediator in any negotiations which might ensue and by his presence or representation if desired at the negotiations exert every effort to see that the fullest opportunity of reaching an essential agreement is afforded to the two Governments concerned. I am instructed by the Secretary of State to submit to the Government of Chile the foregoing explanation and interpretation of the nature and scope of the offer."

If you think it appropriate in order to avoid leaving any false impressions, you may state to Minister for Foreign Affairs that the above memorandum has been formulated on our initiative and that a memorandum in same sense is being forwarded American Embassy

¹⁵ Text of memorandum not paraphrased.

¹⁶ See telegram No. 10, Feb. 16, to the Ambassador in Chile, p. 298.

¹⁷ See telegram No. 22, Feb. 19, from the Ambassador in Chile, p. 305.

in Peru¹⁸ for delivery to President Leguía and the Minister for Foreign Affairs. For some time we have contemplated advisability of making this further interpretation of offer of good offices so as to guard against any misunderstanding.

Referring to your telegram No. 30 of March 10, 5 p. m., we have been informed by Lassiter that Peruvian member of the Plebiscitary Commission has presented resolution reciting that the assaults and offenses against Peruvian delegation and Peruvian officials are incompatible with the plebiscitary proceedings, and calling for the indefinite postponement of the program. Whether Government of Peru eventually accepts offer of good offices is impossible to predict, but in meantime you will appreciate importance of our being promptly advised of any change or modification of attitude of Chilean Government in this matter. It is not our understanding that liberal interpretation of the offer embodied in above memorandum can induce any change in attitude of Chile.

GREW

723.2515/2005 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *March 12, 1926—11 a. m.*

For Lassiter. Your March 11, 2 p. m. I have no right to dictate your official action and at no time have I had any disposition to do so. I can only give you our sincere and carefully considered advice. You are receiving not only best that my associates and I have to offer, but also the advice of former Secretary of State Hughes, who has followed matter closely and is cognizant of every message sent you, including this one.

(2) Please rest assured that we are all thoroughly appreciative of practical difficulties which you face and that we are anxious to meet your views and to support you in every possible way. Without in any way attempting to commit Arbitrator we are ourselves disposed to accept unreservedly any final determination which you may reach on question of possibility of holding plebiscite. What we do feel necessary at all costs to avoid is a flat abandonment of plebiscite in such a manner and under such circumstances as to permit either or both of parties to seize opportunity, which we are convinced they are seeking, to blame you and eventually Arbitrator and this Government for calling off plebiscite.

(3) From your latest message it is not entirely clear which of the alternatives mentioned in second paragraph of your telegram March

¹⁸ Telegram No. 23, Mar. 11, 5 p. m.; not printed.

9, 11 a.m., constitutes plan which you now refer to in your telegram March 11, 2 p.m. For reasons which need no repetition, we could not approve second of these alternatives at this time; and first alternative, as we have stated, seems an unfortunate expedient, although it may be necessary one considered in light of your latest message. In your telegram of March 9, 11 a.m., you intimate that registration might go forward in hope of improved conditions, provided Department moves energetically to support such course by advising Chile that failure immediately to establish and maintain plebiscitary conditions which are satisfactory to the Commission will result in termination of plebiscitary operations with responsibility definitely fixed on her; and in your telegram of March 11, 2 p.m., you say that Peru might go ahead if Chile were formally notified by Commission that conditions are unsatisfactory and that responsibility for improving them rests on her. It appears to us that a plan would be feasible which calls for going on with plebiscitary operations even with another slight postponement of dates, if a postponement be deemed necessary, coupled with formal notice to Chile that Commission does not regard conditions as satisfactory and that if they are not made satisfactory to Commission, it will have to consider question of terminating plebiscitary operations. As we have already suggested, this plan would involve postponing for time being consideration of Peruvian resolution.

(4) I hope you can find way to adopt this course; and you will see that it is all the more vital to adopt it as this opportunity may be last we shall have to place squarely before the contestants proposal for adjustment without holding plebiscite. Yesterday we placed in hands of Governments of Chile and Peru another memorandum containing a liberal interpretation of our pending offer of good offices. We did this in order to clear away any possible misunderstanding and in hope that Peru might be disposed to change attitude in regard to offer. Simultaneously with submission of this new memorandum, we received yesterday from Chilean Embassy here a communication ^{18a} which indicates clearly that Chilean Government's attitude towards offer of good offices is still receptive.

Under these circumstances I am sure you will agree that it would be unfortunate were Commission to take any attitude which would close door and leave Peru to conclude that she had succeeded in having plebiscite called off without having to assume responsibility for it and at same time in having blame placed on Chile.

(5) Until further word from you, sailings of additional personnel will be held up; they could sail either March 12 or March 18, as may be desired.

KELLOGG

^{18a} Not printed.

723.2515/2012 : Telegram

The Chargé in Peru (Wadsworth) to the Secretary of State

LIMA, March 12, 1926—9 p. m.

[Received March 13—9:30 a. m.]

24. Embassy's telegram number 23, March 12, 3 p. m.¹⁹ Received the following at 8:30 this evening from the President in writing:

"Memorandum by the President of Peru. The Government of Peru feels very much indebted to the Government of the United States for the explanation and interpretation, which the Secretary of State has directed you to kindly convey to me, of the term 'good offices' referred to in his previous memorandum,²⁰ as well as in that of today's date,²¹ and it is very gratifying to me to tender you my very best thanks therefor.

The nature and scope of 'good offices,' even in its widest possible intendment, would not protect one of the parties from aggression from the other, in case either of them should think that the aggression involves the best of all possible solutions for the question subject to the action of the good offices; and this is precisely what Chile, in my opinion, is aiming at, as intimated in my memorandum of 26th February last.²²

Under the influence of such conviction, it would not be compatible with my conscience, however deferent I may wish to be towards the United States, to take any different attitude with respect to the recent offer than is contained in my aforementioned memorandum; but fully mindful of my duty to go at this time even beyond the limits of prudence with a view to secure a genuine and lasting settlement of the differences between Peru and Chile, I would be prepared to accept the good offices as now explained by the Secretary of State, provided that the same should entail the assurance of the United States that, whether the direct negotiations should result in an agreement or not, there shall be no war between Peru and Chile—in other words that the United States will not allow Chile to make war on Peru."

WADSWORTH

723.2515/2021 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, March 15, 1926—6 p. m.

[Received March 16—2 p. m.]

From Lassiter.

(1) It is vital for protection of Arbitrator's position and best interests of the United States to prevent a situation from arising within

¹⁹ Not printed.²⁰ See telegrams No. 12, Feb. 16, to the Ambassador in Peru, p. 302 and No. 18, Mar. 2, p. 319.²¹ See telegram No. 20, Mar. 11, to the Ambassador in Chile, p. 327 and footnote 18, p. 328.²² See telegram No. 16, Feb. 26, from the Ambassador in Peru, p. 317.

plebiscitary territory which might lead to serious disturbances and loss of life. Although Arbitrator's efforts have been for purpose of promoting peace and settling this controversy, a situation has developed which involves increased suffering and hardships among local Peruvian population and may possibly lead to outbreak of hostilities between Chile and Peru.

(2) Based on foregoing, I wish to give you my forecast of probable sequence of events here should Department's second attempt to bring about settlement outside plebiscite prove to no avail, and to make definite recommendations.

(3) I expect Plebiscitary Commission to meet March 24 and vote down the two pending resolutions which were submitted respectively by members for Peru and Chile. I expect the Peruvian member then to submit immediately a resolution to terminate the proceedings. I have not talked with him about this since day before yesterday; but I understand he has drawn up his resolution in measured language but that he definitely places responsibility for failure upon Chile. If I do not like Peruvian draft, I shall submit a substitute. I assume that this resolution will be passed, that my vote will be accompanied by brief statement in restrained language giving my estimate of situation, and that my statement will be published with the resolution.

(4) Chilean member would probably request 2 or 3 days for consideration of last-mentioned resolution. I assume that vote on resolution would take place about March 27. Five days up to April 1 would then be allowed for appeal. It would surely require 10 days to prepare case for Arbitrator; and bulkiness of briefs would make necessary their despatch by mail, thus taking 3 weeks more. The case could hardly reach Washington before May 1, and undoubtedly the Arbitrator would need 2 weeks for consideration; so no final decision could be reached before about May 15.

(5) In meantime unless some decisive action had been taken, Peruvian and American electoral boards and committees, as well as Plebiscitary Commission and all the imported and idle voters now in territory, would be kept inactive in this tense atmosphere. It would be a miracle, under such circumstances, if there were no clashes or incidents that might become of gravest international importance. I deem it to be our imperative duty to move quickly to relieve this situation and to permit territory to revert with all possible rapidity to more adjustable status.

(6) In view of foregoing, I make following recommendations which I request will be conveyed to Arbitrator as expressing my sincere convictions; I feel strongly that they should be taken, and every technical point strained to bring them about.

(a) As soon as you receive word from me that Plebiscitary Commission has passed resolution recommending termination of proceedings,

the Arbitrator should instruct Commission by cable somewhat as follows: "Reserving all powers to pass with or without appeal upon Commission's findings, and to order, if deemed advisable, resumption of plebiscitary proceedings, the Arbitrator directs that all electoral proceedings be suspended for minimum period of at least three months, and that election board's personnel be withdrawn, to be replaced at later date if necessary."

(b) Simultaneously, the Arbitrator shall direct Plebiscitary Commission to adjourn to meet in Washington on May 1, or as soon as practicable after that date, to present all sides of case to him. My advisers perceive no legal or other objection to procedure proposed.

(12) If the Arbitrator should call the Commission to Washington, it would be quite agreeable to me were General Pershing to resume his duties as president of the Plebiscitary Commission; I should greatly prefer to return to the Canal Zone. Lassiter.

VON TRESCKOW

723.2515/2022 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, March 16, 1926—midnight.

[Received March 17—10:25 a. m.]

36. Minister of Foreign Affairs today handed me a memorandum, first stating that the delay had been due to absence of the President from the Capital. The following is a translation thereof:

"The Minister for Foreign Affairs of Chile has taken due note of the memorandum of the Ambassador of the United States, dated the 12th day of the present month,²³ and is informed by it that the spontaneous offer of good offices by that Government to endeavor to make an arrangement of the difficulties between Chile and Peru, has been formulated with the understanding that in case of being accepted by both parties [*sic*] would empower the Government of the United States to exercise them with all the amplitude compatible with the original purpose of accomplishing a lasting solution of the pending differences.

The Government of Chile appreciates the friendly interest which, for the arrangement of the difficulties with Peru, is manifested by the Government of the United States in its statement that notwithstanding the negative received from one of the parties, the offer of its good offices must be considered as subsisting. My Government adds that it has not altered its disposition to accept said good offices in the form indicated in the memorandum of Your Excellency (the Ambassador of the United States) which the Minister for Foreign Affairs of Chile now has the honor to answer. Dated March 16th, 1926."

COLLIER

²³ See telegram No. 20, Mar. 11, to the Ambassador in Chile, p. 327.

723.2515/2028: Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *March 18, 1926—4 p. m.*

For Lassiter. It is quite clear to all of us here that the controversy should be disposed of, if possible, by diplomatic settlement; but if this is to be reached, way to it must be kept open. Please understand that our policy in this matter is dictated entirely by what seems to me to be the absolute necessity for creating and maintaining state of affairs which will lead both Chile and Peru eventually to accept good offices or mediation, and, by this means, to arrive at permanent settlement of existing differences.

Let me try to make clear to you precise situation in which for the moment we find ourselves. Principal difficulty lies with Peru who has now second time declined our good offices, although Chile has unqualifiedly accepted them. I intend to publish at once the exchanges on this subject with both Chile and Peru. From these notes it will appear that Peru occupies the extraordinary position of attempting to dictate our policy on plebiscite and at same time to reject all offers of good offices. If these tactics are successful, I am convinced that the issue of Tacna-Arica will be kept alive and will remain impossible of settlement for many years to come. Peru is evidently now striving for an official declaration in this arbitration that plebiscite provided for in Treaty of Ancón has been frustrated by Chile; she undoubtedly attaches importance to such a finding as enabling her thereafter to assert legal title to provinces in dispute. Only way to keep door open for an appropriate settlement is by publishing correspondence over good offices and by voting down both resolutions now pending before Plebiscitary Commission, so that Peru must either continue with plebiscite or withdraw. She will have to do one or the other. If she goes forward with plebiscite, even though under protest, she will do it with eyes open to risks after having twice rejected opportunity for avoiding plebiscite and discussing settlement by other means. If she makes good the threat of withdrawal, Arbitrator can deal with situation as it then presents itself, and if it be found advisable to postpone plebiscitary proceedings indefinitely, then Peru, as well as Chile, will bear her proper share of responsibility.

The program you sketch in your March 15, 6 p. m., would only serve to facilitate Peru's obstructive tactics, and to render difficult, if not impossible, any later settlement. For that reason I cannot approve it. You will see from what I have said that, although I am alive to difficulties of situation, I am bound to attribute supreme importance to

manner in which proceedings are now handled. We must, above all, avoid creation of any situation which would aggravate difficulty of bringing Chile and Peru together and which would indelibly stain honor of one party and give other a moral victory coupled with claim to legal title to the territory, while diminishing, if not defeating altogether, chances for a proper settlement. This is what a flat decision terminating plebiscite on ground that it has been frustrated by Chile would do. On the other hand if the two resolutions pending are voted down, there would then be every inducement for both parties to favor settlement through diplomatic channels.

If the two resolutions be voted down, it would not seem necessary at this time for you to introduce any resolution, as failure of the other resolutions would leave proceedings for plebiscite unaffected. If you wished to make any statement in explanation of your vote in opposition to proposed Peruvian resolution, you might state briefly that while you did not wish to formally review present conditions at this time, you were voting against resolution in hope and expectation that appropriate safeguards for plebiscite would be provided. If Peru threatens to withdraw, or does actually withdraw, I think you should make no statement, but report situation to me immediately.

I am sure you will appreciate importance of not conveying to either Chilean or Peruvian member of Commission outline of policy I have indicated.

KELLOGG

723.2515/2012 : Telegram

The Secretary of State to the Chargé in Peru (Wadsworth)

WASHINGTON, March 18, 1926—4 p. m.

25. Please deliver immediately to the President and the Minister of Foreign Affairs the following memorandum:

“I am instructed by the Secretary of State to acknowledge the receipt of the memorandum by the President of Peru which was received on March 12th and to express the regret of the Secretary of State that the President of Peru is still unable to accept the Secretary’s good offices as proposed. It must be manifest to the President of Peru that the Secretary of State cannot give any such undertaking as the President has suggested but the Secretary desires to do all in his power to promote a fair and proper adjustment of the existing controversy. To this end the Secretary cherishes the earnest hope that the President of Peru will take a more favorable view of this proposal which will be kept open.[”]

Telegraph double priority immediately when you have delivered it.

KELLOGG

723.2515/2034 : Telegram

The Chargé in Peru (Wadsworth) to the Secretary of State

LIMA, *March 19, 1926—1 p. m.*

[Received 4:18 p. m.]

27. Department's telegram number 25, March 18, 4 p. m. Following your instructions I presented in person your memorandum in the form of a note to the Minister of Foreign Affairs at noon today, but on hearing that the President was too ill to see me for several days I gave the note for the President to the Minister for Foreign Affairs who informed me that he would see that the President received it today.

From past conversations with the President I feel quite convinced that he will not alter his views regarding the holding of a plebiscite. There is in Peru a tremendous enthusiasm for a plebiscite and I believe the President would find himself at odds with the people were he to adopt any other view than that with which the Department is already acquainted.

WADSWORTH

723.2515/2037 : Telegram

The Consul at Arica (Von T'reskow) to the Secretary of State

[Paraphrase]

ARICA, *March 19, 1926—7 p. m.*

[Received March 20—11:45 a. m.]

From Lassiter.

(1) I never cease to keep before me the fact that the Department feels that final determination of entire Tacna-Arica controversy should be arrived at by diplomatic adjustment if possible. I feel very strongly, however, that in order to create situation Department seeks, we must avoid any action which will alienate either or both of the parties and prevent their reception of further suggestions. For that reason I deem it my duty to state as my most sincere conviction that the course of action sketched in your cable of March 18, 4 p. m., will prejudice more than it will favor creation and maintenance of state of affairs Department desires.

(2) Publication, at this time and during carrying out of arbitral award, of correspondence regarding offer of good offices showing that Peru has rejected them while none of proceedings of Plebiscitary Commission bearing on actions of Chile in connection with carrying out of plebiscite has been made public, would, it is my opinion, cause Peru to accuse the United States of bad faith.

(3) By voting down the two resolutions pending before the Commission and then voting down Peru's motion to terminate proceedings, it is true that we can force Peru either to withdraw or to continue. If I voted against her resolution with noncommittal remarks such as suggested by the Department, I believe that Peru would certainly withdraw and would spare no pains to make her reasons for withdrawing known to the world. She would feel that we had treated her unjustly and it is difficult to believe that she would be in a mood to accept any negotiations. It will be difficult to draw Peru into any negotiations at all unless United States takes part in ultimate treaty and does something to guarantee result. If she feels that we have treated her unjustly in this plebiscite, it is unlikely that she will be interested in our good offices.

(4) If Peru withdraws, either the Arbitrator must call off proceedings on his own initiative or I must go on and hold farcical one-sided plebiscite. If Arbitrator should, on his own initiative, call off plebiscite, I do not know on what he would base his action; but if one-sided plebiscite were insisted on, I should have to vote against accepting result. It seems to me that Arbitrator would have to sustain my position, and then Chile would be much more disgusted with our action than she would be were proceedings to be terminated now.

(5) Chile seems to have made up her mind fully to fact that plebiscite will not be carried out, and according to present Chilean member of Commission, Mr. Claro,²⁴ she prefers alternative of terminating now rather than to continue plebiscite with foregone conclusion that result would be declared null and void. My resolution for terminating proceedings is very restrained and I believe Chile will accept it without too much clamor. Undoubtedly Peru will be satisfied with fact of termination. Door will be left open for further negotiations, and cause of the plebiscitary proceedings will have been carried to logical and legal conclusion.

(6) I desire to repeat that it is profound conviction of myself and of all my advisers that course advocated by Department can lead only to antagonism of one and possibly of both the parties; that we have worked out and have furnished you with a logical solution of impasse which will be accepted with relief by both Chile and Peru; and that this solution more than any other will leave door open to further negotiations.

(7) I do not believe there is any chance whatever that Peru will accept good offices unless some very substantial guarantees are offered, and that I view with trepidation. Whole question is going to be reopened of attempting to carry out plebiscite in vain hope that con-

²⁴ Samuel Claro Lastarria, who had been legal adviser to the Chilean member of the Plebiscitary Commission.

ditions are going to be improved. I hope that Department will clearly and definitely understand that it is pure waste of time to endeavor to change these conditions. Please realize that I am here in more or less a judicial position, and that I must act and vote in accordance with facts presented to me and dictates of my own conscience. I can assure you that your cable of March 18, 4 p. m., causes me utmost concern. I have not committed myself to any course of action whatever, but execution of your program would place me in most embarrassing position. I trust Department will recede from its present stand, and so must decide immediately. Lassiter.

VON TRESCKOW

723.2515/2035 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *March 20, 1926—6 p. m.*

26. I wish to outline for you situation as it now stands: Two resolutions are pending before the Plebiscitary Commission. The Peruvian member has offered the first, which calls for indefinite postponement of plebiscite on ground that conditions compatible with holding of fair plebiscite do not exist. This resolution fixes blame for these conditions squarely upon Chile. Second resolution, which has been offered by Chilean member, recites that his Government has complied with all prerequisites prescribed for fair plebiscite, and calls for continuation of schedule, without prejudice, however, to right of Arbitrator in exercise of his reserved powers to declare vote void if he shall consider that results justify his taking this action.

On March 14 the Commission by majority vote, Chilean member voting contra under instructions from his Government, deferred action on both resolutions until March 24.

On March 12 I submitted to Governments of Chile and Peru a further interpretation of my offer of good offices. Peru replied on March 13, rejecting offer on substantially same terms as before. You are aware of Chile's reply.

General Lassiter has reported continually increasing difficulties and has pointed out fully the inherent dangers in present situation. He is convinced that Chile has absolutely failed to comply with prerequisites laid down by Commission and that fair plebiscite is impossible under present conditions. In fact, he has suggested that for this reason the plebiscitary proceedings be terminated. I am advising him²⁵ not to take any action for present on the resolutions pending and to take further adjournment of few days, when Commission recon-

²⁵ Telegram of Mar. 20, 6 p. m.; not printed.

venes on March 24. I am doing this in the hope that door can be kept open for diplomatic adjustment and especially with view to affording opportunity for Chile to consider fully and to present, if she is so advised, any new suggestion such as enlargement of Arbitrator's powers.

If Chile were to come forward on her own initiative with proposal either to invest Arbitrator with unlimited powers or otherwise, we should all regard it as distinct step forward in direction of a settlement, and it would be our hope that it would lead to actual negotiations. I do not know how long General Lassiter can or will maintain *status quo* in Plebiscitary Commission; for that reason it becomes exceedingly important that you explore all possibilities with Chilean Government at once.

KELLOGG

723.2515/2041 : Telegram

The Chargé in Peru (Wadsworth) to the Secretary of State

LIMA, March 21, 1926—9 a. m.

[Received 8:00 p. m.]

31. Embassy's telegram number 30, March 20, 10 p. m.²⁶ Received the following at 9 last night from the President in writing:

"Memorandum by the President of Peru. The Government of Peru begs to thank the Government of the United States of America once more for the deferential spirit in which it again offers its good offices for a direct settlement of the Tacna-Arica question,²⁷ which at the present moment is subject to a plebiscitary decision; but the Government of Peru regrets that, as it has already manifested on previous occasions, no effort whatever that may be made to come to a direct solution of the controversy is possible, in view of the procedure of the Chilean Government and the invariable want of good faith with which it has always treated Peru, even in the presence of the Arbitrator's representatives; and, further, that any such efforts would only be conducive to bringing about a position for Peru which would be worse than the one that it is undergoing in the present circumstances and which would only terminate in war.

In view of the fact that the Government of the United States is not disposed to guarantee the present state of peace between the two countries in case of need and which in the opinion of the Government of Peru is likely to result in hostilities brought about by Chile owing to the methods which the latter country usually adopts and which methods would make war inevitable, the Government of Peru is of the opinion that there can be no better solution of the problem than a plebiscite and that the Government of the United States within the

²⁶ Not printed.

²⁷ See telegram No. 25, Mar. 18, to the Chargé in Peru, p. 334.

ample faculties reserved by the Arbitrator to himself can create a situation that will permit the carrying out of a free and honest plebiscite, in view of the open opposition of Chile to comply with the guarantees promised by the Plebiscitary Commission. Lima, 20th March, 1926.”

WADSWORTH

723.2515/2042 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, March 21, 1926—6 p. m.

[Received March 22—10:50 a. m.]

From Lassiter.

1. There is nothing before me to justify a further postponement of plebiscitary proceedings; and, were I again to propose one on my own initiative, a very bad impression would be created and would render me subject to all sorts of imputations by Chileans. Claro's attitude is definite that we must either continue or stop, and his positive instructions from his Government are to oppose further postponement. He has also stated that in event of another postponement he could [not] control his people. I shall ask him, however, if he has any proposition to offer or if he desires to consult his Government on desirability of affording the several chanceries more time to seek solution. Department might cable Santiago at once to effect that any further postponement must have Chilean concurrence.

2. If Claro should oppose a postponement and say that he does not care to consult his Government, I suggest that I then see Freyre and ask him what he intends to do if both pending resolutions are voted down; and, if he tells me that he intends to make a move to terminate proceedings, that I then tell him I would vote for a two-point resolution if he would present it, as follows:

(a) That, subject to approval of Arbitrator, plebiscitary proceedings should be terminated;

(b) That, pending instructions from the Arbitrator, operations of registration and election boards are hereby suspended.

I merely propose this resolution for your consideration; I do not recommend it and would do nothing more than show it to Freyre for his consideration. Its passage affords, I think, best hope for keeping both parties in mood to negotiate and permits terminating plebiscite in dignified and orderly way.

3. If Freyre is [not?] willing to present foregoing resolution, it is my own strong conviction that I should then join with him in passing

his resolution terminating plebiscite and assigning as reason that Chilean authorities had failed to establish conditions suitable for fair plebiscite. This resolution would be phrased in very restrained language. In my opinion it would be grave mistake to force Peru out at this stage and would cause us to be subjected to much future criticism and condemnation.

4. If, however, Department still insists on its own complete program and thinks both the foregoing resolutions prejudicial to it, I will do everything I can to carry out that program. I will not say anything to Freyre. If he moves to terminate, I will vote negatively; and I will make statement to accompany my vote that while I do not consider conditions in the territory have been or are compatible with conduct of plebiscite fair to both parties, still I am prepared to continue plebiscitary proceedings, observing conditions and utilizing all information gathered throughout to formulate a judgment as to further decisions to be taken.

5. If Peru withdraws, the Plebiscitary Commission will be unable to function in any matters of importance and I believe you will agree with me that it will be futile to carry out one-sided plebiscite. So that I may plan for this contingency, and especially for the orderly termination of the plebiscite, I beg you to let me know what Arbitrator proposes to do if this situation arises.

6. Until all plebiscitary proceedings are terminated, I strongly recommend that correspondence concerning good offices be not published.

7. I should like to have Department's reply by Monday night or Tuesday morning, so that I may have it for meeting of Commission on Wednesday, March 23. Lassiter.

VON TRESCKOW

723.2515/2045 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, *March 22, 1926—3 p. m.*

[Received March 23—9:15 a. m.²⁸]

40. Your No. 26, March 20, 6 p. m. I have had a long talk with Mathieu. He is not able to reach decision immediately, as President Figueroa will not return to Santiago until noon tomorrow and also because Mathieu has had an engagement for some time to address the Senate in Executive session on Tacna-Arica question; he dare not recommend that Chile submit matter to Arbitrator without limitation on latter's powers until he ascertains sentiments of Chilean Congress. He said that he was unable thus to repudiate protocol of Washington

²⁸ Telegram in four sections.

without congressional approval. In answer to a question from me he said he thought he could accept good offices or mediation.

Although Mathieu insists on continuing with plebiscite without interruption, I think that if there is possibility that Commission will pass resolution terminating plebiscite it would be better to postpone again for some 10 or 15 days. The purpose of the postponement, however, would be defeated if put upon ground that conditions did not yet permit holding of fair plebiscite, or if impression were given that postponement had been granted to open way for some method of solution besides plebiscite. There should be some reason given that will not add to belief of Peruvians that Commission is sympathetic to their views.

Mathieu said that even if there had been some irregularities before he returned here, he felt that, in general, order had been good since then and that presence of 600 Peruvians peacefully camped at Arica was proof of that fact. It was impossible for him to see how Arbitrator could say that present conditions prevented fair plebiscite; Chile would regret keenly decision by Arbitrator's representative that fraud and violence rendered the plebiscite impracticable; the Chilean Congress realized injury that such a decision would cause, but was disposed, nevertheless, to appeal to judgment of the world. He astonished me by adding that Chile would not abandon the province if plebiscite were held impracticable. In that event, he said, let the Peruvians come and try to evict the Chileans. If plebiscite be held, Chile will accept result in good faith, whatever it may be.

He read me closing paragraph of telegram he had sent to Chilean Ambassador at Washington on March 18,^{28a} in which he instructed Ambassador Cruchaga to ascertain specifically from you what further guarantees or conditions consistent with award the Arbitrator would consider necessary to hold an honest plebiscite. He declared that he had accepted post of Minister for Foreign Affairs in order to cooperate with you in carrying out award; and he said that he was completely discouraged, for, although he had complied with every demand Arbitrator had made and had offered to do everything else consistent with the award, there was on General Lassiter's part an ill-concealed intention never to permit the plebiscite.

Mathieu showed me a telegram he had sent a few days ago to Ambassador Cruchaga stating that he thought his own 7 years of work in Washington endeavoring to bring Chile and the United States into close friendly relations were now being undone and that his age and failing vigor were not sufficient to cope with the task he was facing; he felt a break with the United States would soon come and that he would resign first. He repeated this statement during the conver-

^{28a} See telegram to consul at Arica, *infra*.

sation and said that he might resign after addressing Congress on Thursday.

I told him that now was the time to stick to his post and to render his country a real service. He asked what, placed in his position, I should do. I said that I had no authority to speak for the Secretary of State but that it was my personal belief that I should offer to leave entire matter to Arbitrator without limitations.

Mathieu repeated his doubts about congressional approval; and he said that Peru would interpret this step as a sign of weakness and that the United States had shown no willingness to try to get Peru to accept such an arrangement, although virtually trying to coerce Chile to accept it. I asked what he meant by "coercing". He said by such statements as General Lassiter had made to Claro at last meeting of Commission; these statements were that Commission would have to vote impracticability of plebiscite and put blame on Chile unless conditions changed. Mathieu characterized these statements as a threat. I said that they were neither a threat nor pressure, but were a friendly allusion to conditions which were thought bad, in hope that Chile might find way to correct them. I said that my own inference was that trouble arose from fact that though many guarantees had been given by Chilean Government, they were not carried out by officials.

We talked about two hours. Mathieu referred again and again to difficulty of getting Chilean Congress to approve an unlimited enlargement of Arbitrator's faculties; but he said that if Chile could be assured she would receive Arica, the Congress would promptly give authorization. He again expressed wish that it were possible to have separate plebiscites, one for Tacna, the other for Arica.

Toward the end he made the only practicable suggestion, worthy possibly of serious consideration. He said in effect: The Chilean Government has accepted mediation; it could do this as acceptance was advisory rather than obligatory, and for that reason Chilean Congress did not have to be consulted in advance. Let the Arbitrator bring pressure on Peru to induce her to accept mediation. He can compel both nations to consent to mediation and then to accept whatever he recommends. He can use same measure toward Chile that his representative is using now, namely, to have Commission vote passage of a resolution that plebiscite cannot be held because of the alleged frauds and violence. He can coerce Peru by letting her know that procrastination, evasion, vague generalization and much agitation, and unsupported accusations must cease and that plebiscite will be held at once. At the present moment the United States will not allow the plebiscite to be held and Peru will not allow any other solution to be tried. If mediation is accepted, let the plebiscite be kept alive by adjournment so that its coercive power will not lapse.

723.2515/2047 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

WASHINGTON, March 22, 1926—5 p. m.

For General Lassiter. The following telegram from Mathieu to Chilean Ambassador just received by me.^{28b}

“No. 44. Next meeting of the Commission will be held in Arica March 24, and we need to be well informed beforehand. I suggest that you obtain, as early as possible, an interview with Secretary Kellogg in order to transmit to him the following:

a) That above all our Government wishes, in fulfillment of the Award, to carry out the plebiscite already started and under way since the Regulations for Registration and Election were enacted and dates were fixed for their operation;

b) That we are willing to sincerely carry out all measures of guarantees already adopted and duly fulfilled by us and all those to assure a correct plebiscite which may yet be deemed necessary; but to this end it is indispensable that such guarantees be indicated in concrete terms and not under vague expressions such as “plebiscitary atmosphere”, “equality of conditions” or similar ones, because due to their vagueness we are unable to find out the American Commissioner’s intentions as to the way in which these should be fulfilled.

c) That we entertain no illusions as to the possibility of also pleasing Peru, for she carries on logically the anti-plebiscitary policy which she started in Washington at the Conferences which led to the Arbitration, pursued in the controversy before the Arbitrator and in her protest following the Award and, finally, insisted upon in Arica through hindering and postponing the plebiscite with the hope to bring about its failure by means of violent incidents which are difficult to prevent in any electoral contest, many of such incidents craftily provoked by the Peruvians themselves and some which have been, most unfortunately, the fault of our own people.

d) That notwithstanding the unconquerable timidity which is said to prevail among Peruvian voters, it is a fact that Peru has concentrated in the territory, up to the present time, without obstructions but to the contrary, with facilities tendered by us, a mass of about 600 prospective voters. It is evident that if Peruvians were questioned with regard to their fears, they would answer that they believe to have good grounds for them; but meantime, it can be assured that no prospective voter will fail to register and to vote;

e) That in accordance with the Regulations adopted all those who have left the territory, whether expelled or not, can return to register and vote. Many have already been returned to the province immediately upon the Government learning of their particular cases. At any event, this matter has been grossly exaggerated and allegations made without support of evidence as in the Case Peru submitted to the Arbitrator. The few voters who could thus be excluded would not influence the results of the ballot and in case their votes did have any bearing upon them, the Arbitrator would examine their cases

^{28b} Copy dated Mar. 18, 1926, handed to the Secretary of State by the Chilean Ambassador, Mar. 22, 1926.

in order to approve or void the plebiscite. But it cannot be said that it is impossible to carry out a plebiscite in which probably between five and six thousand voters will participate because there may be a certain indetermined number of such cases which are at any rate few and have never been pointed out even approximately.

2. You may add that the aforesaid is not intended as a Brief to oppose the views which may have been formed by the two American High Commissioners, against whose opinions we realize it would not be proper, much less practical, for us to argue; but that it expounds the viewpoint under which the Government considered the situation when trying to fix its policy in the matter, it decided to cooperate to the honest fulfillment of the Arbitrator's Award, without avoiding means for that purpose and without consideration [as] to whether the results of a correct plebiscite would favour or not Chile's interests. While we are spontaneously adopting some additional measures intended to restore, as much as possible, the confidence of the American Commissioner,—besides those requisities he might also deem necessary,—in [on] the eve of the first step of real plebiscitary character, Peru interposes with her proposal for indefinite postponement of the plebiscite, softened down by that of the American Commissioner for a temporary adjournment of 13 days in the proceedings. Such a short delay would be of little significance if it were not aggravated by the opinion which General Lassiter expressed to our Commissioner that to his judgement as to that prevailing in Washington, at no time a correct plebiscite could be held. Therefore we have been unable to understand the purpose of the temporary adjournment and we are at a loss to conjecture whether this will be the only one or whether it will be followed by others which would virtually [be] tantamount to the indefinite postponement demanded by Peru. We would readily understand any delay which were intended for the fulfillment of some requisite or to put into operation a measure considered necessary.

3. You may further add that we are not blindly obstinate in carrying out the plebiscite, notwithstanding the fact that public opinion here would consider that, through bringing about its failure, Chile was being deprived of a sure success at the polls; but that for the sake of peace in this section of the Continent we sincerely wish to end decorously this long and vexatious question, without Chile being the only party from whom sacrifices and renunciations are demanded. This was the reason why we hastened to accept the proffer of good offices, such as they have been tendered, trusting in the equanimity of that Government with whom we desire, as the primordial factor in our foreign policy, to maintain the friendly relations which bound us at the present time. According to what we have learned until now, Peru has refused the same tender of good offices without us knowing or being able to explain her motives. There is no doubt, in our estimation, that Peru does not desire the plebiscite and we would not know what to think about her intentions if she also refuses now to reach an intelligence, under an intervention which must deserve her confidence as much as ours. Whichever her intentions, the situation, when considered under the light of what has already been said in this dispatch, would lead us to the following absurd[ity]: there would be no plebiscite because of American opinions formed in Arica and in

Washington, if they did really exist; neither would there be any settlement or attempt at settlement on other basis different from those established by an Arbitral Award under operation. It will be understood why we do not wish to assume responsibility for such an ending of an initiative we took with the best of purposes, even abandoning the advantages we enjoyed as possessors of the disputed area, and to which initiative the Government of the United States of America tendered its cooperation.

4. We desire, as it is natural, to clarify the situation by presenting it frankly and as we understand it to be, to His Excellency the Secretary of State, in order that if he so wishes, and has no objections to such a course, he may offer us any suggestions he considers as being compatible with his Government's action, with the assurance that they will be considered here with all the respect and good-will he so highly deserves. Mathieu."

KELLOGG

723.2515/2042 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *March 22, 1926—6 p. m.*

For Lassiter.

1. I have received your telegram of March 21, 6 p. m., in which you point out objections to further postponement of plebiscitary proceedings, renew your recommendations for immediate termination of those proceedings, and express your willingness to carry out program outlined in Department's telegram of March 18, 4 p. m., if we still feel that that is best course.

2. Within past 24 hours both the Chilean and Peruvian Governments have again expressed their desire to continue with plebiscite. Peru categorically declines to accept alternative which has been presented to her, and states that there can be no better solution of the problem than a plebiscite and that she expects Arbitrator to hold plebiscite in accordance with the award. Peru complains about conditions, but in official statements to me she carefully refrained from making any suggestion of terminating plebiscite because of conditions. Chilean Government not only insists on plebiscite likewise, but inquires what further steps she can take to insure a fair plebiscite.

3. In view of these circumstances we could not possibly terminate plebiscite at this time without deciding two things: (1) That conditions are not such as to permit a fair plebiscite; (2) that nothing can be done to create conditions under which fair plebiscite can be held, in spite of fact that Chile now offers formally in writing to do anything that is required. All of us, including Mr. Hughes, are definitely of opinion that proper course to follow is one referred to in

paragraph 4 of your telegram of March 21, 6 p.m., which may be outlined as follows:

(a) Vote down both resolutions now pending before the Plebiscitary Commission.

(b) Vote down any additional resolution calling for termination or postponement of the plebiscitary proceedings which either party may offer.

(c) Put upon record with your negative vote on any resolution for termination following statement:²⁹

"I am prepared to continue the plebiscitary proceedings with the hope and expectation that appropriate safeguards for the plebiscite will be provided and with the intention of observing conditions and utilizing all information gathered throughout the plebiscite to formulate a judgment as to further decisions to be taken."

(d) Refrain from making any communication to either Peruvian or Chilean member which is inconsistent with idea of going ahead with plebiscitary process to its normal conclusion.

4. I seriously doubt that Peru will withdraw; if she does, take the briefest possible adjournment for purpose of submitting that fact to Arbitrator and of receiving instructions. If Peru should not withdraw, then you should go ahead at once with registration, and judgment on question of fairness of plebiscite must be reserved until vote has been taken.

5. For present I am withholding publication of correspondence over good offices.

6. Chile's formal statement, which is going forward to you as a separate message is obviously one of utmost importance. You should at once seize this opportunity to make specific demands upon Chilean Commissioner looking to immediate improvement of any conditions which you think necessary to the holding of fair and free plebiscite. Chilean Ambassador understands that Foreign Minister Mathieu's statement is being transmitted to you for this purpose.

KELLOGG

723.2515/2045 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, March 23, 1926—6 p.m.

25. Your No. 40, March 22, 3 p.m.

(1) Since my No. 26 of March 20, 6 p.m., to you, I have received from Ambassador Cruchaga the communication you mention and a

²⁹ Quoted passage not paraphrased.

further memorandum from President Leguía in which the latter indicates that Peru's position is still unaltered in respect to offer of good offices. After exchange of messages with Lassiter, I sent him last night following suggested program which I believe will be effected when Plebiscitary Commission reconvenes tomorrow:

[Here follows text of program set forth in paragraph 3 of telegram of March 22, 6 p.m., *supra*.]

Should Peru withdraw from plebiscite as result of these measures, I have requested General Lassiter to take briefest possible adjournment for purpose of submitting that fact to Arbitrator and receiving his instructions. Should Peru not withdraw, it is my understanding that registration will proceed at once and judgment upon question of fairness of plebiscite will be reserved until vote has been taken. I have also made the suggestion to Lassiter that, in view of Chile's inquiry about what further guarantees or conditions are deemed necessary for the holding of a fair plebiscite, he seize this opportunity to make specific demands upon the Chilean Commissioner looking toward improvement of any conditions he thinks necessary. I have transmitted to Lassiter the communication from Mathieu on this subject, handed me yesterday by Ambassador Cruchaga.

(2) The program I telegraphed Lassiter yesterday has following advantages: (a) It provides for logical continuation of plebiscitary process, providing Peru does not withdraw, and defers decision on question of fairness until plebiscitary vote has been taken; (b) it keeps door open for negotiations for settlement, for on one hand it avoids any premature finding on conditions which might render it difficult, if not impossible, for Chile to entertain mediation, and on other hand it furnishes Peru with maximum inducement to consider settlement without a plebiscite.

In regard to Chile I am sure the risks of present situation are fully appreciated. Views of General Lassiter and of his advisers at Arica on unsatisfactoriness of existing conditions appear to be thoroughly understood. If plebiscite goes on and conditions are not improved, possibility that Lassiter may feel obliged to declare plebiscitary vote void and certify that decision to the Arbitrator must be considered. In these circumstances it seems that Chile should make strongest possible effort to improve conditions in the plebiscitary territory and, at same time, to continue receptive to diplomatic settlement of question.

(3) In regard to plebiscitary conditions, Chile's fundamental point of view has been constantly at variance with that of the president of the Plebiscitary Commission. From time to time Chile has emphasized idea that her position as administrator of the provinces in dispute gives her advantages over the contending party which she

is entitled, as a matter of right, to insist upon and which she is entitled to maintain; the impression has been created that Chile has tendency to give too little weight to high responsibility, necessarily imposed upon her by her position as administrator, to see that conditions are absolutely fair to both sides.

The feeling can not be avoided that if at this juncture Chile would take vigorous measures on her own initiative to guarantee public order and to punish offenses against the regulations, matters would be helped considerably. I can not, of course, at this distance make specific suggestions. I do not desire Mathieu to feel that I am putting any pressure upon him to agree to an enlargement without limitation of Arbitrator's powers, as such a step is something outside the protocol of submission. This suggestion did not originate with me but came from Santiago. I have not consulted the Arbitrator on question whether he would accept unlimited powers, and anyway he could not accept them unless Peru were willing.

You might understand my telegram No. 26 of March 20, 6 p. m., as an invitation to bring pressure to bear on Chile. It was not so intended. I have taken every appropriate step to afford Peru opportunity to accept our good offices, or mediation, but to present she has declined.

KELLOGG

723.2515/2052 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, March 24, 1926—9 p. m.

[Received March 25—12:07 a. m.]

33. The Minister for Foreign Affairs handed me this evening the following memorandum in writing:

“Memorandum by the President of Peru. Referring to the memorandum dated 20th instant,³⁰ and notwithstanding the expressions therein contained, the Government of Peru, taking into consideration the situation which today exists in the plebiscitary territory, according to the latest advices received from its delegation in Arica, showing that the situation far from having improved has become worse, thus making certain that the plebiscitary act of the inscription of voters, should it take place within three days, would be carried out under the same atmosphere of terror now reigning there, manifests to the Government of the United States, with due appreciation of the situation that the high motives which have induced the Government of the United States to offer its good offices, make themselves felt; in accordance with the explanations which said Government has been good enough to make, and trusting, once more, in its rectitude

³⁰ See telegram No. 31, Mar. 21, from the Chargé in Peru, p. 338.

and disinterestedness, the Government of Peru accepts the good offices for the present, while at the same time it wishes to express its recognition for the offer of the same. Lima, 24th March, 1926."

POINDEXTER

723.2515/2054 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

ARICA, March 25, 1926—3 p. m.

[Received 9:10 p. m.]

[From Lassiter.] At Commission meeting this morning the two pending motions before reported were voted down. Peruvian member then introduced a motion for neutralization of territory, which was voted down. Peruvian member next introduced a very long motion reciting reasons why a fair plebiscite could not be held and ending up with a series of resolutions whose main effect was that Chile was in default of the award. The principal concluding resolution was as follows:

"That, in view of the facts above stated, the celebration of a free and fair plebiscite as established by the award is impossible of realization and in consequence thereof it is the duty of the Plebiscitary Commission to so inform the Arbitrator."

My statement in connection with the latter resolution was as follows:

"As stated before when voting on the resolution introduced by the Peruvian member for indefinite postponement, I am prepared to continue plebiscitary proceedings with a hope that appropriate safeguards for the plebiscite will be provided and with the intention of observing conditions and utilizing all information gathered throughout the plebiscite to formulate a judgment as to further decisions to be taken; an expression of the conclusions of the Commission upon plebiscitary conditions is at this moment not essential or advantageous; I therefore abstain from voting on the resolution."

The motion accordingly was not carried. Full text is being cabled to you.³¹

2. Freyre told me before the meeting that his Government had accepted good offices unconditionally. He also said he had no instructions as to withdrawal in case his resolutions were not accepted and apparently did not know what he would do about commencing registration on Saturday. He made no further propositions for postpone-

³¹ Telegram not printed. Text of the Peruvian motion is printed in Spanish in *El proceso de Tacna y Arica (1925-1927)*; *reseña de las principales sucesos*, etc. (Lima, Casa Editora "La Opinion Nacional," 1927), p. 303.

ment. If Peru does not take part in registration on Saturday and does not formally withdraw, situation will be very embarrassing.

3. If both Governments have accepted good offices, suggest you notify each Government immediately to cable its representative here to vote for such postponement as you deem necessary. It would put us in a bad light for me to initiate such a proposition. It is most important to stop all plebiscitary proceedings if reasonable excuse can be found.

VON TRESCKOW

723.2515/2052 : Telegram

*The Secretary of State to the Ambassador in Chile (Collier)*³²

WASHINGTON, March 25, 1926—6 p. m.

30. Please deliver immediately to the Minister of Foreign Affairs the following memorandum :

"I am instructed by the Secretary of State to refer to his correspondence with the Government of Chile on the subject of good offices, and particularly to the memorandum handed to me by the Minister of Foreign Affairs on March 16th³³ in which it was stated that the Government of Chile had not altered its disposition to accept the good offices of the United States in the form indicated in the previous memorandum of the Secretary of State dated March 11th.³⁴ The Secretary of State welcomes the acceptance by the Government of Chile of the good offices of the United States as a new evidence of the desire of the Government of Chile sincerely to seek an adjustment of its differences with the Government of Peru concerning the provinces of Tacna and Arica. In view of this acceptance of good offices as heretofore offered by the United States, and in view of the acceptance by the Government of Peru of the same offer of good offices, the Secretary of State desires me to suggest that, pursuant to the terms of the offer, appropriate steps should be at once taken by the Plebiscitary Commission looking to a suspension of the plebiscitary proceedings, without prejudice to their resumption if it should later appear that the differences between the two countries are not susceptible of adjustment other than by the celebration of a plebiscite; it being understood that pending the consideration of any adjustment other than by the celebration of a plebiscite the authority of the Plebiscitary Commission and the general arrangement made by it for the holding of a plebiscite under the terms of the award shall be maintained unimpaired. The Secretary of State, therefore, wishes to inquire whether the Government of Chile will not forthwith issue to its delegate on the Plebiscitary Commission appropriate authority and instructions to cooperate in taking the steps referred to. The Secretary of State further inquires whether the

³² On the same date a similar telegram was sent to the Ambassador in Peru (see *infra*) ; the substance of these telegrams was telegraphed at the same time to General Lassiter at Arica, latter telegram not printed.

³³ See telegram No. 36, Mar. 16, from the Ambassador in Chile, p. 332.

³⁴ See telegram No. 20, Mar. 11, to the Ambassador in Chile, p. 327.

Government of Chile will authorize representatives on its behalf to enter into negotiations at Washington with representatives of Peru similarly authorized, the good offices of the United States with respect to such negotiations being exercised by and through the Secretary of State. Identical inquiries are being simultaneously submitted by the Secretary of State to the Government of Peru."

KELLOGG

723.2515/2052 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, March 25, 1926—6 p. m.

27. Your 33 March 24 9 p. m., received. Please deliver immediately to the President and the Minister of Foreign Affairs the following memorandum:

"I am instructed by the Secretary of State to acknowledge the Memorandum of the President of Peru which was handed to me on March 24, and to say that the Secretary of State deeply appreciates the sentiments expressed by the President concerning the motives and disinterestedness of the Government of the United States, and that the Secretary welcomes the acceptance by the Government of Peru of the good offices of the United States as a new evidence of the desire of the Government of Peru sincerely to seek an adjustment of its differences with the Government of Chile concerning the provinces of Tacna and Arica. In view of this acceptance of good offices as heretofore offered by the United States, and in view of the acceptance by the Government of Chile of the same offer of good offices, the Secretary of State desires me to suggest that pursuant to the terms of the offer appropriate steps should be at once taken by the Plebiscitary Commission looking to a suspension of the plebiscitary proceedings, without prejudice to their resumption if it should later appear that the differences between the two countries are not susceptible of adjustment, other than by the celebration of a plebiscite; it being understood that pending the consideration of any adjustment other than by the celebration of a plebiscite the authority of the Plebiscitary Commission and the general arrangement made by it for the holding of a plebiscite under the terms of the award shall be maintained unimpaired. The Secretary of State, therefore, wishes to inquire whether the Government of Peru will not forthwith issue to its delegate on the Plebiscitary Commission appropriate authority and instructions to cooperate in taking the steps referred to. The Secretary of State further inquires whether the Government of Peru will authorize representatives on its behalf to enter into negotiations at Washington with representatives of the Government of Chile similarly authorized, the good offices of the United States with respect to such negotiations being exercised by and through the Secretary of State. Identical inquiries are being simultaneously submitted by the Secretary of State to the Government of Chile."

KELLOGG

723.2515/2056 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, *March 26, 1926—2 a. m.*

[Received 9 a. m.]

From Lassiter. The indications are that Peru will not participate in the registration which starts tomorrow. Now that Peru has accepted our good offices, she looks to us to protect her. Unless a postponement is ordered at once a most difficult situation will arise, as one party will not be represented in the registration. Please arrange to have the Chilean and Peruvian members of the Commission notified by tonight to join with me in unanimous motion to postpone registration for 30 days.³⁵ Lassiter.

VON TRESCKOW

723.2515/2054 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *March 26, 1926—10 a. m.*

For Lassiter. Your telegram March 25, 3 p. m., received. I wholly approve position you took in proceedings yesterday and think that the formal record at this time is satisfactory. I shall send further suggestions, especially with regard to the resolution for the suspension of proceedings, as soon as replies have been received from Santiago and Lima, as stated in my telegram of March 25, 6 p. m.³⁶

KELLOGG

723.2515/2060 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, *March 26, 1926—noon.*

[Received 7:53 p. m.]

45. I handed your memorandum to the Minister for Foreign Affairs this morning. Mathieu expressed great astonishment and disappointment and fear that Chilean Government would not accept, inasmuch as it regards Peru's move as dictated solely by desire to obtain delay and avoid plebiscite. . . .

³⁵ On Mar. 26, 1 p. m., the Department telegraphed General Lassiter that it was impossible to get word from Chile and Peru in time to advise him finally about suspension of plebiscitary proceedings and suggested that he arrange for adjournments from day to day. (File No. 723.2515/2058.)

³⁶ See footnote 32, p. 350.

. . . I hope Chile will accept this renewed offer of good offices; but I believe her Government may insist either upon going ahead with registration or upon delay of only ten or fifteen days, allowing a few days for presentation of the views of the litigating nations through their Ambassadors and attorneys now in Washington, and expecting the President to make his recommendations two or three days later and the Congresses of Chile and Peru to take final and definite decision within very few days after that, with the plebiscitary proceedings to be hurried forward from that date.

COLLIER

723.2515/2063 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, *March 26, 1926—11 p. m.*

[Received March 27—9:55 a. m.]

47. The Under Secretary for Foreign Affairs, who has just seen me, says that Chile will be unable to answer your memorandum until early next week. He states, however, that Chile believes her acceptance of good offices to be binding but that she is inclined to think that there ought to be no suspension of plebiscitary proceedings. Chilean Commissioner has telegraphed Foreign Office that Lassiter has informed him that you telegraphed Lassiter to suspend proceedings, alleging that suspension was agreed upon in acceptance. Chile says that, in accepting, express reservation was made that exercise of good offices should not impede plebiscitary proceedings, and that that reservation has never been modified.

The Under Secretary said that great nervousness exists here at idea of suspension and that there is great possibility of popular outbreak in Arica. To allay this feeling, the Government will, he said, publish in tomorrow's papers your first memorandum and the Chilean reply. I suggested that if any memorandum on the subject were published, all should be published.

Chile also takes exception to General Lassiter's call of a meeting of the Plebiscitary Commission tonight with less than the 24 hours' notice required by the regulations.

COLLIER

723.2515/2065 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

ARICA, *March 27, 1926—8 a. m.*

[Received 11:55 a. m.]

From Lassiter for Secretary Kellogg, with the request that this message be communicated at once to the Arbitrator.

1. As representative of the Arbitrator I have now been forced into an impossible situation through having carried out the urgent requests of the State Department. I have, it is true, followed a perfectly consistent policy, namely, that I was prepared to go ahead with the plebiscite; but now that Peru has been led to conform to the State Department's policy, Chile eludes that policy and insists on going on with the plebiscite. To go on with the plebiscite means to drive Peru out, as the conditions here are too intolerable for her to stay in. What we ought to do under the circumstances is to revert to the policy I proposed some time ago of terminating the plebiscite and fixing the blame in restrained tones on Chile; but, having just two days ago put myself on record as prepared to go [ahead] with the plebiscite, I am at a great disadvantage.

2. The situation here is ominous. Outbursts of violence are almost certain to occur and no one can tell how far they will go. No matter how far we attempt to carry out this plebiscite, it can end in no acceptable result. It should be terminated at once and thus avoid the suffering, the loss of life, and the added bitterness sure to accrue and enable our country to get out of this affair in something like a dignified way.

3. I accordingly ask that you intervene and on your motion terminate the plebiscite on the grounds that the experience of the past 7 months fully convinces you that an acceptable plebiscite cannot be carried out under existing conditions and that it is necessary to put an end to the above proceedings leading only to increased animosities, or that you rule on your own motion that for the same reasons given above that in order for the plebiscite to be continued the territory must be neutralized.

4. This morning I received the following from Mr. Freyre.

"In compliance with instructions from my Government to the effect that according to the understanding with the Government of the United States I should take steps at once looking to the suspension of the plebiscitary proceedings, I have today given instructions to the Peruvian members of the registration boards not to concur thereto."

We now have reached the impasse in which one party refuses to go ahead on account of its acceptance of good offices and the other insists on proceeding despite the acceptance of good offices.

VON TRESCKOW

723.2515/2060 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *March 27, 1926—10 a. m.*

For Lassiter. Message from Ambassador Collier indicates that Chile is now hesitating about accepting good offices. Under the circumstances it is imperative that you go ahead with registration today, if possible; if not, be prepared to continue at any moment. We shall keep you informed. I am still hopeful that our good offices will be accepted.

KELLOGG

723.2515/2060 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *March 27, 1926—10 a. m.*

32. Your No. 45, March 26, noon, was complete surprise to me, as Chile has indicated through you again and again that she desired a settlement outside plebiscite and we have no fewer than three unqualified acceptances of good offices as tendered by this Government, the latest on March 16. Of course, I appreciate that acceptances are revocable, but revocation of acceptance of good offices at this time by Chile would discourage any future efforts and would probably make reaching of any adjustment impossible. It is not possible to carry on within 15 days the negotiations which are to settle a dispute of 41 years' duration.

I shall notify Lassiter at once that agreement for acceptance of good offices is not yet complete, as I had supposed it to be. It is improbable that he is prepared to go ahead today with registration.

Chile must understand, of course, that Lassiter has gone ahead with matter with great reluctance, as he has abundant evidence that Chilean authorities have failed to maintain conditions conducive to fair election, and that the Commission is likely at any time to so declare. In view of what you quoted from Mathieu in your No. 40, March 22, 3 p. m., I do not understand his attitude now. We have followed his suggestions exactly. Under the circumstances, we had better have answer of Chilean Government in writing at earliest moment possible.

KELLOGG

723.2515/2067 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, March 27, 1926—noon.

[Received 3:23 p. m.]

From Lassiter. As Peru is not participating in the registration and another impasse has been reached, I think that, even in light of stand I have taken in last three days, I should be justified in saying that I do not believe that there is any hope of acceptable solution of this problem through a plebiscite and that, with a view to terminating plebiscite and to facilitating good offices, I am willing to vote for resolution suggested in my telegram of March 21, 6 p. m. . . .

Lassiter
VON TRESCKOW

723.2515/2072 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, March 27, 1926—3 p. m.

[Received 6:45 p. m.]

From Lassiter. Situation simply cannot be allowed to drift as you suggest in your telegram of March 27, 10 a. m. Registration is now under way without Peru's participation. She asserts she is obeying request of United States for suspension of plebiscite and that all registration now taking place is void. Chile is proceeding regularly to register her voters, and every day that we allow this farce to continue the more right will she have to protest against our inconsistent course should we later on put blame on her.

It is obvious that for present good offices are dead. Thing to do now is to liquidate this situation before we become entangled in worse embarrassment. Steps of program I propose are as follows:

- (1) You to cable Peru to notify Freyre that request to participate in suspension of plebiscite is annulled;
- (2) I to offer Freyre choice of proposing his own motion to terminate plebiscite, or else either to proceed with registration or to withdraw; I am sure that Freyre is entitled to have his choice and should not now be forced to withdraw.

Unless you carry out part (1) of this program there is absolute deadlock here, for I do not think that Freyre will budge as long as he is able to quote our request for suspension. Chile will steadily proceed with registration, of course.

I want to consult Freyre on this suggested program not later than morning of March 29, so that action can be taken that afternoon. Haste is necessary, I can assure you, and only possible way out of present most distressing dilemma is to terminate the plebiscite at once.

Please notify me of your instructions to Lima, so that I shall be able surely to arrange for meeting of the Commission on March 29.³⁷

Lassiter
VON TRESCKOW

723.2515/2065 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *March 27, 1926—4 p. m.*

For Lassiter. Your telegram of March 27, 8 a. m., has been received and shown to the Arbitrator, who is at all times kept fully informed. It is obviously impossible for him to terminate plebiscitary proceedings on his own initiative as you request. Position Chile is adopting at this moment seems to be based on misunderstanding which I am endeavoring to clear up. I have not yet received definite reply from Santiago, and have just been advised that Chile's reply to my latest memorandum may not be received before next week.

Chile has stated that she considers her acceptance of good offices to be binding and the only question for determination is over suspension of the plebiscitary proceedings during negotiations. I am certain that this difficulty can and will be overcome. In the meantime we have no choice but to go ahead with registration even though Peru, for the time being, declines to participate. Any other course of action would be misunderstood and would be construed by Chile as abandonment of plebiscite.

As far as Peru is concerned, if effort to exercise good offices ultimately breaks down, the Commission could extend the period for registration so that her interests therein would not be prejudiced by continuance of registration during next few days without her participation. Neither Arbitrator nor anyone representing him can undertake to terminate plebiscite at this juncture. Only thing to do is to go on with the registration until both parties to the plebiscite agree upon suspension of proceedings as contemplated by offer of good offices.

KELLOGG

³⁷ At 8 p. m., Mar. 27, the Secretary telegraphed General Lassiter that the Secretary's telegram of 6 p. m., Mar. 27, was a complete answer to this telegram; see p. 358.

723.2515/2063 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *March 27, 1926—5 p. m.*

35. Your No. 47, March 26, 11 p.m. As Chile deems her acceptance of good offices to be binding, only question over which there is misunderstanding is suspension of the plebiscitary proceedings during negotiations. Apparently the distinction between such suspension as is contemplated by terms of offer of good offices and a postponement or termination for plebiscite needs emphasis. General arrangement for plebiscite should not be disturbed or impaired, but execution of plans which have been formulated by the Plebiscitary Commission can and should be held in abeyance during proposed negotiation; this can be done without in any way prejudicing resumption of plebiscitary operations if and whenever it shall appear that negotiations can not reach satisfactory conclusion.

It is manifestly impracticable to carry on negotiations and at same time have plebiscitary activities proceeding with the attendant risks of complications and disorders which would aggravate whole situation. I can perceive little hope for successful negotiations on any other phase. Chile's acceptance embodied in her memorandum of February 19 was based on her understanding that the proceedings or steps taken in exercise of the good offices offered in my memorandum would not impede the plebiscitary proceedings provided in the arbitral award. I have understood this to be an unqualified acceptance of offer of good offices in accordance with terms and spirit in which it was made, and the intimation you now convey that Chile thinks she made an express reservation that plebiscitary activities should continue during the negotiations comes as a distinct surprise. I am unable to believe that Chile, on reflection, will insist upon a reservation or condition which qualifies her acceptance in such a way as to render it wholly illusory.

If any part of correspondence with Chile in regard to good offices is published, I think that entire correspondence with her on that subject should be given out, and for that reason I shall furnish it to the press.

KELLOGG

723.2515/2067 : Telegram

*The Secretary of State to the Consul at Arica (Von Tresckow)*WASHINGTON, *March 27, 1926—6 p. m.*

For Lassiter. Your March 27, noon. Our proposition to Chile for good offices, which was accepted, is as follows: "I am instructed by the

Secretary of State to inquire whether the Government of Chile would be disposed to avail itself of the good offices of the United States in an endeavor to arrive at a friendly adjustment of the existing differences with Peru concerning the provinces of Tacna and Arica, it being understood that pending the consideration of any adjustment other than by the celebration of a plebiscite the authority of the Plebiscitary Commission and the general arrangement made by it for the holding of a plebiscite under the terms of the award shall be maintained unimpaired." In Chile's reply she stated that she accepted the good offices "with the understanding that the proceedings or steps taken in the exercise of such good offices will not impede the plebiscitary proceedings, as was set forth in the memorandum which Your Excellency was good enough to deliver to me". Chile claims we have no right under this to suspend the proceedings without her consent and I think there is very serious question whether we have such a right. In any event, the abandonment of the plebiscite at this time and the failure to continue with the registration will cause us the utmost embarrassment and is liable to prove prejudicial to all plans for settlement under consideration. It is clear under the Award that a majority of each registration board may act and that one side withdrawing cannot prevent the board from functioning. Have shown your last message March 27, Noon, to the Arbitrator and it is his desire that you should go ahead with the registration at present and if necessary he will make an order to that effect. I hope you will not oblige him to do so.

KELLOGG

723.2515/2070 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, March 27, 1926—6 p. m.

[Received March 28—12:10 a. m.]

48. I have just received a memorandum from the Minister of Foreign Affairs of which the following is a translation:

"The Minister for Foreign Affairs has received the memorandum of His Excellency the Ambassador of the United States dated March 26th,³⁸ in which under instructions from the Secretary of State he communicates the acceptance on the part of the Government of Peru of the good offices of the United States, already accepted by the Government of Chile, for the friendly arrangement of differences pending between the two countries.

In this situation Your Excellency suggests, under instructions from your Government, the Plebiscitary Commission immediately adopt a resolution calculated to agree upon a suspension of the plebiscitary proceedings without prejudice of renewing them if later it

³⁸ See telegram No. 30, Mar. 25, to the Ambassador in Chile, p. 350.

should appear that the differences between the two countries are not susceptible of being solved by an arrangement other than that of the plebiscite, and upon the basis that the authority of the Plebiscitary Commission and the general arrangement made by it for the holding of the plebiscite, shall be maintained without alteration.

Your Excellency terminates by saying that the Secretary of State desires to know if the Government of Chile would be disposed to instruct its delegate in Arica to cooperate in the adoption of such resolution and if it will authorize some representative to participate in Washington with representative similarly authorized by the Government of Peru in the said exercise of good offices.

In reply to this memorandum, the Government of Chile takes pleasure in seeing the good offices of the Government of the United States accepted and its (Chile's) sincere desire to seek a friendly arrangement for the pending differences recognized.

The Government of Chile reiterates on this occasion its support manifested in its memorandum of February 19th, to accept the good offices offered 'with the understanding that the proceedings to which they may give place will not impede, as set forth in the memorandum which Your Excellency has been pleased to deliver to me, the plebiscitary proceedings'; and, with that understanding, will immediately give instructions to its Ambassador in Washington that he participate, upon conditions expressed by Your Excellency, of [*in?*] the corresponding negotiations.

The Government of Chile keenly deplors that it is not in condition to accept the suggestion to suspend immediately the plebiscitary proceedings, especially since that would signify a return to the situation uncertain and full of peril to which an end was put by the recent resolution of the Plebiscitary Commission; and it is certain that the prosecution of those proceedings, which in no way can prejudice the exercise of good offices, will favor a solution which, once reached, even in principle, will indicate the hour for considering without the inconveniences which in this moment exist, the suggestion which Your Excellency has been pleased to transmit. Santiago, March 27th, 1926."

The words within quotation marks are new and possibly more literal translation of exactly the same Spanish words as appeared in the text of the memorandum of the Minister for Foreign Affairs dated February 19th,³⁹ which I assume you have received by this time. The Spanish text of the memorandum which I am now telegraphing to you, as well as of the memorandum received on March 16th, will go to you in the next pouch due at Washington about April 20th.

COLLIER

³⁹ See telegram No. 22, Feb. 19, from the Ambassador in Chile, p. 305.

723.2515/2073 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, March 27, 1926—8 p. m.

[Received March 28—12:10 a. m.]

36. I received this evening a note from the Minister for Foreign Affairs which, after reciting the contents of your memorandum of March 25, 6 p. m., states as follows:

"In reply, I am pleased to state to Your Excellency, with the request that you be kind enough to transmit the same to the Secretary of State, that, in agreement with the President of the Republic, I have already issued to the delegate of Peru on the Plebiscitary Commission at Arica the necessary authorization and instructions to cooperate in the immediate suspension of the preliminary proceedings of the plebiscite which, however, shall remain unaltered as in the case of the authority of the Commission; and that my Government is disposed to accredit representatives in Washington to enter with those of Chile into the negotiations that may be suggested by the Secretary of State, or that may be suggested through his estimable mediation."

POINDEXTER

723.2515/2069 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, March 28, 1926—3 p. m.

[Received 6:30 p. m.]

50. [Paraphrase.] Like you, I had never thought that Chile's acceptance of good offices meant that there should be no suspension of plebiscitary activities. Until day before yesterday there was nothing in my conversations with the Foreign Office to give me any such impression. I had supposed that terms used in your memorandum and in Chilean replies meant merely that authority of Plebiscitary Commission and general arrangements were to remain unaffected. I am not prepared to say, however, that Chile is showing bad faith. It may be honest difference of interpretation and of opinion over best way to make the good offices effective.

Today's papers report official instructions and public sentiment which make plain how extremely difficult and probably impossible it will be to get Chile to consent to postponement, but I will do all I can to obtain consent. In the meantime, I urge most strongly that until this misunderstanding is cleared up, or until an arrangement is made, or unless there is disorder or gross fraud in the registration, the registration be not interrupted, and that there be no failure to

execute program adopted last Thursday by the Commission. Otherwise we shall be charged with bad faith and inconsistency by Chile who will probably assert that we have abandoned plebiscitary proceedings and she will act on this assumption. She will be sustained by a great body of South American opinion. [End paraphrase.]

Peruvian refusal to register yesterday has in the opinion of Chile furnished concrete evidence to support its reiterated declaration that Peru because of lack of votes would never attend the plebiscite and that it sought merely to delay and evade.

I shall endeavor to see Mathieu at once and if I can not find him today will certainly see him tomorrow morning. [Paraphrase.] I will impress strongly on Minister for Foreign Affairs the views expressed by you in your telegram No. 35, March 27, 5 p. m., and in most tactful but forceful way point out perils of situation for Chile as indicated in your No. 32, March 27, 10 a. m. [End paraphrase.]

COLLIER

723.2515/2076 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *March 29, 1926—1 p. m.*

30. Both Chile and Peru have now accepted this Government's good offices. Original offer, which has never been modified, embodied express understanding⁴⁰ "that pending the consideration of any adjustment other than by the celebration of a plebiscite the authority of the Plebiscitary Commission and the general arrangement made by it for the holding of a plebiscite under the terms of the award shall be maintained unimpaired." The present difficulty arises from the different interpretations the two parties give to this construction. Peru's construction is that it imposes an immediate suspension of all plebiscitary proceedings including registration. Chile's construction is precisely the opposite; that is, it guarantees that all proceedings, including registration, shall continue. Neither interpretation corresponds to the true intent and purpose of the offer which was, as it states, to the effect that Commission's authority and the general arrangement for holding plebiscite should be maintained unimpaired so that it might be held should the negotiations prove fruitless. Nothing was said in the offer about suspension of plebiscitary activities, the Secretary of State having assumed that the proceedings in the plebiscitary area would, in event of acceptance of good offices, readily be adjustable to needs of the new situation by agreement on part of Chile

⁴⁰ Quoted passage not paraphrased.

and Peru. This agreement to be carried out through proper instructions to be given by Governments of Chile and Peru to their respective delegates on the Commission.

Accordingly, after receipt of acceptance of good offices, the Secretary of State suggested to both Governments that they issue appropriate instructions to their respective delegates looking to suspension of proceedings during the negotiations. It will be appreciated, therefore, that the only question remaining open now is whether, all things being taken into consideration, the plebiscitary activities now under way, including registration, should not be held in abeyance, pursuant to suggestion of the Secretary of State, during the negotiations.

As such suspension was not imposed by the offer of good offices and by its acceptance, it is clear that registration should proceed until some definite agreement is reached on the matter.

The Chilean Minister for Foreign Affairs has met with difficulty in reconciling Chilean public opinion to an immediate suspension of plebiscitary proceedings; but I am hopeful that this problem, which, after all is only incidental to main object with which all of us are concerned, will be solved within a few days to satisfaction of everyone. In meantime, you will please impress upon President Leguía and the Peruvian Minister for Foreign Affairs importance of taking no measures which could aggravate the situation and be of embarrassment to me in my efforts to bring about complete agreement regarding suspension. The direction the Peruvian Government gave to its member of the Commission to agree to suspension was, to that extent, a gratifying compliance with suggestion I made; but I am informed that Mr. Freyre has, in addition, ordered Peruvian members on the registration boards to withdraw and has refused to take part in registration proceedings. I presume that this action was taken on mistaken idea that offer of good offices and the acceptance imposed suspension of registration; in reality, as I have pointed out, a suspension can be effected only by agreement of the parties registered by Commission itself. Until agreement to that end is reached and a suspension can be authoritatively provided for, Peru's refusal to participate in the registration interjects a new complication, seriousness of which I trust you will be able to obtain President Leguía's cooperation, and that of Minister for Foreign Affairs, to minimize as far as possible.

Latest information from Chile is that I cannot expect a decision in matter before March 31, although Chilean Government has already authorized its Ambassador here to represent it in negotiations, contemplated by exercise of good offices. Peru has not yet definitely taken same step, although I note that she is disposed similarly to designate her Ambassador.

In my opinion, you would do well to discuss present situation fully and with candor with both President Leguía and Minister for Foreign Affairs, and following your discussions I should be glad to have your report promptly.

KELLOGG

723.2515/2076 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, March 29, 1926—4 p. m.

36. This morning I received a telegram from General Lassiter⁴¹ giving substance of letter presented to him by Claro in which position is taken that Chile's acceptance of good offices was accompanied by condition that plebiscitary proceedings should not be suspended during negotiations; that neither Plebiscitary Commission nor Arbitrator has power to direct a suspension, which can be brought about only by unanimous vote. I do not wish to express any opinion at this time on the technical correctness of this position; however, I desire to emphasize the most prominent features of existing situation as follows:

[Here follows text of the first paragraph of telegram No. 30, March 29, 1 p. m., to the Ambassador in Peru, *supra*.]

I have already expressed the same views, in identical terms, to Peru. I feel that offer and acceptance of good offices has lifted this whole matter to distinctly higher plane, and that it is now desirable for all of us to take broadest possible view of problem, ignoring, as far as we can, technical considerations. Fully appreciating the difficulties faced by the Minister for Foreign Affairs, I again express the earnest hope that he will find a way to agree to suspension of plebiscitary activities during the forthcoming negotiations.

KELLOGG

723.2515/2076 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, March 29, 1926—7 p. m.

For Lassiter. I have telegraphed today to Ambassador Collier as follows:

[Here follows text of telegram No. 36, March 29, 4 p. m., to the Ambassador in Chile, *supra*.]

⁴¹ Telegram not printed.

I have also transmitted a similar analysis of situation to Ambassador Poindexter. I wish to reiterate the point that best and perhaps only hope of settlement by negotiation lies in maintaining situation for the present just as it is. I am convinced that we are serving real interests of all the parties concerned by holding both Governments firmly to their responsibilities for the present situation and by maintaining intact the conditions conducive to a resort to negotiations, and not by taking any other course which would lead to terminating the plebiscite with almost certain result that door to negotiations would be closed and controversy perpetuated.

KELLOGG

723.2515/2081 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, March 30, 1926—4 p. m.

[Received 9:05 p. m.]

38. Your No. 30, March 29, 1 p. m. I have talked at length with the President on the matter. He seems to be sincerely disposed to cooperate with you in good faith. Freyre's disinclination to proceed with registration of voters is based primarily upon Peruvian assertion that conditions in the provinces are such that it is impossible to go on with the plebiscitary activities without suffering and loss of life, and that acceptance of good offices of the United States for settlement by direct negotiations is preferable. I told President that you were anxious that Peru should not delay in appointing her representative at Washington in the proceedings under your good offices. President Leguía agreed to inform you at once but said that he desired to submit nomination of Peruvian representative to Congress for its approval. He has practically decided to send Freyre as Peruvian Plenipotentiary. President Leguía remarked that Freyre's appointment would be confirmed as soon as definite understanding was reached on suspension of plebiscitary proceedings. I also saw Minister for Foreign Affairs and told him you wished to proceed in exercise of good offices as promptly as possible, and urged upon him desirability of prompt action in appointment of Peruvian Plenipotentiary. The Minister assured me that Peru would not delay action in this matter.

POINDEXTER

723.2515/2081 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *March 31, 1926—1 p. m.*

31. Your No. 38, March 30, 4 p.m. Position taken by Peru at this juncture I deem not only against her own best interests, but if persisted in may, indeed, defeat all efforts to settle this controversy either by exercise of good offices or by a plebiscite. Let me place situation before you as I see it:

1. Question of suspension of plebiscitary proceedings in order to permit exercise of good offices under favorable conditions is one with which Plebiscitary Commission cannot properly concern itself. Commission has no authority to suspend proceedings for that reason. If it can suspend at all, it can do so only for reasons directly connected with holding of the plebiscite it is committed to conduct. In the circumstances now existing, suspension of plebiscitary proceedings can properly be brought about only by agreement with Chile and Peru in same manner as was agreement for a diplomatic settlement by resort to good offices.

2. Persistence on part of Peru in declining to participate in registration in absence both of any agreement for suspension and of any order made by Plebiscitary Commission in proper exercise of its power and authority will be equivalent to a withdrawal from the proceedings which are being taken pursuant to Arbitrator's award; Peru should realize that a withdrawal under these conditions may place her in position of rejecting the award and of defeating execution of article III of Treaty of Ancon which provides for a plebiscite. Peru would be taking this action without legal justification and entirely upon her own motion, for there is no official determination that plebiscite cannot and should not be held.

3. By this situation Peru is making it possible for Chile to contend that the former, having abandoned the proceedings on her own initiative, has given up her legal right to a plebiscite and, in consequence, to the territory in dispute. Chile will also contend, no doubt, that Peru is acting in bad faith, as she declines to participate in registration, notwithstanding Commission's order to continue, and now proposes to withdraw her Commissioner and to send him to Washington, in this way emphasizing her disposition to enforce abandonment of plebiscite without legal justification.

4. My efforts to have Chile accept suggestion of suspension of plebiscitary proceedings during negotiations here are being seriously embarrassed by failure of Peru to maintain attitude of cooperation both with me and with chairman of the Plebiscitary Commission to

maintain unimpaired plebiscitary process until some agreement on suspension can be reached. I hope you can impress upon President Leguía and upon Minister for Foreign Affairs great importance of cooperation, such as avoiding action which can be construed as withdrawal or as giving Chile opportunity to bring charges of bad faith. It is clear that registration must continue until an agreement is reached, and Peru's participating in it for the present is best evidence she can offer of her sincere desire to promote a settlement.

KELLOGG

723.2515/2084a : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, April 1, 1926—10 a.m.

For Lassiter.

(1) Current press reports state that Peruvian voters who were sent into the plebiscitary territory a few weeks ago to register are now being sent out without their having been registered. I have understood that five or six hundred Peruvian voters have for several weeks been encamped near Arica. I should like to be advised of reasons given by Peruvian delegate for removal of these candidates for registration if they are now being removed. It is also our understanding that there are hundreds of other voters in the territory who have not yet tried to register. Inquiry made to Ambassador Velarde and his counsel for reason for this nonregistration has failed to elicit any satisfactory answer. Please report fully.

(2) I have also been informed that President Leguía is thinking of sending Freyre here as Peruvian Plenipotentiary; if this were realized, negotiations would be delayed for at least four weeks more.

KELLOGG

723.2515/2088 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Extract]

LIMA, April 1, 1926—6 p.m.

[Received April 2—8:43 a.m.]

40. [Paraphrase.] Your No. 31, March 31, 1 p.m. I have just seen President Leguía and conveyed to him the sense of your message. He gave most careful and deliberate attention and thought to the statement, and seemed, for the first time since I have been conferring with him on this matter, almost overcome by difficulties and burdens of the problem, and, as he said, by the sudden disappointment in devel-

opment of the situation just when he was feeling measure of relief at what appeared to be some hope of solution. He said Peru could not accept responsibility for situation which has come about or for failure of plebiscite or of good offices, if that should follow. He had assumed that you had come to conclusion that it was not practicable to continue with plebiscite and that you had thereupon intervened with offer of good offices, to replace in that way proceedings under the award which situation rendered impossible. Immediately after he had accepted your offer of good offices, he said, he had received your message of March 25 asking Government of Peru to instruct Freyre to cooperate in bringing about a suspension of the registration.⁴² Accordingly, instructions to that end had been given at once, and he appeared deeply moved and saddened that he was now seemingly condemned for his action, after having given these instructions at your request.

. . . He said that he had accepted your offer of good offices notwithstanding failure to concede conditions which he had urged, in the hope that some just settlement nevertheless might be found. He seemed quite overcome by fact that in this he was to be disappointed and that blame was to be put on Peru. The entire burden of the problem, he said, rested on him personally, and it was only through his determination that Peru's delegation had remained in Arica as long as it had. . . . He also said that he could not understand your statement that the Commission lacks authority to suspend the plebiscitary proceedings, as the terms of the award expressly give the Commission this authority. I made the following explanation: [End paraphrase.]

That my understanding of your statement was that the Plebiscitary Commission had no authority to suspend or postpone the plebiscitary proceedings merely on account of the acceptance of good offices and that I did not understand it to deprive the Commission of the authority to carry out the terms of the award in the discretion of the Commission. The President stated that General Lassiter had stated to the Peruvian delegate that he could not act in the matter without instructions from Washington and that he had received no instructions. I explained to the President that, as I understood the situation, it was that in your desire if possible to bring about a lasting settlement of the controversy, you did not desire to make a final breach with either party which would close the door to further negotiations and so, upon a failure of the plebiscite as well, leave matters unsettled, and that perhaps for that reason the Commission had been as lenient as it had been with Chile. I told the President that I did not understand that you intended in any way to blame him or Peru for any action which they had taken in the past, but that in view of the new situation which

⁴² See telegram No. 27, Mar. 25, to the Ambassador in Peru, p. 351.

had developed and of your earnest desire to be of service to both parties and to bring about a final settlement of the dispute, you were appealing to him to cooperate with you with that end in view; and I suggested to the President that he cable to Mr. Freyre to have a frank consultation with General Lassiter about the entire matter from all angles with a view to cooperating towards that end. The President stated that he would do so, but reiterated that unless protection were given to Peruvian voters and the terror which reigns in the provinces were stopped it would be impossible for them to participate in the plebiscite; and referred again to the findings on this question which had been made by the American advisers on the ground.

He said that in addition to this the whole morale and spirit of the Peruvian delegation had been broken by the offer and acceptance of good offices and the general assumption in Arica that this meant that the plebiscite would not be carried through.

POINDEXTER

723.2515/2088a : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

WASHINGTON, April 1, 1926—7 p. m.

For Lassiter. As the result of communications which I have had with the two governments, I am submitting the following concrete program for the approval of both Peru and Chile: ⁴³

“In conformity with the offer of good offices and mediation by the United States and the acceptance thereof by Peru and Chile, the Secretary of State hereby submits for the approval of both Peru and Chile the following program:

First. That the Governments of Peru and Chile designate immediately their respective plenipotentiaries to meet with the Secretary of State in Washington not later than the 6th day of April, 1926.

Second. That the Secretary of State submit to the said plenipotentiaries for their consideration a concrete basis or bases of adjustment.

Third. That immediately upon the acceptance in principle by the parties of a basis of adjustment so submitted the plebiscitary proceedings be suspended for such term as may be necessary in order to determine whether an agreement can be reached. The Secretary of State desires me to inquire whether the foregoing program is approved by the Government of Peru.”

If this program is accepted I have reason to believe that an arrangement for suspension of the plebiscitary proceedings may be made effective during the coming week.

KELLOGG

⁴³ Telegrams No. 37 to Chile and No. 32 to Peru, Apr. 1, 7 p. m.; neither printed.

723.2515/2087: Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, *April 1, 1926—midnight.*

[Received April 2—8:43 a. m.]

From Lassiter. Your telegram April 1, 10 a. m. I have cabled you several times (see my cables of March 27) that Peru is not taking any part in the registration proceedings. On the first day of registration, March 27, Peruvian members of registration boards were withdrawn, and no Peruvians are registering. The reasons given by Freyre are that he is observing the undertaking of the Government of Peru that during the consideration of any adjustment other than celebration of a plebiscite, the plebiscitary proceedings should be suspended. Peru's failure to participate in registration is not on ground that conditions are unsuitable but that she is complying with request of our Government to cooperate in suspending plebiscitary proceedings during negotiations under good offices. Peru is now awaiting next move from Department of State, and Freyre says that they will withdraw if complete suspension is not granted. Indications here are very convincing that Chilean Government has absolutely no intention of suspending proceedings and as Chilean and American members of the registration boards are functioning, Chilean voters are being registered at rate of 200 a day. Lassiter.

VON TRESCKOW

723.2515/2088c supp.: Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *April 2, 1926—5 p. m.*

33. I am most anxious that there should be no risk of misunderstanding or of misinterpretation of memorandum quoted in my No. 32, April 1, 7 p. m.⁴⁴ I want you to know that chief idea in submitting this program is to afford Chile and Peru full opportunity to take immediate advantage of mediation and good offices, in confident hope and expectation on my part that if they do, it will then be possible to find basis of adjustment which for purposes of discussion could be approved in principle. It is not my idea to bind either the one or the other, or both, by a rigid formula or basis submitted by me. Basis for discussion adopted in principle might well be a modification of my proposals or it might be a suggestion by the parties themselves.

Point of whole matter is that, as soon as some basis of discussion which the parties can approve in principle has been established, door

⁴⁴ Not printed; see telegram of the same date to the consul at Arica, p. 369.

would be open for immediate suspension of plebiscitary proceedings and for prosecution of negotiations to their logical conclusion.

Your No. 40, April 1, 6 p. m., indicates that President Leguía rests under some misapprehension about my attitude which I fully expressed in my No. 31, March 31. I hope you can make clear to him that this question of suspension of the plebiscite while negotiations are taking place can be brought about only by agreement between the parties. I have no way to impose this condition upon them, nor do I believe that the Plebiscitary Commission can do anything regarding it except to record agreement of the parties on this matter, if one is reached.

KELLOGG

723.2515/2094 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, April 3, 1926—4 p. m.

[Received 7:18 p. m.]

58. I have just received a memorandum, of which following is translation: ⁴⁵

“The Minister of Foreign Affairs of Chile has the honor of expressing his conformity with the three points of the plan proposed by the Secretary of State for the development of the proceeding by good offices to which reference is made in the memorandum of His Excellency Mr. Collier, dated April 2; and he takes pleasure in adding that the Chilean Ambassador in Washington is duly instructed to participate in said proceedings. Santiago, April 3, 1926.”

I am reliably informed that Chile will be reluctant to accept any solution of the problem except partition of the territory, and that the Minister for Foreign Affairs believes that the plan proposed by Edwards for a neutralized state will result in future discord between the three nations which would adjoin it and might possibly lead to war.

COLLIER

723.2515/2095 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, April 4, 1926—5 p. m.

[Received April 5—9:33 a. m.]

44. Your 32, April 1, 7 p. m.⁴⁶ I have just received from the President a memorandum in Spanish of which the following is a translation:

“Memorandum. The Government of Peru in like manner approves the program which the Secretary of State recently submitted by the intermedium of the Embassy of the United States in Lima in execu-

⁴⁵ Text of memorandum not paraphrased.

⁴⁶ See footnote 43, p. 369.

tion of the good offices and of the mediation offered and which the Peruvian Government has already accepted. In harmony with that program:

First. The Government of Peru has named as Plenipotentiary *ad hoc* the Ambassador of the Republic in Washington, Dr. Don Hernán Velarde, who will receive the authorization and instructions necessary to meet not later than Tuesday the 6th of the present month with the Secretary of State and the Plenipotentiary who may be named by the Government of Chile;

Second. The Secretary of State will submit to the said Plenipotentiaries for study the base or bases of adjustment;

Third. Upon the acceptance by the parties in principle of the bases of adjustment which may be submitted, the plebiscitary proceedings will be suspended for the time which may be necessary to see if an adjustment can be reached without this agreement being interpreted as a modification in any respect of the attitude assumed by Peru in harmony with the existing situation. Lima, April 4, 1926."

POINDEXTER

723.2515/2100 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract]

SANTIAGO, April 6, 1926—11 a. m.

[Received 4:30 p. m.]

60. Minister for Foreign Affairs gave following statement to press yesterday:

"The proceeding under good offices is limited to the differences between Chile and Peru. The matter of reaching a friendly arrangement with Bolivia is the subject of satisfactory conversations between the Government of Bolivia and the Chilean Minister at La Paz."

[Paraphrase.] I do not believe that Minister for Foreign Affairs has changed views attributed to him in my No. 53, March 30,⁴⁷ and that he and a great majority think that the cession of both Tacna and Arica to Bolivia is the really just and proper settlement. Position of Minister for Foreign Affairs and others is due to their desire that Chile by subsequent direct negotiations shall obtain material compensation and, even more, that by gratifying Bolivia's aspirations she may win her thanks and her friendship. Same motive explains in part why Minister objects to plan for neutralization of the territory. [End paraphrase.]

COLLIER

⁴⁷ Not printed.

723.2515/2103c : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

WASHINGTON, April 6, 1926—7 p. m.

For Lassiter. The first meeting with the Ambassadors of Peru and Chile acting as plenipotentiaries of their respective Governments took place here this afternoon. After the usual preliminary addresses I made a formal statement to the parties, the essential portion of which was as follows:

“The Secretary of State now has the honor to suggest to the Plenipotentiaries of the two Governments concerned:

A. That both Governments accept in principle as a basis of adjustment of their differences concerning the provinces of Tacna and Arica, reserving all details for consideration in the course of the ensuing negotiations, an equitable division between them of the territory in dispute;

B. That upon the acceptance of such basis in principle, the plebiscitary proceedings be forthwith suspended for such term as may be necessary in order to determine whether an agreement can be reached.

The Secretary of State in making these suggestions fully appreciates that the ensuing negotiations, having as their purpose a permanent settlement of these differences, may take a wide range and that, consequently, the acceptance at this time in principle of the basis proposed should not be regarded as precluding the parties, or either of them, or the Secretary of State himself, from bringing forward for consideration other bases of adjustment as the negotiations proceed. Entire liberty of action in this respect should be deemed to be reserved by the participants in the negotiations. The Secretary of State would suggest that the parties agree on a definite term of suspension of the plebiscitary proceedings in the first instance, subject to extension if later deemed appropriate.”

The foregoing statement has not been made public.

The Peruvian Ambassador thereupon stated that his instructions required him to transmit my suggested basis to his Government for its consideration and further instructions. The Chilean Ambassador indicated that he was ready to discuss the basis suggested by me, but did not think he ought to do so until the Peruvian Ambassador had received instructions adequate to permit him to proceed. Accordingly an adjournment of the conference was taken until Thursday morning, April 8th at 10 o'clock.

I have received your April 5, 6 p. m.⁴⁸ and am inclined to agree with your view that neither party can construe the record as calling for the election on April 30. I shall communicate further as soon as we have had opportunity to examine the regulations.

KELLOGG

⁴⁸ Not printed.

723.2515/2118 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Extract—Paraphrase]

WASHINGTON, April 10, 1926—11 a. m.

For Lassiter. At request of Plenipotentiaries of both Chile and Peru, the conference called for this afternoon has been adjourned until 10 a. m., Monday, April 12, to give them ample time to consult their Governments. . . .

I realize that time is running on and that we are approaching expiration of period now set for registration; we must consider question of a failure to settle upon and formulate a plan for future proceedings. If Commission should extend time for registration so as to allow full 30 days to Peru, would she go on and register her votes? Peru has, it seems to me, greatly weakened her position by not attempting to register the voters who were in the territory and ready for registration, and not sending in the others she had ready, and also that it was a mistake not to attend registration proceedings and challenge any votes to which she might object. Is Peru still in position where she could examine registration records and make challenges? Please cable your views.

KELLOGG

723.2515/2118 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 10, 1926—2 p. m.

43. I have received following message this morning from General Lassiter: ⁴⁹

Edwards has returned as Chilean Commissioner. He takes the very strong stand that the Washington negotiations will reach no solution, that political conditions in Chile and Peru prevent their agreeing on any common plan, that Chile will surely win plebiscite and that then she will consider doing something for Bolivia and perhaps for Peru, and that everything depends upon completion of the plebiscite. Chileans are enrolling large number of registrants, as practically all who apply are accepted for lack of well-informed Peruvian opposition and challenge; the Chileans will point to these figures to show that their strength in the community is heavily preponderant, and that the province, therefore, must be theirs. Edwards, therefore, says that they fought for it, won it, and that it is theirs. At banquet last night in honor of Edwards and Claro, both men made speeches to effect that it was desire of Government of Chile to carry plebiscite through to

⁴⁹ Telegram of Apr. 9, 2 p. m.

conclusion; that the award required this to be done; that Chile's triumph was certain; and that this involved definite incorporation of Tacna and Arica in Republic of Chile.

Following is report of my subsequent conversation with Ambassador Cruchaga:

I told the Ambassador that I was astonished at Edwards' statement; that it was Edwards who first proposed an adjustment outside the plebiscite, that he had frequently urged it on General Pershing, and that Chilean Government had from time to time suggested it through the American Ambassador in Chile. Furthermore, just as General Pershing was leaving Arica, Edwards definitely proposed to him that territory be neutralized; Pershing made written statement in pencil of proposition, showed it to Edwards, and latter approved it; Edwards had frequently made statements of the same sort to Mr. Stabler, the secretary general of the Commission and member of the American delegation; and if Edwards or Government of Chile had any idea that either the American Commissioner or the President [*Arbitrator?*] would permit them to proceed with a one-sided registration and end it there and sustain such an election as would follow, they were entirely mistaken. Every opportunity would be given to Peru to register if she wished, her rights would be protected, and any such election as is now proposed would, if held, most certainly be set aside.

The Chilean Ambassador expressed his great disappointment and astonishment at position Edwards has taken and said that he was urging Chilean Government to make a definite proposition.

Both Chilean and Peruvian Plenipotentiaries have requested adjournment of conference until April 12 (Monday), at 10 a. m., stating that they wished to consult their respective Governments, and hoped to be ready then to make counterpropositions. Ambassador Cruchaga intimated to me that he expected that some proposition which would include Bolivia would be submitted.

KELLOGG

723.2515/2120 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 11, 1926—1 p. m.

44. Any assumption that negotiations have developed to a stage where no settlement can be made is wholly without foundation. Only one proposition has been submitted. This has been rejected by Peru, but both parties have intimated strongly that on Monday they would suggest counterpropositions and have asked for adjournment for the purpose. If neither brings forward any suggestion, I shall myself certainly make further suggestions, for I propose to exhaust

every possibility of a settlement before I permit these negotiations to fail. My statement to Ambassador Cruchaga yesterday was deliberate and was intended to convey my emphatic opinion that any scheme such as Edwards is now proposing can not be tolerated.

Do not deliver any note on this subject, but position I have expressed should be made clear to Mathieu. In trying to put through a one-sided plebiscite which could not be recognized by world opinion as having settled anything, Chile is taking great risks.

KELLOGG

723.2515/2124 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract—Paraphrase]

SANTIAGO, April 11, 1926—1 p. m.

[Received April 12—6:18 a. m.]

67. . . . If idea of equitable solution must be given up definitely, would it not be wise course at meeting tomorrow of Plenipotentiaries to suggest formula substantially as follows:

In view of unwillingness of parties to make an equitable division of the territory, the mediator suggests that in interest of international peace and cordial *rapprochement* between them, they consider advisability of mutual and joint sacrifice in form either of grant of independent nationality to the inhabitants or of cession to Bolivia, in fulfillment of assurances made repeatedly and publicly since commencement of the plebiscitary proceedings by spokesmen of both countries that Bolivian aspirations for a port on the Pacific would be considered sympathetically.

I think it highly desirable that proposition be presented in an alternative form, for in that way you will gain time and be able to have both plans considered. Otherwise, rejection of another separate proposition tomorrow may cause Chile to declare that good offices are no longer desired; furthermore, if matter is presented in alternative form, discussion here may follow and opportunity be given for expression of the powerful opinion which favors a cession to Bolivia. I am told by former Prime Minister Mardones that he favors Edwards' plan and thinks that it may be accepted when better understood, but I am very doubtful. I think it should be brought up, however, and should be presented either first or along with cession plan, for criticism of it that is sure to follow will strengthen sentiment in favor of cession. . . . A United Press despatch today from Arica gives plan in detail but does not attribute it to Edwards. It seems to me that this affords Department an opportunity to tell press quietly that Edwards is the author and was the advocate of it. If press will show his active efforts in

favor of it, he will be put on defensive and opposition he now offers will be greatly minimized, and much of the talk here about our having forced good offices on Chile will be silenced. Result will be either acceptance of plan or else a great impetus will be given movement for cession, although sentiment here is now strong against anything but the plebiscite.

COLLIER

723.2515/2123 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extracts—Paraphrase]

ARICA, April 11, 1926—5 p. m.

[Received April 12—8:17 a. m.]

From Lassiter. Your telegram April 10, 11 a. m. If Peru were now told to proceed with plebiscite, I am sure she would demand the cancelation of all registration to date and the postponement of further registration until such reform had been made in conditions here that Peru would have reasonably fair chance of taking part in a plebiscite. . . .

If told to proceed without cancelation of present registrations and without postponement for reforms, it is almost certain that Peru would withdraw. . . .

[I am aware] that the Arbitrator has ruled that he is unable to neutralize territory during the plebiscite, but we shall be faced with very grave situation if negotiations fail. In years to come we should be in position to show that we have exhausted every possible means of healing this breach between Chile and Peru. We could defer action until Commission had done all that is possible to carry out plebiscite with the territory under the control of one of the contending parties and until Department had done all it could to obtain solution by negotiation; but if we stopped there and allowed these proceedings to end in a confused wrangle, we shall certainly not occupy very enviable position. I think that we ought to make one more vigorous effort, namely, to offer Chile choice either to neutralize the territory during plebiscite, removing from it all her officials and allowing us to assume full charge so that we can carry out real plebiscite, or else to recognize that plebiscite must be terminated with blame for its frustration placed on her. A definite, clear issue could thus be raised whereon we could take our final stand before the world. The Arbitrator, in view of the very definite information which General Pershing and I have given him on impossibility of carrying on fair plebiscite with Chile in con-

trol of the territory, would now be in a position, it seems to me, to take this action.

If no agreement can be reached through the negotiations in Washington and if the Arbitrator is averse to intervening in matter in any way, then it is important that plebiscite be terminated without further delay. In that event, opportunity must surely be given Peruvian Commissioner, before he withdraws, to participate in passage of resolution to terminate plebiscite for reasons given.

My purpose herein has been to give you, as you request, the situations to be faced if no agreement can be reached in Washington. I still have hope in the negotiations, and shall keep you informed of anything taking place here which may affect the issue. Lassiter.

VON TRESCKOW

723.2515/2125b : Telegram

*The Secretary of State to the Ambassador in Chile (Collier)*⁵⁰

[Paraphrase]

WASHINGTON, April 12, 1926—2 p. m.

45. No further suggestion which can be considered was advanced by either party in proceedings here this morning. Peruvian Plenipotentiary presented statement which can only be construed as reiteration of Peru's original position that she is entitled to entire territory. I am obliged, under these circumstances, myself to submit a new suggestion. Evidence is accumulating that some solution involving Bolivia is in minds of both parties. Statement by Chilean Minister for Foreign Affairs given to press, as reported in your No. 60, April 6, 11 a. m., is of significance in this connection. Of course I am reluctant to make any suggestion which involves Bolivia when I do not know if such a course would be agreeable to the Governments directly interested; so I should like to have you see Mathieu at earliest possible moment, talk with him confidentially about this matter, and endeavor to ascertain if Government of Chile would be willing for me to submit to the Plenipotentiaries for their consideration some plan of settlement which would include equitable adjustment with Peru and Bolivia, both. Naturally, I should not expect Mathieu to commit himself in advance on the proposition, but only to indicate willingness of Chilean Government to have me make a proposal of that nature for consideration. I am most anxious that proposal on these lines should not be misunderstood and, if I should make it, that no ulterior motive will be attributed to me.

KELLOGG

⁵⁰ Similar telegram sent on the same date to the Ambassador in Peru as Department's No. 40.

723.2515/2125b supp. : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 12, 1926—6 p. m.

46. My No. 45, today, 2 p. m. Please understand that similar inquiries are being made in Peru through Ambassador Poindexter.

At conclusion of conference with Plenipotentiaries this afternoon an adjournment was taken until April 14, 3 p. m. (Wednesday). If at that time neither party comes forward with concrete suggestion, I expect to resume initiative by suggesting for consideration another basis of settlement. At conference this afternoon I asked both parties if they desired to continue the negotiations; both assured me that they did and they are proceeding accordingly. It is very important that Chile should not deem proposition made today by Peru to be final, and end negotiations because of it. Ambassador Velarde has informed me that by Wednesday he hopes to be able to make another proposition.

I think substance of suggestion for a proposition which you advance in your No. 67, April 11, 1 p. m., is very good; and should I receive favorable reply from you, I may be able to frame one along that line.

KELLOGG

723.2515/2127 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, April 12, 1926—noon (?).

[Received April 13—4:27 a. m.]

69. Your No. 45, April 12, 2 p. m., and No. 46, April 12, 6 p. m. I have had an extended interview with Minister for Foreign Affairs. He desires personally to settle matter by cession of entire province to Bolivia. Tomorrow he will discuss matter with the President whose support he expects. The question will be considered by the Cabinet on Wednesday, but he is apprehensive that majority there will oppose him. To offset this opposition he will endeavor to have the presidents of the Senate and the Chamber of Deputies and the chairmen of the two Committees on Foreign Affairs meet with the Cabinet, as he believes that they favor cession, although recent speech of President of Peru and the steadily mounting registration is strengthening demand in governmental circles for the plebiscite, as well as among the masses. . . .

. . . Mathieu needs several days for shaping public opinion in favor of cession. He astonished me by complaining that you were

demanding a prompt reply from him to your propositions and inquiries. I told him that I felt your requests for promptness arose from his own demand that matter be expedited and that I was sure you would give any reasonable time to an earnest effort that promised success.

I think that it would be unwise for us at next meeting to propose cession as concrete plan. Let either Chile or Peru propose it or, if it becomes necessary to do so, I suggest alternative formula of my telegram 67, April 11, 1 p. m.

COLLIER

723.2515/2126 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, April 13, 1926—6 p. m.

43. I have had my attention called to a speech made by President Leguía on April 9, 1926, at a banquet he tendered to the Vice President of Bolivia.⁵¹ President Leguía is reported to have said during the course of this speech that Peru-Bolivian unity through history and in the unfortunate War of the Pacific is still being firmly maintained with the aim of restoring ancient boundaries and without any intention to legitimatize, either through fear or from a spirit of commercialism, the crime of conquest of which they were the victims. The Vice President of Bolivia is reported to have responded by accepting in general terms the ideas President Leguía expressed. I am advised that in Chile the latter's speech is being construed as a virtual announcement of Peru-Bolivian alliance, whose aim is restoration of ancient boundaries in violation of Treaty of Ancon, of Washington protocol, and of Arbitrator's award. Ascertain whether President Leguía has been reported correctly and also obtain any information you can on his real intentions. I hardly need to point out that utterances of nature reported add at this juncture not only enormously to difficulties of conducting negotiations, but, if not explained, may well destroy every prospect of settlement.

KELLOGG

723.2515/2130 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, April 13, 1926—7 p.m.

[Received April 14—12:55 a.m.]

From Lassiter. Your telegram March 22, 6 p.m. No action in the nature of making specific demands upon Chile was taken; for, before

⁵¹ In Peru as Ambassador on Special Mission.

it was physically possible to comply with suggestion, your March 25, 6 p.m.,⁵² arrived announcing Peru's acceptance of good offices and quoting Department's memorandum to both Chile and Peru suggesting suspension of plebiscite. Department's telegrams of March 27, 6 p.m.⁵³ and 8 p.m.,⁵⁴ followed, saying to continue with registration. I assumed that Department would not approve my running risk of interfering with negotiations by proposing the radical reforms which would be necessary. This assumption was confirmed by Department's telegram of April 5, 11 a.m.,⁵⁵ requesting me to maintain existing situation unchanged until further notice, and its telegram of April 8, 4 p.m.,⁵⁵ that there should not be any change in the program. There would have been no purpose, moreover, in making demands, in view of Peru's abstention from plebiscite.

If you wish it, an outline of the demands it would be necessary to make upon Chile if plebiscite is to be held, will be forwarded. Reforms absolutely necessary must be such as to change entire character of Chilean control and to substitute law and order for official oppression and for lawless terrorism. Authorities here have full information on substance of necessary fundamental reforms. It does not now appear that they need advice upon this matter. Registration must, of course, be suspended pending execution of essential reforms. Lassiter.

VON TRESCKOW

723.2515/2135: Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract]

SANTIAGO, April 14, 1926—11 a.m.

[Received 3:30 p.m.]

71. *Mercurio* this morning publishes editorial ridiculing plan of independence and neutralization, declaring it impracticable and absurd. . . .

[Paraphrase.] I think that it would be most undesirable, in fact almost disastrous, for us to present this plan as our own proposition except in alternative form and then only if press could be informed without violation of confidence on our part and if they would then immediately communicate to all South American papers that Edwards was author or advocate of this plan. [End paraphrase.] . . .

COLLIER

⁵² See footnote 32, p. 350.

⁵³ *Ante*, p. 358.

⁵⁴ See footnote 37, p. 357.

⁵⁵ Not printed.

723.2515/2130 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, April 15, 1926—6 p. m.

For Lassiter. Your telegram April 13, 7 p. m. At earliest possible moment cable me full information on particular respects in which you are able to show that Chile has failed to comply with the several demands which the Plebiscitary Commission has made upon her. What I want is statement of tangible and specific defaults on Chile's part in meeting these demands.

The following questions, which are based upon the prerequisites resolution of last November,⁵⁸ seem to me to be pertinent. In all cases in which your answer may indicate noncompliance, either wholly or in part, or further measures which remain to be taken in order to obtain satisfactory compliance, you will bear in mind the necessity of having grounds for your position which, if occasion requires, can be adequately supported.

1. To what extent has there been reduction in Army in accordance with the first prerequisite? Can you state what armed force is being actually maintained in plebiscitary area? Have you any figures for comparison with armed force maintained by Peru in equal area immediately northward? Has Plebiscitary Commission found that force Chile is maintaining in Tacna-Arica is so large as not to be compatible with fair plebiscite, and if it is, why?

2. Has force of carabineers been reduced to number on duty in the territory on July 20, 1922? If it has not been, what additional personnel has been retained in or transferred to Tacna-Arica for replacement? What are figures on present force being maintained? Are any individual carabineers being kept on duty after Commission has found their retention to be incompatible with fair plebiscite? If there are, how many?

3. Have police and secret service personnel been reduced in number, using July 20, 1922 as date for calculation? If they have not been, give figures of additional personnel in each class which are being maintained. Are any individual members of the police and secret service forces being retained whose retention has been found by Commission to be incompatible with fair plebiscite? If there are, how many in each class? State when and how Commission took action.

4. Have civil officials, duly appointed, replaced all army, carabineer, police, and secret service personnel relieved from duty as described in fourth prerequisite?

5. What specific requests, if there have been any, has the Commission made under fifth prerequisite; and if requests have been made, what action, if there has been any, have Chilean authorities taken pursuant to them? As far as possible give details.

⁵⁸ *Foreign Relations, 1925, vol. 1, p. 382.*

6. Have any of the relieved subdelegates, district inspectors, or other civil executives referred to in sixth prerequisite not been transferred from plebiscitary area? If there are, how many remain and who are they?

7. Specify restrictions the removal of which has been demanded by Commission and give in each instance action taken by Chilean authorities. If Commission has found the supervision and limitation by Chilean Government to be inconsistent with a fair plebiscite, state whether this inconsistency has been made subject of specific demands; if it has, state when and how.

8. State what restrictions upon travel Commission has asked to have removed and what modification of hotel and guest laws the Commission has demanded; what action has been taken by Chilean authorities in response to these demands, and what conditions in this respect has Commission found to be inconsistent with fair plebiscite, giving reasons?

9. What public meetings, parades, addresses, and other forms of legitimate propaganda relating to plebiscite, etc., have suffered interference? What action, in each instance, has Commission taken? When and how? Please give same information in regard to flags.

10. Has censorship referred to in tenth prerequisite been removed? If it has not been, specify instances of censorship of mails, cables, radio, press, etc., and explain any bearing they may have upon plebiscitary activities, and what action regarding them Commission has taken.

11. What evidence can you produce, if any, regarding failure to return individuals referred to in eleventh prerequisite to the plebiscitary territory? If possible give number of individuals involved, names and present location, and evidence showing their desire to return.

Data similar to foregoing should be furnished in connection with any other demands which, from time to time, may have been made upon Chilean authorities in addition to the eleven prerequisites. If a full statement on these matters cannot be cabled promptly, please cable the best preliminary report that is practicable.

I am asking these questions so that I may know as exactly as possible the position in which Arbitrator would be placed in predicating action upon alleged defaults. It is of gravest importance that any action taken by Arbitrator should have impregnable foundation in verifiable data that cannot be assailed successfully. As far as possible I wish to know present state of the record on all cardinal points before deciding on definite instructions, should good offices fail.

What is present number of registrants and what is best estimate you have of total qualified voters, both Chilean and Peruvian? What is basis of such an estimate?

KELLOGG

723.2515/2135 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 15, 1926—7 p. m.

50. On January 27, the day that General Pershing left Arica, Edwards made proposition of neutralization to him. Pershing wrote it down in pencil. Edwards refused to sign it, but said that he had talked it over with Alessandri and that he and Alessandri were agreed upon it and that he thought Chilean Government would favor it. Later he told Mr. Stabler, secretary general of the Commission, that he favored it, and I am informed that within the week just past that he told Freyre the same thing.

Of course we have no written statement from Edwards. He suggested that Pershing present the proposition to me, and it may be that he was trying to get us to make a proposition which he could oppose. In view of facts do you think that General Pershing should give out an interview, or should we give an intimation to the press to be carried to all South America?

KELLOGG

723.2515/2143a : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, April 15, 1926—8 p. m.

For Lassiter. The Plenipotentiaries met this afternoon at 3 o'clock and I laid the following proposition before them: ⁵⁷

"The Secretary of State has the honor to suggest that in the interest of international peace and a cordial *rapprochement* between the parties they consider the advisability of a mutual and joint sacrifice whereby either, (1) the territory of Tacna and Arica shall be constituted a neutralized state, either independent or under the protectorate of South American States, as may be agreed, or, (2) the provinces of Tacna and Arica shall be transferred (upon an apportionment of equitable compensation, and appropriate economic arrangements, to be agreed upon) to a South American State not a party to these negotiations.

As neither party is willing to surrender the territory in question to the other, and as the proposal for a division of the territory between them has been rejected, the remaining opportunity for a solution of the long-standing controversy would appear to be found in one of the suggestions above made or in a modification thereof if such is deemed to be advisable."

⁵⁷ Quoted passage not paraphrased.

Ambassador Velarde accepted the first proposition for Peru. Chile has not yet accepted, but Ambassador Cruchaga is consulting Chilean Government. In view of fact that proposition of neutralization first came to Pershing and in statements made by Edwards to Stabler, and within last week I have understood from the latter that Edwards made the same statement to the Peruvian Commissioner, can you suggest, discreetly, to Edwards that he urge Chilean Government to accept?

KELLOGG

723.2515/2138b : Telegram

*The Secretary of State to the Ambassador in Peru (Poindexter)*⁵⁸

[Paraphrase]

WASHINGTON, April 15, 1926—8 p. m.

44. The Plenipotentiaries met this afternoon at 3 o'clock, and I laid the following proposition before them:

[Here follows text of proposition quoted in the telegram to the consul at Arica for General Lassiter, *supra*.]

After it was explained that first proposition contemplated that if there were to be a protectorate of South American States it was to be one by agreement of Chile and Peru and might be simply a guarantee by those two powers and no others, Ambassador Velarde accepted this proposition as basis of adjustment. He raised objection to second proposition on ground that it proposed to turn the territory over to a third State, Bolivia, he supposed, without the consent of the inhabitants. I said that both Chile and Peru had been negotiating with Bolivia to turn over portion of the territory, and public statements had been made to that effect; that I was unable to perceive any greater objection to turning over a part than the whole; and that in any event my second proposition was subject to such modifications as the parties might agree to.

Ambassador Cruchaga promised to consult Chilean Government and to let me know at earliest possible moment.

KELLOGG

723.2515/2145 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract]

SANTIAGO, April 16, 1926—noon.

[Received 2:25 p. m.]

76. Your 50, April 15, 7 p. m. Wednesday night I addressed a note to the Foreign Office as to injustice of accusations and insinuations

⁵⁸ Similar telegram sent on the same date to the Ambassador in Chile as Department's No. 51.

in *Mercurio's* editorial of April 14th, referred to in my telegram No. 71, especially in view of the fact that the plan that was criticised was Edwards', whose activity in promoting it I set forth in detail. I made no demand but intimated that I felt the Government should inform the papers. I received a reply last night, and this morning the following statement by the Foreign Office appeared in the *Mercurio* and all other papers:

"The Ambassador of the United States has made representations to the Minister for Foreign Affairs as to the injustice of the attack directed against his Government by a newspaper of Santiago with respect to the possibility that the Secretary of State of the United States might, in the exercise of good offices, favor the neutralization of the territory of Tacna-Arica; and he has stated that said formula was initiated by the Chilean members of the Plebiscitary Commission who had suggested it with insistency before General Pershing returned to the United States.

The Ambassador requests that they inform the press as to this fact with the object of avoiding judgments adverse to the Government of the United States based upon conditions in whose origin neither that Government nor its agents have had any participation.

The Minister for Foreign Affairs has answered stating that he deprecates the editorial referred to and the injustice of the attack in it against the Government of the United States.

It adds that the Government of Chile had knowledge of the facts set forth by the Ambassador of the United States with regard to the origin of this formula of neutralization of the territory of Tacna-Arica and that it has taken the necessary steps to avoid that suggestions strictly personal, contrary to or absolutely opposed to the ideas of government, however well inspired they may have been, can create obstacles in the prosecution of the plebiscite or of the pending friendly negotiations.

The Minister for Foreign Affairs terminates by availing himself of the occasion to make note of the noble and disinterested spirit with which the Government of the United States endeavor to secure a solution of the differences between Chile and Peru."

End of the statement of the Minister for Foreign Affairs, literally and textually accurately translated.

Give to the press immediately.

COLLIER

723.2515/2150a : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

WASHINGTON, April 17, 1926—3 p. m.

52. I gave the following statement to the press this noon.

"Concerning the pending negotiations for the settlement of the Tacna Arica dispute, the Secretary of State has been advised that the suggestion which he made to the Plenipotentiaries of Peru and Chile

at their last meeting here on April 15th has been given partial publicity in the capital of one of the countries involved. In order to avoid confusion and possible misunderstanding the Secretary, acting with the consent and approval of both Plenipotentiaries, now deems it wise to make public the full terms of this suggestion, which are as follows:"

(Here follows the proposal quoted in my April 15th 8 p. m. to you.⁵⁹)

"The Secretary further stated that in view of certain press comments, and particularly in view of a statement issued to the press by the Foreign Office of Chile, he thought he ought to say that the idea of neutralization of the territory in dispute has been from time to time, in the course of this controversy, advanced informally by publicists and others on both sides in such a manner as to lead him to believe it might prove acceptable to both Peru and Chile. This type of solution was in particular advocated by Señor Agustin Edwards, the Chilean Delegate on the Plebiscitary Commission, to General Pershing just before his departure from Arica, and General Pershing laid it before the Secretary of State on his arrival in Washington. It has also informally come to the attention of the Secretary from Peruvian sources. Naturally informal proposals of this character are not binding upon the respective Governments, who now have the entire suggestion, as above set forth, under consideration. The Secretary of State merely desires it to be understood that in exploring all the avenues of adjustment he is taking advantage of every proposal which seems to have a reasonable prospect of success.

The statement issued to the press on April 16th by the Foreign Office of Chile above referred to is as follows."

Here follows the Foreign Office statement quoted in your 76 April 16th noon.

KELLOGG

723.2515/2150 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, April 17, 1926—4 p. m.

[Received 9:30 p. m.]

78. After an interview with Minister for Foreign Affairs today I later conferred with President of Chile alone. Both gentlemen declared that creation of neutralized independent state is unacceptable, and Ambassador Cruchaga has been so advised. I strongly urged acceptance of alternative proposition to cede territory to Bolivia. Both the Minister and the President said that as Peru had refused to accept this proposition it was not necessary for Chile to state position on it. I said that although I was uninformed, it was premature to think that because there had been a refusal, the mediator might not yet persuade Peru to accept. . . . I argued that cession to Bolivia now will only anticipate that which the Government of Chile desires

⁵⁹ See telegram of same date to the consul at Arica, p. 384.

to make, and that to make it now would be an advantageous act and will avoid the inevitable discussions of our terms that would surely arise later, to say nothing of fact that national sentiment will inevitably oppose cession once territory has been won in a plebiscite. . . . I also said that if Chile is sure that Peru will not cede at this time, it would be stroke of high policy for Chile to offer cession, thus winning Bolivia's friendship and turning her against Peru. President Figueroa said they feared to cede entire province to Bolivia in light of recent speeches of President Leguía and of Bolivian Special Ambassador to Peru in regard to regaining their ancient frontiers, which convinced him that a union between Peru and Bolivia was either in existence or in process of formation, and that Chile is in very perilous position; I again expressed opinion that offer of cession now to Bolivia would break up such a union, but he disagreed with me. I am inclined to believe that President is sincere in his fears. Both he and Mathieu expressed their desire to make any fair settlement that is consistent with Chile's vital interests, but neither the President nor the Foreign Minister is disposed to accept either of your alternative propositions which were presented to them April 15 (Thursday). Each says that Congress insists on a plebiscite and they cannot resist Congress. They are right. Unless full publicity is given to your alternative proposition, good offices cannot succeed, and it will be difficult even then. Mathieu told me today that publicity would unquestionably help, and that if you wished to publish he would instruct Ambassador Cruchaga to consent. . . .

COLLIER

723.2515/2151 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, April 18, 1926—10 a.m.

[Received 6 p.m.]

79. News despatches from Arica say that Edwards' friends expressed surprise as to my statements in my note to Minister for Foreign Affairs and that I had not correctly stated Edwards' position. I was convinced that my own word was likely to be called in question and to protect it as well as our national honor I felt that immediate publicity of my note of April 14 and one I sent to the Minister for Foreign Affairs yesterday was necessary.

[Paraphrase.] I consulted the Minister for Foreign Affairs who replied in writing that he could not deny my right to publish notes but requested me not to say that he had given his consent, as Edwards' friends are charging him with having made grave diplomatic error in making admission contained in Foreign Office statement which I

reported to you in my No. 76, April 16, noon. The Santiago papers have published my notes in full, and their text has been sent abroad by United Press. If you wish, I shall cable their full text which is being sent by mail, but you will probably receive them from United Press. I believe that their publication will shatter Edwards' influence completely, and may cause the Chileans to take good offices more seriously. Time is now our ally, and proceedings in Washington and Arica should be delayed and protracted in every way possible in order to give pacifying sentiment here a chance to develop. In order to break down Chilean overconfidence from the heavy registration, now about 4,500, in the plebiscitary territory, Ambassador Cruchaga should be constantly impressed with danger of nullification; the Commission should give as wide publicity to corrupt practices which would justify nullification of proceedings as can be done without making the Peruvians overconfident.

Mathieu again complains that you give him too little time to answer your proposition. Undoubtedly he wishes time in order to negotiate with Bolivia. If your latest proposition is to be accepted, this negotiation must be thwarted; otherwise, there is no chance whatever. Permit me to refer you to my No. 78, April 17, 4 p.m., and other telegrams where I have touched on this matter.

If you are unable to obtain acceptance of your last proposition after holding out as long as you can, I suggest that you try division of the territory based upon cession of Arica to Chile to be at once ceded by her to Bolivia and retention of Tacna by Peru. It has lately occurred to me that, failing even this solution, it might be good idea to suggest, in your mediation, that award be modified and each department (Tacna and Arica), separately, be permitted to determine to which nation it wishes to belong, and that further guarantees could be obtained in this connection which would ensure reasonably fair plebiscite. Mathieu has often expressed his desire that plebiscite be departmental and has stated his willingness to give every guarantee, saying that he cares nothing about Tacna if he can retain Arica. Peru, on the other hand, cherishes Tacna; and, although she will not cede Arica, she might consent to that sort of plebiscite which would greatly lessen temptation and opportunity to commit fraud and might ward off disagreeable necessity to us of nullifying the plebiscite. Every effort should be made to suspend or delay proceedings in Arica. In my opinion we can take more chances on this now than we could have three weeks ago, and not give as much heed to the clamor which will be made against it.

Bolivian Minister here will telegraph his Government today to advise suspension of all direct negotiations with Chile as means to get her to accept your proposition. [End paraphrase.]

723.2515/2150 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 18, 1926—1 p. m.

53. Your No. 78, April 17, 4 p. m. There seems to be a misunderstanding in regard to present attitude of Peru on the alternative proposals which I submitted to the Plenipotentiaries on April 15. Facts are as follows: (1) Peru has definitely accepted first alternative, relating to neutralization; (2) Peru has not rejected second alternative. Ambassador Velarde has merely submitted his personal observations on it by way of criticism.

Today Ambassador Velarde has indicated to me that my two alternatives might be susceptible of combination; he suggested neutralization of all the territory in dispute with exception of strip preferably along extreme southern border which could be transferred to Bolivia. I think it would be unwise to let Chile know that this suggestion came from Peru, but the Ambassador's talk with me today indicated that they are endeavoring to find some compromise between the two propositions and that they have not at all rejected the second.

Under these circumstances, if, as you say, Chile is determined to reject the first alternative, it is clear that assumption that she need not deal with second is unjustified. If she should accept second, which Peru has not rejected, there would, perhaps, be an opportunity to bring about an agreement either on second as it stands or on combination of the two.

It should be made clear to Government of Chile that Peru did not reject second proposition.

Do you think it would be helpful if Argentina, Brazil and Uruguay joined with me in urging settlement upon both Chile and Peru?

KELLOGG

723.2515/2153 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

ARICA, April 18, 1926—5 p. m.

[Received April 22—1 a. m.⁶⁰]

From Lassiter. Your April 15, 6 p. m. The following statement prepared by my legal advisers is forwarded herewith:

Chile's real default does not lie in the technical nonfulfillment of this or that provision of the prerequisites resolution or of any other

⁶⁰ Telegram in four sections.

specific demand of the Commission, although technical nonfulfillment can be shown. Her real default lies in the ruthless deportation of Peruvian electors which has continued since the protocol, the submission, and the award, in flagrant fraud of all three. It lies in the establishment and maintenance since the award, through open violence and secret coercion, of a reign of terrorism over the Peruvians who have been allowed to remain in the province. Chile, by her deportations and by her consistent campaign of open violence and secret terrorism, has placed herself in a position where she can afford to accord from time to time a purely technical and formal compliance with a number of the provisions of the prerequisites resolution without in the least relaxing her unlawful strangle hold on the situation and without permitting any improvement in essential conditions. See telegram March 17, 6 p. m.⁶¹

Every impartial person acquainted with the situation here knows that the foregoing is the simple truth. But because it is the truth, it follows that it is difficult to prove it as one proves an ordinary case in court. If it is true that the Chilean authorities systematically deport Peruvians, it follows that they will leave no written record of what they have done and that when questioned they will one and all deny it. If it is true that Peruvians are living in terror of their lives, it follows that they will fear to give evidence, even of the fact that they are afraid, in the presence of the representatives of the men they fear. If it is true that a man who complains is likely to disappear without a trace, it follows that most men will be ready to make an affidavit that they have no cause for complaint. The case against Chile must therefore be proved by the best evidence which in the nature of the situation is available. We are able to prove by legal evidence direct participation of the authorities in deportations and other acts of violence in a few cases, such as the forcible wholesale deportations of March, 1925, in which the Chilean officials have been unusually bold or careless or the victims unusually courageous, and around these cases we are able [to] group a great many incidents where direct complicity cannot be proved but which seem to every American here to afford ample corroboration.

It will practically never be possible to establish any facts in regard to this conspiracy except by a preponderance of conflicting evidence. Chile is of course counting on this situation; she is counting on the difficulty of obtaining satisfactory evidence; and counting on the facility and impunity with which she can manufacture counter-affidavits by the wholesale. Edwards said in the Commission that "it is a Chilean doctrine that no Chilean testifies against his own country." Chilean counsel said in a document submitted to the

⁶¹ Not printed.

investigating committee: "The Peruvian will say one thing and [the?] Chilean will never be lacking to say the opposite. How can the truth be gleaned?" It can be answered that the truth can be ascertained, first, out of the mouths of American witnesses who have made a record of what they have seen and heard here for the past 8 months and that the situation is one in which any Anglo-Saxon court would also admit opinion evidence because of the impossibility of conveying a correct impression of all the facts in any other way; second, that the truth may be ascertained by the impartial judgment of the investigating committee and its examiners and, finally, of the Commission itself based upon the testimony of a large number of witnesses which has been taken with every formality except that it has not been deemed either necessary or desirable to administer an oath to the witnesses. It is submitted that it is a function of the Commission, and finally of the Arbitrator, to determine the truth by reliance upon these means.

Further to the Department's questions regarding fulfillment of the prerequisites. Resolution will follow in another cable. Discussion in this cable of two or three items will illustrate Chile's formal and technical compliance combined with her substantial evasion and refusal.

Item 5. The Commission at various dates has requested the relief of 18 officials in the interest of a fair plebiscite. Chile has technically complied in 17 instances. In two cases, after a long delay partly due to Edwards' withdrawal on November 21; in the remaining case Chile claimed that the official in question, registrar in charge of the civil registry, was a judicial official and pleaded constitutional difficulties; but the relieved officials have in every instance been relieved and replaced in a manner to deprive their removal of every particle of corrective significance and to accord the Commission the shadow without the substance.

Barcelo, *Intendente* of the province, and Bustos, Governor of Arica, relieved on request of the Commission, received every possible mark of honor and respect on the occasion of their relief. A great public banquet, attended by officials, was tendered Barcelo; and Bustos, among other honors, was asked to a dinner given by Edwards at which General Pershing was a guest. Bustos was promoted to be *Intendente* at Tarapaca where he is in a position to continue his electoral activities by preventing the escape of the many Peruvians unlawfully deported from this province and interned in the nitrate fields; and Barcelo remains as unofficial mentor of the new *Intendente* and as the principal public figure in conducting the Chilean campaign.

Blanlot, subdelegate of Azapa, was relieved; and, after serving temporarily as judge in Arica in the court in which a number of cases

involving attacks on Peruvians were and are pending, he has been appointed a member of the registration and election board in Azapa; and the Peruvian peasants, in whose deportation to the nitrate fields he was involved and who stand in deadly fear of him, must face him as an election official if they return to vote. Vargas, former prefect of police at Tacna, Lopehandía, former subdelegate of Lluta, Herrera, former police inspector of Molinos, all hated and feared by the Peruvian people, and Quiroga, the official of the civil registry above referred to, have also been named as Chilean board members.

These election officials can be removed by the Commission under the regulations if good offices fail and a real election is to be attempted; but their appointment gives a true measure of Chile's good faith in accepting the decisions of the Commission.

Item 8. The indefensible travel restrictions were nominally revoked. No information has been obtained to the effect that the objectionable hotel and guest law has been revoked or modified, but no complaint that the law is being formally invoked against Peruvians has been recalled.

The situation both as respects free transit and as respects the right to entertain Peruvians, item 8, as well as equal opportunity for propaganda and flag display, item 9, may be judged from a report made yesterday by Udy who has just returned from taking the testimony of over 30 witnesses both Peruvians and Chileans in Putre, a town in the interior. Udy is an examiner appointed pursuant to a resolution of the Commission. The testimony given before him has of course been made of record. His report shows: (*a*) flagrant interference with the transit of returning Peruvian electors by carbineers despite the often proclaimed repeal of the transit restrictions; (*b*) repeated brutal beatings of these same electors by carbineers and Chilean propagandists; (*c*) a beating of the mother of a returning Peruvian elector because she received her son in her house; (*d*) prevention of legitimate Peruvian propaganda by espionage and intimidation to such an extent that the townspeople do not dare to speak to returning Peruvian electors or Peruvian personnel of the registration and election board; (*e*) forbidding Peruvians to fly the Peruvian flag; (*f*) depriving returning Peruvian electors of their personal property and the use of their real property; and (*g*) a complete failure on the part of the local authorities either to punish the perpetrators of any of these offenses or to prevent their recurrence and continuation. In fact the ring leaders and instigators of the unlawful oppression, coercion, intimidation, and violence are the Chilean member of the registration and election board and the local commander of carbineers. The situation in Putre is typical of conditions which exist all over the province and which would render any election under present conditions a farce.

Carbineers exercise strict control over circulation in the interior by means of posts established for that purpose at the more important towns, villages, and intersections of trails. This control is explained at times as being exercised to prevent smuggling but it is applied irrespective of direction in which the traveller is proceeding. The result is that Peruvians cannot circulate in the interior without being subjected to constant carbineer observation and interference. This control is exercised even in the presence of American observers and is just as effective as if the travel [permits were?] revoked.

Right here in Arica transit to the pier for the purpose of proceeding to the transport upon which the Peruvian Commissioner makes his headquarters which was the subject of an agreement embodied in a memorandum on September 4th last, is even yet precarious and is interrupted by frequent incidents several of which were recently the subject of formal correspondence.

Item 9. Flag flying. The best evidence that Peruvians dare not fly their flag is the fact that they do not fly it although the flags of many other nations are constantly displayed in the plebiscitary territory. An attempt to fly the Peruvian flag means an incident like that reported by Udy at Putre; see October 21, midnight.⁶²

Parades. The only time that Peruvians have ventured to parade was at Tacna on March 5. Parade was disgracefully mobbed. On this occasion Chile carefully furnished the form without the substance of police protection. No one was punished. Returning Peruvian electors were brutally mobbed in Tacna on January 6; see General Pershing's January 8⁶³ and 12.⁶² On several subsequent occasions groups of returning voters were escorted through the streets of Tacna by police in order to protect them from injury, but these were not parades.

Propaganda. The sale of *La Voz del Sur*, the Peruvian paper, has been constantly interrupted by incidents. Peruvian propagandists have been constantly interfered with. The second report of the investigation committee (Kreger,⁶⁴ December 16, transmitted December 26)⁶² deals with several instances of interference with propaganda.

Prerequisite number 9 was accepted in law and in theory but is absolutely disregarded in administration and in practice.

Items 1, 2, and 3. According [to] rosters and reports supplied by Chilean authorities, reductions in the army carbineers, police, and secret service to substantially the numbers agreed to by the Commis-

⁶² Not printed.

⁶³ *Ante*, p. 266.

⁶⁴ Col. Edward A. Kreger, legal adviser to the president of the Plebiscitary Commission.

sion were made during the month of January, 1926. How many of each class have returned to the territory we do not know as it is impossible for the Commission to cope with the ability of the authorities to defeat the prerequisites. The reduction was sought in the hope of eliminating some of the terror and abject subjection induced among the Peruvians by the activities of the official agencies referred to, but that hope has proved futile. Carbineers, police, and secret service agents continually appear as engaged in unjust or obstructive tactics directed against the Peruvians.

Items 4 and 6. No important information is available on these two points. Experience has shown that nothing effective could be gained by these prerequisites as any officials removed from the province could be replaced by individuals whose activities were equally prejudicial to a fair plebiscite.

Item 10. On December 14th Edwards said the censorship had been abolished. However, distribution of the Peruvian publication *Voz del Sur* has repeatedly been impeded and often entirely prevented.

Item 11. Remarks regarding Peruvian electors within Chilean jurisdiction outside of Tacna Arica will be included in a later date cablegram in which I endeavor to summarize the principal evidence indicating frustration of the plebiscite and in which I shall refer also to deportations and expulsions.

VON TRESCKOW

723.2515/2154 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract—Paraphrase]

SANTIAGO, April 18, 1926—midnight.

[Received April 19—12: 10 p. m.]

80.

I deem it absolutely necessary that you immediately communicate your views to Chilean Government both through me and through Chilean Ambassador, impressing them upon the latter most strongly and expressing them in terms of absolute finality and as being, if that be possible, the views of the Arbitrator. If you can add anything which will shake their confidence in validity of present registration, which is now approaching 4,800, that would be highly desirable. In order to have our last proposition accepted, their confidence in the plebiscite must be shattered. Keep our proposition pending, give me time, and protract matters all you can. It might be well if you presented your views in the form of an identic memorandum to be handed to both Cruchaga and Velarde and to be sent to both Chile and Peru.

COLLIER

723.2515/2183 : Telegram

The President of Bolivia (Siles) to President Coolidge[Translation ⁶⁵]

LA PAZ, April 19, 1926.

[Received April 21.]

It is my duty to express to Your Excellency the satisfaction of the Government and people of Bolivia at the suggestion of the Secretary of State of the great Republic to the most excellent Governments of Chile and Peru, to the effect that in the dispute over Tacna and Arica or in its results the desire of Bolivia for a port be taken into account.

That high inspiration agrees with the offer made to my Government by the Government of Chile of the port of Arica, or some other port under Chilean sovereignty, in order that Bolivia may have it for customs or pecuniary compensations and furthermore agrees with the generous announcement by which the most excellent Government of Lima offered to La Paz a port in the disputed territory itself, subject to the power of the Arbitrator.

This plausible action of Chile, which would in part atone for the unjust and shameful outrage suffered by Bolivia, could not be in keeping with the obstacle opposed by Chile to Bolivia in the deliberations at Washington. If Chile manifests a disposition to give to my country the port of Arica, which is not the exclusive property of Chile, and depends on the insoluble dispute with Peru, and if it offers that port, it is clear that it binds Bolivia to the outcome of the dispute referred to the consideration of the Arbitrator. There surely would be contradiction in speaking of Arica and discussing the subject without at the same time taking in the one international jurisdiction that will decide as to the fate of that port, that which is instituted in the Capital of the Union. Being so convinced, I have declared to the most excellent Government of Santiago that my Government insists that the conversations begun along that line immediately determine that Bolivia shall be present in Washington, as there is no object in carrying on any direct negotiations.

The great Republic which has a directing influence in the destinies of America will thus contribute in bringing about a solution of the old-standing question of the Pacific which concerns three and not two peoples, of which none suffered more painfully from the war than the one over which I have the honor to preside suffered through its maritime mutilation.

I present to Your Excellency for the above-mentioned proposition of the Department of State to Chile and Peru, the assurance of my thankful consideration.

H. SILES

⁶⁵ File translation revised.

723.2515/2164a : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

WASHINGTON, April 19, 1926—4 p.m.

For Lassiter. General Pershing requests that you deliver to Augustin Edwards the following personal message from him.

“Your proposition for permanent neutralization of Tacna and Arica has been most favorably received both by the State Department and by the American press as a possible constructive solution. As you know I have always agreed with you that neutralization is probably the best practicable outcome. Even if a legally celebrated plebiscite were now feasible, which I myself doubt very much, I am more than ever personally convinced that after all that has happened a plebiscitary solution would not command the moral sanction of the civilized world and serve the best interests either of your country or of Peru. My opinion is that neutralization would fully satisfy the inhabitants of the territory and at the same time give equal advantages in trade and commerce for all concerned. There is, I can assure you, the sincerest desire here to see this vexing question settled in such a manner as to restore for all time the ancient friendship between Chile and Peru. My country has no other object in view. I earnestly hope that your powerful influence will now be exercised in openly advocating this plan. Its adoption would certainly enhance your already great personal reputation throughout the Western Hemisphere. I shall be happy to join you in any way that will promote its adoption. Please accept my warmest regards. Pershing.”

KELLOGG

723.2515/2160 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 20, 1926—5 p.m.

56. I have cabled Lassiter today⁶⁶ suggesting that Plebiscitary Commission be immediately convened to pass resolution extending time of registration for, say, 30 days. Do what you can discreetly to influence Government of Chile to instruct its member of the Commission to vote for this resolution.

At meeting of the Plenipotentiaries this afternoon, Ambassador Cruchaga again stated that he was without instructions from his Government permitting him to discuss my suggestion made April 15. As negotiations are thus being protracted by failure of Chile to give instructions, it would seem only reasonable to invite her cooperation in this matter.

At yesterday's meeting of the Plenipotentiaries, Ambassador Velarde formally suggested combination of the two alternatives referred to in my No. 53, April 18, 1 p.m., second paragraph.

KELLOGG

⁶⁶ Telegram not printed.

723.2515/2168 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract—Paraphrase]

SANTIAGO, April 20, 1926—7 p.m.

[Received April 21—10:25 a.m.]

87. I saw Mathieu late Tuesday night. He showed himself more willing to accept your plan in some form, but stated correctly that the sentiment of Congress and of the masses still strongly demands the plebiscite. He thinks it may change in a few days. I believe that my published notes and the letter of the President of Bolivia to President Coolidge announcing suspension of direct negotiations with Chile will have a powerful influence.

I informed Mathieu that Peru had not refused to accept cession plan. I gave him no inkling that Peru had suggested combination of the two plans. . . .

We must hold tenaciously to your proposition of April 15 and in no event allow it to be entirely rejected. Do not invite or permit other countries to enter into the matter except Bolivia, and then only if both Peru and Chile are willing.

What is absolutely essential here is to break down opposition to good offices, which is based upon confidence that plebiscite will not be annulled. I strongly urge the memorandum referred to in my No. 80, yesterday. Not until false idea of strength of their legal position is destroyed can you get the Cabinet or Congress to forego the plebiscite or even to suspend proceedings. Only way to change sentiment of the infatuated populace is to have some press associate spread news of Chile's plebiscitary expenditures in such startling way that it will have to be published here. If it could also be sent out from London, Rio de Janeiro, or Buenos Aires, that would be still better. Influential businessmen would also be influenced by it and if American banks and business firms which have branches in Chile would immediately cable their correspondents inquiring about heavy expenditures and expressing fear over financial conditions, it would finally break into papers and have an effect. American papers should treat editorially of alarming condition, and press associations should cable their comments here. . . .

COLLIER

723.2515/2160 supp. : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 21, 1926—7 p. m.

58. Your No. 80, April 18, 12 p. m. Your suggestion regarding a formal memorandum has been made subject of careful consideration by my associates and myself in consultation with Mr. Hughes. Although we fully appreciate desirability of impressing Government of Chile, at this juncture, with gravity of the existing situation, we have reached conclusion that memorandum of that nature can not be delivered. We feel that best and safest way to insure continuance of negotiations is by holding plebiscitary process *in statu quo* and have advised Lassiter of that view as I stated yesterday in my No. 56.

The one vital and indispensable condition that we must always keep before us is the unfaltering maintenance in its absolute integrity of the Arbitrator's impartial position in dealing with this international controversy. No one of us has any right to speak for him and to foreshadow his attitude either directly or indirectly. It is obvious that the Arbitrator could not himself undertake to prejudge any aspect of this case. Until the matter comes duly before him upon a proper record, he can not decide anything. If any attempt were made to discount his decisions in advance, they could hardly command respect when they are rendered. A bold stroke of this kind, no matter how effective temporarily, would, in the long run, defeat its own end if it involved any risk of impairing honor and prestige of Arbitrator and of the United States, as we feel that this would.

I know that you have all these considerations in mind and I am only taking this occasion to explain the emphasis which we give them here. To act in accord with these views, neither you nor I can undertake by memorandum or even by confidential intimation to attribute any opinion to the Arbitrator which he is not yet duly called upon to express, and I think that we should be equally careful not to forecast action of Lassiter and of Plebiscitary Commission.

It appears to me, however, that within these limits and without making any implied commitments, there is ample scope for wholly legitimate and very effective pressure upon the parties in favor of a settlement. In discussing situation with Government of Chile it can be pointed out in no uncertain terms that to adopt and persistently apply a policy of drawing out negotiations here and at same time blocking suspension and pushing the plebiscite to a conclusion under present conditions, is sure to raise squarely for decision by Plebiscitary

Commission, in the first instance, and by Arbitrator, on appeal, the question of whether this plebiscite can be held to be a free and fair one under the treaty and the award; and that, while no one can say for the moment what that decision might have to be upon the record as it is finally presented, the consequences of a decision on this issue adverse to Chile would be so far reaching and so grave as to give any statesman pause before proceeding too far.

I am sure that responsible officials of Government of Chile are beginning to realize risks involved, and that nothing more is needed now than a calm and frank analysis of the situation, entirely free from threatening intimations.

KELLOGG

723.2515/2165a : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, April 21, 1926—8 p. m.

For Lassiter. Your recent messages dealing with plebiscitary situation are receiving our most careful consideration. I expect later on to cable you fully on the matter. Meanwhile I desire to outline what I deem to be for the moment the general principles of policy which should govern our action if good offices should fail.

1. The sole vital and indispensable condition that we must always keep before us is the unfaltering maintenance, in its absolute integrity, of the Arbitrator's impartial position in dealing with this international controversy. He can not act in this matter except upon an appeal duly taken or certified and accompanied by a proper record embodying the proceedings and the evidence necessary for a decision. The Arbitrator can not undertake to prejudge any aspect of the case and no one else can undertake either directly or indirectly to attribute any opinion to him which he is not yet duly called upon to express.

2. The president of the Plebiscitary Commission is in much the same position, in that his opinions and decisions should not be discounted in advance; he should not himself prejudge any aspect of the case until it has actually been submitted to him for decision.

3. The Commission's every decision must have as its basis a record which embodies the proceedings and evidence appropriate and adequate to sustain action taken. Obviously, the record upon which the Commission could act is same record which goes to Arbitrator in event of an appeal.

4. My associates and I, as well as Mr. Hughes, with whom we are in consultation, are much disturbed by point of view which your legal advisers apparently take with respect to power of Plebiscitary Com-

mission and of Arbitrator to deal with question of frustration of plebiscite and responsibility for it when and if that question arises. The assumption seems to be that the ordinary principles requiring legal support for a finding may be relaxed or disregarded, and that findings may be made and sustained by accepting mere opinions and general conclusions without an adequate showing of fact to support them, the statement being made that from nature of the case proof in usual sense can not be made.

I do not mean to assert that strict legal proof meeting all technical evidential requirements is necessary, but in all instances the proceedings in absence of such proof as is commonly required must in some way be justified otherwise than by mere unsupported opinion coupled with statement that proof is impossible. Evidence can not be replaced by sweeping allegations of fraud and intimidations; there must be substantial foundation of fact. That is why I have been endeavoring to elicit precise information as to the evidence actually in your possession and the possibility of presenting a record in form and substance adequate to serve as basis of a finding and a decision.

5. Issue, if it eventually has to be met, is one of gravest import. Commission and Arbitrator would, in effect, be asked to indict Chile for fraud, intimidation, and dishonorable practices, resulting in frustration of plebiscite, the celebration of which she is solemnly committed to assist. No matter how restrained or how measured might be the terms of this indictment, it would indelibly stain Chile's honor. Viewed from any aspect this would be most serious matter for all involved; and it is unthinkable that the Arbitrator, himself head of a sovereign State, should be placed in position of being invited to condemn in this fashion another sovereign State without at least having before him a record which satisfied the elementary requirements. It is highly important, therefore, that question of imposing further conditions to insure a proper plebiscite should be considered carefully to end that failure to provide adequate safeguards may be proved satisfactorily. I shall make further suggestions in this direction after you advise me of extension of period for registration.

KELLOGG

723.2515/2175 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extracts—Paraphrase]

ARICA, April 21, 1926—6 p. m.

[Received April 22—1 a. m.]

From Lassiter. In view of demand by Edwards for meeting of Commission it was necessary to hold one, and at meeting yesterday

action was taken to make clear that no date is now set for the election. This contested point is to be settled after period of registration ends on April 26. Situation can remain as it is to give negotiations time to develop . . .

The declaratory action taken at yesterday's meeting, of which you were unaware when your cable of that date was sent,⁶⁷ accomplishes purpose stated in your cable, that is, the maintenance of the *status quo*, and renders further action to that end unnecessary. . . .

Lassiter
VON TRESCKOW

723.2515/2175 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, April 22, 1926—2 p. m.

For Lassiter. Your telegram April 21, 6 p. m. After conferring with Mr. Hughes and my associates I am able to advise you that all of us are thoroughly convinced that extension of registration period, as requested on April 20, is only safe course at this juncture and should be followed. If the present registration is allowed to lapse and no extension is voted before it ends, it is clear that a new situation would be created and new legal questions would appear, opening new fields of controversy.

Please try to understand our situation here and appreciate difficulty we have in conveying to you adequate understanding of all the factors with which we are faced. I must ask you to accept our judgment, which is that any new situation such as I have referred to above would seriously prejudice, if it would not entirely defeat, prospects of a settlement. It does not seem at all necessary to us to inject at this time any new complication. I have just been advised, moreover, that Chile has agreed to instruct her delegate on Commission to vote in favor of resolution extending time of registration by 25 days, that is, up to and including May 20 or 21. It is of greatest importance to put this through at earliest possible moment, and I should appreciate your cabling me at once date when Commission will meet to consider this matter and also cable date to Ambassador Collier. I am hopeful, too, that Freyre will vote for the resolution, although it is immaterial whether extension is voted by majority or unanimously. Should negotiations later require further extensions, no doubt they can be arranged.

KELLOGG

⁶⁷ Not printed; see telegram No. 56, Apr. 20, to the Ambassador in Chile, p. 397.

723.2515/2187 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, April 23, 1926—11 a. m.

[Received 1:45 p. m.]

From Lassiter. Your telegram April 22, 2 p. m. I deem it my duty to explain how your proposition looks from here.

1. In all probability Chile will consent to extension of present sort of registration at your request and then assert that she has accorded all reforms and all demands made on her, and that no one, therefore, can any longer oppose consummation of the plebiscite. No Peruvians will participate in this farcical registration, of course, and Chile's pretended reforms would mean nothing. Thus without running any risks, Chile will greatly strengthen her position on the plebiscite and the Arbitrator's representative will be placed in increasingly embarrassing position.

2. As for the good offices, Chilean opposition will see that proposed maneuver is in Chile's favor; and from state of relative discouragement they will, I think, pass to one of great encouragement while Peru will be correspondingly depressed.

3. As I feel that your proposition is prejudicial not only to good offices but to future of the plebiscite (for I deem it wholly unnecessary as no date is set for election and above all it means yielding the dominating position to Chile), I urge the Department to cable me that it withdraws its request.

4. If Department insists, I shall do what it requests, but I shall have to ask for an immediate understanding with it on further plebiscitary proceedings. Meeting of the Commission will be called for April 26, noon. I shall not communicate with either Freyre or Edwards until I hear further from you, and there will be plenty of time for you to notify Ambassador Collier.

5. I should like to have your reply today. Lassiter.

VON TRESCKOW

723.2515/2190 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

ARICA, April 23, 1926—5 p. m.

[Received 7:50 p. m.]

From Lassiter. Mr. Edwards requested me to transmit the following telegram from him to General Pershing:

"I thank Your Excellency for your courteous and kind message and for the interest you continue to show in the future of this territory.

The Chilean Government has intimated to me that all the political aspects of this problem are in their hands and that in order to avoid misunderstandings I should even refrain from exchanging privately ideas such as were the subject of our conversations in Arica. The Government at Santiago was duly informed of those conversations and is in a position to decide whether they are prepared to use them as a basis of a solution. Your Excellency will no doubt remember that on each occasion on which we exchanged ideas on the political aspect of this problem I invariably stated that it was my conviction that my Government would not consider political solution until the plebiscite had taken place and given a clean title to the winning country.

That conviction of mine is stronger today than ever, for the current of Chilean public opinion in favor of the plebiscite, now that our registered voters have reached 5,500, is overwhelming; and I am sure that Your Excellency could not help more efficiently towards a rapid and permanent solution than by exercising your powerful influence to remove any difficulty that may be hindering the execution of the arbitral award.

The 5,500 voters have been registered after complying with the severe qualification test established in the election regulations and after thorough examination by the American president of each registration board. That number of voters qualified under the award represents an overwhelming proportion of the potential electorate of this territory; and therefore, even if Peru had not refused of her own free will to participate in the election, the plebiscite would confirm the fact that the great majority of the inhabitants are Chilean at heart. Under the circumstances it seems to me unjust and unwise to disregard the rights they have acquired under the award and abandon the plebiscite for any other plan, however great and lofty it may be.

This matter is entirely in the hands of my Government and it is for them to decide whatever course they consider best for the continuing of peace in this part of the world.

Please accept my warmest regards. Augustin Edwards."

VON TRESCKOW

723.2515/2187 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, April 24, 1926—3 p. m.

For Lassiter.

1. Your telegram of April 23, 11 a. m., reached me too late yesterday evening to make possible a reply. This morning my associates, Mr. Hughes, and I again carefully reviewed situation in light of your earnest recommendations.

2. We conceive that first duty for all of us is to safeguard and protect impartial position of this Government and of the Arbitrator. Even the parties to the controversy themselves, on any

statesmanlike view of their own interests, are bound to regard this condition as fundamental and indispensable. Firm adherence to this guiding principle can not possibly entail slightest embarrassment to anyone, and it would be, we should suppose, in the highest degree gratifying to you as president of the Plebiscitary Commission. No matter how we may differ over details of procedure we can not feel that there ought to be any difference of opinion on this pivotal point on which our policy must turn.

3. Through the exercise of good offices, a conscientious and by no means hopeless effort to adjust the controversy is being made. Nobody can tell, at present moment, what will be the result. We are in the middle of the stream and undeniably the situation is critical. As far as good offices are concerned, the responsibility rests squarely upon us, and I can assure you that we feel it keenly. We want and we greatly appreciate your wholehearted cooperation in seeing this business through; and in fixing conditions to promote success of the good offices we are obliged to do the best we can, basing our judgment on all information we have at our disposal, much of which can not as a practical matter be weighed and appreciated except at place where the negotiations converge and are controlled. As far as good offices and conditions favoring their continuance are concerned, we consequently accept the entire responsibility.

4. Our considered judgment is that all attempts either to prejudge the issues which affect the suspension, termination, or eventual celebration of the plebiscite, or to deal with contingencies which have not yet arisen, are both unnecessary and dangerous. For the present, the only safe and proper course is for us to cross each bridge as we come to it, and to cross it with the utmost caution, avoiding any step which at this juncture need not be faced. Precise question before us is whether the present registration period shall be extended 25 days from and after April 26. Whatever is done about this extension will, naturally, be capitalized by both sides for purposes of argument. It seems to us that on this subject we do not need to concern ourselves with any idle speculation. The simple test is what course will disturb the existing situation the least and will least prejudice the normal progress of good offices; we are convinced that on the whole it would be most unwise to permit a technical termination of this vital plebiscitary process, thereby placing a new weapon in Chile's hands, closing door to Peru, at least temporarily, and gratuitously introducing new legal complications which we must regard as serious. For these reasons we must insist upon request made in my telegram April 20, 2 p. m.,⁶⁸ and renewed April 22, 2 p. m.

⁶⁸ Not printed.

5. We mean to press this effort to settle by negotiation to the very limit. Negotiations will not terminate until and unless either Chile or Peru or both take the responsibility of bringing them to an end. If good offices should not succeed, then one of three things might happen:

(i) It is conceivable that both parties to the controversy might go ahead with the plebiscite. In this kaleidoscopic situation it is impossible to predict what might be exact position of the contestants at that moment. Of course if both want plebiscite to continue, your duty will be plain.

(ii) It is also conceivable that both parties might refuse to proceed. Should that happen, your duty would likewise be plain; there would be nothing to do but to suspend or abandon the plebiscite.

(iii) Chile might insist that registration be completed and the plebiscite celebrated, with Peru refusing to participate and perhaps withdrawing. It is in that contingency, and only in that contingency, that issue of going through with unilateral plebiscite or some form of termination or suspension would be definitely presented. Several lines of action would then have to be considered. Possibly your duty would be to make one last attempt to bring Peru back in by exaction of new guarantees pledging honor of Chile and by placing before Peru another opportunity to try out plebiscite again under guarantees of that nature. Should a plebiscite be held under such guarantees and they were to prove ineffectual, the chances of having before us, as a basis for a finding on the question of frustration, something more definable and conclusive than we have now would be increased. On other hand, if Peru refused to accept these guarantees and withdrew from plebiscite, the issue would be a unilateral plebiscite or nothing. At this point we confess to a feeling of disappointment regarding state of the evidence bearing upon Chile's alleged frustration. We have already stressed importance of having a record on this subject adequate to sustain any finding that may be made. To make a flat declaration out of hand with nothing to point to but sweeping assertions and general opinions and statements which have been taken in course of *ex parte* investigations, strikes us as being altogether inadequate. An indictment of a sovereign state can not be drawn in this manner. Chile would clearly be entitled to a hearing. We are not in a position to determine and it would not be proper to prejudge action of Arbitrator who must act ultimately as a judge upon record before him. It might be necessary for the Arbitrator, in order that case might be fully heard and his final determination made as invulnerable as possible to attack, to order up the evidence, possibly to take additional evidence, and to provide for an appropriate hearing. In determining his course the Arbitrator must reserve complete freedom of action.

723.2515/2218 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, April 24, 1926—4 p. m.

[Received April 28—10 p. m.⁶⁹]

From Lassiter. In continuation of my telegram April 18, 5 p. m. Deportations provide typical example of difficulties involved in proving case against authority controlling territory and of the evidence available. In spite of difficulties in obtaining proof, deportations have been so numerous that large amount of evidence is available.

General Pershing was able to show in January from reports made to our observers that there had been about 700 deportations and expulsions, of which about 275 had taken place between rendition of the award and end of 1925. Although there has been no special effort to unearth cases of that sort since then, about 25 cases have been reported as having taken place since last December. The probably considerable decrease in this period is due (1) to fact that the work had already been well done, as is shown by the many vacant Peruvian homes and homes where, our observers found, only women were living—American members of two registration boards alone have reported over 100 vacant houses; and (2) to greater danger of detection with arrival of American board members and the return, under subpoena, of Peruvian voters from Chile or Peru. But effect of past deportations can not be removed without return of the deportees and the freeing of these men and their families from the fear in which they live.

The 700 cases referred to above (about 300 altogether since the award) have been brought to the attention of the American delegation in such a way as to lead the observer or investigator to give credence to the charges. In a number of cases where formal investigation has been possible, the charge has been convincingly established as misconduct, as well as charge that system designed to drive Peruvians from plebiscitary territory was countenanced by officials. It is astonishing how information acquired later fits into and corroborates that obtained by first observers.

Lassiter
VON TRESCKOW

⁶⁹ Telegram in three sections.

723.2515/2203 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract—Paraphrase]

SANTIAGO, April 25, 1926—3 p. m.

[Received 11 p. m.]

110. I saw Mathieu yesterday morning. I think that if you can keep the good offices alive it may be possible to work out a plan of settlement more or less on following lines:

1. Obtain Peru's consent to cession of entire Province of Arica to Bolivia.

2. In consideration of restoration of Province of Tacna to Peru, Peru will consent, as first step to proceedings of your good offices or as simultaneous or anterior collateral proceeding, to Chile's and Bolivia's making a contingent preliminary agreement on compensation and economic arrangements.

3. When Chile and Bolivia have reached accord between themselves, they should report it to you; representatives of Bolivia, Chile, and Peru should then meet and draft protocols necessary. I am sure that Bolivia and Chile will grant Tacna free entry through Arica and will possibly establish regime of interchange of local products between the two provinces. This agreement would provide also for the demilitarization of the Morro of Arica, which might be created an international memorial to the heroic dead and symbol of peace, under international sovereignty.

If in your opinion such a solution seems proper and practicable, I have some hope of obtaining its acceptance very soon and of Chile's assent to suspension of the plebiscite, either for definite period if negotiations were making favorable progress, or during the negotiations and subject to a resumption of the plebiscitary proceedings whenever a majority of the Plebiscitary Commission shall so vote in a meeting called by its president. Authority of the Commission and general arrangement for holding the plebiscite should be maintained unimpaired.

There is no certainty that Chile would accept foregoing plan; but the possibility of her accepting it is such, provided Peru is likely to accept, that I think it would be a wise procedure for you to sound out Ambassador Cruchaga. If on Tuesday, April 27, or before then, he were to suggest or even to report this plan to Chilean Government for its consideration, such action might avert resolution by Chamber of Deputies, on April 28, to terminate good offices.

COLLIER

723.2515/2183 : Telegram

President Coolidge to the President of Bolivia (Siles)

WASHINGTON, April 26, 1926.

I take pleasure in acknowledging receipt of Your Excellency's esteemed message dated April 19, 1926. In reply permit me to direct Your Excellency's attention to the fact that my relation to the matter which forms the subject of Your Excellency's message is defined by the Protocol of Arbitration signed at Washington on July 20, 1922, by the representatives of the Republics of Peru and Chile, whereby certain questions arising out of the unfulfilled provisions of Article 3 of the Treaty of Ancon between Peru and Chile, dated October 20, 1883, were submitted to me as Arbitrator. I have no other powers or duties than those described in the said Protocol and in the Act supplementary thereto. The negotiations between Peru and Chile which are now proceeding at Washington originated in a tender of the good offices of the United States made by the Secretary of State to the Governments of Peru and Chile with a view to affording the said Governments an opportunity for effecting such adjustment as they might desire to make of the differences between them, outside the terms of the Protocol and of the Award thereunder made by the Arbitrator. Manifestly the ensuing negotiations are confined to the two Governments of Peru and Chile and the Secretary of State advises me that in the absence of any consent to that end by those Governments he does not consider that he can appropriately invite any other government or governments to participate therein.

I take this opportunity of conveying to Your Excellency the assurances of my distinguished consideration.

CALVIN COOLIDGE

723.2515/2183 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 26, 1926—4 p. m.

67. Following message has been sent today by the Arbitrator to President Siles of Bolivia in reply to the latter's message of April 19:

[Here follows text of the telegram to the President of Bolivia, *supra.*]

Above reply has not yet been given to the press, but you may, if you find it advisable, give its substance informally and confidentially,

to the Minister for Foreign Affairs. In view of importance Chile evidently attaches to this *démarche* of Bolivia, and its possibly unfortunate effect, we should be in position to act quickly if any attempt is made to make us in any way responsible for Bolivia's action. I have scrupulously avoided all communication with Bolivia on subject of this controversy. . . . Has there been anything said in your conversations with Bolivian Minister at Santiago which could justify assertion, should it be made, that we have advised or instigated rupture of direct negotiations between Chile and Bolivia?

KELLOGG

723.2515/2212 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, April 27, 1926—11 a. m.

[Received 5:45 p. m.]

116. Your No. 67, April 26, 4 p. m., last sentence. Nothing that I have said could be construed as advice or instigation. My few and brief conversations with the Bolivian Minister here convince me that President Siles' telegram to President Coolidge was thought by the former to be a natural, proper, and timely step for Bolivia to take in view of your alternative proposition of April 15 and of the repeated assurances given by both Chile and Peru that Bolivia could have a port on the Pacific. The Bolivian-Chilean situation as it exists today helps rather than hinders your negotiations, in my opinion. The repeated public declarations made by Chilean Minister for Foreign Affairs that Bolivia's aspirations would receive consideration and that Chilean-Bolivian conversations were proceeding favorably were intended to defeat any solution except a plebiscite, first, by winning the support of Bolivian voters in Arica; next, by causing Bolivia to hold off until Chile had won Arica and would be in position to name her own terms; and lastly, by holding in check the Chileans who are demanding that commercial arrangement be made immediately under your good offices while Chile has still at least a claim to the provinces and that it be not delayed until she may have lost the plebiscite or it has been annulled. Chilean Ambassador's annoyance is evidence to me that Chile's position has been weakened by Bolivia's action and that she will have to yield. If you can first get Peru to accept plan set forth in my No. 110, April 25, I believe that there will be no difficulty about an agreement being reached by Chile and Peru.

COLLIER

723.2515/2213 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, April 27, 1926—4 p. m.

[Received 8:15 p. m.]

117. Today I received visit from the commercial adviser of Chilean Ministry of Commerce, who is an intimate friend, and is the recognized authority here on Bolivian commercial relations. . . . He says that the majority of the people of influence here really prefer a solution by good offices. I gave no hint of plan suggested in my No. 110, April 25, 3 p. m.; but I am more hopeful than ever that if you can obtain Peru's acceptance you can get Chile's. The commercial adviser says that Chile wishes to make her own negotiations with Bolivia largely as matter of *amour propre* . . . and that Chile would gladly resume direct negotiations because the interviews which they gave out have increased fear that refusal to negotiate further may mean loss of all opportunity to do so and may throw Bolivia into close commercial relations with Argentina and cause her to seek an outlet to the sea through Buenos Aires. He also said that Edwards and his newspaper *El Mercurio* are being almost universally criticized.

COLLIER

723.2515/2210a : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, April 27, 1926—5 p. m.

68. We are advised by Ambassador Cruchaga that he is suggesting to Mathieu, on his own responsibility, as a basis for settlement the assignment of Tacna Province to Peru and of Arica Province to Bolivia, with the understanding that Chile and Peru shall each undertake separately preliminary negotiations with Bolivia in regard to compensation, commercial advantages, etc.; any agreements reached in this way to be embodied in final settlement of negotiations under good offices. Cruchaga expressed his doubt that this suggestion will be approved, but he will personally recommend it.

KELLOGG

723.2515/2228 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, April 30, 1926—10 a. m.

[Received 2:20 p. m.]

124. Notwithstanding supposed secrecy of Senate's session, the resolution proposed by Senator Cariola is published today unofficially

but textually. There are 28 preambles most of which refer to the plebiscitary proceeding up to date. There are many statements as to the acts of the Arbitrator and his representative on the Commission with presumptions as to necessary legal consequences. Among other statements are the following: "Although the representative of the United States of America on the Commission at one time said that in his opinion conditions did not permit holding an honest and correct plebiscite, this opinion must be considered as having disappeared because he has since intervened in voting the election law to regulate the plebiscite and afterwards in fixing the dates for registering and voting and finally because on March 25 he declared his willingness to go on with the plebiscite and saw no use in delay." No reference is made to his reservations and declarations of March 25 and April 26 although they have been published. Whether you would consider it proper to remind the Chilean Ambassador of these I do not know. It might do good if he cabled his Government immediately.

Morning papers say vote will be taken at 7 o'clock tonight on three resolutions but there is first a chance of postponement. The Cariola resolution demands cessation of good offices and leaves Minister of Foreign Affairs with no freedom of negotiation. The substitute resolution of the Committee on Foreign Affairs leads to same result although approving the course of Minister of Foreign Affairs up to date. A third resolution introduced by Senator Urzua champions the fulfillment of the award but recognizes and respects the power of the President to conduct foreign negotiations. It is generally thought the committee resolution will pass, although one Senator has publicly said that on account of division of opinion it is possible no resolution will be adopted but that the Minister for Foreign Affairs will have the benefit of the recent Senate discussion as a guide for his future policy. Mathieu will probably resign.

COLLIER

723.2515/2240½

*Memorandum by the Chief of the Division of Latin American Affairs
(White)*

[WASHINGTON,] May 1, 1926.

The Chilean Ambassador called on the Secretary on Saturday, May 1, at his request. The Secretary told him that he wished to speak with him very frankly in view of messages received from Ambassador Collier. The Ambassador stated that he had had no news whatsoever from Santiago. The Secretary then read to the

Ambassador a portion of the resolution proposed in the Chilean Senate by Senator Cariola as follows:

“Although the representative of the United States of America on the Commission at one time said that in his opinion conditions did not permit holding an honest and correct plebiscite this opinion must be considered as having disappeared because he has since intervened in voting the election law to regulate the plebiscite and afterwards in fixing the dates for registration and voting and finally because on March 25, he declared his willingness to go on with the plebiscite and saw no use in delay.”

The Secretary stated that if this was the feeling in Chile he might as well call their attention at once to the statements made by General Lassiter in voting for the various resolutions. The Secretary then read to the Ambassador the statement made by General Lassiter in the meeting of the Plebiscitary Commission on March 1, when voting affirmatively upon the resolution approving the notices that registration would start March 15, as follows:

“The preliminary work of the Commission is now approaching its close and we are about to begin the actual registration of prospective voters. In my view this passage from the previous phase of preparation for the plebiscite to that of actual execution involves no commitment as to the conditions which now affect or which in the past have affected the carrying on of a plebiscite. These conditions must in the future as in the past be under constant scrutiny and the whole body of information thus gained must be used in arriving at a judgment of the acceptability of the result or of the action to be taken.”

The Secretary then read to him General Lassiter's statement, made in the meeting of the Commission on March 25, in voting in the negative upon the Chilean member's motion asserting that all the requisites prescribed by the Commission for a free plebiscite had been complied with by the Chilean Government, as follows:

“In my judgment by no means all of the prerequisites to a fair plebiscite stated by the Commission have been complied with in substance, furthermore, the Commission has not sought formally to restate in its resolutions all the requirements affirmative and negative laid upon the Chilean authorities by the Opinion and Award of the Arbitrator moreover, under the Award the Commission cannot bind itself irrevocably to proceed with registration and voting according to any particular time schedule. I am, therefore, constrained to vote and do vote no upon the Chilean member's substitute resolution.”

The Secretary finally read to the Ambassador General Lassiter's statement in the meeting of March 25, when abstaining from voting on

the motion of the Peruvian member declaring the impracticability of the plebiscite. This statement was as follows:

"As stated before when voting on the resolution introduced by the Peruvian member for indefinite postponement, I am prepared to continue plebiscitary proceedings with a hope that appropriate safeguards for the plebiscite will be provided and with the intention of observing conditions and utilizing all information gathered throughout the plebiscite to formulate a judgment as to further decisions to be taken. An expression of the conclusions of the Commission upon plebiscitary conditions is at this moment not essential or advantageous. I therefore abstain from voting on the resolution."

The Secretary stated that it was clear from this that General Lassiter has reserved his position all the way through and has kept a perfectly free hand in the matter. The Secretary then read from a telegram from Ambassador Collier⁷⁰ in which General Lassiter was reported to have said in the meeting of April 26, in voting for a prolongation of the registration period that "this motion has been presented for the purpose of maintaining the *status quo*. In adopting it the Commission is not exhausting all its facilities [*powers?*]. Certain observations made by me in the sessions of March 1, 14, and 25, relate to this matter." The Secretary said that right up to the very last General Lassiter has maintained his position without changing it and it was entirely wrong for the Chileans to go on any other assumption. The Secretary of course was not stating what the President as Arbitrator or even the Commission will do but he was merely pointing out these statements which apparently had not been taken into consideration in the Chilean Senate, certainly not by Senator Cariola.

The Secretary then stated that he had received a telegram from Ambassador Collier⁷⁰ stating that in a talk which he had had with the President of Chile on April 28, the President had shown very great irritation because of General Lassiter's declaration last above quoted. Ambassador Collier had reported that the President had said that this was a clear and express declaration by the representative of the Arbitrator to hold up the juridical proceedings and in order to force Chile to accept good offices. . . .

The Secretary then read the Ambassador a statement in yesterday's *Evening Star* to the effect that Chile considered that the Department of State had not had the courage to prevent the commencement of registration and would not now have the courage to call the election off. The Secretary stated that we had not yet ar-

⁷⁰ Not printed.

rived at the moment to make any declaration but when the moment has arrived the proper decision will be taken but he did not want Chile to misunderstand his attitude at all, it was necessary that this should be made absolutely clear. The Secretary had not attempted to coerce Chile in any way whatsoever to make an outside settlement through good offices. The Secretary had been urged to do so by Chile and the Secretary was glad to do what he could to try to make a settlement that would be equitable to both parties. The Secretary naturally could not say what the decision of the Commission would be nor could he tell what attitude the Arbitrator would take but he must point out to Chile that as far as he personally was concerned he could not ignore the vast amount of cumulative evidence that he is receiving which would make it very difficult to consider as valid any election that might take place now in Arica.

The Secretary stated that as a matter of fact he had brought more pressure to bear on Peru than he had on Chile in order to bring about a settlement especially a settlement on the basis of the division of territory. The Secretary thought that it was legitimate to do this and he had consequently advised Peru that it was to the interest of all that a proper settlement be made. The Secretary said that he thought he had only done what was right in making this statement. He certainly could not be charged with bringing pressure to bear on Chile to coerce her into an outside settlement that she did not want. This matter would have to be decided by Chile. If they did not want an outside settlement well and good. He would be very glad to have them say so and we will then proceed with the question of whether an election can be held or not. The Secretary did not desire to pass on this now, he could not say what the Arbitrator would eventually decide but as he had said before he must frankly say to the Ambassador that the accumulation of evidence that is being sent to him from Arica is very strong that Chile has not acted properly in this matter.

The Ambassador stated that the Secretary was quite right, that the Secretary had certainly never threatened or brought pressure to bear on him. If he might venture to say so his feeling had been that if prejudiced at all the Secretary was prejudiced in favor of Chile. . . . One thought occurred to him, namely, that it might be possible for the Secretary to declare in favor of holding the plebiscite, as that seemed to be their fixed idea in Santiago, and then have Chile at the same time say that as soon as the plebiscite was over it would turn the provinces into the Secretary's hands to be disposed of as he should think proper. The Secretary stated very definitely that he could not commit himself in any way to the carrying on of the plebiscite, could not make any statement at this time which would indicate that he thought that a plebiscite could and should be held. When the

time comes the matter will be considered on the basis of the evidence submitted and the Secretary cannot now commit himself to the carrying out of the plebiscite. He stated that he must again say that the evidence coming to him of conditions in the provinces were such that he could not ignore it nor in any manner commit himself with regard to the holding of a plebiscite.

[FRANCIS WHITE]

723.2515/2249a : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, May 5, 1926—6 p. m.

46. My No. 44, April 15, 8 p. m. Situation at present is as follows:

1. Chile has accepted division of the territory.
2. Peru has rejected division of the territory.
3. Peru has accepted neutralization of the territory.
4. Chile has not yet replied to neutralization proposal.
5. Peru agrees to give Bolivia outlet to sea in south of Arica Province provided rest of province be neutralized.
6. Chile has not yet replied to second alternative offer I made on April 15.
7. Chilean Senate has adopted resolution reading in translation as follows:

After hearing the explanation of the Minister for Foreign Affairs, the Senate is of the opinion that the plebiscite must be held in order to safeguard the principle of arbitration and in fulfillment of the Award rendered by His Excellency the President of the United States, and acknowledges the Government's effort to find a harmonious solution of the problem of Tacna-Arica.⁷²

8. From the above it appears that there is little likelihood that Chile will accept either of proposals which I made on April 15. In this situation Peru now has it in her power to bring about settlement by agreeing to division of the territory. If this proposal is accepted in principle it opens door to many possible solutions; the territory could be divided between Chile and Peru or among Chile, Peru, and Bolivia on several bases. It is our understanding that Chilean Senate's resolution does not affect my first proposal for division of the territory. Chile having definitely accepted a division, however, and

⁷² On May 10 the Secretary informed Ambassador Poindexter that the Chilean Chamber of Deputies had adopted the resolution and requested him to expedite President Leguía's reply to this telegram (file No. 723.2515/2261).

not having withdrawn her acceptance, it manifestly would be most difficult for her to withdraw her acceptance should Peru now accept.

Position Peru has taken in rejecting division of the territory is that she is unable to accept giving up by her own act a part of what she claims as her sovereign territory. Should the territory have been lost to her through an arbitral award or the plebiscite that would be a different matter. Although I fully appreciate point of view taken by Peru, I feel, nevertheless, that the present is not a time to insist on considerations which are technical and more or less theoretical. We are now confronted by what appears to be our last opportunity to bring about a solution of this controversy of many years' duration which has not only embittered relations between two leading South American countries, but has greatly reacted to the detriment of their economic life and prosperity. Time has come when this matter should be looked at in broad-minded manner, prejudices and antagonisms forgotten, and every effort made to dispose finally and definitively of this question. I feel that it can be done, and in an eminently satisfactory and permanent way by division of the territory, especially if Bolivia be given a corridor to the sea at Arica, corridor also to include railway.

Of course, I shall welcome any settlement satisfactory to Chile and Peru, but the argument which has been advanced against neutralization of Tacna-Arica is that it would almost inevitably entail rivalry between Chile and Peru to obtain a dominant position in the neutralized state and it would probably produce future discord and conflict while a division of the territory by which a definite line between the two countries is established would afford the basis for a definite settlement instead of entailing a future rivalry. It is urged that this would be the case even more should a Bolivian corridor exist to separate the two. This corridor might include either the whole of the territory or only a portion of it. Such a solution as this appears to be most statesmanlike and conducive to a settlement of existing difficulties and to establishment of friendly relations between Chile and Peru.

It is my desire, therefore, that at earliest possible moment you speak with President Leguía; without suggesting any definite settlement, set forth the above considerations, but do not give him any note or memorandum, in endeavor to have him accept in principle division of the territory. Time is running against Peru, for extension of period of registration will soon expire; it is imperative, therefore, that you immediately urge the President to accept this solution.

KELLOGG

723.2515/2254 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, May 6, 1926—4 p. m.

For Lassiter. Ambassador Cruchaga informs me that on April 29 Mr. Freyre wrote to you stating that Peru was abstaining from appointing Peruvian members of the registration boards as Peruvian voters were abstaining from registration; that Peru's abstention from participating in functions of electoral boards was in response to suggestion from this Government; and that you had sent Edwards a copy of Freyre's note.

Please let us know as soon as possible if this is correct. To what suggestion of this Government does Freyre refer? I have made no suggestion to effect that Peru should not participate in registration; in fact, I have urged repeatedly that Peru participate and I presume that you have done likewise and certainly that you have not suggested that Peruvians should not participate. Telegraph reply without delay, as I wish to issue denial; and I think that you should also reply to Freyre's letter, pointing out that this Government has never made any such suggestion. It is important that I know exactly what you communicated to Edwards and also what, in this connection, you have written or said to Freyre. Freyre's statement as given above has caused much unfavorable comment in Chile.

KELLOGG

723.2515/2260 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, May 7, 1926—3 p. m.

[Received 10:30 p. m.]

141. Inasmuch as the President of Chile in his conversation with me on April 28 complained that you and Lassiter were both trying to force good offices upon Chile, I thought it expedient to write a note to the Foreign Office reminding it that the very first intimation as to good offices was a request by Chile made on October 23 through Carlos Castro Ruiz, then Counsellor of Ministry of Foreign Affairs,⁷³ and reiterated and embodied in a formal memorandum handed to me by Barros Jarpa, then Minister for Foreign Affairs, on October 27.⁷³ In this note I said to the Minister of Foreign Affairs that I regretted he had deemed it necessary to keep this offer so secret that the public

⁷³ Not printed.

and newspapers had formed the impression that the United States had conceived the idea of good offices and was imposing it upon Chile against its will and that the newspapers were consequently creating very bitter feeling against the United States. You will please understand that my note was to the Foreign Office and not to the press nor even did it request that the press be informed; moreover it did not express any opinion whatever concerning future action of Arbitrator or the Commission but simply reminded the Foreign Office of Chile's request last October for good offices and of Edwards' subsequent advocacy of his plan and of Chile's prompt acceptance of both your offers of good offices and of the plea of the Minister of Foreign Affairs a few days prior to March 24 that the United States use every effort to make Peru accept good offices.

Late last night the Under Secretary of Foreign Affairs called upon me to say that this note had produced a wonderful effect which he felt ultimately might bring about the acceptance of diplomatic settlement. He said that Mathieu had learned for the first time of Barros Jarpa's memorandum and this information would make the former invulnerable against any possible attacks in Congress. The Under Secretary said that Alessandri was shown the memorandum of Barros Jarpa yesterday and instantly apologized to Mathieu for some attacks he had made upon him and declared he was coming to the Embassy to apologize to me. He came this morning bringing with him a copy of my note which the Minister of Foreign Affairs had given him. He . . . said he had come to express his regret that he had questioned the motives of the United States; that he had been entirely ignorant of the memorandum and that he appreciated now that the United States had acted only at the request of Chile. He also said that Mathieu had admitted to him yesterday that he (the former) had urged shortly prior to March 25th that the United States put pressure on Peru to make her accept good offices. Alessandri said that he still believed in the plebiscite but no longer would question the purity of your motives in offering good offices.

The Under Secretary showed the note to the President of the Republic who expressed astonishment but also great relief upon learning that the unpopular good offices movement was started in time of Barros Borgoña, Acting President. The Under Secretary said the President wished to publish the note but he advised against it. It would be a revelation that might break the opposition to good offices. [Paraphrase.] You may think it proper to publish text of the memorandum, as the subsequent memorandum of offer and acceptance have been published here and in Washington. [End paraphrase.] I shall not give any publicity to the matter at all but I am confident it will

soon leak out . . . When our motives are no longer questioned they will listen to your advice.

To illustrate how nothing can be kept secret here, the resolutions and speeches of the secret sessions of Congress have been published and newspapers have boasted of this as a scoop. The Under Secretary of State tells me almost every Senator and Deputy who has spoken has arraigned Edwards. Although this is prompted by the feeling that at one time he was ready to abandon the plebiscite and although it indicates the strength of the present demand for the plebiscite, I think it means eventual disintegration of the opposition to good offices.

The health of the Minister of Foreign Affairs continues very bad; and notwithstanding that he seems, upon the whole, to have the confidence of Congress, he will probably resign as soon as a few things get straightened out.

COLLIER

723.2515/2261 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, May 7, 1926—6 p. m.

[Received May 8—12:20 a. m.]

53. Your No. 46, May 5, 6 p. m. As soon as I could I saw President Leguía today and urged upon him acceptance in principle of proposal to divide the provinces. He seemed set on knowing beforehand what sort of division was proposed. I explained carefully to him that that would be matter for negotiation if opportunity were given by acceptance of the principle, and I pointed out that by his acceptance in principle the matter would be put up to Chile. He spoke of fear of revolution in Peru were the Government to agree to division of the provinces, and of weakness Government would display by changing its attitude. I said that nothing was more common in governments, and pointed out that he had announced publicly his willingness to give Bolivia access to sea. The President finally expressed his personal willingness to accept proposal in principle and to negotiate on its terms; he said, however, that consultation with the presidents of the two Houses of Congress would be necessary, and that tomorrow he would advise me further. . . .

POINDEXTER

723.2515/2263 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract]

ARICA, May 7, 1926—6 p. m.

[Received May 8—2:45 p. m.]

From Lassiter. Your telegram May 6, 4 p. m.

1. The following is my reply to your inquiry: The Chilean member wrote me on April 24th asking when the American and Peruvian members of the Appeals Board would be appointed. I referred the letter to Freyre and the pertinent part of Freyre's reply of April 29 which I transmitted to Edwards is as follows:

"That the Peruvian electorate has abstained from registering pursuant to my Government's purpose to cooperate in suspending the plebiscitary proceedings in compliance with a suggestion from the United States Government until the negotiations initiated through the good offices of the Secretary of State of the United States had reached a definite conclusion."

This represents the attitude which the Peruvian member has consistently taken since March 27th and I made no comment on it either to him or to Edwards' statement.

[Paraphrase]

2. I fear I have not been able in previous cables to make Peru's attitude toward registration clear to you. In my telegram March 27, 3 p. m., I asked you specifically to notify Peru that suggestion for suspension was annulled, so that there could not be any misunderstanding on her part. The only replies that I received were that you wanted registration to proceed even if it were unilateral. You said nothing about urging Peru to register; and it would have been out of the question, under the circumstances, for me to do so, as matter was in your hands and not in mine.

3. Ostensible reason that Peru gives for her abstention was your suggestion for suspension. Underlying reason was that conditions were intolerable. It was not possible for Commission to act promptly on your suggestion for suspension which was described in your telegram March 25, 6 p. m.,⁷⁸ so as to avoid beginning registration already fixed for March 27, as Chilean Commissioner refused to waive regular notice of meeting. As Peru had suspended her participation in the plebiscitary proceedings on March 27, her reason being, as she gave it, the desire to cooperate in conformity with your suggestion, it

⁷⁸ See footnote 32, p. 350.

would have been preposterous to expect her to enter upon registration in middle of period when all her electors would be subject to challenge while great numbers of those of Chile would have escaped it. I thought that you understood this situation when you suggested extension of the registration period by 25 days on ground that existing situation would be least disturbed. It never occurred to me that you expected that Peru would commit herself to registration at that late moment without an effective effort being made to restore the balance between the two contestants. In voting for the resolution, therefore, I made following statement, which I supposed conformed to your idea:⁷⁷

“This resolution has been introduced for the purpose of preserving the *status quo*. In adopting it the Commission is not exhausting its powers. Certain remarks made by me at the sessions of March 1st, 4th, and 25th are pertinent.”

Remarks referred to in last sentence indicated that conditions compatible with fair plebiscite had not been attained.

Lassiter
VON TRESCKOW

723.2515/2268 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extracts]

SANTIAGO, May 9, 1926—11 a. m.

[Received May 10—4:25 a. m.⁷⁸]

146. Yesterday I was reliably informed that in the debate in the Chamber of Deputies a great fight against good offices was being based largely upon assertions that the United States was trying to force Chile to accept plans of solution under good offices. This idea has been diligently and universally promulgated here not only by Alessandri but also by agents in the employment of the Plebiscitary Commission and by a great number of Congressmen and public orators and by all Chilean and many Argentine papers. . . . For months press and platform have meanly, bitterly, and falsely calumniated the Arbitrator, yourself, and all our delegation in Arica and have absolutely misrepresented your purposes and policies, using caricatures, as well as news and editorial columns. . . . For these reasons but especially in the hope that they might be brought by the Minister of Foreign Affairs to the attention of Congress before its night session, I drafted

⁷⁷ Quoted passage not paraphrased.

⁷⁸ Telegram in three sections.

a new note dated yesterday ⁷⁹ expressing regret that the erroneous impression as to our motives had been allowed to permeate the masses and calling attention to the fact that Chile was the first to suggest and virtually invite good offices, and I incorporated that part of the memorandum of October 27, 1925, given to me by Barros Jarpa then Minister of Foreign Affairs and cabled to you on the following day.⁸⁰ I then gave this new note of yesterday, May 8, to the press.

The Under Secretary called upon me at 8:30 last night and asked me to withhold publication of the note for two days until after the termination of the congressional debate and after your meeting tomorrow with the two Ambassadors when the Ambassador of Chile, unless his instructions are changed by a result of yesterday's revelations, will notify you that Chile insists upon going on with the plebiscite. The Under Secretary said there was no objection to immediate publication my note in American papers, but they would like to keep it out of Argentine and Chilean papers for a couple of days. The more he laid stress upon this, the more I felt that the note should be published and published without delay. I declined to comply with his request that I write and telegraph to the papers withdrawing the note from publicity. I told him that, in view of the campaign of abuse against the United States which so far the Ministry had made little effort to stop, I thought the note should be published at once. I said there had been five memorandums including this one with regard to good offices; and that, without previously asking the consent of the Government of the United States, the Chilean Foreign Office on March 27 gave publicity to your memorandum of February 16 and to their answer, and you thereupon published the memorandums exchanged a month or so later and that therefore there was no violation of confidence or irregularity in publishing the Chilean memorandum of October 27th which virtually started the matter. On the contrary one memorandum having been published, ordinarily all relating to the same matter should be published. I also said that the note that I had given out could in no way embarrass the present Minister of Foreign Affairs nor the actual President. For your information I think it will help them to swing back to their original positions in favor of good offices from which they have both drifted with the popular tide. I understand that the Government got the local papers to hold off publication until it could try to persuade me to withdraw it. I refused to do so saying that it would be construed as cowardice or possibly a frustrated attempt at misrepresentation or a diplomatic irregularity and I would not make any such admissions. The article therefore appears in all

⁷⁹ See telegram No. 147, *infra*.

⁸⁰ Telegram not printed.

Santiago papers this morning and I understand that the United Press cabled the full text to the United States and South America.

[Paraphrase.] I sincerely trust you will not disapprove my action in publishing this note. I am aware how perilous a step it was, but I thought it necessary to take action before Chilean Congress met. As there was not a minute to spare I did not telegraph you, but had to assume responsibility, trusting you to approve the action for its results. . . . I shall cable you text of material part of my note. . . . [End paraphrase.]

COLLIER

723.2515/2269 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, May 9, 1926—5 p. m.

[Received May 10—3:07 a. m.]

147. The following is text of material parts of the note referred to in my telegram number 146:⁸¹

I had the honor to address to you a note on May 3rd in which I referred to the impression which seems to exist in Chile that the Arbitrator in the Tacna and Arica question has shown a disposition to abandon his award, and that the Government of the United States of America is seeking to force Chile, against its will, to accept a settlement under good offices.

In that note I pointed out how unfortunate in its effects, not only upon the plebiscitary proceedings and the proceedings under good offices but also on the general relations of the people of the United States and Chile, is this erroneous impression as to the attitude and motives of the United States. I said this is due to popular ignorance of facts as to which nation made the first suggestion of good offices and as to the subsequent development of that idea; and I brought to Your Excellency's attention certain facts which had occurred before the time when Your Excellency assumed charge of the Ministry over which you so worthily presided, and also prior to the assumption of the Executive power by His Excellency the present President of Chile. I will not trouble you by repeating those facts in this note, but I will ask Your Excellency to refer to them and consider them as if embodied herein.

I particularly referred to the memorandum handed to me on October 27th, 1925, by Señor Barros Jarpa, then Minister for Foreign Affairs, in which he said among other things: (here was inserted the original Spanish text of which the English translation was cabled to you in my 108, October 28, 1925,⁸² second paragraph of first section).

This memorandum may be considered the first of the series of memoranda which were exchanged upon this subject. On March 27,

⁸¹ *Supra.*

⁸² Not printed.

1926, the Ministry over which you so worthily preside, made the first publication in this matter by giving to the press the memorandum of the Secretary of State, which I had the honor of handing to Your Excellency on February 17th,⁸³ and you also gave publicity to your answer to that memorandum.⁸⁴ Thereafter the Secretary of State gave out memoranda which were exchanged a month or so later.⁸⁵

In order to correct the erroneous fomentation [*sic*] harmful popular impression to which I have referred, it now seems desirable that the memorandum of Señor Barros Jarpa of October 27th, which virtually initiated the movement of good offices, should also be published.

Bearing in mind that this memorandum was written by Señor Barros Jarpa when Minister of Foreign Affairs, but shortly after he had returned from Arica where he had spent two months as assessor to the Chilean delegation, and that it was based in part upon his observations and experience while in the plebiscitary region; and also bearing in mind the activity of the Chilean delegate upon the Plebiscitary Commission, Mr. Agustín Edwards, in developing and in advocating in the months of November, December, and January, the creation of an independent state as the most practicable solution; and bearing in mind the subsequent prompt acceptance by Chile of the offer of good offices which was finally made by the Secretary of State in February and the equally prompt acceptance of his later memorandum in which the offer was virtually renewed; I feel sure that Your Excellency will agree with me in my declaration that instead of good offices having been forced on Chile by the United States, the Chilean Government was the first to suggest it and to accept it. Moreover, through responsible officials connected either with its Plebiscitary Commission or its Ministry of Foreign Affairs, it advocated and even urged a settlement by means of good offices at least until the 25th of March, 1926.

Despite many insinuations and intimations (which seemed very much like implied requests) made in October, November, December, and January that the United States should offer its good offices, the Secretary of State invariably replied that he was unwilling to make the offer but that, if both Chile and Peru requested it, he would be disposed to consider their request favorably.

When the offer was finally made in February, it was because the insinuations and intimations that had been made to the Government of the United States caused it to believe that both nations would be disposed to accept the good offices and that possibly they thought that in this way there might be found a quicker, a happier, a more satisfactory, and a more permanent solution of the Tacna-Arica question than by the plebiscite, which whatever may be its juridical merits, has already shown itself a means of increasing rather than decreasing, at least temporarily, racial and national passions and hatred.

I avail myself of this opportunity, et cetera.

COLLIER

⁸³ See telegram No. 10, Feb. 16, to the Ambassador in Chile, p. 298.

⁸⁴ See telegram No. 22, Feb. 19, from the Ambassador in Chile, p. 305.

⁸⁵ On March 27 the Department of State made public memoranda quoted in telegrams No. 20, Mar. 11, to the Ambassador in Chile, p. 327; No. 36, Mar. 16, from the Ambassador in Chile, p. 332; and No. 30, Mar. 25, to the Ambassador in Chile, p. 350.

728.2515/2263 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, May 11, 1926—3 p. m.

For Lassiter. Your telegram May 7, 6 p. m. . . . Peru has not abstained from the registration in compliance with any suggestion from the Government of the United States; instead, she has abstained in face of most emphatic statements that plebiscitary process, even after acceptance of good offices, could not be suspended save by agreement of both the parties. There is no room left for misunderstanding on that subject. Record is clear and I am anxious that you yourself should not remain under any misapprehension. Offer of good offices was made in identical terms to both Chile and Peru; nothing was said about suspension and, therefore, acceptance could not operate as a suspension. On March 25, after Peru's acceptance and two days before registration had begun, I suggested to Governments of both Chile and Peru that in view of acceptance of good offices they take appropriate steps to bring about a suspension; obviously no useful purpose would have been served in asking Chile and Peru to cooperate in this matter if suspension had already been arranged. On March 26 I advised you that it was impossible to get word from Governments of Chile and Peru in time to advise you finally about suspension on that day, and suggested that you arrange for adjournments from day to day.⁸⁶ In reply to your telegrams insisting upon termination of the plebiscite I cabled you on March 27, 4 p. m., that only question open for determination was over suspension of plebiscitary proceedings while the negotiations were going on. I stated that there was no choice but to continue with the registration, even though, for the time being, Peru declined to participate. On March 29 I again explained the situation to both parties and quoted my telegram to Ambassador Collier to you in my telegram of that date, 7 p. m., and stated that similar analysis had been sent to Peru. On April 1 (see my telegram that date, 10 a. m.) I called attention to press reports that Peruvian voters were being removed from the territory without registering them, and I asked for full report on the matter. In same telegram I said I had asked Ambassador Velarde and his counsel why the Peruvian voters were not registered and had received no reply. In my telegram April 1, 7 p. m., I quoted in full an identic communication to Chile and Peru in which I submitted a concrete program for their approval. This program made suspension to depend upon their accepting in principle a basis of adjustment in the negotiations. I indicated the acceptance of this program by both

⁸⁶ Telegram not printed.

Chile and Peru in my telegram April 5, 11 a. m.,⁸⁷ and stated that as soon as agreement for suspension was reached, I would advise you. It is quite incomprehensible, on this record, that Peru should contend that either I or this Government had countenanced, or advised, or suggested her abstention from registration. It is precisely the contrary that is true. I do not see how I could possibly have made matter clearer.

KELLOGG

723.2515/2276 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Extract—Paraphrase]

LIMA, May 11, 1926—6 p. m.

[Received 11 p. m.⁸⁸]

56. Your No. 46, May 5, 6 p. m. I have just had conference with President Leguía, who, although he declines to accept expressly a division of the provinces even in principle, is nevertheless willing to make an arrangement which would in effect amount to same thing.

The President told me that after a conference with leaders in the Government, their opinion was unanimous that an express acceptance, even in principle, of a division of the provinces would lead to serious political disturbances. . . . He points out, nevertheless, that he has already agreed to cession of a portion of Arica to Bolivia and he says that if you will call attention to that fact, which can not be denied, it in itself amounts to an agreement such as you propose.

On a map prepared by American cartographers the President pointed out to me the harbor of Vitor, south of city of Arica, which, he asserts, is better harbor than Arica, and which he would be willing to cede to Bolivia, together with corridor to Bolivian frontier, including the Arica-La Paz railroad. He says that all he desires is to avoid cession of territory occupied by Peruvian population and the historic fortress of the Morro at Arica. He explained that Bolivia would agree to the construction of a short piece of railroad from Vitor to point on Arica railroad a short distance east of city of Arica. He also said that he would be willing to have Chilean northern boundary moved from its present line, the Quebrada Camarones, to the Quebrada Vitor, joining the southern boundary of corridor proposed to be ceded to Bolivia. I call your attention to President's repeated statement that for reasons of internal politics it would be necessary to frame proposal as cession to Bolivia rather than as division of the territory. . . .

POINDEXTER

⁸⁷ Not printed.

⁸⁸ Telegram in three sections.

723.2515/2276 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *May 12, 1926—2 p. m.*

49. Your No. 56, May 11, 6 p. m. If I understood President Leguía's proposal, it is as follows:

1. Give Chile territory south of the Quebrada-Vitor line;
2. Provide corridor for Bolivia southern boundary of which will be Quebrada-Vitor line and northern boundary of which would run parallel to and include Arica-La Paz railway from point just to east of Arica city as far as Bolivian boundary, the corridor therefor not to include within it Arica city;
3. Give Peru all territory north of corridor as thus defined.

What disposition is thought of for Arica city?

Details of an arrangement along foregoing lines can hardly, at this time, be worked out in advance. Important thing is to reach a general basis for negotiations. In view of President Leguía's proposal, looking at it in its broad outlines, will he not immediately instruct his Plenipotentiary in pending negotiations here to accept in principle, as basis of adjustment, plan of a Bolivian corridor with remaining areas to north and south of it going respectively to Peru and Chile, leaving all details of boundaries, compensation, etc., for discussion in the negotiations?

So that there may be no misunderstanding, it would be helpful if President Leguía could give you a memorandum. It is very important that I have your reply at the earliest possible moment. I think it extremely doubtful that Chile could eventually be persuaded to adopt solution by which she would give up city of Arica to Peru, although she might hand it over to Bolivia or even consent to have it neutralized. Very likely the Morro could be neutralized or could be set apart as an international memorial.

KELLOGG

723.2515/2283 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, *May 12, 1926—6 p. m.*

[Received May 13—1:55 p. m.]

From Lassiter. This morning Edwards asked me what the situation would be after May 21. This led to long conversation in which I frankly stated my position, namely, that I was here to conduct a plebiscite to which I could certify and which could be accepted by the world; that, in view of situation in March and the underlying causes for Peru's

abstention from registration, I could not accept the results of the present unilateral registration and give my sanction to it; and that, consequently, I thought another effort should be made to see if we could not arrive at a satisfactory solution of this problem. I did not go into details. Edwards objected, of course, but he did not say that he would reject any plan to resume a bilateral plebiscite. He asked me to let him know as soon as I could what is to be done.

Lassiter
VON TRESCKOW

723.2515/2281 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, *May 12, 1926—midnight.*

[Received May 13—9:57 a. m.]

151. After the publication of my note,⁸⁹ Barros Jarpa gave out a statement that his memorandum of October 27th had been drafted to head off a proceeding in connection with good offices instituted by me before the American Government without the knowledge of the Chilean Government. I gave Mathieu a full history of the conversations of the Counsellor of the Ministry and Barros Jarpa as reported in my cables 102 and 108 of October,⁹⁰ and requested that he correct this. He has given to the press the following statement:

“Official communication. In order to avoid erroneous interpretations of a statement made to a Santiago paper by the legal counsellor of this Ministry, Mr. Barros Jarpa, the Minister for Foreign Affairs, sets forth the following facts:

First, that the Ambassador of the United States did not initiate any negotiation with his Government without the knowledge of the Chilean Government, but limited himself to transmitting statements that had been made to him on October 23 by a high functionary of the Ministry, in the sense that Chile would gladly accept the offer of good offices of the American Government in order to seek a diplomatic settlement of the Tacna-Arica question.

Secondly, that the Secretary of State in his reply to this proposition, stated that only at the request of both parties could he consent to offer his good offices.

Thirdly, that in a long conversation which Ambassador Collier had on October 27 with Mr. Barros Jarpa, then Minister for Foreign Affairs, in which the former informed the latter of the facts referred to in the two foregoing paragraphs, Mr. Barros Jarpa, after an exchange of ideas in regard to a possible diplomatic settlement, handed the Ambassador a memorandum which stated that the high official who had visited Ambassador Collier shortly before and to whose proposition the answer of the Secretary of State refers, acted in a strictly

⁸⁹ See telegram No. 147, May 9, from the Ambassador in Chile, p. 424.

⁹⁰ Neither printed.

private and personal form and without the Ministry having any information with respect thereto. However, not only in the body of this memorandum but also in the conversation which followed, the Minister for Foreign Affairs, Mr. Barros Jarpa, declared that the Government would consider with the best inclination solutions of peace that might be proposed to it by friendly governments; but that it was not soliciting this 'because it did not wish to appear to be in a position of weakness which did not correspond to the Chilean position in Tacna-Arica'.

The action of the Government of the United States in offering their good offices at a later date was considered by the present Minister for Foreign Affairs and by the Government as the manifestation of a noble and loftily inspired purpose to seek a friendly solution of the problem of Tacna-Arica, which the two interested countries had been unable to reach directly.

During the exercise of these good offices, the Chilean Government has tried at all times to manifest its good disposition to find a diplomatic settlement satisfactory to both parties; but it has taken care that said negotiations would in no way prejudice the course of the plebiscitary proceedings as provided for in the award of the President of the United States.

The Minister for Foreign Affairs believes that he complies with an elemental obligation of justice, and at the same time of wise foresight, in stating that every public article or utterance made with the idea of creating doubts as to the correctness of the action with which the friendly Government of the United States is proceeding, not only in everything that relates to the pending arbitration but also in that which relates to the negotiations under good offices which are being carried on in Washington, would be unjust and contrary to the appreciation which the Government feels for that action. Santiago, May 12, 1926."

While this is not as specific as I would like, yet I think that it clearly shows your position and the correctness of my action at that time; and everybody seems to think that it and the memorandum clearly show that the Chilean Foreign Office last October tried to get us to offer good offices and refrained from making the request itself merely in order not to appear weak.

Today several influential Senators and Deputies told me the publication had worked great change of sentiment.

COLLIER

723.2515/2294 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, May 13, 1926—6 p. m.

[Received May 14—3 p. m.]

From Lassiter. Your telegram May 11, 3 p. m. Essential factors regarding Peru's abstention from registration are following:

1. In mid-March plebiscitary conditions were so bad that Peru insisted registration should not start until Chile had instituted reforms,

and demanded indefinite postponement. As the president of the Plebiscitary Commission did not believe that indefinite postponement would accomplish anything and believed that plebiscite had been frustrated by Chile, he was willing to vote for motion in that sense.

2. Under these circumstances Department interposed in hope of obtaining solution by good offices.

3. As result of Department's interposition, Peru accepted good offices at last moment. Only other choices left her were complete withdrawal or registration under grossly unfair conditions.

4. When, on night of March 26, it was ascertained that Chile would not agree to Department's suggestion to suspend registration, there was no legal way by which its commencement the next morning could be stopped, as one full day's notice must be given of a meeting of the Commission, and Chile would not waive notice.

5. Peruvian Commissioner understood that he was conforming to request of our Government when he suspended participation in plebiscitary activities.

6. During day of March 27 I endeavored to get this situation regularized, but Department insisted that registration, even if unilateral, must go on.

7. Situation having been prolonged for several days, Chile succeeded in registering sizeable numbers of voters unchallenged and after that it was clear that Peru could hardly be expected to participate in registration until situation could be regularized and Peru be given opportunity to scrutinize all applicants for registration on basis of equality with Chileans.

I wholly appreciate technical case which may now be made against Peru, but taking into consideration circumstances as I have outlined them above, I do not believe that it lies with us to blame her for abstaining from registration. Lassiter.

VON TRESCKOW

723.2515/2293 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, May 14, 1926—9 a. m.

[Received 3 p. m.]

58. I have received a memorandum dated May 13, 1926, from President Leguía which states that, having been advised by me of your proposal to make use under your good offices of the offer made by Peru to Bolivia of access to the sea as the formula you propose to use to accomplish your purpose, the President, in his desire to cooperate with you as he has in the past and in spite of pain Peru must feel by an arrangement which involves the mutilation of one of the provinces, will authorize the Peruvian Ambassador in the United States to accept the following points as a basis of discussion:

1. The Secretary of State of the United States having submitted his formula for negotiation, Peru ratifies promise made to Bolivia to grant her in the plebiscitary territory a corridor to the sea;

2. Chile shall be allotted the territory south of the corridor;
3. Peru shall be allotted the territory north of the corridor.

Memorandum concludes with the statement that as the Peruvian Ambassador knows what has passed between Peru and Bolivia on this matter, he can undoubtedly discuss it with you in connection with the Foreign Office.

POINDEXTER

723.2515/2283 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *May 14, 1926—4 p. m.*

For Lassiter. Your telegram May 12, 6 p. m. I fully appreciate your desire to have outlined as soon as possible a definite program to be pursued from and following May 21, and I sympathize with it. I must ask you, nevertheless, to be patient, understanding that decisions on this matter will be communicated to you at earliest possible moment. Until next week it is quite impossible to determine what turn affairs may take. At first of week I hope to have another conference with Mr. Hughes and Mr. Stimson.⁹¹

As far as plebiscite is concerned, there are obviously various courses of action, choice of which is dependent upon precise situation as it may stand on May 21.

1. It is quite possible that best course might be to permit present registration period to expire without extending it any further and without any step being taken for present to fix date of election. There is no more reason, technically speaking, for fixing date at this juncture than there has been at any time since the negotiations began. The plebiscitary activities will simply drift along into period provided for cancelation of registration; and theory that unilateral plebiscite may not be sustainable and that extraordinary measures may eventually become necessary to purge lists as you have proposed and to return plebiscite to bilateral basis, will not be either strengthened or weakened by so doing.

2. To attempt resumption of bilateral basis by offering Peru another opportunity to dispute the existing registrations as well as to register Peruvian voters and by exacting new guarantees from Chile is next possibility. It is clear, however, that if this course be the one chosen it does not necessarily have to start on May 21. The Plebiscitary Commission has ample power to deal with matter at any time.

3. It may prove advisable in the end to declare plebiscite entirely off on ground that plebiscitary solution of whole controversy does not any longer appear to be practicable. This action can also be taken at any stage of plebiscite.

⁹¹ Mr. Henry L. Stimson, of New York, former Secretary of War.

We are not yet committed to any of these possibilities, and the choice will have to be made finally on considerations which take into account state of negotiations as they are then. We feel that we can best serve interests of Chile and Peru by a patiently exhaustive effort to work out constructive and permanent settlement. The Governments of both countries disclaim any intention to break off the registrations. In promoting a settlement, time continues to be important if not vital factor.

Each party will undoubtedly endeavor to obtain some intimation from you in regard to your probable course of action. In our view it is highly important that these efforts shall not succeed. Press reports have already appeared which indicate that certain features of your recent plans are known. At this juncture it would be well for you to maintain the strictest reticence and give no clue to what is in your mind.

KELLOGG

723.2515/2251 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Extract—Paraphrase]

WASHINGTON, *May 15, 1926—noon.*

For Lassiter.

. . . We are, of course, giving anxious attention to the situation which may exist if there is abrupt breaking off of negotiations and sole choice remaining will be between a unilateral plebiscite and termination. I invite your attention, in this connection, to following form of resolution which might be appropriate if we come to that point:⁹²

“Whereas the Plebiscitary Commission was duly convened and held its first meeting at Arica on the 5th day of August, 1925, and continuously since that date has been actively engaged in attempting to discharge its duty under the Award;

Whereas numerous unforeseen difficulties have been encountered, not only rendering the task a protracted one, but demonstrating to the satisfaction of the Commission that a plebiscite of the character contemplated by the Award can not in fact be celebrated;

Whereas as situation has at length developed in which a vital phase of the plebiscitary process, namely that of registration, has been entered and has been advancing for a period of more than seven weeks in a manner and under conditions which cannot be regarded as satisfactory to the Commission, to the inhabitants of the plebiscitary area, or to the contesting Governments;

⁹² Quoted passage not paraphrased.

Whereas in the course of the proceedings partisan feeling and bitterness have characterized the proceedings to an almost incredible degree, giving rise to acrimonious charges and counter-charges affecting the honor and good faith of the contending parties;

Whereas a patient and conciliatory attitude on the part of the Commission, evidenced by three successive extensions of the period of registration, has produced no improvement in the situation, which has progressively become less and less hopeful so far as the prospects of holding a free and fair plebiscite are concerned;

Now, Therefore, the Plebiscitary Commission hereby formulates and certifies to the Arbitrator for his information and consideration, and for such action as he may be disposed to take in the premises, its findings and conclusions as follows:

1. It is the considered judgment of the Plebiscitary Commission, and it hereby so advises the Arbitrator, that a free and fair plebiscite, within the spirit and letter of the Award, is impracticable of accomplishment. This judgment and advice is predicated upon the experience and observations of the Commission throughout the course of the plebiscitary proceedings, and is arrived at without attempting to assess the blame and responsibility for such state of affairs to either party.

2. It is the considered judgment of the Plebiscitary Commission, and it so advises the Arbitrator, that the further prosecution of the plebiscitary proceedings, in an effort to make technical compliance with the terms of the Award, would not only be a vain and futile proceedings, but would in the circumstances aggravate the bitterness, contribute to the perpetuation of the controversy, and defeat the main object of the Arbitration as a whole, which is to produce a lasting settlement of the differences between Peru and Chile concerning the provinces of Tacna and Arica.

3. The Plebiscitary Commission hereby directs the termination of the plebiscitary proceedings forthwith."

If possible I should like to have your views on above resolution by May 17, as Mr. Hughes and Mr. Stimson will be in conference with me here then. Please see that this matter is disclosed to no one but your closest advisers.

KELLOGG

723.2515/2293 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, May 15, 1926—noon.

50. Your No. 58, May 14, 9 a. m. This morning I called in Ambassador Velarde, who said he had not yet received instructions. In your interview with President Leguía did he confirm my understanding of his proposal as I set it forth in my No. 49, May 12, 2 p. m.? Did President explain what disposition is thought of for city of Arica?

I do not understand what he means by formula of negotiation: "Peru ratifies promise made to Bolivia to grant her in the plebiscitary territory a corridor to the sea." Please cable reply as soon as possible.

KELLOGG

723.2515/2299 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, May 15, 1926—7 p. m.

[Received May 16—10:20 a. m.]

59. Your 50, May 15, noon. Minister for Foreign Affairs has just advised me that instructions in accordance with the President's written memorandum cabled to you my 58, May 14, 9 a. m., were cabled Ambassador Velarde at 7:30 p. m., May 14th. Your understanding of the President's verbal proposal for division of the province as stated in your 49 is entirely correct. Under that plan the city of Arica would be allotted to Peru, that is, all north of the corridor proposed to be ceded to Bolivia would be Peruvian and all south would be Chilean. I did not go over this matter in my last interview with the President and his previous statement on the subject was very clear. The President means by the "formula of negotiation" simply the general proposition as proposed by you as a basis of negotiations in your 49, May 12, 2 p. m., namely, that the provinces should be divided by granting to Bolivia a corridor to the sea with the remaining areas to the north and south to be allotted Peru and Chile, respectively, leaving all details to be discussed in the negotiations. The expression "Peru ratifies the promise made to Bolivia to grant to her in the plebiscitary territory a corridor to the sea," I understand to be merely the President's manner of expressing his agreement to this portion of your proposition. President Leguía has several times publicly stated as heretofore reported to the Department, his willingness to make such an arrangement and now confirms it in the memorandum referred to and agrees to that as one feature of the basis of negotiations for a settlement of the problem. As to your "what disposition is contemplated for the city of Arica," that this [*is*] not provided for in the President's memorandum but with all other details was left to be settled by negotiation within the terms of the general agreement. I did suggest to the President, however, that it might not be possible to secure an agreement for the return of Arica to Peru but that the neutralization of Arica might be proposed. While the President did not agree to this, I feel satisfied that should this proposal be raised in the negotiations the President would be willing to discuss it. Also proposal to include the city of Arica in the Bolivian corridor would come within the terms of the President's memorandum as a detail if you could have discussion.

POINDEXTER

723.2515/2293 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, May 16, 1926—2 p. m.

80. Through Ambassador Poindexter I have been negotiating directly with President Leguía to obtain Peru's consent to division of the territory, northern part to go to Peru, southern part to Chile, and a central corridor to Bolivia; details of the boundaries to be arranged during the negotiations. I am hopeful of success. I had a conference with Chilean Ambassador this morning, at which time Cruchaga said that he had received instructions yesterday from Chilean Minister for Foreign Affairs stating that latter did not regard congressional resolutions as ending good offices or negotiations and that he desired them to continue. Cruchaga was greatly relieved and spoke very hopefully of an ultimate solution. He said that of course best solution for Chile, in view of public opinion there, was to have division made in first instance, giving Tacna to Peru in accordance with present boundary fixed by Chile, which is line running north of railroad to Bolivian frontier, and giving all balance of territory to Chile, leaving latter to make its own arrangement thereafter with Bolivia so that credit for granting Bolivia access to the sea should be solely Chile's. Advised Cruchaga that it was practically impossible to obtain Peru's consent to this arrangement, but that we thought we could bring about agreement whereby Chile and Peru together should provide corridor for Bolivia. Whole point is that for plan to succeed Peru must share with Chile whatever credit may be gained with Bolivia through provision of the corridor. Cruchaga said that, while politically his plan would be best for Chile in future, he realized that there were political conditions in Peru and he would recommend to Chilean Government that entire question be settled in one negotiation which will include not only the Bolivian corridor, but the compensation, territorial or otherwise, to Chile and Peru, resumption of diplomatic and consular relations with Peru, a commercial treaty with that country, and the demilitarization of entire territory. Cruchaga attached importance to these additional features. He was reminded that time for registration would expire May 21 and that something would have to be done.

Suggestion was made to him that, if we were going to negotiate on foregoing basis, either there should be an extension of plebiscitary proceedings or they should remain *in statu quo*. I am not unaware that some time ago you stated that Chile would never give her consent to any arrangement which would prevent her from making her own exclusive and independent arrangements with Bolivia about a corridor. Understanding which I now have with Cruchaga and which he is to

recommend to Mathieu is not in accord with that idea, but I think that Cruchaga understands that to reach settlement on that basis is quite impossible. We simply can not get Peru to consent.

KELLOGG

723.2515/2308 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, *May 17, 1926—2 p. m.*

[Received 8:00 p. m.]

From Lassiter. A series of attacks on Peruvians in Arica took place on night of May 14. Fifteen Peruvians are reported to have been injured. One, a judge of a Peruvian court who is also member of a registration board here was dangerously wounded. The report also states that many Peruvian houses were stoned during the evening. There seems to be no clear reason why the Chileans should have chosen this time for a general demonstration against the Peruvians. Today at meeting of Plebiscitary Commission Freyre protested the outrages vigorously. Edwards frankly deplored what had taken place, but offered no particular excuses. He stated that some of the Chileans participating have been arrested. I am investigating the matter as far as I am able, and I expect to call on Chilean Special Tribunal to act.

This incident is another instance showing the imminent and constant danger under which the Peruvian inhabitants of the territory are living, the brutality with which they are treated, and the complete disadvantage at which they are placed in plebiscitary contest.

Lassiter

VON TRESCKOW

723.2515/2283 supp. : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *May 17, 1926—8 p. m.*

For Lassiter. I have conferred here today with Mr. Hughes and Mr. Stimson. We are all agreed that fundamental premise of my telegram May 14, 4 p. m., is sound; namely, that expiration of registration period on Friday, May 21, raises no issue which requires action on that date. We are all clearly of the opinion, on contrary, that all action for present that in any way disturbs *status quo* so far as plebiscite is concerned should be avoided. We hope that it will be unnecessary for you to hold a meeting of Plebiscitary Com-

mission for any purpose. If a meeting has to be held, however, for some routine reason unknown to us here, we advise that should either party offer resolutions adoption of which would alter existing *status quo* (for example by fixing date for election or by amending regulations affecting registrations), they should be laid on the table for future action. That is to say, the situation should be held exactly where it is, allowing matters to take their normal course without making any attempt to map out any future course of action or to forecast important decisions. It is of great importance that you give no indication what course you might think of taking in any contingency. Within the last 48 hours the situation in negotiations for settlement has greatly improved; and, while it is still delicate, we are more hopeful than we have ever been before of being able to effect a final settlement. It is not feasible to attempt to convey these developments to you by telegraph. I can only say that intimations of possible action on resolutions which have been suggested and have received consideration must not in any circumstances be given to either one party or the other, as to do so would, we believe, carry grave risk of misunderstanding, perhaps would raise false hopes or fears and would tend to change attitude towards settlement which, for the moment, is as satisfactory as we could expect it to be. You should keep all these matters entirely to yourself. We have weighed thoughtfully advantages and disadvantages of policy indicated above for your guidance, and are entirely convinced that by it best interests of all concerned will be served.

KELLOGG

723.2515/2293 supp. : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *May 18, 1926—6 p. m.*

81. Reference my No. 80, May 16, 2 p. m. Today Ambassador Cruchaga left with me copy of telegram to him from Chilean Minister for Foreign Affairs which states that the Minister proposes to request as soon as possible the Government's approval of plan which I submitted and which Minister personally accepts. Later portion of telegram, however, indicates serious misunderstanding of nature of my proposal. Among other things Minister for Foreign Affairs says that Chile starts from basis that Chile will keep entire Department of Arica with railroad track within department's limits, and that the Bolivian corridor would run between the Chilean and Peruvian zones. I have explained to Cruchaga that if acceptance of Bolivian corridor scheme is made subject to condition that territory be divided on basis of existing Chilean provincial boundaries, Peru taking

Tacna and Arica going to Chile, it will be impossible both to obtain Peru's acceptance and to continue with negotiations. I have pointed out that provincial boundaries do not have anything to do with matter; that proposal is simply one in general terms which calls for a Bolivian corridor, boundaries to be defined later in the negotiations, upon understanding that after corridor is delimited by agreement the areas lying north and south of it shall be allotted to Peru and Chile, respectively.

Every attempt to get Peru to agree in advance to division of territory, as such, between her and Chile will prove futile. The condition thus sought to be imposed is, moreover, quite unnecessary for protection of Chile, for no corridor can be fixed in subsequent negotiations without agreement of both countries and Chile runs no risk, therefore, of having the railroad automatically allotted to Peru as result of general acceptance of basis of adjustment which I have proposed.

Cruchaga says that he fell into error in quoting my proposal and is telegraphing again to Mathieu. Above is for your information should Mathieu discuss matter with you.

KELLOGG

723.2515/2332a : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, May 21, 1926—5 p. m.

83. Today's morning papers carry Associated Press despatch from Santiago which states that well-informed quarters are of opinion that Chile will not accept the agreement in principle for division of Tacna-Arica among Chile, Peru, and Bolivia; also, that patriotic organizations are launching new movement to compel Government of Chile to terminate negotiations here and to insist on plebiscite. If this press report is accurate forecast of Chile's attitude at this juncture, situation will immediately assume exceedingly grave aspect. I must say to you frankly that cumulative effect of my experience in attempting to obtain satisfactory definition of Chile's position in negotiations, since April 15, particularly, is most disappointing; it is becoming increasingly difficult to resist conclusion that Chile does not intend to do anything but to force the issue on the plebiscite. I fail to discern any reliable indication that she now means to do more than to give lip service to the attempt to reach a settlement by negotiation. Recent communications which have come to me through Ambassador Cruchaga, together with certain dilatory tactics which are strongly suggestive of a determination to exhaust patience of the United States and to precipitate collapse of negotiations without assuming the direct

responsibility for breaking them off but also to obtain if that be possible presumed technical advantages in regard to the plebiscite, have created most painful impression here. Intimation has been put forward many times that with expiration today of period for registration, Chile will contend that door has been closed as far as that stage of plebiscitary process is concerned, and that henceforth Plebiscitary Commission will have neither the duty nor the power to do anything but to proceed with election.

I think that it should be clearly understood once for all that if negotiations come to naught, the plebiscite will be dealt with in manner and spirit which will not fail to keep in view the basic consideration of the plebiscite; namely, that it must be a free and fair one. There will be no splitting of hairs, and technical considerations, such as have been mentioned, will not be allowed to block way to just result. I have no right to speak for the Arbitrator, of course, for he can express an opinion only when a question comes before him upon a proper record; I have no doubt, however, on the point that the powers of the Commission and its control over the process which has been committed to its charge are plenary, and that until that process has been carried through to completion the Commission's powers are ample to do whatever may be necessary to promote a fair and free election. It is for this reason that I have attached not the slightest importance to the expiration of the registration period which has heretofore been fixed. The Plebiscitary Commission can at any time, if it deems proper, revise or amend its regulations, reopen registration, or even cancel registration lists and start in all over again if it desires. It can also suspend the plebiscitary process for as long as it pleases, and can in last resort declare plebiscite frustrated or impracticable. If the road to settlement through negotiation should be finally blocked, the power to deal with plebiscite can not, therefore, be held to have been diminished or impaired either by any lapse of time or by the technical completion of any phase of the proceedings. Neither Chile nor Peru can assume that the problems which, in that contingency, would arise will not be faced with all the courage that is required to do exact justice. Chile can not fall into any more lamentable error in this emergency than to mistake patience for weakness.

In present stage of negotiations with Peru ready to go forward either on basis of permanent neutralization or on basis of Bolivian corridor outlined in my No. 80, May 16, 2 p. m., it seems incomprehensible that Chile should put herself deliberately in the indefensible position of wrecking the good offices, and then falling back upon the plebiscite with the risks attending it, which I have frankly endeavored to point out.

Unless you perceive strong reasons to the contrary, I wish you to seek an interview at once with Minister for Foreign Affairs, and state to him orally the substance of this message. I do not think that it would be wise to make this statement in such a way as to entail necessity for leaving with him a written memorandum on the matter.

KELLOGG

723.2515/2339a : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, May 22, 1926—2 p. m.

84. Yesterday in late afternoon the First Secretary of Chilean Embassy, in absence of Chilean Ambassador, delivered to me the two messages, dated May 20, from the Minister for Foreign Affairs to Ambassador Cruchaga, which follow:⁹³

"No. 89. First. The formula suggested by the Secretary of State is so undetermined that it would be tantamount to give a step into the void. We cannot infer from it what we would really be transferring neither what we would be keeping. A plan for the division must be concrete and defined in order to be considered. We do not overlook the fact that the acceptance in principle is the virtual abandonment of the operation of the Arbitral Award, and it cannot be ignored that such a result has been and is the aim of Peru. Let the Secretary of State suppose that there is an acceptance in principle and that when the moment comes of fixing the dividing line—which will be the way of really accomplishing the equitable division—an attempt is made to relegate Chile to the Vitor line, for instance, with the abandonment of Arica and of the Railroad. The division would then be equitable for every one else but Chile. The division, let me repeat it again, must be defined as a fundamental starting point. Details of any other character, directed to insure future peace and tranquillity, can be agreed upon once that fundamental point has been established, without the determination of which we could not give our consent to the plan suggested.

Second. As I advanced to you in previous telegrams, precisely with the purpose of avoiding misunderstandings at the outset of the good offices, our sacrifices could not go beyond the cession of the Department of Tacna, Chile to keep the Department of Arica with the entire route of the Railroad. To abandon it to Peru, or to Bolivia, as a whole or in part, is beyond any possible concession from our part, because the Department of Arica is Chilean in its population and in its interests of every type, and its transfer to a different sovereignty would be an injustice to our nationals and a source of difficulties for the acquirer, and a sure and permanent cause of conflicts between these countries. It does not seem judicious

⁹³ Texts of messages not paraphrased.

to give origin to such a state of affairs when what we are really looking for is the strengthening of peace and good relations.

Third. You must insist in the disadvantages of having Bolivia made a Party to this transaction, as we have been pointing out with entire sincerity and in a desire to avoid the complications which will surely arise. This is a question between Chile and Peru and its solution, by means of a compromise, would be simple on the proposed basis of the division of the territory. I think it is possible for me to anticipate the impression that the definitive ratification of the agreement would find no obstacle and could, therefore, be rapidly attained, thus bringing to an almost immediate close this long-standing and dangerous controversy.

Neither one of the two countries has any question pending with Bolivia. This nation has resuscitated now an aspiration or an interest which was freely abandoned on her own initiative, in the Treaty of 1904.⁹⁴ She wishes us to satisfy it and far from opposing her desires by quoting that comparatively recent Treaty, we would be ready to meet them taking into consideration our own interests, among which the paramount one is that of good and cordial neighbourly relations. Once we have settled with Peru, on terms which will insure us peace, it is well understood that for a country like ours it is an elemental international policy not to leave outstanding a situation that, however it may be, we could remedy, so much more if we consider the strong bonds of interests created by the Treaty of 1904 between Chile and Bolivia.

We wish to be understood and that some trust be placed on us or, at least, that we be credited with the ability to judge, by ourselves, our own interests, which are not directed to create sources of conflict, but, to the contrary, as we demonstrated when, without avoiding sacrifices, we successfully settled other neighbourly controversies.

In brief. We would accept the basis of the division in the general terms just pointed out, with the hope of securing the approval of the proper constitutional bodies."

"No. 90. In order to further concrete the ideas set forth in my telegram No. 89 I wish to add:

a) We accept the division of the territory following the present inter-departmental boundaries, Chile thus remaining in possession of the Railroad's route.

b) If it were insisted upon, we would give Bolivia a corridor with the aforementioned boundary line as an axis.

c) In order to avoid the possibility of the corridor covering the route of the Railroad, its width would be restricted or else it would be completed by Peru, the latter being compensated by Chile in other sections along the length of the same corridor."

True significance of this maneuver can be appreciated by referring to following facts:

1. Total area of the disputed territory is approximately 10,000 square miles. At date of Treaty of Ancon, Province of Tacna comprised approximately half the total area. Since then Chile has twice

⁹⁴ *Foreign Relations*, 1905, p. 104.

readjusted the boundaries of the departments, formerly Peruvian provinces, until at present time Tacna comprises less than one-third total area.

2. From outset of the present negotiations, Chile has formally and informally contended for a division of Tacna-Arica as possible basis of settlement without intimating exactly what her idea of equitable division was.

3. On April 6 I suggested to the Peruvian and Chilean Plenipotentiaries that they accept in principle an equitable division in general terms.

4. On the same day Peru declined to accept this basis, referring to her consistent refusals of similar proposals in the past. At the same meeting Chile assented to proposal for division, but stated that formula would have to be more concrete before she could regard it as sufficient basis to warrant suspension of plebiscitary proceedings.

5. On April 15 I made my alternative suggestion for neutralization or transfer of the territory to a third power. Neutralization was promptly accepted by Peru. Chile has made no reply to either alternative of my proposal.

6. During this time there have been informal discussions which have brought into foreground idea of a Bolivian corridor; I have proposed, informally, to both Chile and Peru a modification of my proposal of April 15, as outlined in my No. 80, May 16, 2 p. m. Peru has agreed to accept this modification. The two Chilean telegrams, Nos. 89 and 90, quoted above, constitute Chile's response. They throw much needed light upon Chilean position.

7. It appears now that Chilean Government's conception of a division of territory is nothing more or less than allocation of the departments with their present boundaries; Peru to have Tacna; Chile to retain Arica. The corridor idea receives only specious recognition, for it is obvious that a corridor located north of and including neither the Arica-La Paz railroad nor the port of Arica would be mere strip of land which could not serve Bolivia in any true sense as an outlet to the sea. Such a corridor would run to no port or to any place at which a port could be built, and it is unthinkable that any of the interested parties would consider construction of railway parallel to existing railroad in order to make this ribbon of land serve purpose of corridor for Bolivia's traffic; we may, therefore, dismiss the corridor as purely illusory. Reduced to lowest terms, this latest Chilean proposal, after five weeks' delay, is a reiteration of her earlier demand, thinly disguised, for the entire Department of Arica with its present boundaries. . . .

8. . . . Chile insists that she have at least two-thirds of territory in dispute and that she make her own terms with Bolivia on latter's

access to sea. As long as Chile maintains this attitude, I shall be powerless to effect any settlement.

9. I called Ambassador Cruchaga in to see me this morning and discussed matter fully with him. Cruchaga asserts that he recommended strongly to Chilean Government the basis I laid down in my No. 80, but that both his efforts and those of Minister for Foreign Affairs have failed. He also stated that at next meeting of the Plenipotentiaries he will be bound, under his present instructions, to submit proposal embodied in telegrams Nos. 89 and 90, quoted above, from Chilean Foreign Office, and that if it is rejected, he intends to maintain silence, in this way refusing to take responsibility for breaking off negotiations. Meeting of Plenipotentiaries will probably be held Monday afternoon, May 24. If it is Chile's last word that we have now, the record will be made accordingly. If you have any suggestions to make, your telegram should reach me not later than morning of the 24th.

KELLOGG

723.2515/2354b : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

WASHINGTON, May 26, 1926—10 p. m.

93. Please seek immediately an interview with the Minister of Foreign Affairs and read to him the following communication from the Secretary of State, at the same time leaving a copy.⁹⁵

"I deem it my duty at this time to bring to the attention of Your Excellency the following considerations suggested by the two messages delivered to me textually on May 21 last by the Chilean Ambassador.

First. The pending negotiations, which are an adjustment of the differences between Chile and Peru concerning the provinces of Tacna and Arica, were engaged as the result of a voluntary acceptance by both parties in March last of a tender of good offices by the United States. The tender was made only after the receipt of unmistakable intimations from both sides that an attempt at adjustment by this means would be welcomed by them. In this connection it is proper for me to remind you that the suggestion of a settlement by methods other than the holding of the plebiscite was first advanced by the Government of Chile as early as October 13, 1925, when Señor Matte, then Minister of Foreign Affairs, requested the American Ambassador at Santiago to transmit to me the instructions which had been telegraphed by Señor Matte on September 30 to Señor Augustin Edwards, the Chilean Delegate on the Plebiscitary Commission at Arica.⁹⁶ These instructions authorized Señor Edwards to carry on direct negotiations for a diplomatic settlement, if possible, simultaneously with

⁹⁵ Department's telegram No. 92, May 26, 9 p. m., not printed, instructed the Ambassador not to act until he had received telegram No. 93 and telegram No. 94, p. 449.

⁹⁶ Not printed.

the plebiscitary proceedings, and specifically stated that, if necessary, these negotiations should include a consideration of the aspirations of Bolivia. It further appeared from the instructions that they were a résumé of the opinion of the Chilean Government formulated after conversations with Señor Edwards upon the occasion of his visit to Santiago in September, 1925. Señor Matte in his conversation of October 13 with the American Ambassador advised the latter verbally that the instructions had been adopted after consultation with President Alessandri. Again, on October 23 the subject of a diplomatic settlement was raised with the American Ambassador at Santiago by Señor Carlos Castro Ruiz, then Counsellor to the Minister of Foreign Affairs, who sought an interview with the Ambassador and stated that, while the Government had not yet taken a definite decision, it was the general desire of all members of the Cabinet that a solution be reached by diplomatic methods, including some measures to satisfy the aspirations of Bolivia. Señor Ruiz urged the Ambassador to ask his Government to offer its good offices, and to urge acceptance thereof by Peru. On October 26 I instructed the American Ambassador⁹⁷ that any suggestion of an effort to settle otherwise than by a plebiscite must originate with the parties to the dispute, and I submitted certain inquiries intended to elicit more accurate information concerning the Chilean proposal. On the following day, October 27, the substance of my instructions and inquiries was conveyed by the Ambassador to Señor Barros Jarpa, then Minister of Fomento, who handed the Ambassador a memorandum which, among other things, stated:

We would not refuse to treat with Peru as to the possibility of a diplomatic solution of the problem if it were proposed to us by a government which would exercise its good offices; but we will avoid taking any initiative in such a matter because we do not desire to appear in a position of weakness since that does not correspond with the position that we hold in Tacna Arica.

There ensued upon this occasion an oral conversation in which details of a possible settlement were discussed. The Ambassador reported to me at this time his conviction that Chile desired the United States to offer its good offices, but did not herself wish to make a formal request to that end lest it be construed as a sign of weakness in the plebiscitary campaign. On October 31 I replied to the American Ambassador⁹⁸ stating that if the two countries felt that some method of settlement other than the plebiscite might furnish a more satisfactory solution than the plebiscite, and that if they later showed a desire to have the good offices of the United States, there might be a chance to render them a great service in bringing them into accord in this matter, and if there was a reasonable chance of success, I might then be disposed to act. These views were thereafter communicated by the Ambassador to the Minister for Foreign Affairs. Subsequently Señor Edwards at Arica, in various conversations with members of the American Delegation, including the Secretary General of the Commission, expressed the opinion that the plebiscite would not prove a satisfactory solution, and advanced the suggestion that the territory be erected into a neutralized state. Señor Edwards developed his plan in some detail and

⁹⁷ Instruction not printed.

⁹⁸ See telegram, Oct. 31, 1925, 2 p. m., to the consul at Arica and footnote 73, *Foreign Relations*, 1925, vol. I, p. 409.

advocated it in numerous conversations with the Secretary General of the Commission, and with General Pershing; and immediately prior to General Pershing's departure, toward the end of January, Señor Edwards explained the plan in detail to General Pershing, upon the understanding that the latter was to bring it to my attention. The prompt acceptance in February by Your Excellency of the tender of good offices, which I eventually made, was a natural and proper fulfillment of the expectations created by these formal and informal expressions of Chilean attitude toward good offices covering a period of four months, running from the end of September, 1925, until the end of January, 1926. I take occasion to mention here, without going further into detail, the foregoing events because I regarded them as showing the desire of Chile both to seek and to avail herself of every opportunity to promote a diplomatic settlement through the exercise of the good offices of the United States.

Second. As soon as the negotiations began it became my duty, in the capacity of friendly mediator, to explore the various avenues of possible adjustment and to place before the parties such constructive suggestions as might hold out any reasonable promise of agreement. Your Excellency will recall that on April 6 I first suggested the general basis of division of territory. This was accepted by Chile with the reservation that it would have to be made more concrete before Chile could regard it as a justification for suspending the plebiscitary proceedings, which was rejected, however, by Peru. Accordingly, on April 15 I made to the Plenipotentiaries an alternative suggestion for neutralization or transfer of the territory to a third power. Peru promptly accepted neutralization. Chile has not replied to either branch of the suggestion. In these circumstances there ensued informal discussions which brought into the foreground a modification of the second branch of the pending suggestion, namely, the idea of a Bolivian corridor. This idea was expressed in substance as follows:

(a) That a corridor be provided for Bolivia from the Bolivian boundary to the Pacific Ocean; (b) that the territory north of this corridor be assigned to Peru; (c) that the territory south of this corridor be assigned to Chile; all of the details, including boundary, compensation arrangements with Bolivia and other matters, such as treaty of amity and commerce between Peru and Chile, resumption of diplomatic relations and other details to be discussed as a part of this general proposition.

Peru has agreed to accept as a basis for negotiation this proposal; so that as matters stand Peru has accepted both branches of the pending proposal, the first in its original form, and the second as modified in the course of the informal discussions which I have held separately with both parties.

Third. Passing now to the messages of Your Excellency, which were communicated to me on May 21, I find it there stated, in language which scarcely admits of misunderstanding, that Chile demands the whole Department of Arica according to the boundaries as last fixed by Chile and that the sole concession which Chile would be willing to make to the principle of a Bolivian corridor would be limited to the assignment for that purpose of a narrow strip of territory running along the extreme northern boundary of Arica,

as now defined, such strip not in any event to encroach upon the line of the Arica-La Paz railroad. In the second of Your Excellency's messages it is stated that Chile would, if insisted upon, provide a corridor with the aforementioned boundary line as an axis and that in order to avoid the possibility of the corridor encroaching upon the route of the railroad its width would either be restricted or be completed by Peru from the territory assigned to it, the latter being compensated by Chile and other sections along the length of the same corridor. I have not failed to note that under this proposed arrangement the corridor idea would receive a formal recognition, but only to the extent of creating a corridor located north of and not including the railroad or port of Arica which would be a mere ribbon of land running to no port and not capable of serving in any true sense as a Bolivian outlet to the Pacific, unless the existing railroad were paralleled by the construction of a new line within the corridor and by some means a port could be constructed at the same point where the corridor touches the sea, both of which projects hardly come within the range of practical consideration. I have also not failed to note that the evident purpose of Chile in submitting this proposal would be to secure at least two thirds of the territory in dispute, including every practical location for a Bolivian corridor, so that Chile might be in the position to make her own terms later with Bolivia, quite outside the negotiations and without reference to Peru. I have endeavored in the past to point out to the Chilean Ambassador that if the idea of a Bolivian corridor has any force or merit as a formula for facilitating the adjustment of these differences between Peru and Chile, neither Government can reasonably expect the other to drive an independent bargain with Bolivia for a corridor within the disputed area. Such a corridor must represent a joint sacrifice of aspirations and whatever credit may arise from the agreement should be shared between them. I can see no other way. An attentive study of Your Excellency's statement of the Chilean position, therefore, leads me to assess it simply as a reiteration of the demand for a distribution of the two provinces according to their present boundaries, Tacna to Peru and Arica to Chile—a proposal of such a character that I am unable to conclude that its acceptance can be considered as within the range of reasonable expectation. Speaking with the utmost frankness, as I feel that I can to Your Excellency without risk of misunderstanding, I can not believe that in renewing the suggestion at this juncture Chile seriously contemplates the possibility of its acceptance, and I am bound to view Your Excellency's communication on the subject with the keenest disappointment. It is apparent that if negotiations are to continue it must be upon a basis which holds promise of an adjustment of the controversy and that an attitude of either party which would deny that hope would frustrate the purpose of good offices. I am extremely reluctant to conclude that Chile really desires to precipitate the final collapse of all effort for conciliation and yet it is difficult for me to reconcile this last definition of Chilean attitude with fidelity to the ideal of harmonious and peaceful settlement as described earlier in this memorandum. In that spirit of friendly cooperation and mutual confidence which should form national policies as it does personal relations, such as Your Excellency's and mine, I earnestly invite

Your Excellency's careful consideration to the question whether the Chilean attitude can not be modified and brought into conformity with ideas which would avoid a collapse of all effort for adjustment, and make it possible for both countries to enter upon an era of amity and mutual good will.

I am sending this statement of my views in the earnest hope that Your Excellency's response may be of such a nature as to permit the continuance of my good offices."

KELLOGG

723.2515/2351 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, May 26, 1926—10 p. m.

[Received May 27—6:38 a. m.²]

From Lassiter.

1. Conditions in the province are becoming increasingly unsatisfactory. Instances of violence at Tacna reported today by American personnel there, similar to that at Arica on May 14, are outlined below:

On May 22 a Chilean electoral official stated openly in presence of two Americans of my staff that the Chileans no longer felt themselves obliged to respect the guarantees for Peruvians and that in near future there would be numerous disturbances. Later events reflect accuracy of this forecast. That afternoon an automobile in which a member of the Peruvian legal staff and a member of my staff were riding was fired upon on the public road near Tacna by a man in a building where an armed guard is maintained by a Chilean political society to restrict freedom of travel. The evening of the same day two Peruvians were assaulted on streets of Tacna by some ten Chileans, one of whom is alleged to be a sergeant in the Chilean Army. A member of my staff later inspected the wounded men. On the afternoon of May 23, three Chileans in the uniform of a local political organization forcibly entered a Peruvian house in Tacna and insulted the inmates, two of whom attempted to complain to the local American representative. On their return they were assaulted and stoned. A member of my staff was a witness to the stoning. The same house was repeatedly molested during the night, although the police were aware of the earlier attack made on it. On the evening of May 24 incidents of evidently organized lawlessness took place. Peruvians were stoned in the park, and later a member of my staff saw Chileans stoning Peruvian houses in the same locality with no interference from police. Later a Peruvian was set upon by a large band of Chileans and severely beaten; attempting to flee, he was fired at; a member of my staff heard the

²Telegram in two sections.

shots and later inspected the man's injuries. The victim stated that he had appealed for protection to a policeman who refused to escort him to a place of safety. Still later in the same evening another Peruvian was assaulted, apparently without provocation, and badly injured; he, too, was examined by a member of my staff. Victim alleged that a policeman arrived as he was fleeing from pursuit by his assailants, but arrested none of them. Details have not arrived of other assaults reported as having taken place same evening.

Incidents reported elsewhere include one of stone thrown through glass door of Peruvian house in Arica, witnessed by member of my staff. . . . On May 10 an American electoral official in Pachía was insulted and threatened with a revolver by an intoxicated man in presence of local carabineers, Chilean electoral officials, and others. All Chilean witnesses later denied being present at any such incident. On May 20 the judge of the Special Tribunal sentenced a Peruvian to three years for engaging in street fight at Tacna with Chileans whom he alleges assaulted him as he was passing. Peruvian used no weapon except his fists. The judge is the same one who punished no one for the mob attacks on Peruvians at Tacna on January 6.

2. I have detailed the above incidents, as they are illustrative of the conditions which now obtain here. Everything points to an attempt on the part of Chilean authorities to force action of some kind, and I can not continue to maintain attitude of mere inaction towards the plebiscite. Situation might develop here which would not only be prejudicial to the negotiations but also to our prestige and to the interests of the three countries involved. In absence of any clearly defined statement of policy, my position is very embarrassing. In my effort to maintain *status quo* I am unable to deal adequately with serious situations arising. Nothing is to be gained, I am sure, by attempting to resume plebiscite. I should like to have your views as soon as possible on policy I am to follow. Lassiter.

VON TRESCKOW

723.2515/2354c : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *May 26, 1926—11 p. m.*

94. . . . Lassiter has heard that Edwards will soon demand a meeting of the Plebiscitary Commission and a vote on motion to fix election date. He has also been informed that relations between Chileans and Americans are growing more and more strained and that Chileans are calling attention to cost of maintaining our large

delegation and that they are saying that we must either complete the plebiscite or go.

State substance of foregoing to Minister for Foreign Affairs and point out to him inadvisability of attempt on part of Government of Chile to force issue on continuance of plebiscite. Without presuming to give any indication of what decision would ultimately be reached on matter, you can indicate that you are unable to see any advantage that can possibly accrue to Chile from insisting upon an immediate decision.

KELLOGG

723.2515/2351 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, *May 27, 1926—5 p. m.*

For Lassiter. Your telegram May 26, 10 p. m. Please continue to send in reports as detailed as possible covering all incidents such as you have reported. Mr. Stimson and Mr. Dennis³ are working continuously on this matter; early next week they expect to be able to make a complete report based on all data available here. We all appreciate fully the difficulties and embarrassments of your position as well as the dangers which are inherent in the local situation and at earliest possible moment I shall give you decisions on policy. Please rest assured that all phases of the problem are receiving most earnest and active attention.

KELLOGG

723.2515/2369 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract]

SANTIAGO, *May 28, 1926—11 a. m.*

[Received 11 p. m.]

179. Unfortunately your 94⁴ arrived too late for me to present the memorandum of 93⁵ to the Chilean Government until after the Cabinet meeting. I had an hour's conversation with the Minister for Foreign Affairs at his house last night, where he is quite sick with the grippe and where the Cabinet meeting was held. He was reluctant to tell me much about it but said that the decision was that

³ William C. Dennis, formerly at Arica as general legal adviser to the president of the Plebiscitary Commission.

⁴ *Ante*, p. 449.

⁵ *Ante*, p. 444.

no corridor could be given which would include any part of railway. . . .

[Paraphrase.] Mathieu suggested that Chile might offer a corridor north of the railway widening out at the sea so as to include the northern part of the city of Arica, but with understanding that Bolivia would continue to use existing Arica-La Paz railway. I pointed out to him that this was no genuine offer and that it was altogether inconsistent with your memorandum, which I read to him and then gave him. Often I feel that Mathieu has as little desire to settle the Bolivian question in the present proceedings as his colleagues have had, yet he told me that he and Cruchaga and the Government generally now believe that resolution of the Arbitrator declaring the plebiscite impossible because of fraud to be the alternative to good offices. The Under Secretary for Foreign Affairs, to whom I also read the memorandum, says that chief obstacle is that populace still thinks that plebiscite is going to be won. . . . [End paraphrase.]

COLLIER

723.2515/2380a : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *May 29, 1926—4 p. m.*

98. Time for registration having expired and time for appeals expiring tomorrow, the Chileans are making demands to proceed with the election. Lassiter is insisting that he no longer has any excuse to hold matter up, and must make definite decision very soon. We have been examining the evidence in the case with greatest care and have employed Mr. Henry L. Stimson, of New York, a former Secretary of War, to examine the entire record and to give us his opinion from a wholly unbiased point of view. Next we are to have a conference with him, Mr. Dennis, and Mr. Hughes. From what we know of record, I agree with you that any unilateral election under existing conditions would be so tainted with fraud that for the Arbitrator to sustain it would be a scandal. I am very doubtful that General Lassiter, even were I to insist, would hold such an election, and I believe that he will insist on declaring whole plebiscite off in one way or another, and will hold Chile directly responsible.

I have no right to issue orders to Lassiter; but that is what I think he will do. It is my opinion that this outcome can be prevented only by the prompt decision of Chile to make some concession which will permit a settlement and to agree to suspension of plebiscite and withdrawal of costly delegations and personnel.

I regret what appears to be inevitable outcome: but I have gone as far as possible, consistent with honor of this Government and the duty to hold fair plebiscite under Arbitrator's Award, in trying to protect both Chile and Peru from development of situation so disastrous to the real interests of both. I am unable to see how I can maintain *status quo* much longer, but I should be glad to have your suggestions.

KELLOGG

723.2515/2380 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extracts]

SANTIAGO, *May 30, 1926—5 p. m.*

[Received May 31—2:42 a. m.⁷]

182. [Paraphrase.] Department's No. 98, May 29, 4 p. m. Revelations of last two months convince me that it would be disgraceful to approve plebiscite. . . .

I am fully aware of all difficulties in way of obtaining a diplomatic solution, but I believe that one can be brought about before June 15, provided you and I make the statements to which I have referred in previous telegrams. To this end I think a delay is eminently worth while. Success will be a great triumph; while a failure, even though not our fault, will shatter our prestige in Latin America . . . I sincerely hope you will hold out for about three weeks more. I have invited half a dozen intimate influential friends, who wish strongly to see a diplomatic settlement, to call on me today. A large and increasing number of Chileans dread thought of breaking off good offices.

One thing, however, which I think absolutely essential, if you will pardon my temerity in suggesting it, is that you give out a statement to the press saying, in effect, that if good offices are now broken off and the plebiscite is thereafter renewed and held to be impracticable, good offices cannot be renewed because Chile, by preventing a correct plebiscite, would have lost all means under the Treaty of Ancon to acquire definitive sovereignty. . . . I am aware of the boldness of that statement . . . but at this moment boldness is absolutely essential. . . . [End paraphrase.]

The general manager of Grace and Company has called on me twice with regard to great diminutions in the consumption of nitrate of soda in the United States during last year, due to increasing use of substi-

⁷ Telegram in three sections.

tutes and synthetic nitrate of soda. He is convinced that this increased use of substitutes is due to two causes: (1) American desire to get nitrate of soda at lower prices; and (2) the belief of the United States that it ought not to remain dependent for an article necessary in peace and indispensable in war upon a source of supply in a remote country which will not earnestly strive to settle a dispute with a neighboring nation which has long caused severance of diplomatic relations and on various occasions mobilization of troops, and which is now provoking in both countries a marked increase in military preparation and which at any moment may result in a war that will interrupt the shipment of nitrate.

[Paraphrase.] I believe that the general manager of W. R. Grace and Company is quite correct in his deductions, fears, and facts, particularly should the Plebiscitary Commission declare that a plebiscite was impracticable and should Chile then insist on remaining in control of the province, as she undoubtedly would. The general manager went on to say that if the Secretary of Commerce would give out an interview in which he intimated that [end paraphrase] the reestablishment of cordial friendship between Chile and Peru would increase the export commerce of both by removing the fears of importers of nations that the source of supply might be cut off, such interview would have enormous effect here at this moment when the nitrate business is depressed and the Government and the business world is alarmed as to national revenue and business conditions. [Paraphrase.] I believe that the general manager is correct in saying that such an interview given out by the Secretary of Commerce would have the excellent effect of causing the Nitrate Producers Association to set a much lower price for the coming year at its meeting in June, and it would also be a most powerful influence in bringing about a diplomatic settlement of the difficulties.

The Chileans are influenced more by a peril to their nitrate trade than by anything else. It would be much more effective, however, if such an interview were given out by the Secretary of Commerce rather than by the Secretary of State and presented purely as a commercial proposition. I discussed this matter yesterday with the commercial attaché and told him that if such an interview were given out it would have to be carefully phrased in order to avoid being construed as a threat. I believe that it should express the desire for an increase of commerce in nitrates and also that this would be brought about by a reconciliation of all the South American nations. I also told the commercial attaché that the interview should be so worded as to avoid anything that might possibly be construed as a war scare; although, for your confidential information, I believe that war is by no means an

impossibility and, should it occur, it would endanger our supply of nitrate and seriously cripple our cotton growers. [End paraphrase.]

COLLIER

723.2515/2382 : Telegram

The Secretary of State to the Consul at Arica (Von Treschow)

[Paraphrase]

WASHINGTON, June 1, 1926—noon.

For Lassiter. I have just received Mr. Stimson's report⁸ and have arranged final conference with him and Mr. Hughes here Thursday for purpose of making definite decisions. If you are unable to avoid having a meeting of Plebiscitary Commission before Saturday, please postpone consideration of any resolutions which may be offered and take a brief adjournment.

KELLOGG

723.2515/2380 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, June 1, 1926—1 p. m.

99. Your No. 182, May 30, 5 p. m.

1. All factors required for dealing with whole problem in some definite way now seem to be before us.

⁸ The report referred to is apparently the original one dated May 28, 1926. In this and the revised report dated June 3, 1926 (neither printed), Henry L. Stimson reviewed the evidence submitted to him by the Department of State and stated that he had come to the following conclusions:

"1. That a fair plebiscite within the definition made by the Arbitrator cannot now be held in the Province of Tacna.

"2. That the responsibility for this situation rests not only upon the local authorities of that Province but ultimately upon the National Government of Chile.

"3. In respect to the question of whether further guarantees should be demanded from the Government of Chile and a further attempt made to hold a fair plebiscite, I hesitate to express an opinion upon what is a question of policy for the Department. It is, however, perhaps proper to record the impression which has been made upon my mind by my reading of this evidence in respect to the practical working of the former guarantees in such a population as exists in this Province. From that aspect, considering the light which these records throw upon the political inexperience of this people—who have not had an election for forty years and therefore have no training whatever in the assertion of electoral rights; the docile character of the Peruvian farmer; the inaccessible valleys in which many of them live; the thorough foundation in intimidation which has been laid; the organization and character of the rural police and carbineers as well as the habitual attitude of the people to such officials—it has become my settled conviction that to attempt to produce a fair election by any further demand for guarantees, short of a complete reorganization of the local administration of law and order, under neutral authority, would only result in failure." (File No. 723.2515/2364.)

(a) We have received reasonably complete reports covering actual conditions affecting plebiscite. These reports have been carefully reviewed and analyzed here. Mr. Stimson's conclusions accord entirely with views you and General Lassiter have expressed. . . . Among persons who are in position to form unbiased opinion on facts, I have not been able to find any difference of opinion. Conclusion on issue of frustration is unanimous, outside Chilean circles.

(b) Respective positions of Chile and Peru on subject of settlement by negotiation have now been defined with practical certainty. Peru will accept neutralization or a bona fide Bolivian-corridor solution, and would possibly agree to transfer of entire disputed territory to Bolivia on terms to be arranged. On other hand Chile has indicated that she will not consider any solution which does not look to a division of the territory by which the bulk would be assigned to her, comprising everything that could be utilized for a corridor; thus she would be left free to make her own bargain with Bolivia. This attitude, which has been firmly maintained, absolutely blocks road to a negotiated settlement.

(c) Plebiscitary process has reached stage where it must be dealt with decisively. General Lassiter can no longer pursue Fabian policy without gravest consequences. He is insisting daily, with a justification which I cannot deny, that final program be outlined at once. His position has come to be virtually impossible. Action on his part is a matter of days, not of weeks. It must be realized that General Lassiter, as chairman of the Plebiscitary Commission, has his own heavy responsibilities. I do not have right to dictate to him. There are some things which I can not conscientiously ask him to do, and there are some things which it is probable that he would refuse to do if I made the request. General Lassiter has shown utmost patience and a disposition to cooperate, but I am bound to recognize that there is limit beyond which he cannot go; he has just about arrived at that limit.

2. It is amid these circumstances that you file an urgent plea for at least three weeks' additional time and you request me to issue pronouncements which are boldly calculated to influence public opinion in Chile and thus to force modification of Government attitude. I can guarantee nothing as far as time is concerned. It is my honest guess that final crisis at Arica cannot be delayed beyond this week and it may come any moment. Edwards has already notified General Lassiter that he proposes to press issue for determination during present week. Undoubtedly he is acting under instructions. In matter of public statements, I am obliged to enforce distinction between statements of fact that you are to issue for purpose of correcting misunderstanding or misrepresentation of acts of this Government, and

statements the only justification for which is to bring indirect pressure to bear on Government of Chile. The authorized statement which you issued to the press on May 31⁹ falls within first category. I am not disposed to go further, and I feel strongly that to go over the head of the Chilean Government and appeal to Chilean public is procedure which cannot be defended no matter how desirable end sought may be. I am inclined, however, to approve your suggestion with reference to Secretary Hoover, and I shall take up matter with him at once.

3. There is only one way whereby Chile can avoid disastrous consequences otherwise inevitable, and that is (1) by instructing Edwards to arrange with General Lassiter to hold up issue on plebiscite, and then (2) by modifying her intransigent attitude in the negotiations here in Washington. The Government of Chile will have to take both these measures quickly or it will have to accept full responsibility for consequences.

4. A message just received from General Lassiter¹⁰ states that Edwards has requested meeting of Plebiscitary Commission at earliest possible moment to fix date of election.

KELLOGG

723.2515/2384 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, June 1, 1926—5 p. m.

[Received 10:50 p. m.¹¹]

From Lassiter. I have asked my legal advisers to prepare draft of a termination resolution, as there is very serious doubt of possibility of passing resolution contained in your telegram of May 15, noon, and as it can not be said to meet requirements of case. Text of prepared draft resolution follows and I think it should be passed at once:¹²

"1. Whereas under award of the Arbitrator in the Tacna-Arica arbitration the plebiscitary territory remains during the plebiscitary period subject to Chilean law and authority;

2. Whereas the correlative obligation rests upon Chile to govern the territory so as not to frustrate the purpose for which a plebiscite was prescribed but to create and maintain suitable conditions therefor;

⁹ Not printed. Ambassador Collier was authorized to issue a personal statement on the declarations made between Sept. 1925 and May 1926 by the Chilean Minister for Foreign Affairs and the Under Secretary which expressed a desire for settlement outside the plebiscite.

¹⁰ Telegram of May 31, 10 p. m.; not printed.

¹¹ Telegram in two sections.

¹² Quoted passage not paraphrased.

3. Whereas said obligation has not been discharged; and

4. Whereas in the light of 10 months' experience and observation and of all the information before it, the Commission has reached the settled conviction not only that there has been no material progress towards establishing suitable plebiscitary conditions, but that none is in prospect;

Therefore, it is resolved by the Plebiscitary Commission, Tacna-Arica arbitration:

Section 1, that, owing to the causes hereinbefore recited, the free and fair plebiscite required by the award cannot be carried out;

Section 2, that all proceedings looking to the holding of the plebiscite are hereby terminated, provided, however, that the powers of the Commission shall remain unimpaired until the measures formulated or to be formulated for liquidating and closing the affairs of the Commission and for depositing with the Arbitrator the records of the Commission shall have been accomplished."

.

In accordance with Edwards' request, a meeting of the Commission will take place June 5 (Saturday), 4 p. m., to consider motion he has made to fix date of election. I intend to suggest that his motion shall lie on table as pending business to be considered at Commission's next meeting. I am unable to foretell what Chilean reaction will be, but the indications are that aggressive attitude is being contemplated so as to force us to act on plebiscite. I am informed that the Chilean members of the registration boards have withdrawn until day of election is fixed, and rumors are floating about that we would be asked to leave if we will not act. Situation both for Peruvians and for ourselves is becoming more and more tense. If you do not think that negotiations at Washington would be affected unfavorably, it would be very desirable to move resolution quoted above at meeting of Commission on Saturday. Lassiter.

VON TRESCKOW

723.2515/2389a : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, June 2, 1926—4 p. m.

102. Ambassador Cruchaga called today to say that he had received a telegram last night from his Government stating that it would answer my memorandum¹³ today. . . . I told Ambassador frankly that unless there was some prospect of a settlement and a request by Chile to hold the matter up in Arica, I felt I could not request Lassiter to postpone decision further; that he would be

¹³ See telegram No. 93, May 26, to the Ambassador in Chile, p. 444.

allowed to go ahead and dispose of plebiscite as he thought best; and that, in my opinion, he would declare the plebiscite off.

Cruchaga said that he recommended to Chilean Government that they concede a Bolivian corridor including the railway, but of course he does not know what reply will be made to this proposition.

KELLOGG

723.2515/2389 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Extract—Paraphrase]

SANTIAGO, June 2, 1926—8 p.m.

[Received June 3—6:51 a.m.]

188. The Under Secretary for Foreign Affairs offered me late last night, for transmission to you, his telegram of instructions to Cruchaga. I intimated that as it was addressed to the Ambassador it should be sent direct to him, thus avoiding delay and possible errors of translation. The Under Secretary accepted my suggestion, but at noon today he told me that the telegram was in process of being coded but would soon be sent. He then gave me copy of which following is résumé: It answers memorandum telegraphed in your No. 93, May 26, 10 p.m., and appears to have been drafted with idea of being transmitted through me in order to call attention to what Foreign Office regards as an irregularity in answering Cruchaga's notes through me; it states that study of origin of good offices shows they could lead to nothing practical, and that Chile's acceptance of offer of good offices is proof of her desire to find equitable settlement, but that no obligation is thereby created to accept any proposition that may be submitted; it then refers to your account of your efforts to find acceptable formula and quotes at length the Foreign Office telegram of April 4 to Cruchaga in which long argument was made against suspension of plebiscite and against creation of an independent state but willingness was expressed to accept division along present departmental boundaries, Chile to retain Arica and the railway, etc.; telegram states supposition that Cruchaga has fully acquainted you with these ideas. There is brief reference to alternative proposition of April 15 and to the proposed modification, viz, the corridor plan; and says that you misjudge Chile's purposes. It discusses next your criticism of proposition for a corridor lying north of railway and your statement that this proposition shows intention to make impossible a solution by good offices; this supposition, it is stated, is remote from Chilean thoughts. Bolivia's right to intervene in negotiations is again denied. Note goes on to say that your proposal to give Tacna to Peru and the most important part of Arica to Bolivia

is in no way equitable as it would take both the cities of Arica and Tacna and the railway from Chile, leaving her only a strip of almost barren desert. Note concludes with expression of desire to arrive at equitable solution which would not be one depriving Chile in substantial measure of rights given to it by Treaty of Ancon, by the award, and by manifest desire of great majority of people of the territory.

COLLIER

723.2515/2401a : Telegram

The Secretary of State to the Consul at Arica (Von Treschcow)

[Paraphrase]

WASHINGTON, June 3, 1926—5 p. m.

For Lassiter. This morning I held a conference attended by Mr. Hughes, Mr. Stimson, Assistant Secretary Olds, Mr. Dennis, and Mr. White, the Chief of the Division of Latin American Affairs. We arrived at the following conclusions and recommendations:

(1) In our opinion, form of resolution you propose in your telegram June 1, 5 p. m., should be modified to read as follows:¹⁴

“The Plebiscitary Commission, in the exercise of its duties and functions under the Award, hereby formulates and declares its findings and conclusions as follows:

1. Pursuant to the terms of the Treaty of Ancon, the plebiscitary territory has remained, and still remains, subject to Chilean laws and authority. In these circumstances, the creation and maintenance of conditions proper and necessary for the holding of a free and fair plebiscite, as required by the Treaty and the Award, constituted an obligation resting upon Chile. This obligation has not been discharged, and the Commission finds as a fact that the failure of Chile in this regard has frustrated the efforts of the Commission to hold the plebiscite as contemplated by the Award, and has rendered its task impracticable of accomplishment.

2. As the result of its experience and observations throughout the course of the plebiscitary proceedings, the Commission has the settled conviction that the further prosecution of the plebiscitary proceedings, in an effort to hold the plebiscite as contemplated by the Award, would be futile. The Commission can not ignore its paramount duty under the Award to hold only a free and fair plebiscite, as contemplated by the Treaty and the Award, and not to hold a plebiscite which would not be in accord with the intent of the Treaty and the Award.

The Plebiscitary Commission accordingly decides upon the grounds above stated:

First. That a free and fair plebiscite, as required by the Award is impracticable of accomplishment.

¹⁴ Quoted passage not paraphrased.

Second. That the plebiscitary proceedings be, and they are, hereby terminated, subject, however, to the formulation and execution of such measures as may be required for the proper liquidation of the affairs of the Commission and the transmission of its records and final report to the Arbitrator."

(2) Text quoted above has been seen and approved by General Pershing. When time comes to present it, you should offer it on your own initiative without previously notifying or consulting either Freyre or Edwards.

(3) You must choose precise time for introduction of resolution with utmost care to see that such action, looking as it does to definite termination of the plebiscite, is taken only under circumstances which render it inevitable by reason of Chile's attitude in forcing the issue. Much depends, in this respect upon what Chile may do within next three or four days. I have been advised that a new note is on way here from Santiago, and text of it may be received later today. There is always bare possibility that Chile may come forward at last minute with proposal entitled to consideration, and that Edwards may receive instructions not to force issue on plebiscite for time being. We do not feel that you can afford to declare plebiscite terminated in face of any new proposals by Chile which hold out any real prospect of settlement. But if nothing develops to alter present status and we continue to confront situation wherein Chile demands decision on plebiscite and at same time maintains intransigent position in the negotiations, there will be no reason for you to delay your action further.

(4) As I understand Commission's practice and procedure, any resolution that Edwards may offer on Saturday must go over until next meeting if objection is made to its immediate consideration by any member of the Commission, and in your telegram of June 1, 5 p. m., you state that you intend to let the motion lie on table as unfinished business to be considered at next meeting. This procedure will afford me the opportunity to deal with the few contingencies that remain and to telegraph you finally that way is clear to introduce resolution quoted above under (1). I assume that a second brief adjournment could be taken if required by circumstances, but I doubt that it will be necessary to take one. Whatever happens, I must rely upon you to await this final word from me before you introduce this resolution, making no communication meanwhile on the subject to either party.

(5) If on Saturday Edwards should attempt to spread on record a statement of his position on plebiscite, either by speech or otherwise, it may be advisable for you to make brief rejoinder. I do not think it would be wise for you to enter upon elaborately detailed discussion for this purpose. It should be sufficient were you to challenge his state-

ments wherever you feel you could do it appropriately, declaring that position he is taking is not supported by record before Commission. If he should deny Commission's power to do anything but fix date for election and proceed with plebiscite, you should dissent.

(6) I assume you are taking and will take all proper precautions in every eventuality for complete protection of personnel, including those in outlying districts, calling them in, if necessary. No measures should be overlooked to eliminate risk of unfortunate and embarrassing incidents.

KELLOGG

723.2515/2392 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, June 3, 1926—7 p. m.

103. We are unable to obtain issue of desired statement from Secretary of Commerce, which you suggested in your No. 182, May 30, 5 p. m. Mr. Hoover tells us that although the gross exports of nitrates from Chile have decreased, imports of nitrates from Chile into the United States have increased yearly, and for the first four months this year are larger than for same period in 1925; that it is true that decrease in export of Chilean nitrates is undoubtedly due to German synthetic process; that experiments are being made in the United States with plants at Niagara Falls but that no plant for production of nitrates has yet been built, although if price is not reduced there probably will be.

It seems that all Mr. Hoover could say is that there is prospect, if price of nitrates is kept up, that plants will be built in this country. He is loath to make any statement at this time, for one reason and another, and I do not see how he could issue any statement that would be helpful.

This afternoon I received the Chilean note,¹⁵ which corresponds to your summary.¹⁶ I understand from Cruchaga that Chilean Government refuses to instruct Edwards to postpone. After consulting with all parties here, I think it improbable that Lassiter can delay final action at Arica. He will probably act Saturday, or at latest Monday or Tuesday. I am to have a meeting of Chilean and Peruvian plenipotentiaries tomorrow morning but I do not see any prospect of their coming to an agreement.

KELLOGG

¹⁵ Not found in Department files.

¹⁶ See telegram No. 188, June 2, from the Ambassador in Chile, p. 458.

723.2515/2432½

Minutes of Meeting of the Plenipotentiaries, Under the Extension of Good Offices of the Secretary of State, June 4, 1926

[Extract]

The Secretary opened the meeting in the Tacna-Arica negotiations at 10:30 a. m., on June 4. All the persons who attended the previous meetings were present and in addition Mr. Wade Ellis, counsel for Peru.

The Secretary stated that negotiations were getting nowhere by his putting up proposals only to be rejected categorically by first one and then the other of the parties. However, the Secretary was going to suggest a basis of discussion to see if he could get an intimation from either that this proposal or a modification thereof would be acceptable. The Secretary stated that in making this proposal it should not be thought that he had withdrawn the proposals already made. The proposals already made by him were still open should they be acceptable later to the parties. The Secretary then read his proposal as follows:

“The Secretary of State has the honor to refer to the proposal made by him to the Plenipotentiaries of Peru and Chile on April 15, 1926, reading as follows:

“The Secretary of State has the honor to suggest that in the interest of international peace and a cordial *rapprochement* between the parties they consider the advisability of a mutual and joint sacrifice whereby either

‘(1) the territory of Tacna and Arica shall be constituted a neutralized state, either independent or under the protectorate of South American States, as may be agreed, or

‘(2) the provinces of Tacna and Arica shall be transferred (upon an apportionment of equitable compensation, and appropriate economic arrangements, to be agreed upon) to a South American State not a party to these negotiations.

‘As neither party is willing to surrender the territory in question to the other, and as the proposal for a division of the territory between them has been rejected, the remaining opportunity for a solution of the longstanding controversy would appear to be found in one of the suggestions above made or in a modification thereof if such is deemed to be advisable.’

“Without withdrawing any of the proposals already made by him, the Secretary now desires to suggest as an additional proposal to the Plenipotentiaries of the two Governments concerned the following modification of Part 2 of said proposal:

“That both Governments accept in principle as a basis of adjustment of their differences concerning the provinces of Tacna and

Arica, reserving all details for consideration in the course of the ensuing negotiations:

‘(a) The delimitation of a corridor extending from the Bolivian frontier to the Pacific Ocean, said corridor to be transferred to Bolivia upon the apportionment of equitable compensation, appropriate economic arrangements and such other terms and conditions as may be agreed upon between Chile and Peru.

‘(b) All territory in the disputed area lying to the north of the northern boundary of the corridor so delimited to be and become a part of Peru.

‘(c) All territory in the disputed area lying to the south of the southern boundary of the corridor so delimited to be and become a part of Chile.

‘(d) The foregoing territorial dispositions to be effected with due regard for the principle of just compensation for public improvements and all other matters as to which compensation may be deemed appropriate or necessary.

‘(e) No government not now a party to these negotiations to be admitted to participation therein, except by agreement between Peru and Chile.’”

The Peruvian Ambassador stated that the formula proposed was acceptable. Peru, he said, desired to facilitate good offices and to arrive at a settlement agreeable to both to terminate a situation which is equally inconvenient to both. Peru finds this proposal acceptable and considers it opens the way for discussions to bring about a settlement.

The Chilean Ambassador stated that he would desire the Secretary to make the proposal more concrete and not in such general terms. The parties do not know what they are turning over to Bolivia, what are the boundaries of the territory so turned over nor what goes to Chile nor what to Peru. True it is that the details are reserved for further negotiations. He desired to inquire however what is a corridor? This is not a detail. What does the Secretary mean by a corridor and what does Bolivia mean by a corridor as it would be useless for Peru and Chile to agree if Bolivia does not. Chile, he said, cannot accept the proposal in the form presented because it is not definite and clear but vague.

The Secretary stated that he realized of course that if any corridor was to be transferred under any arrangement with Bolivia the arrangement must be arrived at and defined. The Secretary's suggestion was merely a basis for discussion. He hoped that both parties would say that they would consider it and state how they would be willing to divide the territory and make a corridor. The Secretary repeated that it was impossible to arrive anywhere by rejections and he inquired whether either party had any suggestion or statement as to what it will do so that negotiations may be carried on. The Secretary then inquired of the Peruvian Ambassador if he had any suggestions to make.

The Peruvian Ambassador replied in the negative. He stated that Peru had accepted the Secretary's proposal as made as according to the Secretary's statement it was a proposal in principle and not a proposal in detail. The Ambassador was not prepared to discuss the details but accepted the proposal as made in principle. He felt that the Secretary's statement opens the way for negotiations.

The Chilean Ambassador replied that he had no suggestion to make. It is, he said, a question of judgment as to the best way to arrive at a settlement. A vague suggestion of a corridor to Bolivia the limits of which are not established is not in Chile's opinion the right way to make a settlement. Chile hopes that the Secretary after the meeting can make a more definite proposal.

The Secretary replied that he would be willing to do so if he knew what Chile and Peru would agree to but there is no use in making proposals of division or of a corridor unless he has some idea what will be agreed to. As to Bolivia the Secretary stated that he had made it plain that unless both parties wanted Bolivia included the Secretary will not discuss the matter with Bolivia. To do so there must be an agreement on this point first between Chile and Peru.

The Secretary stated that if each party would give to the Secretary personally any definite suggestions as to what they will consider that he would make a suggestion in greater detail.

The Chilean Ambassador stated that in the logical order of ideas, as Peru has accepted in principle the suggestion of the Secretary, it would be Peru's part to make a suggestion.

The Peruvian Ambassador replied that to do this it would be necessary for Chile to give the proposal the same acceptance that Peru had given and so have a starting point for discussion. He added that he felt that proposals should be made by both and not by one only.

The Secretary stated that he considered this reply technical rather than meritorious. He did not understand that Chile had rejected a corridor but wanted more details regarding it and he inquired whether both would submit to the Secretary their ideas in detail as to a corridor, the part to go to Peru and the part to go to Chile, et cetera. If they will do so he will do his best to try to harmonize the views of the two parties.

The Chilean Ambassador stated that he would cable his Government regarding the situation and would advise the Secretary as soon as possible of his Government's definite position in the matter. The Peruvian Ambassador made the same reply.

The Secretary then inquired whether the two parties wished to continue the good offices. The Peruvian Ambassador replied in the

affirmative and stated that he would make all possible personal efforts to arrive at a satisfactory solution. The Chilean Ambassador made the same reply.

The Secretary then stated that the negotiations had been going on for two months or more and the plebiscite also going on. If anything was to be done in Washington it must be done soon. A meeting had been called in Arica for four o'clock Saturday afternoon. The Secretary did not know whether they would press for a definite determination at that time or not. He understood that under the rules the question might go over if objected to. He wanted to urge both parties however to try to come together in agreement. From his private conversations with both Ambassadors he did not think they were far apart and he hoped that they would reach an agreement.

The Secretary then inquired whether there were any suggestions as to the next meeting and inquired whether the following day, Saturday, June 5, would be satisfactory. The Chilean Ambassador said that that would be impossible, there would not be time to receive a reply to his cable. The Peruvian Ambassador was of the same opinion. The Secretary suggested Monday morning, the Peruvian Ambassador 3:30 Monday afternoon which the Chilean Ambassador agreed to. The meeting was then adjourned until 3:30 Monday, June 7.

FRANCIS WHITE¹⁷

723.2515/2406a : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 4, 1926—6 p. m.

For Lassiter. Peruvian and Chilean Ambassadors met with me this morning and a further basis of settlement was formally submitted and discussed. Basis was accepted in principle by Peru but was objected to by Chile as not yet concrete enough. Both parties then undertook to communicate with their respective Governments so as to elicit definite suggestions on the matter. Both parties affirmed desire to continue the negotiations. Today I also received urgent request from Collier¹⁸ for postponement of action in Arica for week or little longer in order to give time for influences at Santiago in favor of settlement by Chile to become effective. Political situation in Chile is very complicated; and, though Government may not be in position to instruct Edwards to withdraw his motion at Satur-

¹⁷ Chief of the Division of Latin American Affairs.

¹⁸ Telegram No. 193, June 4, noon; not printed.

day's meeting of Commission, there are nevertheless some reasons for believing that Chile would not seriously object to reasonable postponement of any further action by Plebiscitary Commission in regard to plebiscite. In light of these conditions please avoid action on Saturday. Take an adjournment and inform me fully about Edwards' proposals and attitude. I have adjourned meeting of the Peruvian and Chilean Plenipotentiaries here until Monday afternoon.

KELLOGG

723.2515/2406 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, June 4, 1926—8 p. m.

[Received June 5—12:11 a. m.]

From Lassiter.

(1) Your telegram June 3, 5 p. m. Unless Edwards' attitude at meeting Saturday is such as to force me to take action, I shall arrange for his pending motion to lie over to an adjourned meeting Monday afternoon. I do not think that situation here warrants attempting any further delay. I hope you will be able to make your final communication to me before Monday morning.

(2) After passage of termination resolution Edwards will doubtless appeal. Several days will be required to certify appeal and to dispose of other business of Commission, but after that is over I am sure that neither Edwards nor Freyre will be willing to remain here during period of the appeal, and the Commission will have to adjourn to meet at some future date. I shall arrange to get American personnel out of the territory as quickly as possible after passage of the resolution. Secretary General Stabler will take Commission records to Washington and I shall direct my legal advisers to proceed there with American delegation's files. I shall return to the Canal Zone unless you desire otherwise. Lassiter.

VON TRESCKOW

723.2515/2406 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 5, 1926.

For Lassiter. I assume that your telegram of June 4, 8 p. m., was sent before you had received my telegram June 4, 6 p. m. This morning I have received renewed urgent appeals from Collier¹⁹ for one

¹⁹ Telegram No. 196, June 4, 11 p. m.; not printed.

week's, or if possible, ten days' time. He report that sentiment is rapidly developing at Santiago in favor of diplomatic settlement; and that, although for political reasons the Chilean Government dares not instruct Edwards to withdraw his request for a meeting today, he has been told informally that the Government's influence will be exerted in every way to minimize popular criticism if a postponement is taken. In view of this critical situation it would be most unwise to burn any bridges next Monday by introducing resolution that was quoted in my telegram June 3, 5 p. m. Please arrange to keep matters in abeyance even if you have to vote against Edwards' motion fixing election date, assigning some technical reason. Point of whole matter is that the final action terminating plebiscite, when and if taken, must be in circumstances such as to leave least possible room for complaint by either party that either you or we have precipitated it while the parties are actively negotiating and actually formulating definite proposals for a settlement. We can not afford to be put in position of closing door on a last chance of arrangement.

KELLOGG

723.2515/2408 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, June 6, 1926—noon.

[Received 8:09 p. m.²⁰]

197. Announcement appears in press that you have given Chile only until Monday to come to decision, and that Chilean Government has asked to be given until Wednesday. I hasten to say that while delay should not be permitted, they should have until Wednesday at least if they express desire for it. For us to fix too short time limit will be regarded as pressure and will arouse stubborn response. Conditions here, moreover, necessitate consulting not only Foreign Affairs Committees of both Senate and Deputies but also the presidents of all eight political parties. Today and tomorrow will be devoted to that effort. A successor must also be found for Mathieu, who at present is greatest obstacle as he opposes corridor plan and asserts that he wishes to cede both provinces to Bolivia. Everyone else has abandoned this plan, for reliable information has it that the Minister of War announced in Cabinet session that cession of Arica would result immediately in revolution.

Bolivian Minister has just called on me and requested me to telegraph you that, in his opinion, Bolivia would not be content with a corridor. I told him that I would not telegraph you; that you had not

²⁰ Telegram in two sections.

conversed on matter with Bolivian Minister at Washington as both the litigation and the good offices were restricted to Chile and Peru; and that to admit Bolivia would destroy legal structure now existing and would undermine the good offices. Minister told me he had good reason for belief that Peru would sell both provinces to Bolivia and that this was thought to be best solution by many prominent Chileans. I replied that that statement was good up to 4 or 5 days ago, but that everyone had abandoned idea since Minister of War's statement previously referred to. I said that my opinion was that Bolivia's only chance ever to get an outlet to the sea was the acceptance of the present proposition. Minister left me apparently well satisfied and convinced of truth of what I had said. . . .

There is no certainty your proposition will be accepted, but chances are that four-fifths of intelligent people approve it. The Government's hesitancy is chiefly due to fear of revolution and to activities of Edwards' followers. It must have a little time. Remember that less than month ago both Senate and Deputies were practically unanimous in demanding termination of good offices. I believe that now a majority of both chambers would approve your plan if Government were to recommend it.

COLLIER

723.2515/2408 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, June 7, 1926—11 a. m.

105. Your No. 197, June 6, noon. General Lassiter reports²¹ that at Plebiscitary Commission's meeting on Saturday, Edwards pressed earnestly for definite and immediate action to fix date of election, discontinue registration appeals, close registration books, and assign columns to Chile and Peru on the ballot, as required by Commission's regulations. The Commission neither acted nor voted upon Edwards' resolutions or upon question of postponement, but as matter of personal courtesy to Lassiter a postponement was arranged until June 9, Wednesday, on which date Lassiter states that he will be compelled to act. Wednesday he intends to introduce a resolution as substitute for Edwards' resolutions, and unless Edwards makes request that action on Lassiter's resolution go over until another meeting, Lassiter's resolution will be passed Wednesday. At Saturday's meeting Edwards began proceedings with what Lassiter describes as specious and dangerous address in which he censured Peruvians for noncooperation and

²¹ Telegram of June 5, 12 p. m.; not printed.

insincerity and criticized Americans for inconsistency and dilatoriness.²² He also gave notice that he intended to publish this address. Lassiter called attention to fact that the settled practice of the Commission forbade publication; and Edwards stated that his duty required him at least to transmit the address to his Government and that it was altogether likely that the Chilean Government would publish it within a few days.

From the above sketch of situation at Arica you will see that Chile is precipitating action through her official representative. If Chilean Government needs more time it is simple matter for that Government to instruct its Commissioner accordingly. I know of no other way to prevent final action on next Wednesday. This is third time within last few weeks that Edwards has submitted motion to Commission to fix election date, and now he is insistently demanding action under circumstances which give the president of the Plebiscitary Commission no excuse for further delay.

Ambassador Cruchaga reported to me last evening that he had received instructions from his Government to request postponement until Thursday of meeting of the Plenipotentiaries which is scheduled for this afternoon. . . . Request to postpone today's meeting here until Thursday was evidently made with full knowledge that decision in Arica was to be taken on Wednesday. Chile apparently has no intention of negotiating for a settlement. At meeting of Plenipotentiaries here on June 4 (Friday) I obtained Chile's formal rejection of my two general propositions: (1) neutralization, (2) conveyance of entire territory to a third party. I also obtained Peru's acceptance in principle of corridor to Bolivia, territory north of corridor to go to Peru and territory south of corridor to go to Chile, without defining limits. Cruchaga declined to accept in principle, as boundaries were not sufficiently defined, and also declined to make any other proposition. Both Peruvian and Chilean Plenipotentiaries agreed to consult their respective Governments and to present more specific propositions on Monday; both specifically affirmed their desire to continue negotiations. I have but slight hope that I can get Peru to accept any proposition that will be presented.

At Ambassador Cruchaga's request I had two and a half hour conference with ex-President Alessandri, who asseverated that no settlement of any kind could ever be put through Chilean Congress. When I explained in detail that the proposition of good offices was suggested by Chile even to details of settlement, Alessandri admitted it and said he had been unaware of it until you had communicated facts to Foreign Office. I then showed him Chilean Government's

²² Text of statement printed in *El Arbitraje de Tacna y Arica*, tomo segundo, p. 646 (minutes of the 35th session).

last notes which I understood had been sent with authority of Cabinet. He expressed much amazement and said that even that settlement could never be put through Congress. . . . I said that it was for General Lassiter in the first instance to make any decision as to what should be done; that of course it could come to the Arbitrator by appeal; and that all information I had received from Pershing, Lassiter, and their advisers made it seem impossible that they could hold a unilateral election. I called his attention to 16 separate assaults and outrages committed on Peruvians since May 14. Alessandri attempted no defense but said he believed they grew out of exuberance of Chilean population over their apparent victory. He suggested that election be allowed to proceed and that Arbitrator consider its fairness on appeal. I said that if conditions were inadequate for fair election I did not see how Lassiter could afford to hold it and that it seemed impossible from all reports I had received that Lassiter would hold such an election. Alessandri said that he thought it was better for this Government to decide matter at once one way or other, even if it declared election to be impossible, rather than allow matter to drag along further. He did not say, as Cruchaga has done, that there was danger of revolution. It appears to be impossible to get any support from him for a diplomatic settlement.

I do not know whether I can obtain Peru's approval of plan you suggested in your No. 186²⁸ and subsequent messages, but I am very doubtful that Chile will make such a proposition and I feel that it is practically impossible for me to obtain Peru's approval to arrangements that merely give her Tacna Province on present boundaries and no corridor to Bolivia except to north of the railroad.

I am beginning to believe that Chile never intended to accept any solution whatever except plebiscite. I regret situation more than I can tell. For months I have struggled to prevent decision by Commission such as is now impending.

KELLOGG

723.2515/2414 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, June 7, 1926—11 p. m.

[Received June 8—7:08 a. m.]

200. Upon receipt of your 105 I went at 7 o'clock this evening to the Foreign Office. The Under Secretary was with the President in the meeting of notables to consider Chile's decision. The session is

²⁸ Not printed. The plan suggested was for a division on existing departmental boundaries with possibly some indemnification to Peru for the land of the old Province of Tacna which had been incorporated in the Department of Arica by Chile (file No. 723.2515/2387).

likely to last several hours. I then went to house of Mathieu who, despite his statement to me the other day that he had resigned, attended the Cabinet meeting today and was in the Ministry most of the day. Upon my arrival at his house I was told he had gone to bed exhausted and could not see me.

I saw the editor in chief of *Diario Ilustrado* and Carlos Aldunate Solar²⁴ and told them of your feeling that Lassiter's resolution could not be postponed beyond Wednesday if the Government did not instruct Edwards to move a postponement. They feel the propriety of this but fear the Government's weakness. It has pledged itself to the plebiscite so many times that it hardly dares to change front entirely all at once, notwithstanding that consistency and even evident sincerity require it. If Chile makes a proposition tomorrow I will at once see the President directly, [beginning paraphrase] and also influential friends of his, and shall argue that courtesy requires that if they ask the mediator to support a proposition, they should give him reasonable length of time to obtain its acceptance by the other party. . . .

If Government of Chile announces tomorrow that it has made a proposition, quite a sensation will be created. It may not feel able to declare publicly that it has consented to postponement at Arica, but if it gets through tomorrow satisfactorily, as I think it will, it will be able to make public declaration in day or so. I am making every possible effort to get them to make postponement now. We ought not to allow ourselves to be stampeded at Arica as long as there is chance here. Majority of those who have worked for good offices are still hopeful. I hope most earnestly that Lassiter, even against Edwards' wish, will vote to postpone for a week, for you will need that much time to present to Peruvian Government any proposition Chile may make. There has been great change here, especially in Congress, since Alessandri's departure. [End paraphrase.]

COLLIER

723.2515/2412 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 8, 1926—11 a. m.

For Lassiter. Ambassador Collier reports²⁵ that important conferences of President and Cabinet with members of Foreign Affairs Committees of both Houses of Chilean Congress and heads of all

²⁴ Former president of Chilean Senate and member of the Chilean delegation to the conference at Washington, 1922, between Chile and Peru; see *Foreign Relations, 1922*, vol. 1, pp. 447 ff.

²⁵ Telegram No. 199, June 7, 1 a. m.; not printed.

political parties are being held at Santiago in an effort to agree upon some basis of settlement for submission to Plenipotentiaries in Washington for consideration. Collier reports that it is stated these conferences can not be concluded in time to submit results here until Thursday. Ambassador Cruchaga on instructions from Chilean Government asked me Sunday evening to postpone the meeting of the Plenipotentiaries set for Monday until Thursday. I declined, but held a meeting yesterday afternoon at which Cruchaga presented telegram from Chilean Government requesting a postponement. The next meeting of the Plenipotentiaries will be held Wednesday morning, but it is to be doubted if full report of action at Santiago will be available at that time although Cruchaga has requested definite word by tonight.

You will observe that Chile is asking for delay in negotiations here at same time that Edwards is demanding immediate action in Arica. I have forcibly pointed out inconsistency of such a course and yesterday Cruchaga volunteered to telegraph Chilean Government to urge that appropriate instructions be given Edwards to agree to further postponement of some sort in Arica. Ambassador Collier is also dealing with matter directly with Chilean Minister for Foreign Affairs. It is evident that Chilean policy is both unsettled and inconsistent as result of factional differences within the Government and the Congress; and under these conditions Edwards will, perhaps, continue to follow his own course without interference.

While at this moment I can not regard prospects of settlement as bright, and while Chilean attitude at Arica and in Washington gives little encouragement at this juncture to idea that Chile is seeking real solution of problem in good faith, I think that it must be recognized by all of us that there is conflict of opinion on question in Chile and that Collier's appeal for time to allow matter to be fought out at Santiago can not be wholly ignored. Final record should leave no room for assertion to be made that we have closed door at very moment when parties are making serious effort constructively to adjust their differences. If resolution quoted in my telegram of June 3, 5 p. m., is so introduced, preliminary record should show clearly that Chilean member of Commission has flatly refused all further delay and has precipitated final action by Commission on the plebiscite.

In regard to procedure at meeting of Commission on Wednesday, I make following suggestions:

(1) It seems advisable that facts and conclusions set forth in Edwards' speech last Saturday before Commission should receive some comment from you if you have not yet made any. It will not be necessary to make long or detailed statement. Only point is, that these facts and conclusions, with which I understand you do not at all agree, should not be allowed to stand unchallenged on the record.

Yesterday Ambassador Cruchaga handed me copy of Edwards' speech,²⁶ and fact that it has been telegraphed here points significantly to intention to give it out shortly for wide publicity.

(2) If on Wednesday Edwards maintains his uncompromising attitude and insists on a decision, I do not see why you should not say that you are advised that negotiations in Washington are going ahead at request of both Chile and Peru; that Chile, in particular, has shown intention to submit to the Plenipotentiaries some definite proposal of settlement and has requested few days' delay for that purpose; and that in these circumstances Peru and Chile should carefully consider whether their best interests would not be served by this brief delay and thus avoid for a few days the creation of a new situation. It is my idea that this suggestion should be framed in such a way as to place responsibility squarely upon the disputing parties, and especially upon Chilean member of the Commission, to say that despite critical state of negotiations Chile insists upon action by Commission.

(3) After having exhausted every reasonable expedient to obtain postponement and having fixed responsibility as indicated under (2) above, introduction of your resolution would then appear to be inevitable. You will appreciate that introduction of resolution, even though Chilean Commissioner then requests time to consult his Government before acting upon it, will be practically equivalent to its passage as far as public is concerned. I should be pleased if events took such a course as to permit introduction of resolution to go over until another meeting, but Edwards may force action and it is important to see that record is plain if he does force it.

KELLOGG

723.2515/2415 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

SANTIAGO, June 8, 1926—1 p. m.

[Received 3:10 p. m.]

201. After a talk with the Under Secretary and consideration of the action of last night's meeting of notables, I consider a diplomatic solution hopeless and feel that Lassiter ought not to delay a moment longer.

The element here which fails to appreciate the seriousness of a solution condemning Chile for electoral frauds rallied all the jingoists and succeeded in overcoming the great number of influential persons who wanted a diplomatic settlement. For instance, the *Mercurio* has a headline today running across the page "Only the sons of the heroes are worthy of guarding the sepulchre of the martyrs," and subhead-

²⁶ Printed in *El Arbitraje de Tacna y Arica*, tomo segundo, p. 646.

ing "This is the voice of the Chileans who with their blood bought Tacna and Arica."

There was unquestionably a set-back yesterday to those who were working for a diplomatic settlement, a sort of mysterious slump. . . .

I keenly regret that we are not to have the satisfaction of bringing Chile and Peru into better relations and personally am confident that Chile has yielded to influence which has brought about results that I think will be disastrous for her; but you and I certainly have both worked and endured in order to aid Chile, and I think our Government at least will have the satisfaction of having kept faith and that Lassiter's resolution will be a new declaration of our high standing of honor which must be kept unimpaired if we are to have any influence in Latin America or the rest of the world or if we are to maintain our own self-respect.

COLLIER

723.2515/2412 supp. : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 8, 1926—7 p. m.

For Lassiter. Ambassador Cruchaga called this afternoon to submit concrete proposal for settlement which emanates from conference held yesterday in Santiago.²⁷ I told him that only way to gain time for consideration of any new proposals was through modification of Edwards' attitude in Arica; if Edwards persisted in demanding immediate decision, a new situation would be created which might be exceedingly unfavorable to continuance of negotiations here. Ambassador said that present state of public opinion in Chile made it impossible to obtain instructions to Edwards directing him to agree to a postponement, and that likewise it would be impossible for Edwards to make motion for postponement. On other hand Cruchaga feels that under present circumstances Edwards might think passive attitude on his part to be feasible; that is to say, a postponement or adjournment of further proceedings in the plebiscitary territory might be brought about on your motion or on that of Freyre with Edwards either not voting or voting contra. I have reason for believing that Edwards will be urged at once not to oppose any move for maintenance of *status quo* in plebiscitary proceedings, provided way to do this can be found that does not ask any affirmative action by Edwards.

I suggest that you talk this matter over with the Chilean Commissioner before tomorrow's meeting and see if arrangement for further

²⁷ See telegram No. 107, June 9, 6 p. m., to the Ambassador in Chile, p. 475.

adjournment can not be effected. Here is situation: From Chilean point of view Edwards can not afford to have it said that he has agreed to a postponement; it is not necessary to ask him to do so; all that he is required to do is for him to cease for the time being to force issue on plebiscite; and he can even vote against a motion for postponement or adjournment in order to keep his own record straight.

As I pointed out in my earlier message to you today, your resolution should not be introduced until and unless issue is crowded to that point by Edwards and no other course is left open to you. I am counting upon you to exercise utmost discretion, introducing your resolution only through absolute necessity. A great deal may depend upon a few days' delay.

KELLOGG

723.2515/2415 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 8, 1926—11 p.m.

For Lassiter. My telegram June 8, 7 p.m. After further reflection and consideration of latest advices from Santiago, I am disposed to allow you to use your own judgment and proceed with introduction of your resolution unless Edwards relieves you of embarrassment by consenting to maintain *status quo* for such further period as may be agreed upon. Of course we are anxious to save every possible chance for settlement by negotiation. It is only because Ambassador Cruchaga insists that such a chance exists that we have urged you to find some way for a further postponement, but we do not wish you to construe these messages as a direction to you to postpone it in face of further protests from Chilean Commissioner.

KELLOGG

723.2515/2415 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, June 9, 1926—6 p.m.

107. Since your No. 201, June 8, 1 p.m., was received I have had conference with Ambassador Cruchaga and have also held meeting of the Plenipotentiaries this morning. Late yesterday afternoon Cruchaga presented to me Chile's specific proposals based on conclusions reached at meeting in Santiago, and this morning laid same proposals before meeting of the Plenipotentiaries.

Substance of proposals is that Chile reiterates her preference for fulfillment of Arbitrator's award; then follows this by expression of willingness to divide territory, present Department of Tacna to go to Peru and present Department of Arica to go to Chile; third proposition is that of a Bolivian corridor four kilometers wide extending from Bolivian boundary to village of Palos on the Pacific Ocean, this corridor to follow present boundary between Departments of Tacna and Arica so that one-half of the corridor strip would be on each side of it. A proviso is added that at no point shall corridor approach the line of the Arica-La Paz railroad nearer than 10 kilometers. Ambassador Velarde made no reply except to say that he would submit these proposals to Peruvian Government. Meeting then adjourned subject to call of Secretary of State.

Lassiter has full authority to handle situation in his discretion at this afternoon's meeting of Plebiscitary Commission; I do not doubt that he will give Chilean Commissioner full opportunity to consent to further postponement, but if latter insists upon forcing issue then fate of plebiscite will be met and decided as far as the Commission is concerned.

I shall be glad to have you report any additional information you may obtain on conclusions reached at meeting of notables in Santiago on Monday. I should be especially interested to know if these conclusions were influenced by any representations or recommendations that may have been made from here by Alessandri. It should be understood, in this connection, that Alessandri's talk with me last Friday was at his request, made through Ambassador Cruchaga. I have reported substance of interview in my No. 105, June 7, 11 a. m., to you. If Alessandri made any recommendation based upon his conversation with me, it could not in any conceivable way have encouraged Chilean Government to take decisions it reached on Monday, except by deliberate misrepresentation of the facts. I did not in slightest manner encourage idea that if negotiations failed and Chile insisted on plebiscite that the plebiscite would go through; the tenor of my remarks was precisely the opposite.

KELLOGG

723.2515/2428 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, June 9, 1926—8 p. m.

[Received 10:40 p. m.]

From Lassiter. At meeting of the Plebiscitary Commission this afternoon I made a statement indicating desirability of postponing

definite action today. Edwards replied with definite and specific statement that Chilean Government insisted on immediate action.

Freyre and I both read statements²⁸ replying to Edwards' statement at last meeting. I expressed my views on the dominating factors that had affected the plebiscite.

I then introduced resolution for termination. Edwards said that he did not think Commission possessed right to terminate plebiscite, and that he wished to refer matter to Chilean Government. He requested delay for this purpose, which was granted. I presume that he will be able to act by day after tomorrow. Freyre made no comment and said that he was ready to vote now.

Commission agreed that no publicity should be given today's proceedings; but it is practically certain that Chileans will publish essential facts. I commented on publication of Edwards' statement made at last previous meeting; he said Senate had asked for a copy and he could not control matter. If his statement should be published in the United States, I think that my statement, too, should be published.

Lassiter
VON TRESCKOW

723.2515/2428 : Telegram

The Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, June 10, 1926—10 a. m.

108. Lassiter reports²⁹ that he saw Edwards before meeting of Plebiscitary Commission yesterday afternoon, called his attention to state of negotiations for settlement, and made suggestion that it might be desirable to postpone for short period further definite action by Commission on Edwards' pending motion to fix date of election. Edwards replied that he knew nothing of what was going on in Santiago about good offices and that his instructions were to pay no attention to good offices, but to press and to continue to press for vote on his motion and to appeal if that motion were voted down. As late as 10 o'clock, June 8, Edwards continued, he had received cable instruction telling him to press for a vote. His attitude was wholly opposed to any delay or postponement.

Later at the meeting of the Commission Edwards made definite, specific statement that Chilean Government insisted on immediate action. Lassiter thereupon introduced following resolution:

²⁸ Printed in *El Arbitraje de Tacna y Arica*, tomo segundo, pp. 756 and 762.

²⁹ Telegram of June 9, 4 p. m.; not printed.

[Here follows text of resolution quoted in the Secretary's telegram of June 3, 5 p. m., to the consul at Arica, printed on page 459.]

Upon introduction of this resolution Edwards stated that he did not think Commission possessed right to terminate plebiscite; he said that he wished to refer matter to his Government and requested a delay for that purpose, which was granted. Lassiter thinks that final action may be taken by tomorrow.

Commission agreed that no publicity should be given to its proceedings yesterday. I am informing you of foregoing facts so that you may be fully prepared and ready to take any necessary action should Chile give publicity. Please report at once all developments.

KELLOGG

723.2515/2428 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 11, 1926—9 a. m.

For Lassiter. Resolution which you have offered has aroused very bitter feeling in Chilean Embassy here. They feel that it is unwarranted public indictment of Chile and that honor will require her to break off negotiations and possibly to break off relations with the United States. If Chilean Commissioner proposes any possible solution or any compromise arrangement by which passage of resolution would be avoided, please try to adjourn action and cable us immediately.

KELLOGG

723.2515/2434 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, June 11, 1926—2 p. m.

[Received 3:40 p. m.]

From Lassiter. Your telegram June 11, 9 a. m. It might not be amiss to intimate to Ambassador Cruchaga that if Chilean Commissioner will propose suspension of all plebiscitary activities during period of good offices and will likewise propose postponement of Commission's action on motions to consummate as well as on motions to terminate the plebiscite, the resolution which embodies such proposals will receive my support. Lassiter.

VON TRESCKOW

723.2515/2434 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 11, 1926—6 p. m.

For Lassiter. Your telegram June 11, 2 p. m. I doubt wisdom of imposing any conditions specifically mentioning good offices. I suggest that if Edwards wishes it, you indicate your willingness to hold plebiscitary activities in abeyance and to defer action on all pending motions, including your own resolution for terminating the plebiscite, until the further order of the Commission. I shall take first convenient moment to convey this intimation to Ambassador Cruchaga.

KELLOGG

723.2515/2436 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, June 11, 1926—7 p. m.

[Received June 12—12:10 a. m.]

From Lassiter. Referring to termination resolution now before Plebiscitary Commission, Chile will probably take one of the three courses following:

1. Vote against resolution; then, after affirmative vote by Commission, take an appeal to the Arbitrator.
2. Announce unreserved acceptance of good offices and propose suspension of all plebiscitary activities including action on termination resolution now pending.
3. Withdraw from participation in proceedings of Commission and of its agencies.

If Chile elects first course, her appeal will be certified or transmitted to Arbitrator by cable. As I indicated in my telegram of June 11, 2 p. m., if Chile proposes suspension of plebiscitary activities during further negotiations under good offices, I believe that this proposal should be accepted. Should she elect the third course, the Commission should adopt the termination resolution.

Lassiter
VON TRESCKOW

723.2515/2437 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Extract—Paraphrase]

ARICA, June 12, 1926—11 a. m.

[Received 1:55 p. m.]

From Lassiter. Your telegram June 11, 6 p. m. This morning I received an official note from Edwards in which he states that he has received instructions from Chilean Government and requests me to call a meeting of Plebiscitary Commission at earliest possible moment within the 24-hour period provided for in the rules of procedure of the Commission. Accordingly, I am calling a meeting for June 14 (Monday) at 11 a. m.

Lassiter
VON TRESCKOW

723.2515/2436 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 12, 1926—1 p. m.

For Lassiter. Your telegram June 11, 7 p. m.

1. In contingency of Chile's withdrawal from further participation in proceedings of Commission and of its agencies, your program would be slightly simplified. I assume that termination would be adopted and that no appeal would be taken on the record by either Chile or Peru.

2. If Chile continues to participate, then the alternative proposals are termination or suspension. If there is to be (a) indefinite suspension or (b) suspension for definite period, it is my understanding that it will be because Chile asks for and agrees to it. You indicate that in that event you will vote for suspension. I suppose that chance of an appeal by Peru, in such a situation, would be remote. On other hand if no arrangement for suspension is made and your resolution for termination is adopted, Chile, presumably, will appeal; if she does not, whole matter may be regarded as ended. If Chile does appeal, practice prevailing in previous appeals will apply.

7. On further consideration I have decided not to take at present the step indicated in last sentence, my telegram June 11, 6 p. m.

KELLOGG

723.2515/2438 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, June 12, 1926—midnight.

[Received June 13—5:32 a. m.]

From Lassiter. Department's June 12, 1 p. m. The indications are that Chile will withdraw on ground that Commission has no legal right to terminate plebiscite. In that event there will not be any appeal. From your cable am I to understand that no further action will be required of Plebiscitary Commission and that it should adjourn sine die? Does not Arbitrator intend to express his approval or disapproval of Commission's action, and is no final statement to be made of result of proceedings?

If Arbitrator does intend to act, then I should think that full statement of entire history of case together with supporting documents would have to be prepared for his use, and for this purpose the records and the personnel needed to work up the case would have to be sent to Washington. I had thought that the men whom I would send in charge of the delegation's records could do this work. Assuredly, if any report worthy of the name is wanted, it will have to be prepared in Washington as personnel could not do it here; but if Arbitrator does not intend to pass on matter, then presumably it will be enough merely to send minutes and other documents of Commission and records of delegation in care of secretary general to Washington, for all personnel, including Commissioners, will cease to function.

Some months will be required for the disbursing officer to close his accounts and someone will have to audit and approve them and see that funds on hand are properly distributed. Please cable me at once, as it is indispensable that I know your views on foregoing before Monday morning. Lassiter.

VON TRESCKOW

723.2515/2437 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 13, 1926—11 a. m.

For Lassiter. Your telegram June 12, 11 a. m. If Edwards comes forward at meeting tomorrow with any suggestion which can possibly be construed as bona fide effort to bring about reasonable adjustment of plebiscitary difficulty without at same time forcing you to take extreme measure represented by your termination resolution, please endeavor to take an adjournment and then cable me.

Should he launch any attack upon you, or the Arbitrator, or the United States, you should reply for the Commission and transmit to us immediately what he has said. If he makes public his speech of June 5 or any remarks that he will make tomorrow, then your replies should receive like publicity. Keep us fully and promptly informed.

KELLOGG

723.2515/2438 : Telegram

The Secretary of State to the Consul at Arica (Von Tresckow)

[Paraphrase]

WASHINGTON, June 13, 1926—8 p. m.

For Lassiter. Your June 12, 12 p. m.

1. If Edwards demands that you withdraw your termination resolution and, when you refuse, formally records Chile's withdrawal from further participation in plebiscitary proceedings, I think three things should be done:

(1) You should certify to the Arbitrator the fact of Chile's withdrawal;

(2) You should postpone action on all pending motions, including termination resolution;

(3) You should suspend all plebiscitary proceedings until further order of Plebiscitary Commission.

2. If Chile does not withdraw, and the termination resolution is voted on and adopted, decision of Commission will presumably stand as final unless appeal is taken. In absence of appeal, the Commission will have only to formulate and approve its final report to Arbitrator, transmitting with it Commission's official records. It occurs to me that you and the secretary general might have delegated to you by the Commission the duty of preparing and submitting the report. If an appeal be taken from adoption of the termination resolution, however, the record on appeal should be certified in accordance with practice in past appeals, and in that event Commission certainly could not adjourn sine die, but should take adjournment subject to call of its president.

KELLOGG

723.2515/2447 : Telegram

The Consul at Arica (Von Tresckow) to the Secretary of State

[Paraphrase]

ARICA, June 14, 1926—8 p. m.

[Received June 15—8:45 a. m.]

From Lassiter. At meeting of the Plebiscitary Commission today Edwards read a statement the whole purpose of which was to substantiate his position that Commission did not have legal right to pass resolu-

tion terminating the proceedings. His statement is a long, unsound argument which may impress those who are wholly unacquainted with the [situation?]. It was not, however, particularly offensive in tone. He refused to take any part in the vote on motion to terminate, saying that his attitude was one of nonparticipation.

Freyre read a short statement and gave his vote in the affirmative.

I read a long statement which I am having cabled to you,³⁰ and then voted in the affirmative and the motion to terminate the plebiscitary proceedings was carried.

I then attempted to have considered the liquidation of the Commission's affairs. Edwards immediately announced, by direction of his Government, that he was now the only legal member of the Plebiscitary Commission; that he did not recognize Freyre and me, as our action in his opinion was wholly illegal and had separated us from the Commission; and that it would be necessary for the Arbitrator and Peru to appoint new members. I asked him to elaborate his idea and to explain what it meant. He said that it meant simply that Freyre and I had voted ourselves out of the Commission.

I told him I refused to recognize any such attitude; the Commission, I said, was still in being for purpose of liquidating its affairs and remained in being until final adjournment. I then proposed two resolutions for the division of property and audit of funds; resolutions were adopted by majority vote, Edwards in regard to each making the claim that he did not recognize any further resolution passed by the Commission. He agreed later to collaborate informally with the committees who were to look after these matters.

Freyre took the same position that I took; and as far as this meeting was concerned, Edwards' attitude was merely ignored. I inquired if he intended to obstruct action of majority of Commission, or to take any other positive stand. He intimated that he did not; but when he was pressed to say what his attitude really was and what it was he proposed to do, he said he would have to consider that at a later date. When I asked why he did not take an appeal he said that he could not appeal because Commission's action was a nullity.

I adjourned the Commission to meet Wednesday at 11 a. m. There was no particular ill-feeling manifested, and at end of meeting Edwards conversed with me in a jocular manner. He told me that his dramatic move had been suggested by Mr. Lansing in Washington.³¹

At 5 o'clock full publicity was given to action taken by Commission. Statement I had cabled to you June 9, 11 p. m., the text of the

³⁰ Not printed; for text, see Plebiscitary Commission, Press Release, No. 29, June 14, 1926. This statement was made available to the press by the Department of State when received by cable from Arica.

³¹ Robert Lansing, Secretary of State, June 23, 1915, to Feb. 13, 1920, and counsel for Chile during negotiations under good offices.

termination resolution, and the statements made today by Freyre, Edwards, and me were given out.

I propose to close affairs of Commission and to have personnel leave here on boat sailing June 20. I do not know whether Edwards will offer any objection to shipment of records, but I intend to ship them unless he does object.⁸² Lassiter.

VON TRESCKOW

723.2515/3617

The Chilean Plenipotentiary (Cruchaga) to the Secretary of State

[Translation ^{82a}]

The Chilean Government, in an endeavour to evidence its willingness to settle the existing controversy with Peru regarding the fulfillment of Article 3 of the Treaty of Ancón, a dispute submitted to the Arbitration of His Excellency The President of the United States and which was decided by the Award rendered March 4, 1925, accepted the tender made by the Government of the United States of its good offices to procure a direct adjustment of the question.

From the outset my Government represented the fact that its acceptance of such a praiseworthy initiative did not imply its consent to a suspension of the plebiscitary proceedings, which were to proceed along the course established by the Award and in the Resolutions of the Plebiscitary Commission appointed to execute the Arbitral decision.

This intelligence given by Chile to its acceptance of the tender of good offices was expressly admitted by the Honorable The Secretary of State and, also, by the Peruvian Government, the latter having participated, under such an understanding, in the negotiations carried on within the good offices.

The meetings of the Plenipotentiaries of Chile and Peru were inaugurated in Washington, upon such a criterion and under the auspices of the Honorable The Secretary of State, and, meantime, the plebiscitary proceedings were parallelly carried onward in Arica. While the suggestions formulated by the Honorable The Secretary of State or by the Parties, were discussed in Washington, the Commission at Arica in fulfillment of the Electoral Regulations, proceeded with the registration of voters, extended the period granted therefor and set in operation the rules enacted to bring about the holding of the popular vote.

⁸² By a resolution of June 16, 1926, the Plebiscitary Commission authorized transfer of its records to Washington and the release of personnel (file No. 723.2515/2465).

^{82a} Made in the Chilean Embassy.

The situation was perfectly clear: the Award had directed that a plebiscite should be held, and the good offices were intended to find a direct settlement independent from the former. If the good offices did not bring about any results, there remained, immovable, the plebiscitary solution stipulated by the Arbitr[at]or. If the good offices reached a direct adjustment, the plebiscite would then be inapplicable.

This parallelism of proceedings has been broken through the unexpected Resolution introduced by the Member representing the Arbitrator and which was adopted by the majority of the Plebiscitary Commission.

Said Resolution has declared that the plebiscite prescribed by the High Judge is impracticable; namely, it has repealed the Award wherein it was established that a plebiscite was practicable, which ordered its holding, that organized the agency entrusted with its execution and which reserved to the Arbitrator at Law the right to void the results of the ballot, once it had been held, if there happened to be grounds of intimidation, fraud or bribery.

The plebiscitary line having thus been erased by the Plebiscitary Commission, the line of the good offices, which ran parallel to it has, in fact, been also erased. The good offices were accepted with the understanding—shared by all the parties thereto—that the plebiscitary proceedings were to continue in the form and along the course indicated by the Award; we trod the path of the good offices with the sincere desire of reaching a speedy solution which could eliminate the inevitable and vexatious difficulties brought forth by the electoral process; but we always had the assurance that, if those good offices did not attain the looked for success, the plebiscitary solution still remained pending and in full force; with the acceptance of the good offices new hopes of ending the question were unfolded without there being any abandonment of the plebiscitary solution ordered by such a High Judge as the President of the United States, after a careful study of the bulky antecedents exhibited by both parties, in a lengthy and well founded Award, which has been deservedly extolled by the principal jurists of the world at large; the good offices were accepted and the solution set forth in the Award was kept alive, under which conditions both parties entered into them on an equal footing for the discussions which were to arise therefrom.

In declaring the plebiscite impracticable, a finding being based on antecedents which were not communicated to the accused Party, the aforesaid parallelism disappears and, therefore, I have been instructed by my Government to bring to an end the negotiations under the good office[s].

I am especially pleased to convey the sincere thanks of the Chilean Government for the constant and disinterested services which have been lent, to the cause of harmony and concord among American countries, by the Honorable The Secretary of State, whose intelligent efforts were set into action without attaining the desired results due to the fact that the Resolution of the majority of the Plebiscitary Commission brought about the premature end of the negotiations in which he was so nobly engaged.

WASHINGTON, *June 18, 1926.*

RENEWAL OF GOOD OFFICES BY THE UNITED STATES IN REGARD TO THE TACNA-ARICA CONTROVERSY AND REJECTION BY PERU OF THE PROPOSED SETTLEMENT^{22b}

723.2515/2497a : Telegram

The Acting Secretary of State to the Ambassador in Chile (Collier)

[Paraphrase]

WASHINGTON, *June 25, 1926—noon.*

113. During absence of the Secretary of State for a few days, Ambassador Cruchaga called at the Department yesterday afternoon to seek an interview with Assistant Secretary Olds. He made what appears to be an interesting and significant *démarche*, by virtually requesting that diplomatic negotiations be resumed. First he inquired whether we had become "tired" of the Tacna-Arica problem and if we meant to drop it. He was given the assurance that the good offices of this Government remained available at all times and that the parties could count upon our cooperation in the promotion of a settlement as long as any hope for a settlement existed. The Ambassador then proceeded to declare, in substance, that present situation could not be allowed to run on; that it was absurd to think that this problem admitted of no solution; that the recent circulars published by Chile and Peru²³ indicated clearly necessity of a negotiated settlement and that the best sentiment in Chile is now overwhelmingly in favor of settlement of that sort; that within past few days he had received urgent personal telegrams from President Figueroa, from Minister for Foreign Affairs, from 12 Senators, and from as many leading members of Chamber of Deputies, asking that he do all he can to effect a solution; . . . that Mathieu intends to remain as Minister for Foreign Affairs until a settlement is made; that time has come for the Secretary of State to formulate and bring forth proposal for final settlement of whole problem; and that it is his (Cruchaga's) belief that Chile will now accept whatever the Secretary

^{22b} See also section dealing with plebiscite, *supra*.

²³ Chilean and Peruvian circulars not printed.

may propose. When Chile's formal withdrawal from the recent negotiations was referred to, the Ambassador suggested that a meeting be brought about by inviting the Chilean and Peruvian representatives to the Department in their capacity as Ambassadors, not as Plenipotentiaries in the negotiations. Cruchaga said that he would attend such a meeting without hesitation if asked to come as Ambassador. He laid great stress on Chile's deplorable position before the world in the face of General Lassiter's condemnation. The Ambassador appeared to assume that as soon as the record arrives in Washington, Arbitrator might be expected to deal with it; he further assumed that conclusion reached in termination resolution of June 14 would be affirmed by Arbitrator, but he argued that it was not necessary for Arbitrator to go beyond a simple affirmation of that decision and that he could pass over and not deal with question of where blame for failure of plebiscite lay. Cruchaga expressed hope that Arbitrator's affirmation along these lines might take place simultaneously with a constructive settlement of entire problem.

The Ambassador said nothing in this conversation to indicate that he was not acting in pursuance of instructions. It is of importance that we ascertain immediately whether Government of Chile really means business by this *démarche*, or whether it is merely an attempt to resume the same futile discussions in which we were engaged for the past 3 months. It would be very unfortunate if we were to make another beginning at this time unless we were fairly certain of being able to reach a successful conclusion. Instead, it might be better to wait awhile. Will public opinion in Chile, at this juncture, support a settlement? Please understand that we are quite ready to go ahead at any moment if Chile and Peru desire and if conditions are favorable, and that the good offices of this Government are always available. Please investigate at once and advise us fully.

GREW

723.2515/2499 : Telegram

The Ambassador in Chile (Collier) to the Secretary of State

[Paraphrase]

SANTIAGO, June 26, 1926—3 p. m.

[Received 8:00 p. m.]

222. Accompanied by First Secretary of Embassy Engert, I called on President Figueroa and the Minister for Foreign Affairs today at noon and practically read to them a paraphrase of your No. 113, June 25, noon. They neither asserted that Ambassador Cruchaga had exceeded his instructions nor did they disavow any declaration he had made.

I said that as Chile has broken off good offices I felt that if it was her wish that they be resumed the Chilean Government ought to place before you a definite proposition which the Congress would be sure to ratify. I also said that I felt, personally, that it was for them to suggest good offices in hope of inducing Arbitrator to postpone any consideration which he ought to give to the termination resolution of June 14 or in hope that he would refrain from fixing the responsibility. President Figueroa and Mathieu both said that they would have to have some time to ascertain the sort of settlement which public opinion would approve. I admitted this much, but maintained that request for good offices could not be used to delay action by Arbitrator. I think that the Government is worried by the situation and may possibly take some action; but I feel that we should be very watchful in matter of offering a renewal of good offices.

In leaving the President's office we met several Ministers going in, evidently for a Cabinet meeting.

COLLIER

723.2515/2521 : Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

[Paraphrase]

ROME, July 8, 1926—5 p. m.

[Received 9:10 p. m.]

76. Señor Villegas, the Chilean Ambassador to Italy, who has just returned from Chile, has shown me a telegram to him from the Chilean Minister for Foreign Affairs which states that the Government of Chile has settled upon a solution of the Tacna-Arica question by which the territory in dispute will be ceded to Bolivia with compensation which will shortly be negotiated. The difficulty in arriving at this solution will be to obtain a similar disposition on part of Peru; and Villegas was asked to inform me with view to obtaining my interest in this solution, the failure of which would create a dangerous situation.³⁴ Telegram concluded with statement that Chile desired and needed peace.

In reply to Ambassador Villegas' request for my advice, I said that I thought the matter should be taken up without further delay. I stated in addition as my personal opinion that proposal of the Government of Chile should be clear and definite and that I believed the Secretary of State would not refuse to continue his efforts to reach a

³⁴ Mr. Fletcher had been Minister to Chile from 1909-1914, and Ambassador from 1914-1916; he had also been chairman of the delegation of the United States to the 5th International Conference of American States held at Santiago, Chile, in 1923.

satisfactory settlement. Ambassador Villegas is telegraphing Chilean Government recommending that Department of State be approached with the proposition outlined above.

FLETCHER

723.2515/2543 : Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)

[Paraphrase]

WASHINGTON, July 26, 1926—5 p. m.

60. Should Ambassador Villegas again approach you in regard to the matter which you have reported to the Department, you are informed that Chile broke off negotiations immediately after General Lassiter's decision on June 14; the Chilean Government thereupon undertook, without either my knowledge or approval, separate negotiations with Bolivia. Later on I was advised of these negotiations by the Chilean Ambassador here, but within last few days I have learned that these Chilean-Bolivian negotiations have broken down. I have in the meantime been informed that Peru has not undertaken any separate negotiations with Bolivia, but that Government of Peru is ready to resume negotiations under my good offices. The Chilean Ambassador has strongly indicated his Government's desire to resume negotiations under good offices, but no definite official step has been taken yet. Last week the Bolivian Minister notified me that his Government would not make any separate arrangement with Chile, but held view that solution would have to be reached through cooperation of Chile and Peru with Bolivia under the good offices of the United States. There is where matter stands for the present. . . .

KELLOGG

723.2515/2646 : Telegram

The Chargé in Chile (Engert) to the Secretary of State

[Paraphrase]

SANTIAGO, October 6, 1926—9 a. m.

[Received 8:20 p. m.]

285. The Minister for Foreign Affairs said he wished to speak to me with utter frankness in reference to Tacna-Arica, as he felt that nothing could be gained by mincing matters. He said he had never been as discouraged as he is now after so many weeks of fruitless conversations at Washington. He was most grateful to you for all you have done and he said that if it were a matter of dealing with you alone an accord would have been reached long ago; but he feared that you underestimated the adamant and unbending attitude of the

other contending party. Whether rightly or not, Peru felt that she had been completely vindicated and as long as strong expressions of Peru's moral triumph continued to emanate from the highest official personages there was little hope that Peru would accept a reasonable solution. . . .

The Minister dwelt upon his sincere personal desire, which, he said, was shared by entire Chilean Government, to show most conciliatory spirit possible short of accepting humiliating conditions. Although the fact that all his efforts had so far been unavailing was a great disappointment to him, he had not yet given up hope; but he thought that it was essential that you convey a pointed hint to Lima that it still lay within Arbitrator's power to reverse Peru's present advantage.

The Minister concluded by inviting me seriously to go over his entire correspondence and that of his predecessor, Mr. Mathieu, with Chilean Ambassador at Washington since last June and to point out to him anything which I thought to be unfair or unreasonable and to make any other observations I might wish to make. I declined to do so, of course, on ground that I had only recently familiarized myself with this involved problem and that in consequence I should hardly be in position to make suggestions of value. I do think, however, that if you should desire information on Cruchaga's instructions or reports at any given moment during the negotiations I could, perhaps, take advantage of the Minister's offer to extent of asking specific questions without giving, necessarily, origin of the inquiry.

ENGERT

723.2515/2652a : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, October 8, 1926—6 p. m.

72. Early in July the Ambassadors of Chile and Peru indicated their willingness and desire to go on with negotiations for settlement of the Tacna-Arica dispute. Ambassador Velarde and his counsel have several times expressed their desire to settle matter and both Chile and Peru have stated that they would consider any proposition which the Secretary of State of the United States would make. On August 27 Ambassador Velarde called on the Secretary and informed him that the Government of Peru would, he felt certain, gladly consider any proposal made by the Secretary looking toward a settlement of the question. The Secretary requested the Ambassador to confirm this as coming directly from the Government of Peru. On September 2 the Ambassador did so, and stated that his Government

would be willing to consider any proposal made by the Secretary and would accept any proposition for a settlement of the question which did not injure feelings of population of cities of Tacna and Arica.

Since then the Secretary has held informal conversations with Ambassador Cruchaga and Ambassador Velarde and their advisers with aim of developing a formula which both would accept. The Chilean representatives have stated that no settlement would be acceptable to Chile which removed city of Arica from her sovereignty, and the Peruvian representatives have stated that no settlement would be acceptable to Peru which left Arica in hands of Chile. Compromises have been suggested to both about a corridor to Bolivia which should include Arica-La Paz railroad and port rights and I have reason to believe that suggestions I have made have been telegraphed to President Leguía. I set forth one of these suggestions in detail to Mr. Ellis, the Peruvian counsel, over a month ago but have not yet been able to get any authoritative response or suggestion from the Peruvian representatives in Washington.

The Peruvian Ambassador appears unwilling to accept any responsibility of any kind and will act only as intermediary for transmission of communications to and from his Government. The legal adviser, Dr. Salomón, has not been to Department except on few occasions; and, although he has stated that he desires to see a settlement reached, he has offered no practical suggestions and has not contributed vigorously toward bringing one about. Mr. Ellis, who attended some of the conferences between the Plenipotentiaries, has conferred with me on numerous occasions and appears to believe in a settlement but seems to be unable to obtain any authority for discussion of a basis for arrangement except upon the indefinite terms which Peru has expressed.

I think that President Leguía is taking position that Peru has not only won moral victory but that the president of the Plebiscitary Commission has held that Chile has frustrated the plebiscite and that Peru, therefore, has legal grounds for laying claim to entire territory. On October 5 I informed Ambassador Velarde, Dr. Salomón, and Mr. Ellis that such an assumption was, in my opinion, wholly erroneous, and that even if General Lassiter's findings were eventually approved by the Arbitrator, the parties would be left simply where they were before the plebiscite and would be subject to negotiations for a settlement. Whether or not the Arbitrator will hand down a decision is not yet known, and, should he hand down a decision what it would be is not known. Arbitrator is at liberty on his own motion to take into consideration all matters which are connected with the Tacna-Arica award and to discuss frankly and freely whatever is connected with the plebiscite. He may modify

decision, change it entirely and order an election, or take such action as he deems equitable.

Although Peru has frequently expressed willingness and desire to settle question, she has shown every indication of desire to delay the negotiations indefinitely. Question of settlement of Tacna-Arica dispute is one which interests not Chile and Peru alone, but every one of countries of Western Hemisphere; if it is left unsettled, the peace of South America can never really be assured; and, as world attention has been focused on question for number of years, it may be considered a test question whether two great American nations, such as Chile and Peru, do or do not really desire to reconcile their differences in a practical and lasting manner for the best interests of the peace of the Western Hemisphere. The Chilean Government or the Peruvian Government would unquestionably place itself in a most disadvantageous and untenable position before world should either the one or the other decline to accept a proposal for settlement which is to best interests of continental peace, which impartial judges deem a fair and equitable solution of the matter, and which would appeal most decidedly to the unprejudiced judgment of the entire Western Hemisphere.

If no practical suggestions are put forward for an equitable and lasting solution in which cool counsel prevails and wherein idea for promotion of peace of the American continent takes place of purely selfish and sentimental desire, it would then without doubt become the Secretary's distinct duty, as he has been advised officially by the Governments of both Chile and Peru that they would consider any proposal he would make, to formulate and to present to both Governments a final and conclusive proposal.

You will please take earliest opportunity available to see President Leguía in purely personal manner and, in light of what I have stated above, endeavor to obtain from him statement on whether or not he wishes speedy and practical termination of Tacna-Arica question. I have informed both Ambassador Velarde and Dr. Salomón and Mr. Ellis as well that I do not feel I am at liberty to delay this question much longer.

You are instructed to confer orally with President Leguía and to leave no memorandum or *aide-mémoire* of substance of your remarks. What you say I must leave largely to your discretion. What I have done is to outline general situation. This is an occasion, however, in which a very emphatic statement must be made in order to reveal clearly consequences entailed by policy of delay or unwillingness to reach settlement of this matter along equitable and practical lines.

KELLOGG

723.2515/2646 : Telegram

The Secretary of State to the Chargé in Chile (Engert)

[Paraphrase]

WASHINGTON, *October 9, 1926—1 p. m.*

137. Your No. 285, October 6, 9 a.m. I have duly noted the remarks made to you by the Chilean Minister for Foreign Affairs, and I approve your action in declining to review the Foreign Office correspondence to which you referred. The advantage of your being in position to make inquiries of the Foreign Office, should it be thought advisable to do so, will not, however, be lost sight of. You may seek suitable moment to convey to Minister Huneeus in purely personal manner the following ideas: (1) that you are convinced that the Secretary of State wishes most earnestly to see early settlement of Tacna-Arica question on basis both practical and equitable which both Chile and Peru can honorably accept; (2) that the Secretary of State has undoubtedly made manifest this desire by continuance of his efforts for settlement of question notwithstanding note of June 18 from Chilean Ambassador terminating on part of Chile participation in direct negotiations; (3) that the Secretary of State has been holding conferences separately with Ambassador Cruchaga and Mr. Claro³⁵ and with Ambassador Velarde and his counsel from time to time and is exerting every effort that lies within his power to find a common ground for settlement. You may add that the success or failure of arriving at a lasting and practical conclusion to this matter rests entirely with Chile and Peru; and that although you are convinced that the Secretary of State will continue to assist in the attempt to find a formula for settlement of the question, he reserves, as is natural, the right to use his best judgment on whether or not he will make a proposal to the two parties and also on formulation of the terms of proposal should he see fit to make it.

You may state further your conviction that a settlement of the question of Tacna-Arica is one which concerns not Chile and Peru alone but that it is one which interests all the nations of the Western Hemisphere and that the attention of the world is focused on question of whether or not two great American nations like Chile and Peru really desire to reach a lasting settlement of this protracted dispute along lines which are practical and equitable and in which calm counsel and reasoned judgment take the place of wholly selfish and sentimental desires.

Department wishes you to make a report by cable upon following points, without making specific inquiries of any particular persons:

³⁵ Samuel Claro Lastarria, Chilean agent in Washington in the Tacna-Arica arbitration.

(1) the governmental and public opinion at this juncture on a settlement of Tacna-Arica question based on division of the territory, the Department of Tacna to be allotted Peru, a corridor including the Arica-La Paz railway to be allotted Bolivia, and the Department of Arica including Arica city to be allotted Chile with a leased strip in Arica including railroad to go to Bolivia along the lines of the Fiume plan;⁸⁶ (2) "neutralization", so-called, or the creation of a Free State; (3) sale of the disputed territory to Bolivia if that country could obtain the funds necessary; (4) your opinion of reaction in Chile to proposal along lines of (1), Chile to agree to lease entire city and port of Arica to Bolivia, upon signing an agreement with Peru, instead of only a small strip in the city.

KELLOGG

723.2515/2654 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, October 11, 1926—11 a.m.

[Received 9:30 p.m.]

86. Your No. 72, October 8, 6 p.m. I shall carry out your instructions promptly, but I beg leave, as an aid in presenting matter to President, to ask if it is possible for you to inform me regarding terms you proposed to Ellis; also the approximate terms of settlement which would be acceptable to Chile, or which would be at least open to discussion by her as preliminary basis of agreement. In talking with President I would be greatly aided by having some reliable information on Chile's attitude toward settlement and if possible what basis of settlement she would consider. For example, would a money indemnity to be paid, perhaps jointly by Bolivia and Peru, or reciprocal trade, tariff equalization, or peace compact have any effect in matter? I have impression that Peru would agree immediately to neutralization of Tacna-Arica, or even to Chile's retention Arica Province provided that Arica city itself were neutralized; or as possible alternative, that Arica city be included in corridor to Bolivia, and that Tacna Province be returned to Peru. I am not aware, of course, what would be the attitude of Chile to either of these propositions. On the general question of whether or not President wishes a speedy and practical termination of question, he has already said that he does and I surmise that he would say so again. The difficulty seems to lie in finding the practical and definite terms.

⁸⁶ See article 4 of the Treaty of Rapallo, Nov. 12, 1920, between Italy and the Kingdom of the Serbs, Croats and Slovenes, and the agreement of Jan. 27, 1924, signed at Rome between the same powers, dividing the Fiume territory between them.

Also I should like to have your consideration and advice of effect of pressing question of Tacna-Arica again at this moment when question of ratification of boundary treaty with Colombia³⁷ is at critical stage of consideration by Congress and President. I am informed that the latter is bringing strong influence to bear to have treaty ratified and that some members of the Congress have, accordingly, changed their positions. A favorable report upon the treaty is now being prepared by the Joint Committee on Foreign Relations. Within about a month a vote may be reached, I believe, on this matter, and the question arises in my mind on advisability of centering our purpose on the Government for ratification of this treaty, at least until present session of Congress has been given fair opportunity to act upon it. If favorable action is taken on this Peruvian-Colombian boundary treaty, the effect would be, probably, to create a more favorable tendency towards settlement with Chile. On other hand, if Congress should either fail to act or should act adversely on treaty we would be in a position to insist more vigorously on a settlement with Chile, in view of connection the United States has with the matter and of the many assurances Peru has given.

I am submitting these observations merely for your consideration. If you prefer that I confer at once with President on Tacna-Arica matter, as instructed, please cable me.

POINDEXTER

723.2515/2654 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *October 13, 1926—4 p.m.*

74. Your No. 86, October 11, 11 a. m. All points set forth in your telegram have been most carefully considered. Even though importance is realized of situation touching ratification of Peruvian-Colombian boundary treaty which this Government is most anxious to see Peru ratify, Department feels that delay just now in the Tacna-Arica negotiations would be very detrimental. I feel that I must ask you to take up with President Leguía, as soon as possible, matter contained in my No. 72, October 8, 6 p.m. I am relying upon your utmost tact and discretion, looking toward avoiding any complications over ratification of Peruvian-Colombian boundary treaty.

Referring to your request for information on terms proposed to Ellis, it must be pointed out that no definite proposal has been made either to Cruchaga or to Velarde or to their respective legal advisers. In the conversations I have had with both parties, certain very general

³⁷ See pp. 534 ff.

plans have been advanced, and I have asked Ellis confidentially to obtain President Leguía's views or possible suggestions regarding a very tentative plan which is as follows:

Give Department of Tacna to Peru, together with city of Tacna and all territory to a line drawn kilometers to north and west of railroad.

Give Department of Arica to Chile, together with city of Arica from point drawn kilometers south and east of railroad; a corridor kilometers wide including Arica-La Paz railroad from Bolivian frontier to point on seacoast about 3 kilometers north of city of Arica to be given Bolivia; the Arica-La Paz railroad to be made over into a limited liability company, the shares to be owned by Chile and Bolivia, Peru to purchase from each a certain number of shares should she desire to do so; the railroad to be managed by a foreign corporation which will have control of stock either by purchase or by agreement; Bolivia, Chile, and Peru to be given a free port and terminal facilities; no one of the three countries to enjoy any discrimination in rates or tariffs of the railroad; the same three countries to enter into a customs agreement; Chile to lease the terminal facilities and docks to the railroad company; Chile also to lease to Bolivia a strip of territory in city of Arica on outskirts of city along the water front, after manner of Fiume plan, this strip of territory to run from a point on the water front at end of street known as Dos de Mayo and extending one block east on same street, thence continuing north and east along and including the Arica-La Paz railroad tracks to southern boundary of so-called Bolivian corridor north of the Chinchorro railroad shops, the railway yards, buildings and stations in Arica, and right to use the new railway wharf. By these means Bolivia would have for her own use joined to the corridor a strip of territory on the waterfront of the city whereon she could erect customhouses and other public buildings she might wish to build. The entire territory would be demilitarized and Bolivia, Chile, and Peru would withdraw their military forces to a point to be agreed upon behind their respective frontiers. There would be an agreement protecting the water rights of the three countries. An international monument to commemorate the establishment between the three countries would be erected on the Morro; and Chile and Peru would enter into general treaties of friendship and commerce.

Whether or not Chile would accept such a plan as has been outlined above it is impossible to say, but I have been induced to think by indications from the Chilean representatives in Washington that they might recommend it to their Government. I did not, of course, advise either Ambassador Velarde or Mr. Ellis that I had had any indications in this connection from the Chileans. The idea of "neutralization," by which is meant creation of new and independent self-governing state, seems to be meeting with considerable opposition in Chile at present; there are also certain practical objections to it, for example, form of government, revenues, and meeting of Bolivian

aspirations, as meeting of Bolivian aspirations by splitting the new state through grant of corridor to Bolivia seems impossible.

If you have any suggestions to make in this connection I should be glad to receive them, as well as any suggestions you may have to make on possible sale by Chile and Peru under joint agreement of all their rights in the disputed territory to Bolivia, also your ideas of compensation Bolivia should accord for the territory and outlet to sea-coast. In stating your opinion on these two matters I particularly do not wish you to discuss them with anyone at the present time. I feel that you should be in a position to reflect the general opinion of President and the country without further inquiries or study being necessary.

KELLOGG

723.2515/2861 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

LIMA, October 16, 1926—4 p. m.

[Received October 17—5:42 p. m.³⁸]

87. [Paraphrase.] Your telegrams Nos. 72, October 8, 6 p. m., and 74, October 13, 4 p. m. I have talked personally and intimately with President Leguía and have explained the vital importance of a settlement of the Tacna-Arica question to all American countries, especially to Peru and Chile. I asked him if he could not, speaking frankly and personally, suggest some practical way out. The President agreed with me on importance of a settlement and said that he thought it could be brought about. The difficulty, he said, was the disposition of the city of Arica; that this involved a matter of sentiment for Peru and that cession of the city to Chile would create sharp and dangerous situation in Peru. He did not say, but I think he feels, that cession of Arica City would lead to overthrow of his Government and that the state of chaos which would then ensue in Peru would entail loss of what has been gained during his administration for the economic development and the material progress of his country.

The President said that he felt that Peru would be willing to accept neutralization, or nationalization, of the provinces immediately, whatever it might be called. During our conversation he asked me what I understood by "internationalization." I said that it might be interpreted in more than one way but that I should use the word to mean the establishment of an independent government for the provinces under the joint protection, either express or implied, of all the other republics of South America. I said that some question had

³⁸ Telegram in two sections.

been raised about the expenses of such a government as had been sketched, and also about danger of other countries secretly influencing or manipulating the provinces. The President replied that he was unable to see how there would be opportunity for influence of that nature to be exerted if the provinces were demilitarized. He said that once the present military control were lifted, the provinces would then assert themselves and that under influence of South American public good will there would be no difficulty about the government's local administration. The government's local expenses, he said, would be small; they could be met, in part, no doubt, by the payment of some revenue by Bolivia as an exchange for certain port facilities, and the local expenses would be adequately taken care of by the regular port dues, which would be greatly increased under independent administration.

The President stated that when the provinces were freed Tacna Province would again become agriculturally productive, as it had been formerly, and that its products would find a ready market. This production had decreased greatly under present regime but would reappear once the provinces were independent. I myself perceive no insurmountable difficulties in way of such internationalization; in some respects it would be happiest solution. I explained to President, however, that no matter how attractive such a program might be, practical difficulties existed which might be insurmountable in view of Chile's refusal to accept that sort of plan.

President Leguía intimated that he was willing to enter into a compact of peace, of demilitarization of the provinces, and trade or tariff reciprocity, but from way he spoke of that feature of the matter it did not seem as though he regarded it as of paramount importance. He suggested that an international memorial should be made of the Morro, and he repeated that, in spite of his earnest desire to see question settled, it would not be possible to obtain consent of Peruvian people to assignment of city of Arica to Chile. [End paraphrase.]

I urged the President, in view of the paramount importance of the matter and of his profound knowledge of the situation, to give it his most earnest attention and give me the benefit of any suggestions which might occur to him as a basis of a practical settlement. He said that he would most gladly do so at once and after thinking it over for a few days would call me to talk it over with him again and added that he thought that we might work out some settlement of the problem.

[Paraphrase.] In reply to your inquiry about amount Bolivia ought to pay for a free port at Arica and possession of, or at least use of, a railroad corridor to the Pacific, that is matter which necessarily must be subject to more or less arbitrary assessment. The fact that

Bolivia is completely hemmed in, the vital advantage to her of access to the coast and the paramount interest that Bolivia feels in obtaining that access, I feel she should pay not less than \$15,000,000 gold, this amount to be acquired by a loan with terms of interest and amortization which would make it financially possible. The distribution of the immediate proceeds would be made to Chile and Peru by you in such way as to promote settlement of the problem most effectively.

One essential feature in effecting a settlement is to get in touch with someone who can speak with final authority for Chile as President Leguía speaks for Peru. If direct and preferably personal communication could be had with such a representative of Chile, and also of Bolivia, arrangement could possibly be made. If properly presented, the advantages to Chile of a commercial compact with Peru might be very persuasive.

President Leguía said that it appears as if some features of Tacna-Arica question had been overlooked, and added that railroad from Arica to La Paz passes through Tarata which has already been allotted to Peru by the Arbitrator. [End paraphrase.]

POINDEXTER

723.2515/2678½

*Memorandum by the Chief of the Division of Latin American Affairs
(Stabler)*

[WASHINGTON,] *October 19, 1926.*

Mr. Charles Evans Hughes made the following suggestions to the Secretary of State, Mr. Olds and Mr. Stabler this morning in regard to a tentative plan for drafting a proposal to Chile and Peru for the sale of the provinces of Tacna and Arica to Bolivia:

1. That the Republic of Peru and the Republic of Chile simultaneously cede all rights which they claim to the ownership of the provinces of Tacna and Arica in perpetuity to Bolivia for such compensation as shall be determined later which shall be paid by the Republic of Bolivia to the Republic of Peru and the Republic of Chile.

2. That the Republics of Chile, Peru and Bolivia agree to determine the sum which shall be paid to Chile and Peru by Bolivia for the cession of their rights to the above-mentioned territory and the Secretary of State to offer his good offices to the three countries to aid them in determining the amounts to be paid.

3. Should the three countries not be able to reach an agreement as to the amount of money to be paid by Bolivia for the territory they hereby agree to leave the determination of the amount to the Secretary of State of the United States, his decision to be binding and final.

4. Chile and Peru shall agree to reach a settlement between themselves as to the apportionment of the funds paid by Bolivia for the provinces.

5. The Secretary of State hereby undertakes to offer his good offices to assist Chile and Peru in the division of the sum paid for the provinces should the Departments of Chile and Peru not be able to arrive at a settlement.

STABLER

723.2515/2689

The Peruvian Embassy to the Department of State

[Translation]

MEMORANDUM

Since the initiation of the good offices for the settlement of the Tacna-Arica question, the Government of Peru has endeavored to cooperate towards the realization of the friendly purposes of the Government of the United States, expressing its willingness to make all sacrifices compatible with the interests in dispute, including that of the legal advantage created by the conduct of Chile in frustrating the plebiscite as admitted in the opinion of the American advisers to the Plebiscitary Commission.

The present aspirations of Peru, reduced to a minimum in deference to the American Government, are not less than the recovery of the two principal cities in the plebiscitary territory, this being the only way of freeing Peruvians from the oppression of which they are victims under Chilean authorities, and of permitting those Peruvians who have been expelled to return to their abandoned homes, and to recover their property confiscated for no reason except that they were Peruvians. The aspiration of Peru thus restricted gives evidence of a willingness to effectively support the desire of the American Government to reach without delay a satisfactory agreement, and to facilitate in a definite way the solution of the question.

That the city of Tacna and the port of Arica are the principal centers of Peruvian population is a fact already recognized in the information gathered by the American delegation, and the argument that at the present time there are in the port of Arica a greater number of Chilean inhabitants cannot avail, for the reason that most of the Peruvians have been expelled and are now scattered in different provinces of Peru in greater number than the population imported by Chile. If Arica is not returned to Peru the country to which it may be transferred on receiving a city whose greatest majority is Peruvian, with patriotic sentiments deeply rooted, would find itself confronted from the beginning with the problem of irredentism in its new sovereignty and a situation similar to the one now existing.

This moderation on the part of Peru concerning the revindication of her territorial rights, in view of the responsibility of Chile for

the failure of the plebiscite, is a circumstance that the American Government should not disregard, particularly since the sacrifices to which Peru consents permit the aspirations of the two other countries, which now appear to be involved, to be satisfied. In reality, even if Peru recovers the city, port and "morro" of Arica, Bolivia and Chile could enjoy the same situation and advantages they would have if either of them should acquire Arica, for the question would be simply one of locating the port on a very good bay existing but six miles south of Arica, which answers all requirements for a commercial port, and establishing there the terminal of the Arica-La Paz railway. Under such conditions Bolivia would have her independent outlet to the sea, and Chile would continue to enjoy the advantages foreseen in the construction of the Arica-La Paz railway, as well as the mineral wealth contained in the portion of the province of Arica retained, which wealth in itself alone is worth much more than all the rest of the plebiscitary territory.

It would appear that the realization of all aspirations being facilitated in this way by Peru, no serious objection can be found to the restitution of Arica, especially when the fact is considered that all this adjustment rests upon a distribution of Peruvian territory.

It must also be kept in mind that the mere return of the province of Tacna to Peru has been on many occasions, and even recently, a voluntary offer of Chile, and this when the moral result of Chile's responsibility for the non-fulfillment of the award of President Coolidge was not yet a factor in the situation. The Government of the United States, being well acquainted with all the facts, and knowing the full magnitude of Chile's culpability in the present status, cannot, in right or justice, now propose to Peru as her only reparation and vindication, the same settlement which Chile has already offered with her own interest and aggrandizement in view, and at a time when Chile had not yet been confronted with the overwhelming accusations which General Pershing and General Lassiter, as presidents of the Plebiscitary Commission, were forced to present against her.

The city, port and "morro" of Arica together with the province of Tacna, constitute an inseparable entity, geographically, politically and commercially. Between Tacna and Arica there is no natural barrier which could serve as a boundary; the frontier line would be completely open, giving rise to dangerous complications and making impossible the pursuit and capture of malefactors and the repression of smuggling. Furthermore, the province of Tacna, deprived of its only natural and long-existing access to the sea, would become a land-locked province, and not only would Tacna suffer such irreparable damage but also Tarata, whose complete return to Peru was ordered by President Coolidge in his award, which up to the present time has been only

in part carried out. Thus, in order to rescue Bolivia from the isolation in which she was placed by Chile, there would be presented the spectacle of righting the wrong at the expense of a victim which also suffered the abuse of mutilation; and decreeing furthermore that the territories recovered by Peru should remain forever cut off from the world, their commerce blocked and the inhabitants of Arica (expelled because their patriotic sentiments could not be suppressed) forced to suffer indefinitely, if they returned to their homes under the control of authorities who would make them feel the oppression of conquest.

The solution which should be given to this problem, although inspired by reasons of equity, must not fail to be founded in justice, for only thus can the solution have a respectable and permanent character. Anything else will only inflame, rather than extinguish, the animosities which Chile's conduct has provoked. It would be a grave mistake to assume that the mere division in more or less equal portions of territory could be a satisfactory settlement. This can only be reached by bearing always in mind certain considerations which no statesman can safely overlook, because nothing brings more serious consequences than the sacrifice of inhabitants to the principle of mere compensation in territory, and the disregard of the feelings of a population, as here, clearly expressed against Chilean domination.

The Government of Peru make this final statement: she desires, in all sincerity, to settle this controversy, and will cooperate in every way possible to that end. There is only one reservation upon which she must unalterably insist: she cannot accept, or consider, any proposal which would give to another power the city, port and "morro" of Arica. Any other solution Peru is ready to consider.

WASHINGTON, *November 3, 1926.*

723.2515/2682½

*Memorandum by the Chief of the Division of Latin American Affairs
(Stabler)*

[WASHINGTON,] *November 4, 1926.*

The Peruvian Ambassador accompanied by Mr. Wade Ellis and the Secretary of the Embassy, Mr. Prada, called on the Secretary of State by appointment today. The Assistant Secretary of State Olds and Mr. Stabler were also present. The Ambassador stated that he had come to see the Secretary, pursuant to instructions from his Government, to present to him a memorandum³⁹ which was a statement of the position of Peru with respect to the suggestions, which had been conveyed by the Secretary of State, regarding a possible proposal for a settlement of the Tacna-Arica question, to Mr. Ellis,

³⁹ *Supra.*

the Peruvian Counsel, and to the Ambassador himself. The Ambassador further stated that he had been instructed to say to the Secretary of State that the Peruvian Government made the following suggestion for a settlement of the controversy:

The territory north of a line running from the Cerro de Parinacota to the head of the Azapa Valley and extending along the southern border of the Azapa Valley to a point on the seacoast south of the city of Arica to go to Peru; a corridor to be given to Bolivia south of this line and which might be connected by a spur to the Arica-La Paz Railroad. All the territory south of this territory to be given to Chile.

The Ambassador explained that Peru desired to give Bolivia a corridor but that the city of Arica, the port and the Morro must remain in Peruvian hands.

The Secretary of State then read aloud the English translation of the memorandum presented by the Ambassador and called attention to the first paragraph in which reference is made to the Legal Advisers to the American delegation to the Plebiscitary Commission and stated that he did not know of any such opinion expressed by them and if such opinion was expressed it was not that of the Arbitrator or of the United States he was sure. The Secretary then stated that he understood the memorandum to be a definite setting forth of the fact that Peru would make no practical suggestion for the settlement of the matter and insisted upon having possession of both the towns of Tacna and Arica. He said that if this were the case it would seem useless to carry on further conversations with the Peruvian Ambassador; that he felt that it would be necessary for him to make a proposal of his own which could be taken or rejected by the two Governments as they saw fit; that it appeared impossible to reach any solution of the matter if the Peruvian Government was not willing to look at the matter from common sense and a practical standpoint. The Secretary further said that it was the first intimation which had been made that Peru insisted on Arica being turned over to Peru alone. The Ambassador then tried to point out that he meant to convey this same idea in his conversation with Mr. Stabler on September 4.⁴⁰ After this discussion as to the general tenor of the memorandum presented by the Ambassador in which Mr. Ellis interjected several remarks, apparently in the desire to better his client's position before the Secretary, the Secretary stated that the preliminary verbal statement of the Ambassador suggesting a line to the south of the Azapa Valley as a southern boundary of the Peruvian part of the province was entirely out of the question and was noth-

⁴⁰ N. B. The Peruvian Ambassador stated to Mr. Stabler, Sept. 4, 1926, that Peru would be glad to consider any proposal the Secretary of State might wish to make. J. H. S. [Marginal note on original.]

ing but a slight modification of Peru's original proposal for a line and a port to Bolivia at Vitor and that it could not be considered at all. The Ambassador stated that as the Secretary had indicated that suggestions from Peru would be in order he had now complied with his instructions and had presented the suggestions which his Government desired to make. The Secretary reiterated his statement that he now felt that it would be necessary for him to make a definite proposal and that he was considering doing this.

STABLER

723.2515/2690

The Peruvian Embassy to the Department of State

[Translation]

MEMORANDUM

With reference to the Memorandum of November 3, and in confirmation and in addition to the statements made by the Peruvian Ambassador to the Secretary of State during the conference of the 4th instant, the Government of Peru desires to make clear that her declaration that she cannot accept nor consider any proposal which would give to another power the city, port and "morro" of Arica, does not exclude the possibility of a settlement contemplating the concession to Bolivia of a corridor to the sea in the disputed territory; does not modify her acceptance of the proposal of total neutralization of the territory made by the Secretary of State, nor change the readiness of the Peruvian Government to consider any other solution not inconsistent with the afore-mentioned reservation contained in the Memorandum of November 3, respecting the city, port and "morro" of Arica.

WASHINGTON, *November 6, 1926.*

723.2515/2713a : Telegram

*The Secretary of State to the Ambassador in Peru (Poindexter)*⁴¹

[Paraphrase]

WASHINGTON, *November 30, 1926—1 a. m.*

84. Immediately upon receipt of this message you are directed to deliver textually to President of Peru and to Minister for Foreign Affairs the memorandum quoted below. You will state at the same time that I am handing copies of it to the Chilean Ambassador and to the Peruvian Ambassador at this capital on or about noon, November 30, Tuesday. You will further state that the memorandum,

⁴¹ Similar telegram sent to Chile Nov. 30, 1 a. m., as Department's No. 158.

as I shall inform the Chilean and the Peruvian Ambassadors here, is being brought to the attention of all South American Governments for their information as its subject is obviously of continental importance.⁴² You will also say that it will be released to the press for the morning papers of Thursday, December 2, in order to avoid public misunderstanding of the nature of the proposal and to guard against its being prejudiced by the publication of vague or incorrect rumors in regard to its actual tenor.

“Memorandum ⁴³

The Tacna-Arica controversy has engaged my closest attention ever since I assumed the duties of Secretary of State. All of my predecessors in this office during the past 40 years have followed with the deepest interest the varying phases of the problem, and several Secretaries, particularly my immediate predecessor, Mr. Hughes, have been intimately concerned, as I have been, with the task of contributing, if possible, to its solution. It is, I know, fully appreciated, not only by the parties themselves but by the world at large, that the Government of the United States never has had, nor can have, any motive or interest in relation to the matter other than that of a friendly adviser to both parties, anxious to do what it can to enable them to escape from the unfortunate situation in which they find themselves. This spirit, combined with an abiding faith in the sincerity of the contestants, has guided every step taken by my Government. I have at all times endeavored conscientiously to observe the strictest neutrality, and have, I think, been able to arrive at a sympathetic appreciation of the respective points of view which have been presented.

In the present state of the controversy I am persuaded that it may be helpful to the parties if I outline candidly certain observations and conclusions which I have formed as the result of my experience with the matter during the past year and a half.

1. The numerous efforts which have been made since the Treaty of Ancon to effect a solution within the scope and intent of the treaty itself, whether by direct negotiations between Chile and Peru, or as contemplated by arbitration and plebiscite, have been thus far unproductive.

2. The recent negotiations for settlement outside the treaty with the aid of the good offices of the United States have unquestionably served to explore the possibilities of adjustment, and define the positions of the principals. Representatives of the two Governments have explained their respective attitudes to me with the utmost frankness, and I am convinced that there is a sincere desire on both sides to arrive at a final and constructive adjustment.

3. We are obviously dealing with a question which turns upon a point of national honor. Now national honor is a very real thing, and in this particular case, it is perfectly clear that national susceptibilities in this regard are peculiarly sensitive in both countries and must be fully pro-

⁴² Circular telegram, Nov. 30, 11 a. m.; not printed.

⁴³ Text of memorandum not paraphrased.

ted. I see no reason why this cannot be done. It is my conviction that this problem should be, and can be, definitively solved without the slightest sacrifice of national honor and dignity, or injury to national susceptibilities on either side. On the contrary, nothing could possibly redound so much to the honor and dignity of Chile and Peru as a high-minded settlement of this controversy, so as to permit them to stand before the world as friends unembarrassed by any serious differences between them.

4. I have studied with the greatest care the various types of solutions which have been advanced throughout the negotiations, and I have patiently listened to the views which have been so freely expressed by the representatives of the contending powers. Leaving out of consideration the attempt to carry out the unfulfilled provisions of the Treaty of Ancon, it would appear that from the nature of the case there are but three ways to deal with the disputed territory: You can assign it all to one of the contestants; you can divide it between them on some basis to be defined; or you can effect some arrangement whereby neither contestant shall get any of the territory. These three general types comprise an exclusive classification of the logically possible ways to dispose of the *res*. I think it may fairly be said that the first of them, namely, delivery of the disputed territory in its entirety to one or the other of the parties, has virtually ceased to be regarded as a practical solution by anybody who really hopes for a permanent settlement.

The second method, that of division has also seemed to me to recede further and further into the background. The parties have not been able to find any formula or basis, either of straight division, or of division coupled with a "corridor" feature or a "free city" device, which is acceptable to both of them. The prospect of success by following this path is not encouraging. Apparently no scheme of division, however ingeniously worked out, has yet been able to overcome the stubborn fact that neither of the Governments considers that it can afford to make an adjustment which involves making substantial concessions to the other. The essential elements of compromise in the true meaning of the term are lacking. We may as well face the issue squarely, and recognize that division of this territory between Chile and Peru on any basis of agreement presents almost insuperable difficulties so long as each applies to every arrangement suggested the test of whether it may conceivably enable the other to claim a moral victory. I am not criticizing this attitude; I only state it as a fact which militates powerfully against a territorial compromise.

There remains the possibility of some arrangement by which neither contestant shall face the possibility of giving up anything to the other. Manifestly a solution of that character would possess the distinct advantage of eliminating all apprehensions arising from a comparison of relative territorial benefits secured. It would involve a joint, as distinguished from a mutual, sacrifice, and would rest fundamentally upon the realization that in all the circumstances neither country can expect to receive any substantial part of this long disputed area, and at the same time enjoy the security and satisfaction accruing from a complete adjustment which they themselves, as well as the rest of the world, could regard as permanent. Concerning myself with the practical aspects of the problem, and conceiving it

to be my duty to find, if I can, a plan which both Governments can afford to accept in the names of the peoples to whom they are responsible, I have come to regard this third method as one meeting the more vital conditions, and offering decided advantages from the point of view of permanent peace. I am moved to this conclusion principally because such a formula does not call for a moral surrender, or anything that can be so construed, by one country to the other.

5. In the course of the negotiations I have suggested for consideration, in one form or another, all three of these logically possible types of solution. On no one of them have the ideas of Chile and Peru converged. I have suggested various combinations, such as division of territory with the "corridor" feature and the "free city" device annexed. Interesting discussions of details as to boundaries, etc. have ensued, but these discussions have led to no conclusion. I have also suggested the neutralization of the territory but this has not been received with favor by both parties.

To recapitulate: The proceedings under Article 3 of the Treaty of Ancon have not been successful. The parties have not agreed upon any division of the territory upon any basis whatever. They have not agreed to neutralization of the whole or of any part of the territory. No suggestion which has been put forward has proved acceptable to both Chile and Peru. What remains?

Notwithstanding the fact that an agreement has thus far not been obtained, and in the light of all that has taken place, I feel bound to consider what step it may lie in my power now to take, in the pursuit of a friendly and disinterested effort to assist the parties; and after mature reflection I have decided to outline and place before the two Governments a plan which, in my judgment, is worthy of their earnest attention. I venture to express the sincere hope that they will adopt it. This plan calls for the cooperation of a third power, Bolivia, which has not yet appeared in any of the negotiations, at least so far as my Government is concerned. While the attitude of Bolivia has not been ascertained, save that her aspiration to secure access to the Pacific is common knowledge, it seems reasonable to assume that Bolivia, by virtue of her geographical situation, is the one outside power which would be primarily interested in acquiring, by purchase or otherwise, the subject matter of the pending controversy. With this preface let me now define the concrete suggestion which I have in mind:

a. The Republics of Chile and Peru, either by joint or by several instruments freely and voluntarily executed, to cede to the Republic of Bolivia, in perpetuity, all right, title and interest which either may have in the Provinces of Tacna and Arica; the cession to be made subject to appropriate guaranties for the protection and preservation, without discrimination, of the personal and property rights of all of the inhabitants of the provinces of whatever nationality.

b. As an integral part of the transaction provision to be made for adequate compensation to be given by the Republic of Bolivia for said cession, including public works, railways and improvements in the territory transferred, and taking into account the present value of all such public works, railways and improvements made by both Chile and Peru during the periods when they have respectively been

in control and occupation of the territory; such compensation to be determined in direct negotiations participated in by Chile, Peru and Bolivia; it being understood that the Secretary of State will place at the disposal of the three Governments his good offices, if they are required either to promote an agreement, or to fix the character and amount of compensation in case it should prove impracticable to determine the same in the tri-partite negotiation.

c. Chile and Peru to agree in direct negotiation upon the equitable apportionment between them of any cash compensation which may be provided for; it being here also understood that the Secretary of State will place at their disposal his good offices, if required to assist them in making the apportionment, and that he will himself undertake to apportion the compensation if asked to do so by both Chile and Peru.

d. The promontory known as the Morro of Arica, with boundaries appropriately defined, to be reserved from the transfer to Bolivia, and to be placed under the control and jurisdiction of an international commission which shall be charged with maintaining it as an international memorial to the valor of both Chile and Peru, with the suggestion that there be erected on the Morro a lighthouse, or monument, to commemorate the friendly settlement of the Tacna-Arica question.

e. Simultaneously with the completion of the foregoing arrangement, or as soon thereafter as may be practicable, suitable treaties of friendship to be entered into between Chile and Peru covering the resumption of diplomatic and consular relations, commerce, navigation, and all other matters necessary to reestablish normal and friendly intercourse between the two countries.

f. The territory now comprised in the Provinces of Tacna and Arica⁴⁴ to be, by agreement between Peru, Chile and Bolivia, perpetually demilitarized in the fullest sense of that term.

g. The City of Arica by appropriate agreement among the three powers to be made forever a free port, and adequate provision to be made insuring that no discriminatory rates or charges, as among the three countries, Chile, Peru, and Bolivia, shall be made with respect to the port, or to the railroad, or to any other means of communication within the said territory now comprising the Provinces of Tacna and Arica.

6. In submitting this plan I have not undertaken to do more than sketch its broad outlines. The details should, in my judgment, present no serious difficulties. The main advantages which this type of solution has over others which have been considered need little emphasis.

a. It furnishes a substitute for the unfulfilled provisions of Article 3 of the Treaty of Ancon, and thus forever disposes of the controversy which has existed ever since that treaty was signed.

b. It is a clean, simple solution free from obvious complicating factors attendant upon other plans.

c. It is comprehensive and definitive, leaving no room whatever for claims and disputes, and maneuvers for revision of territorial dispositions.

⁴⁴ The Chilean Province of Tacna comprised the former Peruvian Provinces of Tacna and Arica. The Province of Tacna was divided into the Departments of Tacna and Arica.

d. It can injure no national susceptibilities, either Chilean or Peruvian. Neither country makes any concession to the other and the moral positions of both, so far as the original controversy is concerned, are left intact.

e. It takes into account the continental interest in the controversy and embodies a settlement which South America as a whole could welcome as one insuring permanent peace and stability.

Frank B. Kellogg
Secretary of State.

Washington, November 30, 1926.”

You are also instructed to cable the Department immediately the hour of memorandum's delivery and a full account of your interview.

KELLOGG

723.2515/2715 : Telegram

The Chargé in Chile (Engert) to the Secretary of State

[Paraphrase]

SANTIAGO, November 30, 1926—1 p. m.

[Received 7:20 p. m.]

338. When I presented your memorandum⁴⁵ to the Minister for Foreign Affairs,⁴⁶ he and the Under Secretary, who was present, requested me to translate it roughly as I read it, both gentlemen being unfamiliar with English. They were visibly impressed by the complete sincerity of your observations and your tactful and sympathetic understanding of national susceptibilities; above all they were impressed by your lucid and practical suggestions for a solution. On these points they were enthusiastic, and the Minister requested me to convey to you his heartfelt thanks for the generous and unselfish interest which you have taken in this problem. Señor Matte added that although the United States was reputed to be a land of business and money, he knew, what your memorandum confirmed, that our people were also a people of high ideals.

The memorandum will be submitted to the President as soon as the Foreign Office has finished translating it, probably this afternoon.

From purely informal remarks made to me by the Minister and the Under Secretary this morning I surmise that they personally favor some such solution as you have suggested, and that they have hopes of seeing it become effective.

ENGERT

⁴⁵ See telegram No. 84, Nov. 30, 1 a. m., to the Ambassador in Peru, *supra*.

⁴⁶ Jorge Matte, who had succeeded Mr. Huneeus as Chilean Minister for Foreign Affairs.

723.2515/2716 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, November 30, 1926—3 p. m.

[Received 6:00 p. m.]

100. Department's telegram 84, November 30, 1 a. m. Your memorandum was delivered to the Minister for Foreign Affairs at 12:55 this afternoon and to President Leguía at 1:10, accompanied by statement in accordance with your instructions. The Minister thanked me for the memorandum and for the delivery of separate copies to him and to the President; he stated that he would give it his careful consideration.

President Leguía made no comment except to ask if it were proposition for settlement. I said yes, and added that I preferred that he get his first impression of it by reading the memorandum. He said he would, and nothing more was said.

POINDEXTER

723.2515/2741 : Telegram

The Minister in Bolivia (Cottrell) to the Secretary of State

LA PAZ, December 3, 1926—8 a. m.

[Received 1:40 p. m.]

78. Referring to my No. 74,⁴⁷ I transmit herewith translation of reply received this afternoon [*sic*] from the Minister for Foreign Affairs to my note transmitting memorandum of the Secretary of State as to Tacna and Arica and also in reply to the proposal embodied in such memorandum, as follows: ⁴⁸

“La Paz, December 2[, 1926]. Mr. Minister: I have the honor to acknowledge the receipt of Your Excellency's note of yesterday together with which and in compliance with instructions of your Government, you have delivered to me the memorandum of the Secretary of State of the United States relative to the problem of Tacna and Arica. You have informed me that other copies of the same memorandum were delivered yesterday likewise to the Governments of Chile in Santiago and of Peru in Lima. [Other copies were delivered the day before to the Ambassadors of Chile and Peru in Washington.]

Your Excellency is good enough to say that the memorandum has been sent to this Government in order that it may be informed of the

⁴⁷ Not printed.

⁴⁸ Translation revised from Spanish text of memorandum in Bolivia *Anejos a la Memoria que presenta el Ministro de Relaciones Exteriores y Culto al H. Congreso Nacional de 1927*, p. 43.

proceedings adopted by the Department of State in Washington with a view [to] arriving at a solution of the problem of Tacna-Arica that it may be fully and definitely determined without injuring or offending the susceptibilities and pride of neither Chile nor Peru. The indicated solution of said problem, that of the transfer of Tacna-Arica to Bolivia by virtue of compensation which this country would recognize for the improvements and public works made by the Governments of Peru and Chile during the time that they have had [the] said territories under their Governments, embodies a formula which harmonizes all interests and all legitimate claims. In accord with and being duly authorized by His Excellency the President of the Republic I have the honor to manifest to Your Excellency that Bolivia accepts fully the form of solution proposed by the Government of the United States and will [pledge her every effort] to arrive at an agreement, under the conditions of said transfer, with the Governments of Chile and Peru by means of the good offices of the Government of the United States.

The Government of Bolivia [experiences] a high feeling of satisfaction and Americanism in contributing in this manner to the solution of a problem that has had no other means of settlement and which in each instance has placed international peace in danger. The Government feels equally pleased to see that its repeated appeals to international justice and equity have been heard and have assumed a form of satisfaction without injuring the fundamental interests of Chile and Peru nor giving either country the advantage of a victory or the disappointment of a defeat in the settlement of a matter which had the point of exciting all the energies and all the pride of the two signatory nations to the Treaty of Ancon.

The Government of Bolivia, upon assuming the role of a participant in this solution, wishes to communicate to the Government of the United States its most profound appreciation for having satisfied a national aspiration and for having contributed with such a lofty spirit in offering definite bases for the peace and the harmony of this continent.

I take advantage of this new opportunity [to] reiterate to Your Excellency the assurances of my high and distinguished consideration. A. Gutierrez."

Minister for Foreign Affairs referring to my statement upon the delivery of the memorandum of the Secretary of State to him, also sends this Legation a note in which he says:

"This manifestation of Your Excellency's Government is greatly appreciated and contributes to strengthen the feeling of gratitude of the Government and the Bolivian people for the wise and just manner as set forth for the solution of that problem."

COTTRELL

723.2515/2833½

*Memorandum of the Chilean Government*⁴⁹

The Government of Chile has read with keen interest the Memorandum in which His Excellency, the Secretary of State of the United States of America, submits to its consideration the general lines of a plan intended to procure a definitive solution of the controversy regarding Tacna and Arica. The reflections which the Secretary makes in setting forth the antecedents which have induced him to favor that formula, move the Chilean Government to recall, although briefly, the principal historical and diplomatic phases of the question.

The Secretary of State is aware that we can point with dignity to our tradition of a century of foreign policy, always characterized by a spirit of cordial friendship for all of the peoples of America. Never have we failed to make any sacrifice, however great it might have been, when a principle of Pan-American solidarity required it for the purpose of safeguarding the political independence of a nation of this continent.

We do not wish to recall the historic causes which resulted in the break, which in our opinion the Treaties with Peru, of 1883 and with Bolivia, of 1904, brought to an end, and which loyally reestablished the cordiality and peace in which, for more than fifty years, we have been living with these nations.

Only one question remained unsettled at the termination of the War of the Pacific: the definitive nationality of the territory of Tacna and Arica, which was to be decided by its inhabitants ten years after the date of the Treaty.

During forty years, in spite of our repeated initiatives to bring about an agreement fixing the bases to which this popular vote should be subjected, it was not possible for us to reach a satisfactory result.

In tranquil possession of the territory and sure that time would be our best ally to consolidate the position we reached in those provinces, to whose moral and material progress we have devoted our best energy, we spontaneously renounced that privileged position and went to Washington to seek a definitive solution for this longstanding question, animated by our high conception of international confraternity.

The Washington Protocol, entrusted to His Excellency, The President of the United States, the fixing of the bases of that solution and his Award entirely upheld the Chilean thesis which defended the principle of the determination of the sovereignty of the territories through the free will of its inhabitants.

The Plebiscitary proceedings evidenced the enormous electoral ma-

⁴⁹ Copy in English left at the Department of State by Benjamin Cohen, the Secretary of the Chilean Embassy, Dec. 5, 1926.

majority that existed there in favor of Chile, consecrating our rights to the definite annexation of Tacna-Arica to Chilean territory.

If that verdict had been unfavorable to Chile, our Government and people would have hastened to respect and fulfill it honorably.

In spite of this legitimate expectation, the Government of Chile has not hesitated to entertain the suggestions of the Department of State looking forward to the division of the territory, a sacrifice accepted only as a generous effort in furtherance of peace.

The Secretary of State, who justly appeals to national sentiment of fundamental importance in this problem, will understand the full extent of this sacrifice if he considers the work of culture carried out in those territories by men who there devoted the best years of their lives to permit them to enjoy all benefits of civilization. Teachers, soldiers, missionaries, manufacturers, were the tireless workers of this crusade.

The Republic of Bolivia which, twenty years after the termination of the war spontaneously renounced having a seacoast, demanding as more suitable for its interests, compensation of a financial nature and means of communication, has expressed its desire to be considered in the negotiations which are taking place to determine the nationality of these territories. Neither in justice nor in equity can justification be found for this demand which it formulates today as a right.

Nevertheless, the Government of Chile has not failed to take into consideration this new interest of the Government of Bolivia and has subordinated its discussion, as was logical, to the outcome of the pending controversy with the Government of Peru. Furthermore, in the course of the negotiations conducted during the present year before the State Department and within the formula of territorial division, the Government of Chile has not rejected the idea of granting a strip of territory and a port to the Bolivian nation.

The lofty and inspired proposals which the Government of Chile has accepted in this particular matter, did not encounter on the part of the Government of Peru the reception which they deserved, and the question has remained pending until the present moment.

Our Government remains within the stipulations of the Treaty of Ancon, thus following its long and uninterrupted tradition of respect for the pledged word and the faithful and exact fulfillment of international obligations. With the same thought it has respected the Award of President Coolidge and believes that the best solution of the problem is the application of the method indicated in Article 3 of the Treaty of Ancon and confirmed by the decision of the Arbitrator. The definitive possession of the territory as between Chile and Peru, once determined in conformity with these provisions, the Chilean Government would honor its declarations in regard to the consideration of Bolivian aspirations.

The proposal of the Department of State goes much farther than the concessions which the Chilean Government has generously been able to make. It involves the definitive cession, to the Republic of Bolivia, of the territory in dispute and although, as the Secretary of State says, this solution does not wound the dignity of the contending countries and is in harmony with the desire, repeatedly shown by the Chilean Government to help satisfy Bolivian aspirations, it is no less true that it signifies a sacrifice of our rights and the cession of a territory incorporated for forty years in the Republic by virtue of a solemn Treaty, a situation which cannot be juridically altered, except by a plebiscite, whose results are not at all doubtful in the opinion of the Chilean people.

At no time did the Government of Chile abandon this solid juridical position given it by the Treaty of Ancon and the Arbitral Award and will not abandon it now. Nevertheless, in deference to the great cause of American confraternity and being anxious to foster reconciliation among the countries involved in the War of the Pacific, Chile has always been disposed to listen to all propositions for settlement which might contribute toward such lofty aims and at the same time might offer compensation proportionate to the sacrifice of that part of its legitimate rights which such proposals import. She now desires to attest, once more, that in discussing such propositions she does not abandon those rights, but solely has considered the possibility of sacrificing them freely and voluntarily on the altar of a superior national or American interest.

In this sense the Chilean Government agrees to consider, in principle, the proposal, thereby giving a new and eloquent demonstration of its aims of peace and cordiality.

The Secretary of State justly assigns special importance to the commercial ties between the interested countries. We understand and share this high aim, not only in the sense of solving the pending question, but also to reestablish friendship between the countries separated by the conflict of 1879.

Being of this opinion, we attach primary importance to the previous conclusion, among the three countries, of Treaties of Commerce, of Agreement on Customs, Ports and other matters of this character, which may serve as a solid tie in the present, which will insure harmony in the future and which will cement the economic union of Bolivia, Peru and Chile, as a basis for a more ample understanding among all the peoples of Latin-America, facilitating their trade and furthering the progress of the continent to the service of mankind.

Consequently, we deem it advisable that the Treaty of Commerce and Customs Agreements which the Secretary of State suggests be concluded with Peru must also be extended to the Bolivian Govern-

ment in accordance with our constant desire to draw nearer to that nation. This would be for Chile nothing but the consecration, upon a solid basis, of the intense commercial current which exists today between Chile and Bolivia and which it is to the interests of both countries to intensify.

The Chilean Government attributes capital importance to the thoughts which the Secretary of State set forth in his Memorandum with regard for the character of perpetual neutrality in which these territories must be maintained. We, therefore, agree with him that the term demilitarization of that region must be understood in its widest sense, eliminating absolutely all possibilities that in it or in its territorial waters there may be maintained bases of forces of land, air or sea. We must, in this respect, express to the Secretary of State our opinion with frankness and precision. If we grant a means of communication to the Pacific intended to develop the economic life of Bolivia, we have the right to make sure that the sacrifice we are making in deference to a lofty ideal, will not constitute a future danger to our external security. As a natural corollary to this idea, it would be indispensable to stipulate that the territory whose cession is proposed could not be transferred, in whole or in part, to any of the contracting nations or to any other power. The acceptance of any other view would be tantamount to a distortion of the noble motives which inspired the Secretary of State in formulating his proposal.

In the course of the negotiations to which this proposal may give rise we shall present in definitive form the observations hereinbefore formulated, we shall submit all those which may involve our interests and we shall listen with attention to those which the other interested parties may in their turn suggest.

The proposals of the Secretary of State and the suggestions which the parties may formulate we shall consider as an indivisible whole, which corresponds to the lofty aim of the Government of the United States, fully shared by the Government of Chile, to solve definitively the question and to insure peace and confraternity among all nations of America.

JORGE MATTE

Minister of Foreign Affairs of Chile

DECEMBER 4, 1926.

723.2515/2777a : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, December 7, 1926—8 p. m.

88. Press report from Lima carries statement that leading newspapers are abstaining from editorial comment but that high political

interests close to President Leguía are now condemning proposal openly. It has been approved practically unanimously by press of the United States and of South America. Bolivia has accepted it unconditionally and Chile has accepted it in principle. I suggest that you urge President Leguía to accept the same way, thereby opening the road to a final settlement. We learn by the same press report that the President of the Chamber of Deputies had declared that the Lassiter motion ⁵⁰ was still the law ruling in the Tacna-Arica proceedings; and until the Arbitrator has modified or altered it, must remain so. The Government of Peru should understand that the Lassiter motion does not dispose of the problem which we are trying to solve.

KELLOGG

723.2515/2729 : Circular telegram

The Secretary of State to the Ambassador in Argentina (Jay), the Ambassador in Brazil (Morgan), and the Minister in Uruguay (Grant-Smith)

WASHINGTON, December 7, 1926—8 p. m.

I have received from the Bolivian Government a reply, dated December 2, to my proposal for the settlement of the Tacna-Arica question in which Bolivia accepts fully the form of solution proposed. I am further in receipt of a reply from the Chilean Government to my Memorandum above-mentioned, dated December 4, in which Chile accepts in principle the proposal. The press in the United States has practically unanimously supported the proposal and urges acceptance by all parties as means of settling this long lasting dispute and insuring the peace of South America. South American press also in general very favorable to proposal and most papers in countries not parties to dispute urge acceptance.

[Paraphrase.] I have not yet received a reply from Peru, merely a memorandum on December 3 ⁵¹ requesting information on whether the proposal contains a provision providing for an election whereby will of inhabitants of the territory will be determined. I have not yet replied to this memorandum, but I intend to inform the Peruvian Government tomorrow that I consider the terms of the proposal to be so clear and precise that no further explanation is necessary.

In view of earnest desire of this Government to see peace and harmony established in the southern continent, it is felt that the present is an appropriate moment to inform the Minister for Foreign Affairs of the Government to which you are accredited of the facts given above.

⁵⁰ Of June 14, 1926, terminating the plebiscitary proceedings in the Tacna-Arica plebiscite; see telegram June 14, 8 p. m., from the consul at Arica, p. 432.

⁵¹ Quoted in memorandum, Dec. 11, to the Peruvian Ambassador, p. 518.

From unofficial sources it appears that certain elements in Lima are condemning the proposal and that belief exists in some quarters that Peru will reject it. In order to avoid Peru's rejection, it is felt that immediate steps should be taken by Governments of Argentina, Brazil, and Uruguay to urge acceptance by Peru before that Government definitely commits itself.

I am relying on you to make clear to Minister for Foreign Affairs of country to which you are accredited that although I do not feel that I may, with propriety, urge or request his Government to take any action, any step that it might see fit to take to bring about Peru's acceptance in obvious interest of continental solidarity and of lasting South American peace would be agreeable to me.

This cable is being sent to the American Embassies in Argentina and Brazil and the Legation in Uruguay. You are instructed to cable at once the result of your interview, and to inform us what steps the Government to which you are accredited will take. [End paraphrase.]

KELLOGG

723.2515/2782 : Telegram

The Minister in Uruguay (Grant-Smith) to the Secretary of State

[Paraphrase]

MONTEVIDEO, December 9, 1926—9 a. m.

[Received 11 a. m.]

68. Last night I learned from the Argentine Minister that the Government of Uruguay is consulting that of Argentina in regard to representations at Lima. The Minister is of opinion that representations should not be independent but either joint or identic; he thought it was doubtful, however, whether they could be made before Government of Peru had sent its reply to your proposal. The Minister had communicated with Argentine Foreign Office yesterday morning by telephone.

Telegram repeated to Embassies Buenos Aires and Rio de Janeiro.

GRANT-SMITH

723.2515/2783 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

[Paraphrase]

RIO DE JANEIRO, December 9, 1926—11 a. m.

[Received 11:55 a. m.]

95. Following a conference between President of Brazil and Minister for Foreign Affairs, I conferred with latter on subject of your circular telegram of December 7, 8 p. m. The Minister has been

informed from Lima that your memorandum took Peru by surprise and created a sharp political crisis which must be calmed before favorable reply can be hoped for. No immediate action on part of Peru is foreseen. At present moment representations from the leading South American powers would be used for local political purposes and would not serve to benefit main purpose. Although Brazil desires to further the common good, her Government will await further information from Lima should appropriate moment for representation come.

MORGAN

723.2515/2786 : Telegram

The Ambassador in Argentina (Jay) to the Secretary of State

[Paraphrase]

BUENOS AIRES, December 9, 1926—8 p. m.

[Received 11:30 p. m.]

96. The Minister for Foreign Affairs, Dr. Gallardo, tells me that President Alvear, in view of fact that Argentine Minister at Montevideo has informed him that we are also seeking support of Brazil and Uruguay, feels that it would not be advisable either to telegraph to President of Peru directly or to instruct diplomatic action through Argentine Legation at Lima, without consulting the other two powers. He has, therefore, instructed the Minister for Foreign Affairs to obtain views of Brazilian Government by telegraph. Mr. Gallardo expects to have a reply from Rio by tomorrow, but he frankly, though regretfully, expresses the belief that even concerted action will be too late. He has shown me telegrams he has sent and received, including one from Lima that had just arrived foretelling probable refusal within 48 hours.

JAY

723.2515/2749

The Secretary of State to the Peruvian Ambassador (Velarde)

MEMORANDUM

The Secretary of State acknowledges the receipt of the memorandum of His Excellency, the Peruvian Ambassador, dated December 3, 1926, reading as follows:

“The Government of Peru, in order to be in a better position to make a decision and as the necessary clarification of the memorandum presented by His Excellency, the Secretary of State, November 30, last, desires to know if, in the opinion of His Excellency, the proposed transfer of the inhabitants of Tacna-Arica is to be made without

consulting their own wishes and if in case this consultation is made what forms will be employed in its execution and what authorities would discharge this duty."

With full appreciation of the spirit of solicitude for the welfare of the inhabitants of Tacna and Arica which has prompted this inquiry by the Government of Peru, and which the Secretary of State cordially shares, he desires to direct attention to the provisions appearing in paragraph (a) of the plan of solution outlined by him on November thirtieth last. It will be observed that this paragraph provides that the Republics of Chile and Peru, either by joint or by several instruments freely and voluntarily executed, shall cede to the Republic of Bolivia in perpetuity all right, title and interest that either may have in the provinces of Tacna and Arica. In making this proposal the Secretary of State was not unmindful of the propriety of appropriate guarantees for the protection and preservation of the personal and property rights of the inhabitants of the provinces of whatever nationality and, with that in view, the following provision was inserted in paragraph (a):

"The cession to be made subject to appropriate guarantees for the protection and preservation, without discrimination, of the personal and property rights of all the inhabitants of the provinces of whatever nationality."

It is the opinion of the Secretary of State that the provision above quoted, upon acceptance of the Secretary's proposal by both parties, will secure every protection to the interests of the inhabitants of the provinces that is possible in the circumstances of the case. The Secretary of State sincerely trusts that the foregoing assurance will prove satisfactory to the Government of Peru, and will facilitate its acceptance of the pending proposal.

The Secretary of State takes pleasure in transmitting herewith for the information of His Excellency, the Peruvian Ambassador, copies of the communications which he has received from the Governments of Chile and Bolivia.

WASHINGTON, *December 11, 1926.*

723.2515/2802: Telegram

The Ambassador in Argentina (Jay) to the Secretary of State

[Paraphrase]

BUENOS AIRES, *December 15, 1926—1 p. m.*

[Received 4:30 p. m.]

98. My No. 96, December 9, 8 p. m. Minister Gallardo informed me that he communicated to the President, when the latter returned after

brief absence from the city, the Brazilian Government's reply which expresses the opinion that intervention at Lima is inopportune at present moment for reasons that have already been explained to Morgan. Although Argentina does not contemplate any immediate action, Mr. Gallardo thinks that delay of Government of Peru in replying to your memorandum is a favorable sign.

JAY

723.2515/2853

*Memorandum of the Peruvian Government*⁵²

The Peruvian Government has received and carefully examined with due consideration the Memorandum which the Honorable Secretary of State of the United States of America has addressed to it through His Excellency the American Ambassador, relative to the pending questions between Peru and Chile in regard with the non-fulfillment of the third clause of the Treaty of Ancon; a memorandum in which it is proposed as a final solution that the territories of Tacna and Arica be ceded to the Republic of Bolivia in perpetuity upon compensations to be agreed upon among the three countries.

The Peruvian Government appreciates the interest shown by the Honorable Secretary of State in said memorandum in that a final solution be found for the Peruvian-Chilean controversy.

Animated of a sincere spirit of peace and with all due respect and deference, and with no other purpose than that of frankly and loyally expressing his points of view, the undersigned Minister for Foreign Relations of Peru desires to express the following ideas:

When the Arbitration was concluded, to which the Protocol and Complementary Act of July 20th, 1922⁵³ refers, submitting the controversy between Peru and Chile to the cognizance and the arbitration of His Excellency, the President of the United States of America, the latter was requested to decide whether, in the present circumstances, the plebiscite referred to in the third clause of the Treaty of Ancon was or was not practicable; that should he deem it advisable to declare that the plebiscite could be held, the Arbitrator was empowered to determine the conditions under which it was to be carried out; and in the event that the Arbitrator should desire that a plebiscite should not be held, both parties, in case that they should not come to an agreement upon the situation created, were to request the good offices of the Government of the United States of America.

⁵² Memorandum in English left at the Department of State by the Peruvian Ambassador Jan. 17, 1927.

⁵³ *Foreign Relations*, 1922, vol. I, p. 505.

In as much as the proposed arbitration did not include any other parties than Peru and Chile, neither in the Protocol nor in the Complementary Act, was there, even in contemplation, the intervention of a third power. The subsequent acceptance of good offices without abandoning the arbitration could not modify the implied excluding conditions in the act as to the parties.

How can it then be explained that if the agreements concluded between Peru and Chile regarding the arbitration did not contemplate the intervention of a third power in the settlement of the controversy, the latter should come to an end by the intervention of Bolivia which, according to the proposed settlement in the Memorandum, would receive the ownership of the territory of Tacna and Arica.

There is no precedent in International History of any similar case and if there has ever been any country which has profited by the territories which constituted the subject of the controversy between others, it was only as the result of a war or by virtue of the treaties of peace which put an end to the war.

Juridico-political controversies of the nature of that of Tacna and Arica are by obvious reasons of law and of morality limited in their scope to the contending nations. To extend that scope would be to distort the nature of the controversy with detriment to the parties.

Peru and Chile in compliance with the arbitral award proceeded to carry out the plebiscite in Tacna and Arica.

It is not necessary to recount here the plebiscitary process with the incidents attending the same; the fact is that it has not been possible to carry out the plebiscite, and this is not a mere statement by the Foreign Office of Peru, but the irreproachable just decision of the Plebiscitary Commission headed by General Lassiter, supported, besides, by the opinion expressed by General Pershing and the American legal advisers, Dennis and Kreger.

Therefore, as the plebiscite has not been held by reason of Chile's attitude in the matter, it is clear that the third clause of the Treaty of Ancon, which juridically involved a resolatory condition of the said Treaty, has failed of its purpose, and as the only limitation there was in respect to the nationality of Tacna and Arica was contained in the same clause, these territories have reassumed their status as provinces free from all foreign domination and it has become manifest with all the force of law and fact, that they continue to be Peruvian provinces.

How is it possible that having arrived at this juridical conclusion on the part of Peru and of the United States it should now be claimed that Peru should cede those territories to Bolivia?

The Honorable Secretary of State declares that the numerous efforts made since the Treaty of Ancon was concluded have been in-

effective to arrive at a solution within the letter and spirit of the Treaty itself, whether through negotiations between Chile and Peru or whether, as it has been attempted, through arbitration and plebiscite; this declaration conclusively shows that the third clause of the Treaty of Ancon could not have been enforced, and that said treaty has been obliterated for the purpose of bringing about a solution, within its letter and its spirit, regarding the pending controversy. And he further declares that for that reason an attempt has been made to find a solution through arbitration and plebiscite. This last declaration is closely related to that made by the Plebiscitary Commission presided over by General Lassiter in as much as both of them are of a juridical nature and clearly show that the fulfillment of an arbitration and the execution of a plebiscite have met, not on the part of Peru, but on the part of Chile, with the only and positive obstacle presented to its realization.

The Plebiscite having failed, as it has been declared by the aforementioned report of the Plebiscitary Commission headed by General Lassiter, Peru continues to contribute the whole contingent of its good will for the purpose of arriving at a solution of the conflict. Its juridical situation was unquestionable; it had regained its fullest right to the possession, ownership and dominion over the territories of Tacna and Arica. As regards the discussion of good offices Peru was willing however to make sacrifices for the purpose of arriving at an agreement.

In the memorandum of the Honorable Secretary of State it is stated that he has to deal with a question which turns upon a point of national honor. Now, he adds, national honor is a very real thing, and in this particular case, it is perfectly clear that national susceptibilities in this regard are peculiarly sensitive in both countries and must be fully protected.

This statement is of importance and we should congratulate ourselves that it has been inserted in the document on the [*under*] consideration. Indeed, the controversy regarding Tacna and Arica is intimately and closely related to the honor and dignity of Peru. Tacna and Arica were always since colonial times until the present, an integral part of our territory. These provinces which constitute a part of the national heart, cannot be transferred to a third power in times of peace without impairing the national honor, affecting the dignity of the country and destroying the most cherished expectations of Peru. It is deserving of praise that the Honorable Secretary of State should have taken as a point of inspiration in his proposal not to wound the national honor and dignity of any country. Those good intentions, unfortunately, would not materialize with the cession of Tacna and Arica to Bolivia. And if to this is added that the cession is neither gratuitous nor founded on right, but it is to be

placed on the basis of pecuniary compensations, then it will be necessary to conclude that by that cession the honor and dignity of Peru would not only suffer but would be irretrievably outraged.

The Bolivian Government itself in its note of December 8th [7th],⁵⁴ in answer to the Chilean Memorandum⁵⁵ regarding the proposal of the Honorable Secretary of State makes the following illustrative declaration: If the Government of Bolivia should ever acquire sovereignty of these territories, Tacna and Arica, it is understood that it will fulfill all duties which devolve upon it for the defense and support of those dominions; those provinces cannot be made the subject of a bargain nor can they be transferred any more than any other part of the national territory. As it can be seen, Bolivia must regard her territory as sacred. She cannot sell it or transfer it. This is no doubt true; therefore if Bolivia is required thus to consider the nature of the territory which is sold to her, it is only reasonable to expect that Peru should consider it with the same respect and that it shall not accept that the provinces of Tacna and Arica shall be a subject of the bargain.

Our country never consented, not even at the time when it was under the pressure of armed forces, to cede Tacna and Arica neither for money nor for any compensations and it is precisely for that reason that the formula was adopted of a plebiscite to take place at a certain time.

The Honorable Secretary of State declares that, leaving out of consideration the attempt to carry out the unfulfilled provisions of the Treaty of Ancon, it appears that, from the nature of the case, there are but three ways to deal with the disputed territory: 1. delivery of the disputed territory in its entirety to one or the other of the parties to the dispute; 2. division of the said territory between them upon bases to be established; 3. some arrangements by which neither contestant could retain any part of the territory. In respect to the first way indicated, it is expressed that it may be correctly stated that such a formula has virtually ceased to be regarded as a practical solution by anybody who really hopes for a permanent settlement.

My Government must, at this point, insist upon declaring that there is no reason for concluding that such way is impracticable and that it is virtually abandoned. That way is precisely the one pointed out by law and justice in as much as the third clause of the Treaty of Ancon has been obliterated by the failure of the plebiscite and, therefore, Tacna and Arica continue to constitute an integral part of the Peruvian territory. It would be quite natural for any judge to so declare it.

⁵⁴ Bolivia, *Anexos a la Memoria que presenta el Ministro de Relaciones Exteriores y Culto al H. Congreso de 1927*, p. 52.

⁵⁵ *Ibid.*, p. 46.

It is to be repeated here that although Peru accepted as an act of Americanist abnegation and as a deference to the high personality of the Arbitrator, to enter into the discussion of other formulas of solution she did so exclusively for the purpose of arriving at a settlement with Chile; but Peru did at all times maintain the intangibility [*untouchability?*] of her rights and the consequent reintegration of Tacna and Arica to her territory, suggesting only the zone to the south of Azapa for the purpose of giving therein a port to Bolivia.

Peru has therefore, shown herself always conscious of her right, and her spirit of cordiality in the discussion of good offices is no reason for assuming that she has renounced it.

The belief that the division of the territory has receded further and further into the background and that however ingeniously it may have been worked out has yet been unable to overcome the fact that neither of the governments considers that it cannot [*can*] afford to make an adjustment which involves making substantial concessions to the other does not appear to be, and is not, well founded. Indeed, as it has just been stated, Peru has been willing to cede part of the territory with the object of giving a port to Bolivia, or whether [*in order?*] to put an end to the controversy with Chile, and even this latter country has manifested her willingness to make restorations to Peru of nearly all the province of Tacna. It is rather startling therefore that a tripartite division of the territory upon the basis of giving Arica to Chile, should have been looked upon as feasible, and that the idea that the division has become impracticable should have arisen only when such a division was discussed giving to Peru the province of Tacna together with the city of the same name and the port and Morro of Arica, and making the division of the rest of the province of Arica, between Bolivia and Chile, to the south of Azapa.

On the other hand the proposed division of the territory on the part of Peru is not a mere product of imagination. Such a division is based on one hand on the indisputable legal titles of Peru over all the territories of Tacna and Arica, and on the other hand on the geographical conditions of the land. The division of the territory, by restoring to Peru the cities of Tacna and Arica would have been, and continues to be feasible specially so by reason of the fact that to the south of those territories are the borate deposits (*borateras*) of Chilcaya, which is the most valuable and productive part of those provinces, this latter circumstance is one more proof that Peru has not attempted to obtain economical advantages but is mindful only of that which constitutes an integral part of its nationality.

It would not had [*have*] meant a moral victory for either Peru or Chile to make a division of the territory in the form above indicated, because such a division would have taken into consideration reciprocal

and equitable concessions in respect to the interest of both countries and it might even lead to the cession of a port to the Republic of Bolivia.

The Honorable Secretary of State believes there is a possibility of an arrangement by which neither of the parties in controversy will have to deliver anything to the other which shall eliminate the prejudices which arise from a comparison with comparative territorial advantages so that such an agreement would imply a mutual sacrifice and would be based principally on the conviction that, under any circumstances neither of the two countries may expect to receive any important part of this area which has been for such a long time in dispute.

It must be said in candor that in the proposed formula there is not the mutual sacrifice that is supposed to exist, and there is not such sacrifice because Chile in the situation in which she is, according to the report of the Plebiscitary Commission presided over by General Lassiter, has lost all right over the territories of Tacna and Arica, so much so that by not returning them to Peru and by delivering them to Bolivia as it is now proposed, she makes no sacrifice whatever; far from it she would in that case, obtain important advantages, for according to the proposal, there must be compensations for Peru and for Chile.

Which would these be? The proposal itself declares it: The only thing that Chile is to say is how far she goes in her demands; on the other hand Peru would have to make incalculable sacrifices for the proposed formula referred to the delivery to a third power of territories which have always belonged to Peru, which Chile has only retained as hostage and which in a juridical sense have been returned to Peru by reason of the decision of the Plebiscitary Commission. It is also asserted [*asserted?*] that none [*neither*] of the two countries can expect to receive any important portion of the area in dispute. As to this, my Government is able to declare, once more, that it has always hoped, and still hopes, that justice shall eventually prevail and that as a result thereof the territories of Tacna and Arica shall be returned to Peru. Furthermore, in the same division formulas, Chile has shown her willingness in various occasions to return the province of Tacna to Peru.

It seems therefore, that the expectations of Peru to recover her territories, have not only existed in the past but they still exist now; on the other hand Chile does not have, and could not have any expectation of retaining that which she must not now possess.

As to the question relative to the neutralization of the territories of Tacna and Arica to which the memorandum refers it is necessary to state here that Peru has been a supporter of an arrangement upon

that basis, because [as] she sees it, such formula upholds the principles evolved and establishes a regime of liberty and protection for the natives of those territories. The Peruvian Plenipotentiary expressed these views in Washington at the Plenary session held on April 15th of last year when he also rejected the proposal for the cession of Tacna and Arica to Bolivia, presented at that time by the Honorable Secretary of State.⁵⁶

My Government would gladly favor neutralization, more than any thing else because it would put an end to the martyrdom of the natives of Tacna and Arica and because the international policy of Peru has never been inspired in material interest but in high ideals of justice and protection to human rights.

Neutralization has been opposed by Chile on the grounds that the countries of America look upon it with suspicion or as a mark of American predominance in those territories. That is merely a piece of sophistry, indeed neutralization involves a juridical conception entirely opposed of [to] that of imperialism and to that of the predominance of a nation to the detriment of another. Neutralization rather constitutes a basis of equality.

It is true that the efforts made as regards compliance with the treaty of Ancon have been unsuccessful. This assertion which is identical to the one made by General Lassiter is of real and far-reaching international juridical importance. The Honorable Secretary of State of the United States of America himself decidedly states that the third clause of the Treaty of Ancon has not been complied with, which evidently means, as contended by Peru, that the plebiscite has been obliterated from the word and spirit of the aforementioned Treaty.

Expounding the thought developed in the memorandum it may be said that it proposes in a concrete manner that the Republic[s] of Chile and Peru jointly, or through various agreements, shall freely and voluntarily cede to the Republic of Bolivia in perpetuity, all the rights, titles, and interests which everyone of them may have in and to the provinces of Tacna and Arica, a cession which would be made subject to adequate guaranties for the protection and defense without distinction as to personal rights and rights of property, of all the inhabitants of the provinces regardless of their nationality.

Peru cannot accept the proposed cession of the territory of Tacna and Arica, to anyone, whether by purchase or by any other method, because he who has been defending for more than forty years his rights over said territories cannot convert them into a merchandise subject to a price however large this may be.

⁵⁶ See telegram No. 44, Apr. 15, 8 p. m., to the Ambassador in Peru, p. 385.

As for Chile it has no rights to cede because it has lost all expectations of retaining those territories from the moment that the possibility ended of a plebiscite which would decide their fate.

The most serious point of the cession is the one relative to its inhabitants referring to which the Honorable Secretary of State only provides guaranties for their protection and defense. This part of the proposal of the Honorable Secretary of State contradicts the principles of nationality, those of self-determination and the respect which must be borne not only to the great but to the small national entities, principles proclaimed chiefly by American statesmen like Woodrow Wilson during the European conflict, and when it was found necessary that the World should agree to a durable and just peace. On the 11th of February 1918 Mr. Wilson declared: ⁵⁷ "the peoples and provinces cannot be objects of bargain among sovereignties as if they were simple things or pawns in a game, even if it is that of the equilibrium of forces from now on discredited." The proposal to cede the territories of Tacna and Arica to Bolivia was made in the plenary session of the 15th of April 1926 and it was disregarded [*rejected?*], as has been already stated, by the Peruvian Plenipotentiary in the most categorical way. It is surprising therefore that with this antecedent it should be brought up again as a new and decisive formula.

After proposing the cession to Bolivia of the disputed territories the Honorable Secretary of State establishes, as an integrant part of the adjustment, an adequate compensation which Bolivia is to give to Chile and Peru respectively for the public works, railroads and improvements, made both by Chile and Peru during the time that each was in possession of the territories and administered them, which involves the admission that Chile and Peru must be treated on equal terms and forgetting that in virtue of the Lassiter motion, said territories are Peruvian only.

The Honorable Secretary of State proposes that the morro of Arica, with its boundaries to be determined, will be excluded from the transfer to Bolivia and will be converted, under the authority and jurisdiction of an international commission, into a monument, a mausoleum or a light-house which may illuminate the friendly agreement of the Tacna and Arica question.

This suggestion is an ample proof of the possibility of arriving to the neutralization of the territory, because it would be just the same to internationalize it all as to internationalize a part of it.

⁵⁷ Message to Congress Feb. 11, 1918; *Foreign Relations*, 1918, supp. 1, vol. 1, p. 108. The quotation reads: "Second, that peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game, even the great game, now forever discredited, of the balance of power."

The morro is not and can never be to Chile what it is to Peru. The history of the War of the Pacific only says that it was made immortal because [of] the heroism of Bolognesi and the sacrifice of Alfonso Ugarte. The morro has therefore an historical and sentimental interest for Peru; for Chile it can be a strategical position for future conquests but its loss does not wound any fibre of its nationality.

The Honorable Secretary of State in his desire to see continental peace consolidated says that once the aforesaid agreements of transferring the territory to Bolivia, of the payment for compensations and the arrangement between Chile and Peru of said compensations are carried out, treaties of peace will be signed between these two nations, their diplomatic, consular, commercial and navigation relations will be renewed as also all those on other matters necessary to re-establish normal and friendly relations between the two countries.

It is appropriate to state that Peru is and has been a partisan of true friendship; it can only renew it with Chile the day that the latter shows itself disposed to return to Peru the territories of Tacna and Arica. Before that just reparations, which would reveal sincere repentance, it is not possible for treaties to come and which far from tempering forty years of continual outrages would revive them and threaten peace. Peru does not deny its friendship to Chile, but it demands that it come inspired by a spirit of sincerity and of justice which will give it a stable character.

In speaking of the demilitarization, the memorandum refers to the territory which now embraces Tacna and Arica. This phrase must be rectified so that the question of Tarata may not be considered as included in the proposal of the Honorable Secretary of State. In the award of His Excellency the President of the United States of America it is decided that no part of the Peruvian province of Tarata is included in the territory to which the dispositions of article three of the Treaty of Ancon refer to, and which only refer to the Peruvian provinces of Tacna and Arica as they existed on October 20th, 1883 and that the northern frontier of that part of the territory included by article three which lay within the Peruvian province of Tacna, was the river Sama. To establish the boundaries of the province of Tarata the same award created the Boundary Commission. Once the award was issued, delivery was made to Peru, six months afterwards, of a small portion of the Tarata territory; Chile has still to return the rest of the territory which belongs to the same province. It agreed to this by signing an act in which it declared that when the special Boundary Commission made its report and determined the true area of the Province of Tarata in accordance with what article three of the Treaty of Ancon stated, as it was in-

terpreted in the arbitral award, then it would deliver the rest of the territory.

It is not therefore acceptable that it be said that the basis for the cession to Bolivia must be the territories as they are today in the power of Chile. The award has already resolved on those territories and has determined as their area what the Peruvian laws of October 20th, 1883 established. There is therefore a large part of the territory which cannot be disposed of.

The suggestion of the Honorable Secretary of State indicates that the territory of Tacna and Arica will be completely demilitarized in the most ample sense of the word.

The advantage of this suggestion is understood and Peru applauds it; but even more than the demilitarization of the territories, what is needed in America, as in the rest of the world is to diffuse or impose the spirit of peace and solidarity between the peoples, and above all that of justice in the order of their relations, because without the basis of justice nothing lasting can be built.

With the aforesaid suggestion comes also the one of declaring the city of Arica a free port by means of a tripartite convention making arrangements to insure that no tariff or differential duties be established between the three countries, Chile, Peru and Bolivia and that the same be done about the railroad or about any other means of communication within the same territory which now is composed of the provinces of Tacna and Arica. This suggestion is not clear enough. Is the port to be free only for Peru, Chile and Bolivia or it is [*is it*] to be free to all commerce of the world?

The memorandum of the Honorable Secretary of State continues stating in short, the reasons which in his high opinion better the idea of ceding the territories of Tacna and Arica to Bolivia. He believes that they offer the way to substitute the dispositions which have not been complied with of article three of the Treaty of Ancon and end the controversy which has existed since the treaty was signed; that is to say that he recognizes the necessity of revising the Treaty of Ancon from the moment that he recognizes that clause number three has not been fulfilled. The reasoning ratifies and strengthens and exalts the Lassiter motion.

The proposal of the Honorable Secretary of State does not end the controversy nevertheless, his Memorandum far from simplifying the solution complicates it.

It is affirmed in the Memorandum that the proposal it contains cannot wound any national susceptibility neither Peruvian nor Chilean, because neither one of these two countries makes any concessions to the other. Peru, it is convenient to state, would not only make concessions but would be the one to cede its territories of Tacna and Arica to

Bolivia, leaving Chile the right to obtain compensations as if said country preserved any right over the provinces.

The Honorable Secretary of State takes pride in the idea that the proposed solution will insure peace in America. To re-establish the predominance of Right and Peace in America all that is required is to respect justice and to give to each one what belongs to him.

That is why the principal statesmen of the world when signing the Treaty of Versailles sought not only formulas which would end controversies, but immutable principles of right.

Because of the preceding considerations the Government of Peru has found itself in the difficult position of not accepting the proposal of the Honorable Secretary of State, but in its desire to give it life and seeking the means of at least attenuating the resistance incited by it, in the country, addressed to the Honorable Secretary of State the consultation contained in its Memorandum of the third of December last which was meant only to clear up the conception of his proposal in the part which most deeply affected public sentiment, whether if to agree to the cession of the territories to Bolivia, the will of the inhabitants of said territories was to be consulted or not. The Honorable Secretary of State has unfortunately not yet answered the question. In his Memorandum of 11th of the same month he only refers to the civil rights of said inhabitants referred to in his last proposal, but he says nothing of the political rights of the same, which was the matter consulted.

The Peruvian Foreign Office, finds therefore, very much to its sorrow, that it cannot accept the proposal contained in the Memorandum of the 30th of November last. This rejection does not carry with it, nevertheless, the intention of obstructing any other solutions. Far from that, Peru has accepted the partial or complete internationalization of the provinces, has accepted their division giving Bolivia gratuitously an outlet to the shore and there an inlet whose conditions would allow it to be converted into a large, suitable, and safe port. Finally it is disposed to listen to all suggestions for a settlement, but under the condition that the towns of Tacna and Arica be returned to it, the latter with its port and Morro.

Peru cannot accept, even at the risk of running counter to its traditional policy of deference to the United States of America, a solution which carries with it the forsaking of its citizens, which is what it would amount to, if they are left in the state of subjugation and shame in which they live today.

LIMA, *January 12, 1927.*

PEDRO JOSE RADA Y GAMIO
Minister for Foreign Relations of Peru

BOUNDARY DISPUTES

Bolivia and Paraguay⁶⁸

724.3415/89

The Minister in Paraguay (Kreeck) to the Secretary of State

No. 51

ASUNCIÓN, *March 3, 1926.*

[Received April 1.]

SIR: I have the honor to report a conversation which recently took place and in which the Minister of Foreign Affairs spoke concerning the Paraguay-Bolivia boundary question.

After giving a resumé, he stated that Paraguay had suggested to Bolivia that the boundary question be left to the judgment and decision of the United States. Bolivia agreed to the suggestion, but later sent a note to Paraguay suggesting that it would be better for South American countries to settle their own differences and controversies rather than solicit the services of the United States. In this same note from Bolivia it was suggested that Paraguay and Bolivia agree to meet for conference in Buenos Aires, each nation designating a special plenipotentiary to consider the controversy, and, in case these could not agree upon various points, that the decision of the President of Argentina should decide the matters presented to him.

This suggestion of Bolivia was accepted by Paraguay and a date of conference agreed upon. Paraguay sent its Plenipotentiary, but, upon his arrival in Buenos Aires, found, instead of the Bolivian Plenipotentiary, a messenger saying that Bolivia had reconsidered the matter and had decided to send a special plenipotentiary to Paraguay who would adjust the difficulty in Asunción. This Special Plenipotentiary proved to be Minister Alvesteguí. He arrived and began negotiations, but without making any headway whatsoever, whereupon he was transferred, supposedly to Chile.

The Minister of Foreign Affairs then inferred a question, asking if the United States would consider acting as arbitrator. Any direct reply to the question was avoided by suggesting that Bolivia and Paraguay are both members of the League of Nations and that there ought to be the ground for adjustment. The suggestion seemed to give him a matter for consideration.

I made this suggestion for it is my candid opinion the less we have to do with controversies in South American affairs the better. From the records and documents I have examined I am convinced of the justness of the Paraguayan claims; nevertheless, it is my opinion that

⁶⁸ Continued from *Foreign Relations*, 1924, vol. I, pp. 282-287.

it would be preferable for other parties to attempt a decision rather than the United States. Our efforts expended upon lines of friendliness and individual helpfulness to these nations will redound to our credit and advantage, but as third parties to controversies, to dissatisfaction, suspicion and disadvantage.

I have [etc.]

GEO. L. KREECK

724.3415/89 : Telegram

The Secretary of State to the Minister in Paraguay (Kreeck)

[Paraphrase]

WASHINGTON, April 5, 1926—4 p. m.

6. In the penultimate paragraph of your despatch No. 51 dated March 3, 1926 you report your suggestion to the Foreign Minister that the Bolivia-Paraguay boundary dispute be referred to the League of Nations. The Department instructs you to make no further suggestion whatsoever regarding the League of Nations. As you know the United States is not a member of the League of Nations and does not desire that its representatives propose the intervention of the League of Nations in any matter.

KELLOGG

724.3415/100

The Minister in Paraguay (Kreeck) to the Secretary of State

No. 144

ASUNCIÓN, September 10, 1926.

[Received October 14.]

SIR: With reference to the Paraguayan-Bolivian boundary question and its settlement, I have the honor to report a conversation held with the Minister of Foreign Affairs while visiting at his home the other evening.

During the day the Minister had received a detailed despatch from the Paraguayan Legation in La Paz, concerning the Bolivian attitude upon the Chaco question. In substance, he related to me the following.

Bolivia does not desire the United States to arbitrate the question, has stated so definitely to the Paraguayan Minister in La Paz, saying that Bolivia believes the question is of no interest to other than South American countries and therefore should be determined by South American views and wisdom. Bolivia will not submit to mediation or decision by the United States. Such also is Bolivia's attitude toward Argentina, in the belief that Argentina, through various interests, favors Paraguay, rather than being impartial in its views.

The Minister is strongly for the good offices of the United States and will stress that necessity in confidential negotiations, although he said

that, if mediation by the United States should prove impossible because of the Bolivian attitude, Paraguay would permit the naming of other mediators, believing its cause most secure in view of the fact that it is so strongly authenticated by records of fact, historical maps and the like.

During the Paraguayan sojourn of the Vice President of Bolivia, Dr. Abdón Saavedra, two conferences will be held upon this subject. At the personal conferences with the Minister the latter will stress the wisdom of action by the United States in the matter; believing that he can perhaps more forcefully put forth the Paraguayan view than can the Minister in La Paz. "Impartial decision can only be made by the United States," these are his exact words, "therefore the question should be submitted to your (the American) Government."

The President will offer a banquet to the visiting official of the neighboring country and every evidence of the most friendly relations and feeling will be shown. It is the President's belief that through friendly considerations the most can be accomplished.

The American Minister has carefully avoided indication, or comment, as to the possibility of the American Government's entertaining, or desire to entertain, negotiations concerning the controversy.

I have [etc.]

GEO. L. KREECK

724.3415/107

The Minister in Paraguay (Kreeck) to the Secretary of State

No. 203

ASUNCIÓN, December 7, 1926.

[Received January 6, 1927.]

SIR: I have the honor to refer to my cablegram to the Department, No. 15, dated December 7, 1926, 6 p. m.,⁵⁹ confirming and summarizing it below:

The Paraguayan Minister of Foreign Affairs . . . advises me that Paraguay is preparing a note in which the Government of the United States is requested to interest itself in the Bolivian-Paraguayan limits controversy upon the termination of the Pacific question. . . .

The above information was received in the course of a call upon the Minister of Foreign Affairs, who had indicated that the President would give me his views upon the memorandum of the Secretary of State, in regard to the settlement of the Tacna-Arica controversy.⁶⁰

It is the President's view that the Secretary of State has shown himself a true friend of all America, and that the United States has only the peace of this continent in view, to the end that the family of the republican nations of the Western Hemisphere may live with cordial relations in contentment.

⁵⁹ Not printed.

⁶⁰ See telegram No. 84, Nov. 30, 1926, to the Ambassador in Peru, p. 504.

It is believed that the plan of settlement suggested will be accepted by all of the interested parties, and because of its extreme interest, fairness, justice and good-will, this nation will prepare a note asking the United States to interest itself in the Bolivian-Paraguayan boundary question. The Minister expressed himself as of the opinion that now is the time for Paraguay to come forward with her problem to the United States, that the American people may know the situation and, through proof by truth and justice, bring about a termination of this question. He also stated that, if the Bolivian-Paraguayan boundary were also determined, all matters of controversy seriously affecting the peace of the American continents would have passed away, leaving the attention of these peoples free for the development, intellectually and economically, of their nations.

It is felt that there could be no stronger or more forceful endorsement of the efforts of the Secretary of State toward universal American peace than to have another nation tender him the solution of its like controversy.

It is understood that when the note has been completed it will be delivered to me for transmission to the Department.⁶¹

I have [etc.]

GEO. L. KREECK

Colombia and Peru ⁶²

721.2315/301a : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, June 16, 1926—noon.

53. More than a year and three months have passed since the procès-verbal between Brazil, Colombia, and Peru for the settlement of their boundary difficulties was signed in Washington,⁶³ and I think it not unreasonable to expect the Peruvian Government now to give some definite indication of its intentions in regard to carrying out the provisions of the procès-verbal. The boundary treaty between Peru and Colombia⁶⁴ was approved last October by the Colombian Congress. The Government of Colombia has again manifested its desire to fulfill the last of its provisions under the procès-verbal, namely, the conclusion with Brazil of a boundary treaty fixing the boundary on the Apaporis-Tabatinga line. Neither Brazil nor Colombia can take further action until Peru ratifies the treaty of March 1922, with Colombia. Thus all further action is suspended until Peru

⁶¹ No note of the nature contemplated was delivered.

⁶² Continued from *Foreign Relations*, 1925, vol. I, pp. 436-471.

⁶³ Signed March 4, 1925; *ibid.*, p. 461.

⁶⁴ Treaty of March 24, 1922; League of Nations Treaty Series, vol. LXXIV, p. 9.

complies with its undertakings in the procès-verbal. For this reason I desire you to take up the matter most earnestly with President Leguía and with the Minister for Foreign Affairs in an endeavor to see if it is not possible to terminate this matter at an early date. You may point out to them that Peru's inaction on this treaty means that not only is the boundary dispute between Colombia and Peru kept open but also that the fulfillment of the other provisions of the procès-verbal is made impossible, as they are to be taken only after Peru has ratified the treaty with Colombia; that is, Peru's inaction also keeps open the boundary question between Brazil and Colombia. I am sure that the Government of Peru does not desire the responsibility for keeping pending two international conflicts of long standing, but that it will desire to have them settled as quickly as possible. I hope that President Leguía will take whatever action may be necessary to try to have the treaty of 1922 ratified at the earliest possible moment. Report fully by cable.

KELLOGG

721.2315/303 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, June 18, 1926—9 a. m.

[Received 2:50 p. m.]

66. In accordance with the terms of the procès-verbal, the President has recommended to Congress the approval of the boundary treaty with Colombia.

On repeated occasions I have interviewed the President to urge favorable action in this matter. He has assured me on various occasions that he would do everything he could to obtain favorable action from the Congress, but he also stated that as the attitude of that body was hostile he was not sure that, in spite of his efforts, he would be able to bring about favorable action. . . . The bitter opposition to the treaty existing in the Department of Loreto also constitutes a serious obstacle to ratification. I have suggested to the Colombian Minister and the Peruvian Government, as well as to interested parties, that a settlement for rights claimed in the disputed area be made in return for withdrawal of opposition to the treaty, but nothing has yet been done in that regard. Congressional opinion seems to be, as nearly as I can ascertain it, that Congress will not ratify the treaty; it has not been in session since April 3, and no further action is possible until it reconvenes, which it may do the last of July. The Colombian Minister here agrees with me that it is inadvisable to press the matter until Congress is in session. If, however, the Department instructs that further representations be made immediately on the subject to the

President I shall be glad to do so. Please advise. I have also urged ratification of the treaty upon the Minister for Foreign Affairs, who has been noncommittal in his conversations with me. Now that Alberto Salomón, the former Foreign Minister who negotiated the treaty, is in Washington, some representations might be made through him as he is still influential with President Leguía. Day before yesterday I sent the Department copy of a memorandum left with the press by the Ecuadorian Minister, and with it copy of a counter memorandum in reply made at my request by the Colombian Minister.⁶⁵

POINDEXTER

721.2315/303 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, *June 19, 1926—noon.*

54. Your No. 66, June 18, 9 a. m. The Department agrees that under the circumstances it would be inexpedient to take further action before the Peruvian Congress convenes. At that time bring the matter up again in an endeavor to obtain favorable action. Should a suitable opportunity present itself in the meantime you should, at your own discretion, express discreetly the hope that upon the convening of Congress the treaty will be promptly ratified.

KELLOGG

721.2315/306 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

RIO DE JANEIRO, *July 5, 1926—7 p. m.*

[Received 8:30 p. m.]

54. Brazilian Minister for Foreign Affairs considers the moment favorable for renewing representations to the Peruvian Government regarding ratification of Colombian-Peruvian treaty. Colombian Minister here entertains same belief.

MORGAN

721.2315/306 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, *July 14, 1926—5 p. m.*

38. I have discussed the matter of the treaty with Dr. Salomón, former Minister for Foreign Affairs of Peru, who is in Washington at

⁶⁵ Memorandum and counter memorandum not printed.

present in connection with Tacna-Arica.⁶⁶ He has communicated with President Leguía by cable and informs me that the President has cabled in reply that as soon as Congress convenes the end of this month he will again urge ratification of the treaty. I think it would be helpful if Brazil would also make known to President Leguía desire that treaty be ratified. You will keep the Department informed.

KELLOGG

721.2315/308 : Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, August 5, 1926—noon.

40. Department's No. 38 of July 14, 5 p. m. Peruvian Congress convened July 28. President Leguía has assured our Ambassador that he will use all his influence to obtain ratification of the treaty, agreeing that this should be done at the beginning of the session and without delay. Ambassador Poindexter believes that the present is an opportune time to bring to bear all available influence, and that renewed representations on the part of Brazil would be advantageous. Bring the matter again to the attention of the Minister for Foreign Affairs and cable results.

KELLOGG

721.2315/311 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

RIO DE JANEIRO, August 19, 1926—4 p. m.

[Received 7 p. m.]

61. Foreign Minister has shown me text of telegram received today from Brazilian Chargé d'Affaires Lima stating that President Leguía has promised him that the Colombian-Peruvian treaty will be ratified by Peruvian Congress "within the next few weeks".

MORGAN

721.2315/308 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

[Paraphrase]

WASHINGTON, September 29, 1926—6 p. m.

70. Nearly two months have passed since President Leguía assured you that he was determined to obtain ratification of the Colombian-Peruvian boundary treaty, and as no word has been received that the treaty has been ratified, the Department wishes to be informed of the

⁶⁶ See pp. 260 ff.

reasons for this long delay. Seek the earliest suitable opportunity to reiterate to the President, and also to Minister Rada y Gamio, if you think it desirable to do so, the views of this Government which you have already expressed on various occasions and urge that ratification of the treaty be effected at this session. Say that this Government would be highly gratified at this action on the part of Peru, in view of the interest which the Government of the United States has taken in this matter. You may, should you consider it advisable, approach the Brazilian and Colombian diplomatic representatives in Lima, and indicate to them the advisability of their taking action of a similar nature.

KELLOGG

721.2315/319 : Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

[Paraphrase]

LIMA, October 2, 1926—4 p. m.

[Received 11:30 p. m.]

84. This morning I interviewed the Minister for Foreign Affairs, Señor Rada y Gamio, and stated to him that my Government was greatly interested in the friendly settlement of the boundary question, dependent upon the ratification of the treaty of 1922, in view of the fact that Peru had requested the good offices of the United States in bringing about an agreement between Brazil, Colombia, and Peru on the boundary treaty and the objections to it raised by Brazil, and that the Government of the United States would look with much gratification on favorable action by Peru. I also stated that the matter had been postponed so often and over so long a period of time that I greatly hoped prompt action would be taken at the present session of Congress.

The Minister stated that on the first day he was in office the President had instructed him explicitly to take up the boundary treaty and press its ratification before Congress. He took from his pocket a copy of the treaty to show that he was giving it his immediate attention. He had been familiar with the matter for years, he said, and was ready to meet any objections which might be urged against it. He stated that a joint committee was now preparing a report on it, and as soon as this report was made a joint session of the House and Senate would be called to act on it, and that he felt sure it would be ratified within a month.

I had learned from previous conversations with the President that he had been awaiting a change of Ministers for Foreign Affairs before bringing the matter before Congress, and I am informed that Rada y

Gamio was selected for his sympathy with the President's views and his favorable attitude toward the ratification of the treaty. In view of my conversations with both the Minister and the President, I think it advisable to await developments for awhile before again urging the matter on the President's attention. I am advised that he has taken strong measures at Iquitos to handle any situation that might arise as a result of the ratification of the treaty. Powerful opposition from Loreto still continues in the House of Deputies.

Day before yesterday I saw the Colombian Minister on the subject of the treaty; he stated that he regarded the matter as making favorable progress. I have also conferred recently with the Brazilian Chargé, who stated that he now regarded the outlook as favorable. For my part, I regard it as quite uncertain, considering the adverse sentiment that exists in Congress and among the Peruvians generally. After allowing a short time for developments in Congress I shall see the President again, and shall also urge activity by the Brazilian and Colombian representatives.

POINDEXTER

721.2315/319 : Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

WASHINGTON, October 4, 1926—2 p. m.

71. Your 84, October 2, 4 p. m. I agree with you and leave the whole matter to your discretion.

KELLOGG

Costa Rica and Panama ⁶⁷

718.1915/762a : Telegram

The Secretary of State to the Chargé in Panama (Munro)

WASHINGTON, February 4, 1926—4 p. m.

8. You will please present the following note to the Panaman Government and give a copy of it to the President and discuss the matter with him :

I have been instructed by my Government to say that, mindful of its obligation under Article I of the Treaty of 1903 with Panama,⁶⁸ it has followed closely the course of the direct negotiations between Panama and Costa Rica for the settlement of the boundary dispute between those countries. The views of my Government regarding this matter have been stated in great detail on previous occasions, notably in 1921 ⁶⁹ and more recently in this Legation's note of Feb-

⁶⁷ Continued from *Foreign Relations*, 1925, vol. I, pp. 471-483.

⁶⁸ *Ibid.*, 1904, p. 543.

⁶⁹ See *ibid.*, 1921, vol. I, pp. 175 ff.

ruary, 1925,⁷⁰ so that it does not appear necessary to restate that position now.

In the course of the direct negotiations that have taken place during the last year and a half it appears that Panama made two proposals to Costa Rica during the visit of Señor Casorla⁷¹ to Panama. The first proposed a modification of the Loubet Line⁷² on the Pacific side which would give to Panama a large extent of territory which was determined by President Loubet to belong to Costa Rica and which was recognized by Panama as belonging to Costa Rica in Article I of the Porras-Anderson Treaty of March 17, 1910,⁷³ as well as in a communication from the Legation of Panama at Washington to the Secretary of State of the United States under date of October 20, 1914.⁷⁴ Costa Rica rejected this proposal as it modified the line already recognized by Panama.

Panama made a further proposal asking an indemnity from Costa Rica for the occurrences of 1921 stating that on this basis it would accept the line fixed by the White Award⁷⁵ and the Loubet Line on the Pacific but asking that in drawing this line the interest of Panamans living or holding property in that region be protected.

Negotiations were later transferred to Costa Rica and the Government of Costa Rica suggested a line of compensation which would modify the Loubet Line in order to incorporate under Panaman jurisdiction the Panamans living and holding property on the Costa Rican side of the Loubet Line, an equal amount of territory on the Panaman side of that line to be given to Costa Rica. This proposal would not have changed the amount of territory under the jurisdiction of either Government but would incorporate in Panaman territory the Panamans who lived or held property in the region in dispute. This proposal was rejected by Panama.

Costa Rica then made a further proposal on December 17, last, as follows:⁷⁶

1. The delimitation of the frontier between Costa Rica and Panama will be made in accordance with the Loubet and White Awards.

2. Costa Rica will recognize the titles to land issued by the Government of Panama to private persons in the territory which remains under the sovereignty of Costa Rica.

3. The question whether Costa Rica owes any indemnity whatsoever to Panama for the expenses which the latter Government made in 1921 at the time of the Coto conflict should be submitted to arbitration; and also the question whether Panama is indebted to Costa Rica on account of the expenses which it in turn incurred for the same reason on that date.

⁷⁰ See telegram No. 17, Feb. 6, 1925, 3 p.m., to the Minister in Panama, *Foreign Relations*, 1925, vol. I, p. 474.

⁷¹ Buenaventura Casorla, confidential agent of Costa Rica in Panama.

⁷² The text of the Loubet award was printed in *Foreign Relations*, 1910, p. 786.

⁷³ *Ibid.*, p. 820.

⁷⁴ *Ibid.*, 1914, p. 994.

⁷⁵ *Ibid.*, p. 1000.

⁷⁶ See telegram No. 54, Dec. 18, 1925, 4 p. m., from the Minister in Costa Rica, *ibid.*, 1925, vol. I, p. 481.

4. On the settlement being made, Panama will return to Costa Rica the arms, boats and flags which were seized by the Panaman forces.

5. If the Arbitrator should say that it is not Costa Rica but Panama that owes indemnity Costa Rica waives now payment therefor, with the exception of that stipulated in paragraph 4.

It appears that Señor Fabrega asked President Jiménez to promise to find out in May, 1926, whether a treaty could be submitted to the Costa Rican Congress in the terms desired by Panama.⁷⁷ Señor Fabrega had suggested a line modified somewhat from the first proposal made to Señor Casorla in Panama which contemplated the cession to Panama of territory on the Costa Rican side of the Loubet Line. My Government is advised that after thinking the matter over President Jiménez decided that it would be impossible to arrive at an agreement on this basis. Señor Fabrega then returned to Panama.

From the above it appears that all proposals made have been rejected with the exception of the Costa Rican proposal of December 17, 1925, quoted above, on which the Panaman Government does not appear to have expressed its views. By this proposal Costa Rica appears to have afforded an opportunity for an agreement on the basis of Panama's second proposal to Señor Casorla. Point 2 of the Costa Rican proposal protects the interests of Panamans living or holding property in that region. On the question of the indemnity asked by Panama for the Coto incident of 1921 Costa Rica in point 3 expresses the readiness to submit to the determination of arbitration the question whether Costa Rica owes an indemnity to Panama or whether Panama owes an indemnity to Costa Rica and in the latter case makes the friendly offer of waiving at the outset any demand for indemnity should the Arbitrator decide that it is Panama and not Costa Rica that should give indemnity.

This proposal seems so eminently fair, reasonable, and conciliatory that my Government feels Panama will desire to accept it. It has accordingly instructed me to request the views of Your Excellency's Government regarding this proposal and to express the very earnest hope that Panama will avail herself without delay of this amicable means of settling now this long drawn out and bitter controversy which has disturbed the relations of the sister Republics of Panama and Costa Rica for such a long time.

In presenting this note you will please say to the Minister for Foreign Affairs and to the President that this Government has been advised that Costa Rica was willing to make a mutual exchange on the line of compensation proposed to Señor Fabrega and rejected by Panama but that in view of the Loubet Award as recognized by Panama it cannot consent to give up territory without equal territorial compensation.

⁷⁷ See telegram No. 123, Dec. 27, 1925, from the Chargé in Panama, *ibid.*, p. 482.

In the proposal of December 17, it has gone very far, however, toward meeting Panama's demands regarding an indemnity. If Panama thinks an indemnity is due it can sustain its contention before an Arbitrator in the knowledge that should the Arbitrator find, as Costa Rica on its side contends, that it is Panama and not Costa Rica that owes an indemnity Costa Rica will waive any claim for indemnification. The Department does not see how a more conciliatory offer could be made by Costa Rica nor does it perceive how Panama could justify rejecting such an eminently advantageous offer. You may also state that with regard to Point 4 of the Costa Rican proposal you have been advised by your Government that Costa Rica would be willing to withdraw its demand for the return of the launches and also to leave out of the agreement any mention of the war trophies which it is understood Panama wishes to give back to Costa Rica should an arrangement be made, as a spontaneous gesture of friendship. If the Panaman Government will inform this Government that such is its intention no mention of the trophies need be made in the agreement with Costa Rica.

Please endeavor to have the above proposal accepted by Panama and keep Department informed by cable.

KELLOGG

718.1915/779

The Minister in Panama (South) to the Secretary of State

No. 1125

PANAMA, August 10, 1926.

[Received August 20.]

SIR: With reference to my despatch No. 1088 of July 13, 1926,⁷⁸ stating that the Secretary of Foreign Relations had promised an early reply to the Legation's note of February 6, 1926, with regard to the boundary dispute between Panama and Costa Rica,⁷⁹ I have the honor to transmit herein, with translation, a copy of note S. P. No. 1957, dated August 7, 1926, from the Secretary of Foreign Relations in which he states that he has received instructions from his Government to inform me that the proposal made by President Jiménez of Costa Rica on December 17, 1925, cannot be accepted by the Government of Panama.

I have [etc.]

J. G. SOUTH

⁷⁸ Not printed.

⁷⁹ Note presented in accordance with instructions contained in telegram No. 8, Feb. 4, to the Chargé in Panama, *supra*.

[Enclosure—Translation ⁸⁰]*The Panaman Minister for Foreign Affairs (Alfaro) to the American Minister (South)*

S. P. No. 1957

PANAMA, August 7, 1926.

EXCELLENCY: Owing to the circumstances which I had the honor to explain orally to Your Excellency, no reply was made to the courteous note from the American Legation, No. 433, dated February 6, 1926. That note I now answer as follows:

My Government highly appreciates the interest which Your Excellency's Government manifests in a prompt solution of the boundary dispute between Panama and Costa Rica and has duly considered the suggestion contained in that note to the effect that, a settlement making use of direct negotiations not being possible, as Panama intended, it feels that the proposal made December 17, 1925, by President Jiménez of Costa Rica, which appears in detail in the note referred to, is acceptable.

It is with regret that I inform Your Excellency that I have received instructions from my Government to state to Your Excellency that Panama cannot accept this proposal because it does not, in fact, constitute any concession by Costa Rica in return for the conciliatory attitude which we showed in making some suggestions for settling the question, first to Señor Casorla and afterwards through our confidential agent Dr. Fábrega.

I avail myself [etc.]

H. J. ALFARO

Dominican Republic and Haiti ⁸¹

738.3915/291

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 105

SANTO DOMINGO, March 4, 1926.

[Received March 17.]

SIR: I have the honor to report that informal conversations are in progress between the Haitian Minister at this capital and the Dominican Government with a view to effecting a settlement of the long standing boundary controversy.

According to the Legation's information it now seems not improbable that an adjustment and settlement of the question may be effected by the adoption, with slight modifications, of the "American

⁸⁰ File translation revised.⁸¹ Continued from *Foreign Relations*, 1923, vol. I, pp. 356-362.

Line" of 1912.⁸² The more important modifications to which consideration is now being given are based on:—

(a) The desire of the Dominican Government to connect the towns of Restauración and Banica with a road which will run only through Dominican territory. At present travelers between these two points must cross over into Haiti.

(b) The desire of the Haitian Government to connect Banane and Anse á Pitre with a road running over Haitian territory.

(c) With respect to Lake Saumatre, through which the line now runs, the Haitian Government is desirous, according to the Legation's information, of procuring an adjustment under which the line would skirt the eastern and southeastern shore of the lake, leaving the village of Jimaní, however, within Dominican territory.

President Vasquez in a recent conversation informed me that he is desirous of arranging, shortly after the coming elections in Haiti, a meeting with the Haitian President at the border for the purpose of effecting, if possible, an agreement in principle with respect to the boundary. The President added that he intended to urge the adoption of the "American Line" with whatever changes might be found desirable and convenient to both countries. He asked me to regard this information as strictly confidential, adding that he had not yet broached the matter to the leaders in Congress.

The Legation will of course keep the Department fully informed of developments. It is not believed however that any of importance will eventuate until after the Presidential elections in Haiti.

I have [etc.]

EVAN E. YOUNG

733.3915/293

Memorandum by Mr. Orme Wilson of the Division of Latin American Affairs

[WASHINGTON,] June 16, 1926.

At the request of Mr. White⁸³ I informed Mr. Ariza⁸⁴ that the Department felt that the presence of President Borno⁸⁵ in Washington was a particularly favorable opportunity for using its informal good offices with a view to assisting both countries to reach a settlement of the boundary question. I inquired what the status of the boundary question was and whether any negotiations were now in progress.

The Minister expressed his appreciation of the Department's offer. He said that no negotiations were now in progress but that President

⁸² See telegram, Sept. 24, 1912, to the Minister in the Dominican Republic, *Foreign Relations*, 1912, p. 368.

⁸³ Francis White, Chief of the Division of Latin American Affairs.

⁸⁴ José del Carmen Ariza, Dominican Minister at Washington.

⁸⁵ Joseph Louis Borno, President of Haiti.

Vasquez,⁸⁶ who is a good friend of President Borno, desires greatly to have this matter settled during his term of office. The Minister feared, however, that the delicate political situation in the Dominican Republic would prevent President Vasquez from taking any definite action in response to the Department's offer as his opponents would use the opportunity to arouse public sentiment against any proposed settlement. I replied that it appeared to me that it would do no harm to lay the Department's suggestion before the President in order to obtain his views, as he might instruct the Minister to discuss the question with President Borno and thus help to bring about a settlement. Mr. Ariza hesitated at first to transmit any message by cable, as he was apprehensive that unauthorized persons would see it. He subsequently consented to do so, however, and told me that he would have a reply by tomorrow.

I pointed out to him the distinct advantage which a definite and final boundary settlement would confer on his country, as such a settlement would put a stop to the constant infiltration and encroachment of Haitian squatters. He appeared to realize this fully and told me that although the land along the boundary had little value now, it would be worth much more in the future.

The Minister also informed me that during a dinner party which he gave in honor of President Borno last evening the President on his own initiative discussed the matter with him. Although Mr. Ariza did not tell me the exact nature of the President's views he stated that they were very conciliatory and encouraging.

WILSON

738.3915/292

Memorandum by Mr. Orme Wilson of the Division of Latin American Affairs

[WASHINGTON,] June 17, 1926.

Mr. Ariza telephoned me this morning to say that after careful consideration he had determined to send no cable to President Vasquez informing him of the Department's offer of good offices in connection with the Haitian-Dominican boundary dispute, which I discussed with the Minister during our conversation of June 16. He said that the matter was one of such importance that he did not desire to initiate any negotiations in view of his early departure from Washington. He said, however, that as soon as he reached Santo Domingo he would tell President Vasquez of his conversation with President Borno (See memo of June 16) as well as of the Department's kind offer.

WILSON

⁸⁶ Horacio Vasquez, President of the Dominican Republic.

738.3915/299

The Minister in the Dominican Republic (Young) to the Secretary of State

No. 348

SANTO DOMINGO, *November 30, 1926.*

[Received December 8.]

SIR: I have the honor to forward herewith for the Department's confidential information a copy of a memorandum of a conversation which I had yesterday with the Haitian Minister in regard to the boundary question.

I have [etc.]

EVAN E. YOUNG

[Enclosure]

Memorandum of a Conversation With the Haitian Minister in the Dominican Republic (Dejean)[SANTO DOMINGO,] *November 29, 1926.*

The Minister said that when he was appointed to this post he was of the opinion that there was little possibility of an agreement being reached with the Dominican Government on the boundary question unless negotiations were conducted under the auspices of the Department, and with its constant aid and assistance; that this opinion was based on a fear that the Dominicans would resort to delays and obstructions, and to the belief that President Vasquez was not sufficiently strong in his own country to procure the necessary ratification of an agreement even should one be reached. Recently, however, he had become much more hopeful of an adjustment of the long-standing controversy through direct negotiations, though he thought it would be wise to keep Washington fully informed in order that its good offices might be requested should occasion warrant.

The change in his opinion regarding the possibility of success attending direct negotiations was due, he said, to his belief that President Vasquez was now much stronger than some months ago and could probably procure ratification by the Dominican Senate of such agreement as might be reached, and, further, that as a result of his investigations here he had come to the opinion that the Dominican Government was now sincerely desirous of reaching a solution of the question.

The first practical move, he felt, should take the form of a visit of President Borno to Santo Domingo. There had been some talk of two Presidents meeting at the border, but this he thought would be unwise and not likely to be attended by any concrete results. He felt fairly confident, however, that during the course of a visit by President Borno to Santo Domingo, with more time at their disposal and better facilities for their conferences, an agreement in principle could be effected which could be followed up at once by negotiations carried on by duly accredited delegates and representatives.

With regard to the position of his Government regarding the line itself, he said that he thought the "American Line" would serve as the basis of the discussion between the two Presidents, but that certain modifications should be made which would be equally advantageous to the two countries concerned.

He impressed me as being distinctly optimistic as regards the possibility of effecting a settlement of the question.

E[VAN] E. Y[OUNG]

738.3915/299

*The Secretary of State to the Minister in the Dominican Republic
(Young)*

No. 125

WASHINGTON, December 18, 1926.

SIR: The Department is in receipt of your confidential despatch No. 348 of November 30, 1926, with which you enclosed a memorandum of a conversation which you held with the Haitian Minister on November 29, 1926.

The Department is pleased to know that the Haitian Minister takes a cheerful view of the possibility of an adjustment of this long-standing dispute, and authorizes you to take whatever steps you may consider useful in order to promote an early settlement at the same time keeping in mind that the American Government would prefer under the circumstances that the new boundary line be adjusted by negotiation between the Republic of Haiti and the Dominican Republic without resorting to arbitration.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

**PRIVILEGES AND IMMUNITIES OF PERSONS BELONGING TO FOREIGN
DIPLOMATIC MISSIONS IN THE UNITED STATES**

701.05/126

The German Ambassador (Maltzan) to the Secretary of State

[Translation ⁸⁸]

WASHINGTON, May 18, 1926.

MR. SECRETARY OF STATE: By direction of my Government I have the honor to request Your Excellency for a compilation of the provisions of law which relate to the privileges and immunities of persons belonging to diplomatic missions.

My Government would attach especial importance to having authentic information as to how far exemption from civil and criminal

⁸⁸ File translation revised.

jurisdiction, including that of the administrative and police courts of the country, and obligation to testify is granted.

Under the German law, extraterritorial persons who belong to foreign missions are classified into the following categories:

1. The chiefs and members of the missions. To the member class belong, according to the provisions of the law, the persons having the so-called diplomatic character, that is, the counselors of embassy and legation, the secretaries of legation, the attachés, including the military, naval, and commercial attachés. From the German point of view, physicians and chaplains of legation would also belong to the missions insofar as all or the greater part of their activities are given to it.

2. The office attendants. To this class belong the following: Chancellor, interpreter, clerical staff, typists, telephone operators, office servants, janitors, stenographers, et cetera. In general, all those who are paid from the official fund.

3. The household attendants of the persons under section 1, that is, servants, private secretaries, stewards, governesses, et cetera.

These three categories enjoy in Germany exemption from the jurisdiction of the courts of the land, provided those involved are not German subjects. Similar privileges belong to members of the families of those in the first category.

Should there be no specific provisions of law in the United States concerning extraterritorial rights, I should be grateful to Your Excellency for information concerning the actual treatment of the persons who come under the three categories.

Accept [etc.]

MALTZAN

701.05/126

The Secretary of State to the German Chargé (Dieckhoff)

WASHINGTON, July 16, 1926.

SIR: I have received the Ambassador's note of May 18, 1926, requesting to be furnished a compilation of the provisions of law that have reference to the privileges and immunities of persons belonging to foreign missions. He states that your Government would attach special importance to having authentic information as to how far exemption from civil and criminal jurisdiction, including that of the administrative and police courts of the country, and obligation to testify is granted.

In reply I have the honor to draw your attention to Sections 4062, 4063, 4064 and 4065 of the Revised Statutes of the United States which provide as follows:

"Section 4062. Every person who violates any safe conduct or passport duly obtained and issued under authority of the United States; or who assaults, strikes, wounds, imprisons, or in any other

manner offers violence to the person of a public minister, in violation of the law of nations, shall be imprisoned for not more than three years, and fined, at the discretion of the court.

"Section 4063. Whenever any writ or process is sued out or prosecuted by any person in any court of the United States, or of a State, or by any judge or justice, whereby the person of any public minister of any foreign prince or state, authorized and received as such by the President or any domestic or domestic servant of any such minister, is arrested or imprisoned, or his goods or chattels are distrained, seized, or attached, such writ or process shall be deemed void.

"Section 4064. Whenever any writ or process is sued out in violation of the preceding section, every person by whom the same is obtained or prosecuted, whether as party or as attorney or solicitor, and every officer concerned in executing it, shall be deemed a violator of the laws of nations and a disturber of the public repose, and shall be imprisoned for not more than three years, and fined at the discretion of the court.

"Section 4065. The two preceding sections shall not apply to any case where the person against whom the process is issued is a citizen or inhabitant of the United States, in the service of a public minister, and the process is founded upon a debt contracted before he entered upon such service; nor shall the preceding section apply to any case where the person against whom the process is issued is a domestic servant of a public minister, unless the name of the servant has, before the issuing thereof, been registered in the Department of State, and transmitted by the Secretary of State to the marshal of the District of Columbia, who shall upon receipt thereof post the same in some public place in his office."

The immunity from criminal prosecution and civil process and from the obligation to testify is considered to apply to a foreign diplomatic representative, his secretaries, attachés, including military, naval and commercial attachés, employees, members of his household, including his family, and domestic servants. Employees or servants of diplomatic missions are entitled to the immunities in question regardless of their nationality with the exception of one case provided for in Section 4065 of the Revised Statutes—namely where process is founded upon a debt contracted before the employee or servant entered the service of the mission.

Names of members of foreign legations and foreign embassies in the United States entitled to diplomatic immunities, down to and including the grade of attaché, are published in the *Diplomatic List*. The names of other persons entitled to such immunities are contained in the *List of Employees in the Embassies and Legations in Washington Not Printed in the Diplomatic List*. In a circular note of January 27, 1906, addressed by the Department to the diplomatic missions in Washington, the Department made the following statement:

"It has been determined in the future publications by this Department of the *Diplomatic List* to include only such officials and attachés

of foreign missions in this country as are not citizens of the United States.

"It is not to be understood by this that this Government has any objection to the employment by embassies and legations of American citizens as counselors, but the inclusion of the names of such persons in the diplomatic lists would seem to warrant the assumption that such person might be called upon to participate in the diplomatic representation of the country to whose service he may appear to be attached—a presumption to which this Department considers it inadvisable to give any support."

Ambassadors and Ministers accredited to the United States and the members of their households, including secretaries, attachés, and servants, who are not citizens of the United States, are exempted from the payment of Federal income tax upon their salaries, fees and wages, and upon the income derived by them from investments in the United States in stocks and bonds and from interest on bank balances in the United States. The income derived from any business carried on by them in the United States would, however, be taxable.

Property in the District of Columbia owned by foreign governments for Embassy and Legation purposes is exempt from general and special taxes or assessments. Property owned by an Ambassador or Minister and used for Embassy or Legation purposes is exempt from general taxes but not from special assessments for improvements. The payment of water rent is required in all cases, as this is not regarded as a tax but the sale of a commodity.

The taxes on the sales of automobiles and jewelry provided for in Sections 600 and 604 of the Revenue Act of 1924 are taxes imposed upon the manufacturers of automobiles and upon the vendors of jewelry. In the collection of such taxes the Government looks to the manufacturer and to the vendor for the payment of the tax and not to the purchasers of the articles. For this reason and the further reason that the price of the article sold is a matter of negotiation between the vendor and the purchasers, the appropriate authorities of this Government have taken the position that no exemption from the payment of these taxes can be granted to the manufacturer or vendor by reason of the fact that the sale is made to a diplomatic representative of a foreign government.

The members of foreign diplomatic missions and foreign consular officers in the District of Columbia are exempt in the District from the payment of personal property taxes on automobiles and other personal property, either tangible or intangible, owned by them. They are furnished identification tags and operators' permits for their automobiles, without charge, provided the applications made therefor bear the seal of the mission and the seal of the Department of State. It is under-

stood that automobiles bearing District of Columbia tags are permitted to enter the several States without obtaining additional tags. Members of foreign diplomatic missions in the United States and foreign consular officers stationed in the District of Columbia are accordingly not required to pay the fees ordinarily charged other owners of automobiles in this country.

By an order dated July 8, 1921, the Collector of Taxes of the District of Columbia was authorized to issue dog licenses to foreign legations without charge.

Articles 404 and 405 of the United States Customs Regulations of 1923 provide for the granting of customs courtesies and the exemption from the payment of customs duties, to diplomatic and consular officers of foreign countries and outline the procedure to be followed by such officers in requesting these courtesies.

Under these regulations foreign ambassadors and ministers, and the secretaries and other attachés of foreign embassies and legations, and their families, are entitled to the free admission of their baggage and effects on their arrival in this country, whether they are stationed in the United States or are en route to missions in other countries. Subsequent to their arrival in the United States they are permitted to import, without the payment of duty, merchandise of any character, if intended for their use or for the use of their families.

Supplies intended for official use of foreign embassies and legations and foreign consulates in the United States, such as office furniture and office material, may be entered free of duty. Exemptions of consular officers from taxation and the payment of customs duties are specifically provided for in Articles XIX and XXVII of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany concluded on December 8, 1923.⁸⁹ Exhibits of the products of foreign countries, if forming a part of the permanent exhibitions in the consulates may also be admitted free of duty.

The granting of these customs exemptions to diplomatic officers of foreign countries is conditional upon the granting of similar exemptions to American diplomatic officers by those countries.

Any material imported by a foreign government to be used in constructing an embassy or legation building is exempted from the payment of customs duties.

Under a recent ruling of the Treasury Department mail parcels sealed and unsealed, addressed to a chief of mission in Washington, will be delivered free of duty without examination; such parcels addressed to a member of the family of a chief of mission, members of the diplomatic staff or their families, will hereafter be subject to cus-

⁸⁹ *Foreign Relations, 1923*, vol. II, p. 22.

toms inspection, although they will be admitted free of duty on the basis of reciprocity.

Accept [etc.]

For the Secretary of State:

JOSEPH C. GREW

701.05/129

The Secretary of State to the German Chargé (Dieckhoff)

WASHINGTON, July 27, 1926.

MY DEAR MR. CHARGÉ D'AFFAIRES: I beg to refer to Dr. Schlimpert's⁹⁰ call at the Department on July 19 when he requested certain information in regard to the Department's note to you of July 16, 1926, concerning privileges and immunities accorded in this country to persons belonging to foreign missions. In this relation Dr. Schlimpert requested further information in regard to the sentence on page 3 of the note reading as follows:

"The immunity from criminal prosecution and civil process and from the obligation to testify is considered to apply to a foreign diplomatic representative, his secretaries, attachés, including military, naval and commercial attachés, employees, members of his household, including his family, and domestic servants."

The above quoted sentence may be modified to read as follows, in order to answer the specific inquiries concerning this sentence which Dr. Schlimpert made during his call at the Department:

"The immunity from criminal prosecution and civil process, including that of the administrative and police courts of this country, and from the obligation to testify is considered to apply to a foreign diplomatic representative, his secretaries, attachés, including military, naval and commercial attachés, members of their household, including their families, employees and domestic servants."

It is not entirely clear to the Department as to what your Government may have had in mind in referring to "administrative courts". However, it would appear that the persons mentioned above are entitled in this country to exemption from the civil and criminal jurisdiction of all the courts.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

⁹⁰ Dr. Martin Schlimpert, Secretary of Embassy.

RULINGS BY THE DEPARTMENT OF STATE WITH REGARD TO
PRESUMPTION OF EXPATRIATION OF NATURALIZED CITIZENS IN
CERTAIN CASES

136.2/73b

The Secretary of State to American Diplomatic and Consular Officers

Diplomatic Serial No. 457

WASHINGTON, *January 8, 1926.*

SIRS: Your attention is called to a recent ruling of the Department to the effect that the presumption of expatriation, under the second paragraph of Section 2 of the Act of March 2, 1907,⁹¹ does not arise against a person who was born in Great Britain and who is residing in one of the self-governing Dominions of the British Empire until he has resided in the latter for five years. The same rule is applicable to a person who was born in one of the self-governing Dominions and who is residing in Great Britain or in another self-governing Dominion.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

136.2/76

The Consul at Beirut (Knabenshue) to the Secretary of State

No. 2121

BEIRUT, *March 17, 1926.*

[Received April 9.]

SIR: I have the honor to refer to the Department's circular instruction of January 8, 1926 (File No. 136.2/73b), calling attention to a recent ruling of the Department to the effect that the presumption of expatriation under the second paragraph of Section 2 of the Act of March 2, 1907, does not arise against a person who was born in Great Britain and who is residing in one of the self-governing Dominions of the British Empire until he has resided in the latter for five years.

I have the honor to inquire whether a similar situation applies with reference to persons born in one part of the former Ottoman Empire and now residing in some other former part of that Empire now independent of Turkey. For example, many Armenians who were born in Turkey proper are now residing in Syria. Should the presumption of expatriation arise against such naturalized citizens after a two-year or a five-year period?

Section 2 of the Act of March 2, 1907, reads, in part, as follows: "When any naturalized citizen shall have resided for two years in

⁹¹ 34 Stat. 1228.

the foreign State from which he came, or for five years in any other foreign State, it shall be presumed that he has ceased to be an American citizen." While persons born in Turkey proper in returning to Syria are not technically residing in the "foreign State from which they came", they are returning to the same general geographical area. Further, in the case of Armenians, Syria has become their home in the sense that most of their relatives and friends have migrated to Syria and are now residing here.

I have the honor to request the Department's instructions in the premises.

I have [etc.]

P. KNABENSHUE

136.2/76

The Chief of the Division of Passport Control (Huddle) to the Consul at Beirut (Knabenshue)

WASHINGTON, May 4, 1926.

The Department has received your despatch No. 2121 of March 17, 1926, in which you refer to the Department's circular instruction of January 8, 1926, ruling that the presumption arising under the second paragraph of Section 2 of the Act of March 2, 1907, shall not be considered to be resting against a person who was born in one self-governing dominion of the British Empire and is residing in another portion of that Empire until he has resided there for five years. You request to be informed whether, in view of that ruling, persons born in what was formerly a part of the Ottoman Empire and residing in a locality now independent of Turkey, and other than the place of their birth, should be considered as residing in the foreign state from which they came.

The Department considers that the words "in the foreign state from which he came" should be considered to mean "in the foreign country from which he came"; and that it was the intent of Congress that the presumption should arise after a residence of two years in the country in which the person originally had his home. Accordingly, if persons of the class mentioned by you are residing in territory which was their original home, the presumption of non-citizenship arises against them after a residence there of two years, even though the territory itself is now under the jurisdiction of a different sovereign than at the time of the birth of the person concerned.

Conversely, cases arise in which a naturalized citizen takes up his residence in a country which, as defined by present boundaries, is not the original home country of such person, but was formerly a part of the country from another district of which he came. The presumption will not arise against such persons until the expiration

of five years. For example, in the case of Mrs. Olga Josephine Lehrs who was born in Moscow, Russia, and naturalized through marriage to a native citizen of the United States, it was decided that the presumption of expatriation would arise against her after a residence of five years in Latvia.

J. K. HUDDLE

**REPLY BY THE DEPARTMENT OF STATE TO QUESTIONNAIRES ON
INTERNATIONAL LAW SUBMITTED BY THE LEAGUE OF NATIONS**

500.C 1196/11 : Telegram

The Secretary of State to the Chargé in Switzerland (Atcherson)

WASHINGTON, October 12, 1926—4 p. m.

64. Your despatch No. 798, April 7.⁹² Please transmit to the Secretary General of the League of Nations in the usual manner the following communication:

The Secretary General of the League of Nations with a communication dated March 22, 1926,⁹³ was good enough to transmit to the Secretary of State of the United States certain questionnaires and reports prepared by the Committee of Experts for the Progressive Codification of International Law, and to request the opinion of the Government of the United States as to whether the regulation by international agreement of the subjects treated in the questionnaires having regard both to their general aspects and the specific points mentioned in the questionnaires is desirable and realizable in the near future.

It is the view of the Government of the United States that international arrangements on the general subjects of (1) nationality, (2) territorial waters, (3) diplomatic privileges and immunities, and (4) responsibility of states in respect of injury caused in their territory to the person or property of foreigners, which are the first four subjects mentioned in the communication of the Secretary General, would serve a useful purpose and would, therefore, be desirable and that there should be no insuperable obstacles to the concluding of agreements on these general subjects. The Government of the United States is not prepared at this time to state whether all the points mentioned in the questionnaires on the subjects referred to would yield to regulation by international agreement, nor does it desire to express an

⁹² Not printed. For texts of the seven questionnaires which were transmitted with despatch No. 798, see League of Nations, *Committee of Experts for the Progressive Codification of International Law: Questionnaires* adopted by the Committee at its Second Session, held in January 1926: (1) Nationality (C.43.M.18.1926.V [C.P.D.I.53]); (2) Territorial Waters (C.44.M.21.1926.V [C.P.D.I.54]); (3) Diplomatic Privileges and Immunities (C.45.M.22.1926.V [C.P.D.I.55]); (4) Responsibility of States for Damage Done in Their Territories to the Person or Property of Foreigners (C.46.M.23.1926.V [C.P.D.I.56]); (5) Procedure of International Conferences and Procedure for the Conclusion and Drafting of Treaties (C.47.M.24.1926.V [C.P.D.I.57]); (6) Piracy (C.48.M.25.1926.V [C.P.D.I.58]); (7) Exploitation of the Products of the Sea (C.49.M.26.1926.V [C.P.D.I.59]).

⁹³ Not printed.

opinion regarding the desirability or possibility of regulating all the points by international agreement until it has had opportunity to make a more intensive study of them than it has as yet made. The details would seem to be proper matters for discussion in any negotiations which may ensue.

With respect to the fifth subject, namely, procedure of international conferences and procedure for the concluding and drafting of treaties, the Government of the United States perceives no real necessity for the regulation of these subjects by international agreement. It would seem that the determination of the procedure of international conferences might well be left to the discretion of the delegates representing the Governments participating in such conferences, and that the procedure for the drafting and concluding of treaties might be left for determination by the parties negotiating them.

In regard to the sixth subject enumerated in the communication of the Secretary General, namely, piracy, it is the view of the Government of the United States that piracy as that term is known in international law is so nearly extinct as to render of little importance consideration of that subject as one to be regulated by international agreement.

With respect to the seventh subject, namely, exploitation of the products of the sea, the Government of the United States is of the opinion:

1. That international regulation of certain fisheries, such as those for whales, is desirable and should be realizable.
2. That information as to the status of fisheries for most of the true fishes is not sufficiently complete to admit of the formulation of proper regulations at the present time.
3. That in most cases particular fisheries may best be regulated by treaties between the nations most directly concerned.
4. That investigations to determine the need for and character of regulations to sustain the various fisheries should be encouraged; and
5. That an international conference is desirable to consider the problem of conserving the whale.

KELLOGG

AFGHANISTAN

PROPOSAL FOR THE ESTABLISHMENT OF DIPLOMATIC AND CONSULAR REPRESENTATION BETWEEN THE UNITED STATES AND AFGHANISTAN

701.90 h 11/6

The Ambassador in France (Herrick) to the Secretary of State

No. 5671

PARIS, November 4, 1925.

[Received November 16.]

SIR: I have the honor to transmit herewith the original and translation of a note addressed to me by the Minister of Afghanistan, with which was transmitted a rough draft of a proposed treaty between Afghanistan and the United States regarding the establishment of an Afghan Legation at Washington, and an American Legation at Kabul.

The Department's instructions, regarding the nature of a reply to be made to the Afghanistan Minister in the premises, are respectfully requested.

I have [etc.]

MYRON T. HERRICK

[Enclosure—Translation]

The Afghan Minister in France and Belgium (Nadir) to the American Ambassador (Herrick)

No. 386

PARIS, October 30, 1925.

MR. AMBASSADOR: In our conversation of July 15th last,¹ I made known to you the desire of the Royal Afghanistan Government for the maintenance of friendly relations with the Government of the United States of America, the appointment of diplomatic representatives in the two countries respectively, as in other countries of Europe, and the establishment of regular diplomatic intercourse with the great American power which is a pioneer State of civilization and progress in the entire world.

During our conversation mentioned above, I verified the harmony of your friendly ideas with my own, and I have hastened to transmit this information on to my Government, which has just communicated to me the desire of Afghanistan to establish relations with the United States of America.

¹ In his despatch No. 6078 of Feb. 20, 1926 (not printed), the American Ambassador in France reported that the first interview between M. Nadir Khan and the Ambassador occurred on June 19, 1925, and not on July 15.

To this end, I had the honor verbally to discuss with you on October 28, 1925, the desire of my country to institute diplomatic relations, and at the same time I hasten to confirm this by the present letter. I have the honor to bring to the attention of your Excellency that I have been charged by my Government to begin conversations with the government of the United States of America for the establishment of diplomatic relations with Afghanistan.

I have the honor to inform you that, as soon as you shall have officially received a favorable reply from your government on this subject, I shall be prepared to leave for Washington for the purpose of concluding, in the name of Afghanistan, a treaty of friendship with the great republic of the United States of America, the draft of which I take pleasure in enclosing herewith.

Accept [etc.]

M. NADIR

[Subenclosure—Translation]

Draft of Treaty of Friendship

Desirous of facilitating the relations of friendship and commerce between the Republic of the United States of America and Afghanistan, His Excellency, the Minister of Foreign Affairs of the American Republic and His Excellency, Sirdar Ala Mohamed Nadir Khan, Envoy Extraordinary and Minister Plenipotentiary, of the Royal Government of Afghanistan in France and Belgium, have agreed to the following:

1. The American government consents to receive a permanent diplomatic mission from the Afghan government. The Afghan government consents to receive a permanent diplomatic mission from the American government. These missions shall enjoy in both countries equal treatment in conformity with international law.

2. The missions of both countries may consist of: a representative of the rank of Envoy Extraordinary and Minister Plenipotentiary, a Counsellor, a First Secretary, two Second Secretaries, a Commercial Attaché and an interpreter.

3. The representative of each country may float his national flag above the building in which he resides. He may communicate *en clair* and in code by telegram and wireless with his government and its other representatives.

4. The contracting States are in agreement as regards the conclusion in the future of a treaty for the purpose of facilitating economic and consular relations.

5. The buildings of the contracting States shall enjoy the right of extraterritoriality and in no case may they be used for purposes of asylum by persons who violate local laws in force.

Done in two copies, English and Persian, both texts being of equal validity.

701.90 h 11/6

The Secretary of State to the Ambassador in France (Herrick)

No. 1839

WASHINGTON, January 26, 1926.

SIR: The Department acknowledges the receipt of your despatch No. 5671 of November 4, 1925, transmitting the original and a translation of a note addressed to you by the Minister of Afghanistan accompanied by a draft of a proposed treaty between Afghanistan and the United States providing for the establishment of diplomatic and consular relations between the two countries.

It is noted that the Afghan Minister in his communication to you of October 30, 1925 makes reference to conversations of July 15 and October 28, 1925, respectively, with you with regard to this matter. The Department, however, has no record that the substance of these conversations has been embodied in any reports submitted to it by the Embassy and desires therefore that a report be prepared and forwarded at your early convenience.²

There is enclosed herewith for your consideration the text of a reply which, unless you see any objection, you may hand to the Afghan Minister conveying this Government's appreciation of the friendly sentiments which he has expressed toward this country.

I am [etc.]

FRANK B. KELLOGG

[Enclosure]

*Draft Note From the American Ambassador (Herrick) to the Afghan Minister in France and Belgium (Nadir)*³

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's letter of October 30, 1925 in which you were good enough to indicate your Government's desire that friendly relations with the Government of the United States might be maintained and that diplomatic and consular relations between the two countries might, within the near future, be established.

I have not failed to communicate these facts to my Government transmitting, at the same time, a copy of the draft treaty which you so kindly furnished me and which, so you stated, you desired to serve as the basis of a Treaty of Friendship to be concluded between our two countries.

I am happy to be able to inform you that I am now in receipt of a communication from my Government with respect to the suggestion contained in your above mentioned communication. I have been

² See footnote 1, p. 557.³ A copy of this note was handed to the Afghan Minister on Feb. 20, 1926.

instructed to convey to Your Excellency my Government's deep appreciation of the friendly sentiments which you have been good enough to express toward the United States and to inform you that my Government has been pleased, furthermore, to note the renewed expression of your Government's desire to establish diplomatic and consular relations between the two countries. Careful consideration will be afforded the draft treaty which you have presented.

I need not assure Your Excellency that my Government recalls with great pleasure the visit to the United States in 1921 of the Afghan Mission headed by His Excellency Mohammed Wali Khan ⁴ on which occasion the President in a communication addressed to His Majesty Amanullah Khan, Emir of Afghanistan, and handed to His Excellency Mohammed Wali Khan, assured His Majesty of his wish that the relations between the United States and Afghanistan might always be of a friendly character and that he would be happy to cooperate with His Majesty to that end.

⁴ See *Foreign Relations*, 1921, vol. I, pp. 258-262.

ARGENTINA

REQUEST TO THE ARGENTINE GOVERNMENT THAT AMERICAN ARMS MANUFACTURERS BE GIVEN THE SAME CONSIDERATION AS THOSE OF OTHER NATIONS

835.24/20a : Telegram

The Secretary of State to the Ambassador in Belgium (Phillips)

[Paraphrase]

WASHINGTON, *March 1, 1926—4 p. m.*

11. The Colt Company has informed the Department that it has been negotiating for an arms contract with a commission from Argentina having its headquarters in Brussels. The company further states that its agent is on the ground, that the commission is favorably inclined toward its product, but that influence brought to bear in behalf of foreign manufacturers is having its effect.

The Department desires that you report by telegraph regarding the negotiations of the commission from Argentina, and ascertain from the Colt agent the present status of the matter. Should the opportunity present itself, you may inform the commission of your interest in assuring to American manufacturers fair consideration with regard to any contracts it may consider placing.

KELLOGG

835.24/20b : Telegram

The Secretary of State to the Ambassador in Argentina (Jay)

[Paraphrase]

WASHINGTON, *March 1, 1926—4 p. m.*

12. The Colt Company has informed the Department that the Government of Argentina has appropriated a large sum to purchase new and modern military equipment and that a commission from Argentina having its headquarters in Brussels is considering the placing of contracts shortly. The company further states that its agent is on the ground, that the commission is favorably inclined toward its product, but that influence brought to bear in behalf of foreign manufacturers is having its effect.

Should the opportunity present itself, it is the desire of the Department that you inform the Government of Argentina that the Government of the United States trusts that Americans competing for this business will receive the same consideration as that given to nationals of other countries.

Telegraph report to Department.

KELLOGG

835.24/21 : Telegram

The Ambassador in Argentina (Jay) to the Secretary of State

[Paraphrase]

BUENOS AIRES, *March 4, 1926—10 a. m.*

[Received 6 p. m.]

16. Your 12, March 1, 4 p. m. Yesterday a favorable opportunity occurred and I discussed the matter frankly and informally with the Foreign Minister.

He authorized me to say that the Government of Argentina will disregard all influences brought to bear, and he reminded me that despite keen foreign competition the Government of Argentina accepted an American bid to recondition Argentina's two battleships.¹ My understanding is that no decision will be made until the commission returns and makes its report.

The Foreign Minister would not admit my purely personal suggestion that the Government of France was pushing the matter, but mentioned Sweden and Spain as deeply interested. Evidently the successful work on the battleships has greatly pleased the Government of Argentina and I hope the effect will be beneficial.

JAY

835.24/22 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

[Paraphrase]

BRUSSELS, *March 5, 1926—4 p. m.*

[Received March 5—3:11 p. m.]

18. Department's telegram No. 11, March 1. I have just succeeded in reaching the agent of the Colt Company. I took up the matter with the military mission from Argentina and learned that

¹ The Argentine battleships *Moreno* and *Rivadavia* were repaired in 1925-1926, at Quincy, Mass.

no decision had yet been made with regard to the order in which the Colt Company is interested, nor would a decision be made until a subcommission of experts had been sent to the United States to make certain tests of the Colt Company product. The Colt agent informed me that he received similar information and that the subcommission would leave for the United States the end of this month. In accordance with instructions I expressed to the military mission from Argentina the hope that American companies would receive fair consideration.

PHILLIPS

BOLIVIA

REPRESENTATIONS BY THE UNITED STATES TO BOLIVIA REGARDING PETROLEUM CONCESSIONS CONTAINING CLAUSES DISCRIMINATING AGAINST AMERICAN CITIZENS

824.6363/48

The Minister in Bolivia (Cottrell) to the Secretary of State

No. 576

LA PAZ, October 3, 1924.

[Received October 22.]

SIR: I have the honor to inform you that in various petroleum concessions granted to Bolivian citizens since the beginning of the year there has been inserted a clause, of which a copy and translation are enclosed, stating not only that the petroleum rights granted cannot be alienated without the consent of the Government, but that they cannot be alienated in any case to others than European capitalists. Concessions in which this clause appears have been about ten in number and all in the Departments of La Paz, the Beni, Cochabamba and the Territorio de Colonias. I have discussed this matter with the local representatives of the Standard Oil Company of Bolivia (Standard Oil Company of New Jersey), who inform me that they take little interest in this clause as they do not believe that petroleum in commercial quantities is to be found in these provinces.

I have taken occasion informally to bring the clause in question to the attention of the Minister of Finance and various officials directly connected with the granting of petroleum concessions. They inform me that this was designed to prevent the monopolization of the Bolivian oil fields by the United States. The Minister of Finance, Señor Victor Navajas Trigo, however, has assured me that this clause was inserted by error and that steps will be taken to have it struck from the concession contracts. . . .

I have also informally brought this clause to the attention of the Minister for Foreign Affairs, but have not made any forcible representations in this connection. Doctor Paz has assured me that an explanation of this clause will be furnished immediately. It would appear that the clause in question is not only a discrimination against American citizens, but in direct violation of article two of the Treaty

of Friendship, Navigation and Commerce between the United States and Bolivia of 1862.¹

I have [etc.]

JESSE S. COTTRELL

[Enclosuré—Translation]

Clause Inserted in Petroleum Concessions Granted to Bolivian Citizens

14. Neither shall they (the capitalists) be able to transfer, sell or mortgage in their entirety or in part the material holdings of this concession, except only to European capitalists or industrialists, who for their part, shall not be able to transfer, sell, mortgage or take a partner in the ownership, use or profit of the concession, except to European industrial elements; they being obliged in any case of misunderstanding or want of knowledge of this clause to conform to the caducity "ipso facto" of the present adjudication and to all the duties embodied therein.

824.6363/50 : Telegram

The Secretary of State to the Minister in Bolivia (Cottrell)

WASHINGTON, January 3, 1925—4 p. m.

2. Legation's 30, November 11, 10 a. m.² and previous. You are instructed to present this matter to the proper Bolivian official and leave with him the following *aide-memoire*:³

"The Government of the United States has noted that clauses to the following effect have been incorporated in certain petroleum concessions understood to have been granted recently by the Bolivian Government. (Here quote clause enclosed with your despatch No. 576.)⁴

The Government of the United States considers that the insertion of such a clause in concessions of this character constitutes a discrimination against American interests, and that it is inconsistent with the spirit of the provisions of the Treaty of Friendship, Peace, Commerce and Navigation concluded between the Government of Bolivia and the Government of the United States on May 13, 1858. Apart from any question as to the enjoyment by the Bolivian Government of wide latitude in determining what classes of aliens may enjoy particular rights or privileges within its domain, the Government of the United States feels that restrictions such as that now in question should not be applied in such a way as to discriminate against American citizens and in favor of citizens of other nationalities.

¹ The treaty was signed at La Paz, May 13, 1858; ratifications were exchanged Nov. 9, 1862. See Malloy, *Treaties, 1776-1909*, vol. I, p. 113.

² Not printed.

³ The Chargé delivered this *aide-memoire* to the Bolivian Foreign Office on Jan. 7, 1925.

⁴ *Supra*.

The Government of the United States, therefore, feels confident that the Government of Bolivia on having this matter brought to its attention will take such steps as will insure to American citizens equal opportunity with the citizens of other nations in the matter of investments in Bolivia."

You are instructed to reinforce the above with appropriate oral representations. Department considers it important that this discrimination be done away with.

HUGHES

824.6363/56 : Telegram

The Acting Secretary of State to the Minister in Bolivia (Cottrell)

WASHINGTON, May 9, 1925—1 p. m.

15. Your despatch 663, March 18,⁷ and previous. Bolivian memorandum ⁷ does not sufficiently meet Department's contentions as outlined in Department's 2, January 3. If you see no objection, you are instructed to present the following note to the proper Bolivian official, reinforcing it with such oral representations as you believe will be most effective:

"Under instructions from my Government I have the honor to refer to Your Excellency's recent memorandum in reply to my communication of blank concerning the granting by the Bolivian Government of certain petroleum concessions which contain provisions constituting a discrimination in favor of European interests and against American interests.

My Government has noted the statement of the Bolivian Government that the execution of the provisions of the treaty of 1858 is subject to regulation by the law of the respective countries, but cannot believe that it was the intent of this treaty that either party should be free to adopt measures which expressly place the citizens of European or other nations in a more favorable position than American citizens in matters such as that now under consideration. My Government is not unmindful of the concessions that have been granted in the past by the Bolivian Government to American interests. The Government of the United States, however, makes no discrimination against Bolivian commerce or other Bolivian interests and feels that Bolivia should not maintain clauses which constitute direct discrimination against American interests and which tend to exclude such interests from participation in the further development of the natural resources of Bolivia.

My Government is gratified to note the view of the Bolivian Government that the clauses in question have no general character and may be modified or suppressed as convenience may dictate. It is, therefore, my Government's hope that the Bolivian Government may take early action to modify or suppress the provisions in question to

⁷ Not printed.

the end that American interests may have equal opportunity with any other foreign nationals to participate in that development.

Telegraph result of your representations.

HARRISON

824.6363/62

The Secretary of State to the Minister in Bolivia (Cottrell)

No. 220

WASHINGTON, February 11, 1926.

SIR: The Department has received and read with interest your strictly confidential despatch dated January 2, 1926,⁸ in which you inform the Department that the Bolivian Government has removed or suppressed the clause which had been inserted in certain decrees granting oil concessions and which discriminated against American interests.

The Department understands from your despatch that the clause in question no longer appears in existing concessions and that you have been informed that the Bolivian Government does not intend to insert such a clause in future concessions. It does not appear from your despatch, however, whether you were officially so informed. In view of the correspondence which you have had with the Bolivian Government with regard to this matter, the Department feels that it would be helpful to have official assurances that such a clause will not be inserted in concessions which may be granted in the future. If you see no objection, and if the assurances you received can not be called official assurances, the Department would be glad to have you seek discreetly such assurances from the Bolivian Government.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

824.6363/64

The Minister in Bolivia (Cottrell) to the Secretary of State

No. 1010

LA PAZ, March 15, 1926.

[Received April 8.]

SIR: Referring to my strictly confidential despatch dated January 2, 1926⁸ and the Department's instruction No. 220 dated February 11, 1926, as to the Bolivian Government having suppressed the clause which had been inserted in certain decrees granting oil concessions and which discriminated against American interests, I have the honor

⁸ Not printed.

to report that after my first conversation with the Minister of Foreign Relations and Worship, Dr. Diez de Medina, upon which I based my despatch of January 2, 1926, I again talked to him about this matter, and he reassured me that such a clause would not again appear in decrees granting oil concessions . . .

I consider the statement of the Minister of Foreign Relations as a definite and official assurance, and as evidence of this various concessions have since been granted to persons . . . without this clause and all have since approached local officials of the Standard Oil Company in La Paz with propositions that the company purchase their concessions.

I have [etc.]

JESSE S. COTTRELL

BOUNDARY DISPUTE WITH PARAGUAY

(See pages 531 ff.)

BRAZIL

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND BRAZIL

711.322/2a

The Acting Secretary of State to the Ambassador in Brazil (Morgan)

No. 1162

WASHINGTON, August 21, 1926.

SIR: Reference is made to the Department's telegram No. 172, December 16, 1922, 6 p. m.,¹ and to subsequent correspondence dealing with the policy adopted by the United States pursuant to Section 317 of the Tariff Act of 1922² and involving the decision of the United States no longer to seek from Brazil special tariff preferences but instead to ask for unconditional most-favored-nation treatment in respect of its commerce.

On May 23, 1923, the Brazilian Ambassador handed to Mr. Hughes a memorandum³ in which the following statement was made: "Brazil is ready to accept in its commercial relations with the United States the new policy of reciprocal most-favored-nation treatment proposed by this country." The Ambassador also referred to the suggestion by the United States that the two countries enter into "a *modus vivendi*, preparatory to a Treaty on this subject" (See Department's telegram No. 45, June 8, 1923, 3 p. m.⁴).

On October 18, 1923, accordingly, an arrangement was entered into through an exchange of notes⁵ by means of which the United States, promising reciprocally with Brazil to accord unconditional most-favored-nation treatment in customs and other commercial matters, for the first time put into effect an international instrument based upon its new policy. This Government now desires to conclude with Brazil a treaty of friendship, commerce and consular rights such as those which it is entering into with other countries. The central principle in respect of commerce is, of course, an unconditional most-favored-nation clause governing customs and related matters. The object sought is assurance of equality of treatment for the commerce of the United States in all countries. The treaties

¹ *Foreign Relations*, 1923, vol. I, p. 453.

² 42 Stat. 858, 944.

³ *Foreign Relations*, 1923, vol. I, p. 456.

⁴ Not printed.

⁵ *Foreign Relations*, 1923, vol. I, p. 461.

referred to include also provisions relating to rights of nationals of each party in the other country, to protection of property and to rights and immunities of consuls.

The first treaty to become operative expressing the present policy of this Government was the Treaty of Friendship, Commerce and Consular Rights with Germany, signed December 8, 1923,⁶ ratifications of which were exchanged October 14, 1925. Similar treaties have been signed by the United States with Hungary,⁷ Esthonia⁸ and Salvador,⁹ of which the one with Esthonia has been brought into force by exchange of ratifications.

Treaties containing the unconditional most-favored-nation clause were signed with Turkey on August 6, 1923,¹⁰ and with Panama on July 28, 1926.¹¹ Several others are in process of negotiation. *Modi vivendi*, similar to the exchange of notes with Brazil, likewise based upon the principal of unconditional most-favored-nation treatment, are in force with Czechoslovakia,¹² Dominican Republic,¹³ Finland,¹⁴ Greece,¹⁵ Guatemala,¹⁶ Latvia,¹⁷ Lithuania,¹⁸ Nicaragua,¹⁹ Poland (including Danzig),²⁰ Rumania²¹ and Turkey.²² A similar agreement entered into with Haiti on July 8, 1926,²³ becomes by its terms operative October 1, 1926.

Two copies of the treaty of December 8, 1923, with Germany are enclosed. You are requested, unless you perceive objection, to

⁶ *Foreign Relations*, 1923, vol. II, p. 29.

⁷ Signed June 24, 1925, *ibid.*, 1925, vol. II, p. 341.

⁸ Signed Dec. 23, 1925, *ibid.*, p. 70.

⁹ Signed Feb. 22, 1926, *ibid.*, 1926, vol. II, p. 912.

¹⁰ *Ibid.*, 1923, vol. II, p. 1153.

¹¹ Marginal notation by the economic adviser: "Error: the treaty signed with Panama is not one to be classified as commercial and does not contain a most-favored-nation clause governing general commercial exchanges. W[allace] M[c]C[lure]." See vol. II, p. 828.

¹² By an exchange of notes, Oct. 29, 1923, *Foreign Relations*, 1923, vol. I, pp. 873-874.

¹³ By an exchange of notes, Sept. 25, 1924, *ibid.*, 1924, vol. I, pp. 666-670.

¹⁴ By an exchange of notes, May 2, 1925, *ibid.*, 1925, vol. II, pp. 94-98.

¹⁵ By an exchange of notes, Dec. 9, 1924, *ibid.*, 1924, vol. II, pp. 273-282.

¹⁶ By an exchange of notes, Aug. 14, 1924, *ibid.*, pp. 290-292.

¹⁷ By a provisional commercial agreement, Feb. 1, 1926, *ibid.*, 1926, vol. II, p. 488.

¹⁸ By an exchange of notes, Dec. 23, 1925, *ibid.*, 1925, vol. II, pp. 500-503.

¹⁹ By an exchange of notes, June 11 and July 11, 1924, *ibid.*, 1924, vol. II, pp. 510-518.

²⁰ By an exchange of notes, Feb. 10, 1925, *ibid.*, 1925, vol. II, pp. 692-696.

²¹ By an exchange of notes, Feb. 26, 1926, *ibid.*, 1926, vol. II, pp. 898-901.

²² By an exchange of notes, Feb. 18 and July 20, 1926, *ibid.*, pp. 992-1000.

²³ By an exchange of notes, July 8, 1926, *ibid.*, pp. 401-406.

inquire whether it would be agreeable to the Government of Brazil to proceed to the negotiation of a similar treaty with the United States. A special draft will, of course, be prepared for presentation to Brazil if this proposal is acceptable to the Brazilian Government. It is probable that certain departures from the text of the German treaty should be made either in the special text to be submitted to the Government of Brazil or, on behalf of either party, during the course of negotiations.

It may be useful for you to bear in mind that in adopting the unconditional in place of the conditional most-favored-nation clause the United States has brought its commercial policy into accord with that prevailing among commercial countries. It would be gratifying if, among its early treaties as well as *modi vivendi* embodying this principle, the United States could celebrate a general commercial treaty with Brazil. The lack of a general commercial treaty with Brazil since the articles relating to commerce and navigation of the Treaty of Amity, Commerce and Navigation concluded December 12, 1828,²⁴ were terminated on December 12, 1841, is a matter of regret to this Government, which hopes that a comprehensive modern agreement may now be entered into.

Though the Department, in proposing a treaty with Brazil, is influenced chiefly by its policy of concluding with other countries generally treaties containing the unconditional most-favored-nation clause, you are nevertheless desired to use especial diligence in seeking a favorable response from the Brazilian Government in order to forestall any efforts that other countries may be planning to make for the purpose of interposing in South America arrangements based upon special privilege—a policy wholly antagonistic to the policy of equality of treatment which the United States is undertaking to promote.

The Department either has transmitted or expects at an early date to transmit instructions, similar to the present instruction, to the American missions in the other South American capitals except Panama, with which as stated a treaty has been signed, and Ecuador, the political régime now functioning in which is not recognized by the United States.

I am [etc.]

LELAND HARRISON

²⁴ Miller, *Treaties*, vol. 3, p. 451.

711.322/4

The Chargé in Brazil (Daniels) to the Secretary of State

No. 2652

RIO DE JANEIRO, *September 18, 1926.*

[Received October 8.]

SIR: In compliance with the Department's Instruction No. 1162, of August 21, 1926, I have the honor to report that on September 17 I called upon Dr. Felix Pacheco, Minister for Foreign Affairs, to inquire whether it would be agreeable to the Government of Brazil to proceed to the negotiation of a treaty of "Friendship, Commerce and Consular Rights" similar to the treaty of December 8, 1923, between the United States and Germany. I pointed out that the exchange of notes dated October 18, 1923, by means of which the United States promised reciprocally with Brazil to accord unconditional most-favored-nation treatment in customs and other commercial matters was merely a *modus vivendi* and reminded him that in the memorandum which the Brazilian Ambassador had handed to Mr. Hughes on May 23, 1923, he had referred to the suggestion by the United States that the two countries enter into "a *modus vivendi*, preparatory to a treaty on this subject". Following the lines of the Department's Instruction, I stated to the Minister that the central principle of the treaty which the American Government now desires to negotiate with Brazil would be, of course, an unconditional most-favored-nation clause covering commerce and related matters, but that it should likewise include provisions relating to rights of nationals of each party in the other country, to protection of property and to rights and immunities of consuls.

Dr. Pacheco appeared to be pleased with the idea, but stated that unfortunately he would only be in office until November 15, and that, as less than 60 days now remained, the time seemed very short for the negotiation of such a treaty. I stated that I realized this, but that since the exchange of notes of October 18, 1923, referred to above, had been effected during the Bernardes' administration and while Dr. Pacheco was Minister for Foreign Affairs, I felt that it would be peculiarly fitting that negotiations for a treaty to contain the unconditional most-favored-nation clause should be begun while Dr. Pacheco was in office. I also stated that it would be gratifying if among the early treaties embodying this principle the United States could celebrate a general commercial treaty with Brazil, and that it would be a matter of personal satisfaction to myself and also, I felt sure, to Mr. Morgan if Brazil should be the first South American country to express the intention of negotiating such a treaty. I then offered to telegraph immediately to Washington for a special

draft for presentation to the Brazilian Government if the proposal proved acceptable. Dr. Pacheco replied that he would take up this question with his colleague in the Department of Agriculture, Industry and Commerce, Dr. Miguel Calmon, and would advise me later of the decision reached.

I took this occasion to ask the Minister for Foreign Affairs whether the results brought about by the exchange of notes of October 18, 1923, had proved satisfactory to Brazil. He said that they had, and referred to recent articles in the *Jornal do Commercio* which indicated the ever-increasing volume of trade between the United States and Brazil. I reminded him that in one of the articles to which he referred it was stated that the value of coffee shipments from Brazil to the United States alone in the 12 months ending June 30 was close to 204 million dollars, and that the value of goods exchanged between the two countries had increased enormously in the last few years. I left with Dr. Pacheco an *aide mémoire* embodying the ideas contained in the first three pages of the Department's Instruction together with a copy of the Treaty of Friendship, Commerce and Consular Rights of December 8, 1923, between the United States and Germany.

Prior to my conversation with the Minister for Foreign Affairs on the subject of a treaty I talked with Dr. Sebastião Sampaio, who is Dr. Pacheco's chief assistant. His personal opinion was that there would be too little time for the present Administration to undertake the negotiation of the treaty with the United States. He said that the Ministry of Agriculture, Industry and Commerce were particularly procrastinating in such matters and that it usually required two or three years for the negotiation of a treaty. As in my subsequent talk with the Minister for Foreign Affairs, I took pains to explain that since Brazil had been the first country to enter into an agreement with the United States based on the unconditional most-favored-nation clause it would now be consistent with the friendly relations existing between the two countries if Brazil, first of all the South American countries, should express its desire to negotiate a treaty of Friendship, Commerce and Consular Rights. It was for this reason, I said, that I felt that a decision should be reached by the present Administration in Brazil.²⁶

I have [etc.]

THOMAS L. DANIELS

²⁶ In instruction No. 1173, Oct. 1, 1926 (not printed), the Department transmitted to the Chargé in Brazil a draft of the proposed treaty for submission to and negotiation with the Government of Brazil. These negotiations did not result in the signing of any treaty (file No. 711.322/3).

RENEWAL OF CONTRACT FOR AMERICAN NAVAL MISSION TO BRAZIL,
SIGNED NOVEMBER 6, 1922²⁷

832.30/139

*The Acting Secretary of State to the Brazilian Ambassador
(Do Amaral)*

WASHINGTON, June 30, 1926.

EXCELLENCY: With reference to your note of May 21,²⁸ conveying the request of your Government that the contract for the American Naval Mission to Brazil be renewed for a period of four years under the same conditions, I have the honor to inform you that this Department transmitted a copy of your communication to the Secretary of the Navy for such comment as might appear appropriate to him in the premises. Mr. Wilbur has replied that the renewal of the present contract without modification would be agreeable to his Department.

In view of this fact I take pleasure in informing you that this Government gives its consent to this renewal without modification for a period of four years from the date of the expiration of the present contract on November 6, 1926. This Government considers, furthermore, that this can be validly accomplished by an exchange of notes between this Department and your Embassy. I therefore have the honor to request that you signify in this manner your Government's acceptance of this renewal as set forth herein.

Accept [etc.]

JOSEPH C. GREW

832.30/141

The Brazilian Ambassador (Do Amaral) to the Secretary of State

[Translation]

No. 26

WASHINGTON, July 6, 1926.

EXCELLENCY: The undersigned, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil, has the honor to answer the note which Your Excellency sent him on June 30 last, with reference to his own of May 21 of this year,²⁸ by which, in the name and by direction of the Federal Government of Brazil, he asked the Government of the United States of America to renew the contract of the American Naval Mission now in Rio de Janeiro.

In compliance with the suggestions made in Your Excellency's note, the undersigned, in the name and by order of his Government, hereby says and declares that he effects an exchange of diplomatic

²⁷ See *Foreign Relations, 1922*, vol. 1, pp. 651 ff.

²⁸ Not printed.

instruments of that nature, that the Federal Government of Brazil accepts the renewal of the contract of the American Naval Mission now in force, for a term of four years counted from November 6 of this year, when it expires without any change in its terms.

Like the Government of the United States of America, the Federal Government of Brazil considers this exchange of notes to be perfectly valid or to give perfect validity to the renewal of the contract, which is thus established.

The undersigned avails himself [etc.] S. GURGÉL DO AMARAL

832.30/141

The Secretary of State to the Brazilian Ambassador (Do Amaral)

WASHINGTON, July 6, 1926.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 26 dated July 6, 1926, in which Your Excellency states, in the name and by order of your government, that in compliance with the suggestion made in the note dated June 30, 1926, of the Acting Secretary of State, the Federal Government of Brazil accepts the renewal without modification of the contract of the American Naval Mission to Brazil for a period of four years from the date of the expiration of the present contract on November 6, 1926, and that your government considers, as does this government, that this exchange of notes validly accomplishes the renewal of the contract in question.

On this occasion I wish to express to Your Excellency the appreciation of the Government of the United States for this additional manifestation of the sympathy and friendly spirit of co-operation that has so long existed between Brazil and the United States. It is indeed a source of gratification to know that the services of American Naval officers on duty in Brazil have been found satisfactory and helpful to the Brazilian Government.

Accept [etc.] FRANK B. KELLOGG

PROPOSALS TO STIMULATE THE PRODUCTION OF RUBBER IN THE AMAZON VALLEY

832.6176/37: Telegram

The Secretary of State to the Ambassador in Brazil (Morgan)

[Paraphrase]

WASHINGTON, December 19, 1925—8 p. m.

72. Rubber manufacturers in the United States are actively interested in establishing and financing collectively some organization to stimulate the production of wild rubber in the Amazon Valley, pro-

viding capital, guaranteeing future prices, establishing new and broader purchasing and collecting agencies, and other effective methods so that full potential production will reach world markets.⁸⁰

Please make appropriate inquiries of the Brazilian Government as follows:

(1) Would such action by American companies in Brazil or in connection with residents of Brazil be welcomed?

(2) Would the Government give assurances that export duties on rubber would not be advanced?

(3) Would Brazil give assurances that it would not restrict the free production and exportation of rubber?

Please expedite and reply by cable. Also, state which of the above methods is believed to be most effective. Give your opinion on soundness.

Manufacturers believe that with proper encouragement a 60-thousand-ton crop could be produced for the year ending June 1927. Such an organization would ultimately be expected to extend its rubber plantation interests on large scale into new regions.

KELLOGG

832.6176/38 : Telegram

The Ambassador in Brazil (Morgan) to the Secretary of State

[Paraphrase]

RIO DE JANEIRO, December 22, 1925—3 p. m.

[Received 5 p. m.]

82. Embassy and commercial attaché are working with Brazilian Secretary of Agriculture on subject of Department's telegram No. 72 dated December 21 [19].

The answer to the first question is an emphatic "yes."

The answer to the second question is also "yes," but assurances must be secured from interested State Governments. The Governor of Para declares that Para will reduce its export duty to a level equal to the duties in force in the Middle East.

The answer to the third question is also "yes." Since a combination of the character referred to would be wholly injurious to Brazilian interests, such a contingency is not likely to arise.

The increase of production to the figure mentioned for the year designated depends on the mobilization of capital to meet the cost of a largely increased labor supply to be imported from adjacent States.

MORGAN

⁸⁰ In this connection, see sections entitled "Efforts by the United States to obtain for American rubber manufacturers relief from British restrictions on the export of raw rubber," *Foreign Relations, 1925*, vol. II, p. 245, and *ibid.*, 1926, vol. II, p. 358.

832.6176/41 : Telegram

*The Ambassador in Brazil (Morgan) to the Secretary of State*RIO DE JANEIRO, *January 18, 1926—3 p. m.*

[Received 3:45 p. m.]

3. Referring to the Embassy's number 2, January 6, 2 p. m.³¹ Minister of Agriculture communicated in writing on January 16th that on behalf of the Federal Government he welcomed the cooperation of American capital in promoting the immediate increase of rubber production in the Amazon Valley; that no increase will be made in export duties in Federal territory nor will the Federal Government enter into any agreement restricting production. The communication further states that the Minister is awaiting answers to the inquiries which he addressed to the Governors of Amazonas and Para in regard to the assurance that there will be no increase in present State export duties.

MORGAN

832.6176/43 : Telegram

*The Ambassador in Brazil (Morgan) to the Secretary of State*RIO DE JANEIRO, *January 25, 1926—3 p. m.*

[Received 3:04 p. m.]

6. Embassy's telegram 4, January 20, 1 p. m. [3, *January 18, 3 p. m.*] Brazilian Minister of Agriculture has communicated the Portuguese text of telegrams from Governors of Para and Amazonas stating that the Governor of Para will welcome any reputable economic organization which may come to the State for agriculture purposes especially for planting rubber. Exportation taxes in Para have already been reduced to minimum and the fixed purpose of the Government is not to increase them. The Federal Government has alone authority to enter into an agreement with foreign countries to restrict production and the State authorities have nothing to do therewith.

The Governor of Amazonas who has recently taken office states that not only will his Government guarantee no increase in the present export tax on rubber but that this tax will be reduced in accordance with the increase in production. When the State Legislature next meets the Governor undertakes that the necessary laws in the above sense shall be enacted.

MORGAN

³¹ Not printed.

CANADA

APPROVAL BY THE UNITED STATES OF PROPOSAL BY THE BRITISH GOVERNMENT FOR THE APPOINTMENT OF A CANADIAN MINISTER AT WASHINGTON

701.4211/53

The British Chargé (Chilton) to the Secretary of State

No. 723

WASHINGTON, November 19, 1926.

SIR: Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that His Majesty's Government have come to the conclusion that it is desirable that the handling of matters at Washington relating to Canada should be confided to an Envoy Extraordinary and Minister Plenipotentiary accredited to the United States Government. Such a Minister would be accredited by His Majesty the King to the President of the United States and he would be furnished with credentials which would enable him to take charge of all affairs relating to Canada. He would be the ordinary channel of communication with the United States Government on these matters.

Matters which are of Imperial concern or which affect other Dominions in the Commonwealth in common with Canada will continue to be handled as heretofore by this Embassy.

The arrangements proposed by His Majesty's Government would not denote any departure from the principle of the diplomatic unity of the Empire. The Canadian Minister would be at all times in the closest touch with His Majesty's Ambassador and any question which may arise as to whether a matter comes within the category of those to be handled by the Canadian Minister or not would be settled by consultation between them. The Canadian Minister being responsible to the Canadian Government would not be subject to the control of His Majesty's Ambassador nor would His Majesty's Ambassador be responsible for the Canadian Minister's actions.

In communicating to you these proposals, which His Majesty's Government trust will promote the maintenance and development of cordial relations between the British Empire and the United States, I have been instructed to express the hope that the United States Government will concur in the appointment of a Canadian Minister at Washington on the footing I have indicated above. As regards

questions such as the precedence to be attributed to the Canadian Minister or any other points which the United States Government may desire to raise in connection with the appointment, His Majesty's Government will await the views of the United States Government.

I have [etc.]

H. G. CHILTON

701.4211/53

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, November 20, 1926.

SIR: I have the honor to acknowledge the receipt of your note No. 723, of November 19, 1926, in which, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, you advise me that His Majesty's Government have come to the conclusion that it is desirable that the handling of matters at Washington relating to Canada should be confided to an Envoy Extraordinary and Minister Plenipotentiary to be accredited by His Majesty the King to the President of the United States, and express the hope that the Government of the United States will concur in the appointment of a Canadian Minister at Washington on the footing indicated in your note.

In reply I take pleasure in saying that the appointment by His Majesty the King of an Envoy Extraordinary and Minister Plenipotentiary, who will be furnished with credentials which would enable him to take charge of all affairs relating to Canada, and who will be the ordinary channel of communication with the Government of the United States on these matters, is entirely acceptable to the Government of the United States, and that it will be agreeable to the President to accord him formal recognition at the convenience of His Majesty the King and the Government of Canada.

Note is taken of the arrangements outlined in your note under which the appointment would be made, as well as of your statement that as regards questions such as precedence to be attributed to the Minister or any other points which the Government of the United States may desire to raise in connection with the appointment, His Majesty's Government will await the views of the Government of the United States.

Accept [etc.]

FRANK B. KELLOGG

701.4211/55

The British Chargé (Chilton) to the Secretary of State

No. 764

WASHINGTON, December 3, 1926.

SIR: With reference to your note of November 20th last, intimating that the appointment of a Canadian Minister at Washington was

entirely acceptable to the United States Government, I have the honour to inform you that His Majesty The King has now approved the appointment of the Honourable Vincent Massey, a member of His Majesty's Privy Council of Canada, as His Majesty's Envoy Extraordinary and Minister Plenipotentiary to represent the interests of the Dominion of Canada in the United States.

I have already had a verbal assurance from you that the appointment of Mr. Massey is agreeable to the President and the United States Government.

I have [etc.]

H. G. CHILTON

701.4211/55

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, December 4, 1926.

SIR: I have received your note No. 764, of the third instant, in which, referring to previous correspondence in which this Government has been happy to assure you that the appointment of a Canadian Minister would be entirely acceptable, you inform me that His Majesty the King has now approved the appointment of the Honourable Vincent Massey, a member of His Majesty's Privy Council of Canada, as His Majesty's Envoy Extraordinary and Minister Plenipotentiary to represent the interests of the Dominion of Canada in the United States.

In reply it affords me pleasure to reiterate the assurance which has already been verbally communicated to you to the effect that the appointment of Mr. Massey in such capacity will be entirely agreeable to this Government.

Accept [etc.]

FRANK B. KELLOGG

**CONTINUED PROTESTS BY THE CANADIAN GOVERNMENT AGAINST
INCREASED DIVERSION OF THE WATERS OF THE GREAT LAKES¹**

711.4216 M 58/80

The British Ambassador (Howard) to the Secretary of State

No. 91

WASHINGTON, February 5, 1926.

SIR: With reference to your note No. 711.4216 M 58/72 of November 24th last,² I have the honour to inform you that the Government of Canada has given careful consideration to your statements in regard to the permit issued to the Sanitary District of Chicago by

¹ Continued from *Foreign Relations*, 1925, vol. I, pp. 558 ff.

² *Ibid.*, p. 567.

the Secretary of War on March 3rd, 1925, for the diversion of water from Lake Michigan.³

The Canadian Government desires to express its appreciation of the clarity and definiteness of the interpretation of the current permit contained in your notes of June 15th⁴ and November 24th. It is understood that the 8500 cubic second feet which the Sanitary District is authorized to withdraw includes the reversed flow of the Chicago and Calumet rivers, but is exclusive of the 1200 cubic second feet drawn from Lake Michigan for domestic purposes by the City of Chicago and eventually passing through the Sanitary Canal. The Canadian Government agrees that although, so interpreted, the permit does not effect any immediate reduction of the amount of water withdrawn, on the other hand it does not authorize—as there has been some ground for believing—an increase in the withdrawal beyond the amount previously in fact abstracted. It is further noted that it is the belief of the Government of the United States that the installation of sewage works and the metering of water supply and other measures will result by December 31st, 1929, in a reduction of the present total of 9700 cubic second feet to a figure between 8000 and 6700 cubic second feet, and by 1935 or earlier to 4167 cubic second feet.

In the situation which has resulted from the policy of the Sanitary District in relying for sanitary purposes upon a diversion of water from the Great Lakes, the Canadian Government appreciates the force of the view set forth in your note of the 24th November that the abstraction could not be entirely and immediately ended without imperilling in some degree the life and health of the citizens of the locality, but it has not been made acquainted with the considerations which have convinced the Secretary of War that the whole of the present withdrawal is essential on these grounds, and it has been strongly represented to the Dominion Government that a distinctly smaller flow would serve the sanitary needs of the district. In any case, the fact remains that on every day that the diversion continues it carries most serious loss to Canada and to every community on the Great Lakes and on the St. Lawrence, by reason of its effect in hindering navigation, in increasing the cost of harbour and canal and river improvements, and in reducing the hydro-electric power capable of development. The degree to which the considerations advanced as to the necessity of the diversions in the interests of the health of the citizens of the Sanitary District should carry weight would appear, further, to depend hereafter upon the degree of goodwill and effectiveness displayed in the carrying out of the works which have been made a condition of the permit.

³ *Ibid.*, p. 561.

⁴ *Ibid.*, p. 564.

The Dominion Government cannot conceal the apprehension in this connection, aroused in Canada by certain proposals for the construction of an Illinois and Mississippi waterway, proposals embodied in measures already introduced into Congress during the present session, or reported as about to be introduced, and which appear to be based and to depend upon the indefinite continuance of the abstraction of the water of the Great Lakes through the Chicago Sanitary District Canal, and even upon the increase to 10,000 cubic feet per second of the amount abstracted. It feels certain that the Government of the United States will agree that whatever temporary and limited concessions might be made upon the ground of public health, no other ground warrants the withdrawal of water from the Great Lakes, much less the extension of the present diversion. It believes it to be a recognized principle of international practice that unless by joint consent, no permanent diversion should be permitted to another watershed from any watershed naturally tributary to the waters forming the boundary between the two countries, and in any case the decision of the United States Supreme Court of January 5th, 1925,⁵ recognizes that in the present instance, the Treaty of January 11th, 1909,⁶ expressly provides against uses "affecting the natural level or flow of boundary waters" without the authority of the United States or the Dominion of Canada within their respective jurisdictions, and the approval of the International Joint Commission agreed upon therein.

In conclusion, the Government of Canada desires to express its appreciation of the evident desire of the Government of the United States to find a solution of the problem fair to all interests, and its hope that such a degree of progress will shortly be attained as will warrant those who now suffer from the diversion in counting upon its early termination. The Canadian Government would, in this connection, appreciate any statement which you may find it possible to make as to the progress which has been attained by the Sanitary District and by the Municipality of Chicago in the provision of the measures called for by the conditions of the current permit which will actually diminish the abstraction from the Great Lakes.

I have [etc.]

ESME HOWARD

711.4216 M 58/96

The British Chargé (Chilton) to the Secretary of State

No. 291

WASHINGTON, April 28, 1926.

SIR: At the request of the Government of Canada, I have the honour to transmit to you herewith, in the hope that you will be so good

⁵ *Sanitary District of Chicago v. United States*, 266 U. S. 405.

⁶ Malloy, *Treaties*, 1910-1923, vol. III, p. 2607.

as to communicate it without delay to the interested authorities of the United States Government, copy of a Resolution adopted on the 7th instant by the Legislative Assembly of the Province of Ontario, protesting against the enactment by the United States Congress of any legislation authorising the diversion of water from the Great Lakes at Chicago in disregard of the vital interests of communities bordering upon the Great Lakes, and particularly those of the Province of Ontario.

I have [etc.]

H. G. CHILTON

[Enclosure]

Copy of a Resolution of the Legislative Assembly of the Province of Ontario Passed April 7, 1926

On motion of Mr. Ferguson, seconded by Mr. Sinclair,

RESOLVED, That in view of the application to the United States Congress for legislation to authorize a further diversion of water by the Chicago Drainage Canal from the Great Lakes System, this House desires to place on record the following facts and considerations:—

The Sanitary District of Chicago has for some years been abstracting large quantities of water which is part of the water-shed of the Great Lakes and diverting it to the Gulf of Mexico. The Province of Ontario, as joint riparian owner with the neighbouring States of the American Union, has a direct and vital interest in this matter.

There is in existence a Treaty between Great Britain and the United States, dated January 11th, 1909, which governs international boundary waters.

It has been decided by the Supreme Court of the United States that this Treaty expressly provides against uses affecting the natural level and flow of boundary waters without the authority of the United States or the Dominion of Canada within their respective jurisdictions and the approval of the International Commission.

That the application to the United States Congress for legislation to sanction a further diversion at Chicago is in effect a proposal to violate this Treaty.

That legal actions have been brought by several of the States of the Union to have it declared that the United States Congress cannot pass any Act depriving those States of the advantage of the flow of said water, and that such actions are still pending.

In view of these facts this Legislature is of opinion that attempts to deal with this matter by way of Legislation, without reference to Canada or its interests, are not in accord with the long-established friendly relations that have existed between these two countries and ought to continue.

That this Legislature therefore requests that proper steps be taken to represent to the Government of the United States, through diplomatic channels, the unneighbourly character of the proposed legislation, and the desirability of reaching an early adjustment of the matter by a mutual arrangement in accordance with the terms of the Treaty.

711.4216 M 58/97

The British Chargé (Chilton) to the Secretary of State

No. 299

WASHINGTON [undated].

Immediate

[Received May 1, 1926.]

SIR: I beg leave to refer to Sir Esme Howard's note No. 91 of February 5th last in regard to the permit issued to the Sanitary District of Chicago by the Secretary of War on March 3rd, 1925, for the diversion of water from Lake Michigan and to inform you that the Government of Canada have been led by recent press reports to invite your attention again to the international aspect of projects now being pressed in Congress for the construction of an Illinois-Mississippi waterway which involve the withdrawal of water from the Great Lakes system through the Chicago Sanitary District Canal. The explicit or implicit authorization by the United States Congress of such withdrawal for navigation purposes would, as has previously been represented, introduce a further disturbing factor into the consideration of a situation already of much difficulty.

The approaching report of the Joint Engineering Board upon the proposed St. Lawrence Waterway, including certain aspects of lake levels, the probability of joint consideration at an early date of the Niagara situation, and the assurances contained in your note No. 711.4216 M 58/72 of November 24th, 1925, of progressive reduction of the present abstraction at Chicago would seem to provide bases for discussion by the two countries of all outstanding waterways problems. The discussion and settlement of these issues would be seriously complicated were the Chicago abstraction to be confirmed by enactments which would appear to add national to state approval and to recognize diversions for navigation purposes in addition to the sanitary purposes which alone were stated in your note of November 24th, 1925, to be the basis of the present permit. The Government of Canada have, of course, no desire to express any opinion upon the purely United States phases of the projected waterway, but they cannot overlook its bearing upon the vital interests of Canada in the preservation of the Great Lakes system which Canada shares with the United States and of the national sections of the St. Lawrence waterway. Those common interests and the neigh-

hourly goodwill which has marked the settlement of boundary waterways problems reinforce the principles of international practice and the provisions of the Boundary Waterways Treaty in the conclusion that no diversions from the Great Lakes involving a transfer of water from a common watershed to another should be effected or confirmed in either country, unless after joint consideration and agreement.

In furnishing you with these observations, I would express the earnest hope that the Government of the United States will agree that only through the recognition of this principle can a firm basis be secured for safeguarding the interests of both countries.

I have [etc.]

H. G. CHILTON

711.4216 M 58/96

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, *May 18, 1926.*

EXCELLENCY: I have the honor to acknowledge the receipt of your Embassy's note, No. 291 of April 28, 1926, and its enclosure, a copy of a Resolution adopted on April 7 last by the Legislative Assembly of the Province of Ontario protesting against the enactment by Congress of any legislation authorizing the diversion of water from the Great Lakes at Chicago in disregard of the vital interests of communities bordering upon the Great Lakes, and particularly those of the Province of Ontario.

Copies of your Embassy's note and the Resolution are being transmitted to the interested authorities of this Government.

Accept [etc.]

FRANK B. KELLOGG

711.4216 M 58/97

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, *July 26, 1926.*

EXCELLENCY: In your note No. 91 of February 5, 1926, relating to the diversion of water from Lake Michigan by the Sanitary District of Chicago, reference was made, among other matters, to the failure on the part of this Government to state in its note of November 24 last the considerations which convinced the Secretary of War that the whole of the amount of the withdrawal of water authorized by the permit which he issued on March 3, 1925, to the Sanitary District, is essential to the protection of the life and health of the citizens of the locality and to the apprehension of the Canadian Government that measures under consideration by Congress relating to the construction of an Illinois and Mississippi waterway are based upon or depend on the indefinite continuance of the abstraction of

water of the Great Lakes through the Chicago drainage canal at the present rate of diversion or even upon the increase to 10,000 cubic feet per second of the amount abstracted. You also stated that the Government of Canada would appreciate any statement which this Government might find it possible to make as to the progress which has been attained by the Sanitary District and by the Municipality of Chicago in the provision of measures called for by the conditions of the permit of March 3, 1925, which will actually diminish the abstraction from the Great Lakes.

In the Embassy's undated note No. 299 received by the Department on May 1, 1926, reference again was made to the project before Congress for the construction of an Illinois-Mississippi waterway and it was stated that the discussion by the United States and Canada of all outstanding waterways problems would be seriously complicated were the abstraction at Chicago confirmed by a legislative enactment by Congress which would recognize diversions for navigation purposes.

With reference to the diversion limits, I may state that the investigations made by the War Department showed that those prescribed were the least consistent with due regard to the health of the large population affected by the matter. The material reduction in flow through the Sanitary Canal in 1925, when it averaged about 8,250 cubic feet per second, caused by low lake levels, developed dangerous sanitary conditions, and has conclusively shown that reduction below the amount named in the permit, cannot safely be required until the sewage treatment plants in the course of construction by the city, are further advanced. The authorizing of an instantaneous maximum not to exceed 11,000 cubic feet per second was due to the fact that at times the flood discharge of the Chicago River is as high as 10,000 cubic feet per second and that the flow through the canal should then be large enough to produce a slope characteristic of a flood of that volume. Otherwise, the sewage carried by the river will be swept into the lake and pollute the city water supply. The supply is not filtered, and such pollution would be so extensive that it could not be counteracted by chemical treatment.

The permit issued by the Secretary of War provides for the installation of controlling works to prevent such flood discharges into the lake but the execution of the complete program required by the permit will be very costly, and it is felt that the installation of sewage disposal plants should have first attention in order sooner to reduce diversion. For these reasons, the paragraph of the permit relating to the controlling works does not require the installation of these works until 1929. Preliminary investigations concerning the installation have been made and it is expected that detailed plans

will be prepared during the ensuing year. No difficulty in the completion of these works prior to the expiration of the permit is anticipated.

In connection with the question of progress made toward the reduction of diversion, I may state that the permit of March 3, 1925, assigned supervision of the program for installing sewage treatment works to the District Engineer at Chicago. He has recently reported that the progress made by the city in carrying out the program is satisfactory. It is understood that the schedule of expenditures adopted for this purpose by Chicago is as follows:

1925	\$17,789,000
1926	12,733,000
1927	9,379,000
1928	10,215,000
1929	1,370,000

The average sanitary flow through the drainage canal in 1925, after the deduction of about 1,277 cubic feet per second used by the city of Chicago for domestic purposes, was about 7,000 cubic feet per second. The installation of water meters was provided for by appropriations made by the City Council in January of this year, and consequently it may be expected that in the near future there will be a reduction in the consumption of water used for domestic purposes.

The Bill "Authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" containing a provision authorizing the improvement of the Illinois River, was not enacted into law during the session of Congress which recently closed. It is understood that the Bill will be taken up for consideration shortly after the next session of Congress convenes in December.

While this Government is glad to give the Canadian Government the factual information requested by Your Excellency, it is not prepared to admit the conclusions stated in Your Excellency's notes of February 5, 1926 and May 1, 1926⁷ as to the legal status of the withdrawal of waters from Lake Michigan. It does not, however, deem it necessary to enter into a discussion of this phase of the question at the present time.

The United States is prepared to discuss, as suggested in Your Excellency's note of May 1, 1926, the outstanding questions affecting the Great Lakes and their waterways with a view to arriving at joint engineering solutions of those questions and the protection and development of great waterway resources for the mutual benefit of both countries.

Accept [etc.]

FRANK B. KELLOGG

⁷ See undated note No. 299, p. 584.

711.4216 M 58/110

The British Chargé (Chilton) to the Secretary of State

No. 711

WASHINGTON, November 16, 1926.

SIR: With reference to correspondence ending with your note No. 711.421 M. 58/82 of February 20th last,^s relative to the publication of certain correspondence between the United States Government and the Canadian Government, relating to the diversion of water from Lake Michigan by the Sanitary District of Chicago, I have the honour to inform you that I am in receipt of a communication from the Governor-General of Canada informing me that the Dominion Government are desirous of publishing the following additional documents on this subject:

- (1) Sir Esme Howard's note No. 91 of February 5th, 1926.
- (2) Mr. Chilton's note No. 291 of April 28th, 1926.
- (3) Mr. Chilton's undated note No. 299 which was received by the State Department on May 1st, 1926.
- (4) State Department note No. 711.4216 M 58/96 of May 18th, 1926.
- (5) State Department note No. 711.4216 M 58/80/97 [*sic*] of July 26th, 1926.

In addition to the above correspondence, the Canadian Government desire to publish the text of the enclosed despatches^s which His Majesty's Embassy addressed to the Governor-General of Canada on May 4th and July 30th, 1926, respectively, notifying the Canadian Government of the despatch to the United States Government of the undated note from the Embassy No. 299 referred to under (3) above, and transmitting to the Canadian Government a copy of State Department note of July 26th last referred to under (5).

I have the honour to request that you will be so good as to notify me at your earliest convenience whether the United States Government are prepared to agree to the simultaneous publication of these papers in the United States and Canada. Inasmuch as the Canadian Parliament is summoned to meet on December 9th next, Lord Willingdon informs me that the Canadian Government consider that it would be desirable to agree to that date as a suitable one for the simultaneous release of the papers in both countries.

I have [etc.]

H. G. CHILTON

^s Not printed.

711.4216 M 58/110

The Acting Secretary of State to the British Chargé (Chilton)

WASHINGTON, *November 26, 1926.*

SIR: I have the honor to acknowledge the receipt of your note No. 711 of November 16, 1926, relating to the publication of certain correspondence between the Department and the Embassy in regard to the diversion of water from Lake Michigan by the Sanitary District of Chicago.

The proposal made by the Canadian Government that the correspondence be made public simultaneously in the United States and Canada on December 9, 1926, has been referred to the authorities of this Government directly concerned with the matter to which the correspondence relates, and I shall be glad to inform you at the earliest date possible of the views of this Government in regard to that proposal.

Accept [etc.]

JOSEPH C. GREW

711.4216 M 58/110

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, *December 7, 1926.*

SIR: I am pleased to refer to your note Number 711, of November 16, 1926, and to Mr. Grew's reply of November 26, 1926 regarding the publication of certain correspondence between the Department and the Embassy relating to the diversion of water from Lake Michigan by the Sanitary District of Chicago and to submit the following observations:

It appears to this Government that the report of the Joint Board of Engineers on the St. Lawrence Waterway Project⁹ greatly alters the understanding of the situation with respect to diversions from the Great Lakes watershed and that it would be undesirable to publish the correspondence which was based upon at least a partial misapprehension of the facts.

It has been the impression, at least in many parts of Canada and the United States, that the fall of some thirty inches in Lake levels which has proved so burdensome to shipping interests was very largely due to the diversion at Chicago. The report of the Joint Board of Engineers shows that only a small part of the fall in lake levels has been due to that diversion.

⁹ *Report of Joint Board of Engineers on St. Lawrence Waterway Project, Dated November 16, 1926* (Ottawa, F. A. Acland, 1927).

Thus the report of the Joint Board of Engineers demonstrates that instead of the Chicago diversion being in any major degree responsible for the lowering of lake levels it has been responsible therefor to only a minor degree. So far as the diversion at Chicago together with other artificial diversions, including those into Canada, contributes to the lowering of the lake levels the effect can, according to the report, be corrected by the construction of compensatory works. With the question reduced to the dimensions indicated in the joint report, it seems to this Government that it would be advisable to suspend publication of the correspondence referred to in your note and to enter upon a further discussion of the practical question of providing compensatory works as recommended by the Joint Board of Engineers.

In view of this greatly altered understanding of the matter this Government considers that no good purpose would be served by a further publication of previous correspondence but that it should be possible to arrive at a complete understanding of the situation by a discussion of the practical remedies now before us.

I shall be grateful if you will cause the views of this Government to be brought to the attention of the Canadian Government.

Accept [etc.]

FRANK B. KELLOGG

CHINA

CIVIL WAR IN NORTH CHINA:¹ INTERNATIONAL NAVAL DEMONSTRATION AT TAKU; OVERTHROW OF THE PROVISIONAL GOVERNMENT OF TUAN CHI-JUI

893.00/7097 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 18, 1926—7 p. m.

[Received February 18—2:19 p. m.]

81. My number 549, December 28, 8 p. m.²

1. I am reliably informed that Premier Hsu has hurriedly abandoned office, has submitted his resignation, which has been refused according to Chinese practice, and has been granted leave of absence; and that the probabilities are he will not resume his functions. His whereabouts is unknown. Is being variously reported from credible sources that he has taken refuge in the Legation Quarter and has gone for a rest to Tongshan hot springs.

2. I am also reliably informed that immediate cause of Hsu's disappearance was fear of action which General Lu Chung-lin, commander in chief of the Metropolitan Garrison, and the Minister of War had threatened to take against him because of his failure to supply these respective militarists with the sums they demanded. In the case of Lu the Ministry of Finance was able to give him only eighty thousand dollars instead of million which had been promised to him. I am inclined to believe this information since it appears that the Kuominchun³ are attempting to secure funds from any and every source to finance them in their defence in the campaign against them upon which Wu Pei-fu,⁴ Chang Tso-lin,⁵ Chang Tsung-chang in Shantung, and Li Ching-lin south of Tientsin, with probable pro-Wu adherence in Shensi are believed to be embarking.

3. The First Kuominchun based on Kalgan, formerly commanded by Feng Yu-hsiang and possibly still under his actual leadership

¹ For previous correspondence concerning civil war in North China, see *Foreign Relations*, 1925, vol. I, pp. 588 ff.

² *Ibid.*, p. 627.

³ Nationalist armies which had been under the control of Marshal Feng Yu-hsiang, whose resignation was accepted Jan. 9, 1926.

⁴ Former commander of Chihli troops who had been defeated in the civil war of 1924.

⁵ General in control of Manchuria.

to whom General Lu Chung-lin is attached, must bear the brunt of any such campaign since it is the best organized and most efficient of the four so-called Kuominchun.

4. While advices are meager concerning Wu's movements against Honan and the flank movements in the same direction by his Shantung and Shensi adherents, there are many indications that a Chihli-Fengtien alliance has been brought about for the purpose of crushing Kuominchun in general and Feng in particular, that is to say, the radical militarist element in North China. Sun Ch'uan-fang's⁶ position vis-à-vis this alliance, which is of the first importance, seems undetermined although it would not appear likely that Wu would have started his campaign without satisfactorily assuring himself at least of Sun's neutrality.

5. A factor which may or may not have been accidental that is greatly to Wu's advantage is the death of General Hsiao Yao-nan, *Tupan* of Hupeh, who was reported several days ago to have died from heart failure. While nominally one of Wu Pei-fu's principal partisans, Hsiao has been notoriously uncertain in his allegiance and has caused Wu much anxiety. Wu has appointed one of his chief and most trusted lieutenants, General Chen Chia-mo, Military Governor of Hupeh and another of his adherents, General Tu Hsi-chun, Civil Governor of the Province. Thus far no official confirmation of these appointments has been mandated by the Chief Executive.

6. While a vigorous campaign by the allies, if such a relationship has been established, would not seem likely until weather conditions more favorable in the spring, yet Kuominchun forces are not united and their general collapse without a strenuous fight is possible. In such an event even the phantom government now existing at Peking may collapse unless Wu and Chang decide to retain Tuan⁷ as a figurehead. In any event the tenure of the present Cabinet precarious.

MACMURRAY

893.00/7138 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 2, 1926—4 p. m.

[Received March 2—9: 25 a. m.]

107. Following transmitted to commander in chief, United States Asiatic Fleet:

"1. Under date of March 1st, American consul Tsingtau reports departure from that port for Taku of expedition consisting of naval

⁶ Military overlord of the Provinces of Kiangsu, Kiangsi, Chekiang, Fukien, and Anhwei.

⁷ Tuan Chi-jui, Provisional Chief Executive of the Chinese Republic.

transport *Hwaichia* and two merchant transports with about 5,000 troops as well as war vessels *Haichi*, *Haishen*, *Chuyu* and *Yung Hsiang* and that a further force of about 5,000 reported to have left Tsingtau yesterday for Taku by way of Weihsien and Chefoo, owing to insufficient transport by sea from Tsingtau.

2. With a view to the probability of repetition of incidents such as the search of the *West Jessup*,⁸ recommend the immediate despatch of destroyer to Taku in addition to continuance of ships at Chefoo and Tsingtau."

MACMURRAY

893.00/7139 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 3, 1926—1 p. m.

[Received March 3—9:37 a. m.]

108. My 81, February 18, 7 p. m. New civil war is now in full swing. Ostensible issue one between radical and antiradical forces. Former are so-called National Armies and now control Government and Tientsin and are supported by Government in Canton and Soviets; latter are allied forces of Wu Pei-fu and Chang Tso-lin and possibly Sun Ch'uan-fang. Forces of Wu now pressing attack along Peking-Hankow Railway, travel on which to points south of Chengchow now closed. Forces of Chang Tso-lin in Shantung attacking Tientsin from south and invading Honan from east. Railroad travel south of Tientsin and from Tientsin on Peking-Mukden Railroad closed. Peking-Tientsin rail communication in immediate danger of being closed. Probability of heavy fighting with further destruction of railroad, financial straits and weakness of Government, and general disorder throughout country make possibilities of situation extremely grave. Respectfully request repetition to Navy and War Departments. Repeated to Tokyo.

MACMURRAY

893.00/7142 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 4, 1926—noon.

[Received March 4—7:34 a. m.]

109. My 108, March 3, 1 p. m. and my 107, March 2, 4 p. m.

1. Following to Shanghai in reply to inquiry as to practicability of sea route from Shanghai to Tientsin and Peking.

"March 4, 10 a. m. Your March 3, 3 p. m.

(1) The sea route from Shanghai to Tientsin which has been normal may be interfered with or even become dangerous owing to the

⁸ While anchored at Taku Bar on Feb. 5, the S. S. *West Jessup* of the United States Shipping Board Emergency Fleet Corp. was boarded and searched by the commander of the Chinese gunboat *Chin Hai*.

arrival off Taku Banks on the afternoon of March 3rd of a Chinese naval expedition from Tsingtau should it eventuate that this force is hostile to Kuominchun. Thus far the allegiance of expedition not definitely known. I shall telegraph further when the situation develops.

(2) Two trains daily each way are still in operation between Tientsin and Peking although trains are often late. It is not unlikely that this train service will shortly be interrupted in view of the approach of Li Ching-lin forces toward Tientsin from the south and credible reports of continued advance of Wu Pei-fu in Honan and commencement of Fengtien attack from the north toward Tientsin which may result in fighting in the vicinity of Tientsin and Peking.

(3) In using this information you should take care not to cause undue alarm."

2. Consul general, Tientsin, in reporting facts set forth in paragraph (1) of quoted telegram stated U. S. S. *Preston* would proceed to Taku from Shanghai.

3. Credibly reported that Wu Pei-fu has captured Chengchow, Honan, important junction point of Peking-Hankow and Lung-Hai Railroads and that Chang Tso-lin has captured Lanchow.

4. Repeated to Tokyo.

MACMURRAY

893.00/7162 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 8, 1926—noon.

[Received March 8—4:58 a. m.]

115. My 107, March 2, 4 p. m. and paragraph 2 my 109, March 4, noon.

1. Destroyer *Preston* which arrived off Taku morning March 7th and is standing outside bar reports early this morning troops have been disembarked at daylight at the mouth of Hai Ho, that heavy firing is in progress between fort and cruisers covering landing. Consul general, Tientsin, telephoned March 8, 10 a. m., that bombardment is on south side since it alone armed, that two of cruisers have departed, leaving only one to carry on attack which has taken up a position in the channel preventing pilots getting out or in and thus completely stopping navigation. No American merchantmen due until 17th, but apparently the position of the Chinese cruiser would prevent destroyer from proceeding to Tangku if presence there became necessary.

2. American consul general, Tientsin, further states that it is credibly reported, though not yet officially announced, that troops have been disembarked at Pehtang, north of Tangku, who have cut Peking-Mukden Railway and that it is believed any disembarkation in force will take place at the above point. All quiet at Tientsin.

3. Please inform Navy and War Departments at the request of attachés.

MACMURRAY

893.00/7166 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 9, 1926—9 p. m.

[Received March 9—5:40 p. m.]

119. My 115, March 8, noon.

1. Consul general at Tientsin reports that he has been informed by the local authorities that a series of 10 electrically controlled mines has been placed in Taku Channel near Spit Point buoy about 1 mile from Taku Forts where the channel is only some 500 feet wide and that pilots have been notified shipping would not be allowed in or out. The port of Tientsin is thus completely closed.

2. Gauss further reports that, while bombardment of Taku position by Fengtien cruiser is still going on intermittently, the main movement of Tsingtau naval expedition appears to have resolved itself into a disembarkation at Pehtang about 7 miles north of Tangku where a considerable force has already been landed which has cut Peking-Mukden Railway at that point and is there engaged in fighting the Kuominchun. In the circumstances communication between Peking and the sea is entirely interrupted, contrary to the letter and spirit of articles 8 and 9 of the protocol of 1901.⁹

3. There is to be a meeting of the representatives of protocol powers tomorrow morning, March 10th, to consider what if any steps should be taken in this regard. As it may be necessary for me to assume a definite position then or at a subsequent meeting, I respectfully submit the following: While the situation at Taku has been hitherto somewhat undefined and might have afforded ground for accusations of an unneutral attitude on the part of the powers if they had demanded cessation of obstructions to sea communications in and out of Tientsin, the acknowledgment of Kuominchun in placing mines to prevent such communications has clarified matter so that I consider that a display of international naval force for the purpose of enforcing the protocol is practicable and necessary. I believe that such action is highly expedient not only for the immediate purpose of protecting American life and property against the disastrous possibilities of mine field and bombardment, international or otherwise, by the Fengtien naval forces and the Taku Forts, but also in order to maintain the American and foreign treaty position

⁹ *Foreign Relations*, 1901, appendix (Affairs in China), p. 312.

wherever feasible in the rear-guard action which the treaty powers are now being forced to conduct in China—a practicability which the more difficult land situation in respect to the recent international train incidents did not permit. If unable to refer to the Department for previous approval or instruction at the time when the question comes up for decision, I shall take the position that the interested powers should join in using their naval forces for the purpose of enforcing a demand that both sides in the present hostilities refrain from action dangerous to foreign life and property in connection with the port of Tientsin. Before agreeing to this I shall make every effort to explore with my colleagues the possibilities of less drastic action as regards Central Government's ability to cope with the situation.

4. I feel the more satisfied of the soundness of position indicated above in view of the Department's telegram 214, September 8, 5 p. m., 1924¹⁰ in connection with enforcement of neutrality of Whangpoo River at Shanghai. In the present instance there is the further dominant consideration of the protocol with its provisions concerning communication between Peking and the sea. Indeed in view of the interruption of rail communication on every line out of Peking except to Tientsin, Peking is completely cut off from all transportation facilities until the port of Tientsin is again open.

5. Repeated to commander in chief, United States Asiatic Fleet.

MACMURRAY

893.00/7166: Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, March 10, 1926—2 p. m.

57. Your telegram No. 119, March 9, 9 p. m. Attitude proposed by you in paragraph 3 is approved.

GREW

893.00/7169: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 10, 1926—7 p. m.

[Received 10:30 p. m.]

120. My number 119, March 9, 9 p. m., third paragraph.

1. In pursuance of discussion taken at this morning's meeting Senior Minister is today addressing to the Minister for Foreign Affairs following note:

"On behalf of my colleagues and myself, the diplomatic representatives of the protocol powers, I have the honor to bring to Your

¹⁰ *Foreign Relations*, 1924, vol. I, p. 371.

Excellency's most earnest attention that, according to the statements of the local Chinese authorities at Tientsin, a series of 10 electrically controlled mines has been placed in the Taku Channel near Spit Point buoy where the channel is only some 500 feet wide and that the pilots have been notified that shipping will not be allowed in or out. The port of Tientsin is thus completely closed to the sea. It further appears that the Tsingtau naval expedition and the Kuominchun forces stationed on the site of the south Taku Forts continue an artillery duel which of itself prevents the safe navigation of the Taku Channel, while hostilities between the [Kuominchun] and the Fengtien forces have cut the railways between Tientsin and Chinwangtao.

In the circumstances, communication between Peking and the sea is entirely interrupted, in violation of the provisions of the protocol of 1901. The diplomatic representatives aforementioned protest most urgently against this state of affairs and demand that the Government of China bring about the immediate cessation, by both of the mutually hostile factions of the armed forces of China, of these acts of obstruction to open communication to the sea through the Taku Channel, reserving to themselves to collaborate for the protection of foreign shipping and for the maintenance of free access to the port of Tientsin, should the Chinese Government fail to take forthwith action to that end in fulfillment of the purposes of the protocol of 1901."

The Senior Minister is also addressing, *mutatis mutandis*, to the Senior Consul at Tientsin with a view to representations to Kuominchun headquarters and at Mukden and Tsinanfu for communication to Fengtien [and?] Shantung headquarters the following instruction:

"Please communicate to Chinese military authority that diplomatic representatives have urgently protested against the closing of the port of Tientsin to the sea by the military action being carried on at Taku and have demanded the immediate cessation by both of the military hostile factions of the Chinese armed forces of these acts of obstruction, reserving to themselves to collaborate for the protection of foreign shipping and for the maintenance of free access to the port of Tientsin, should the Chinese Government fail to take forthwith action to that end in fulfillment of the purposes of the protocol of 1901.

You should add that an identical communication is being addressed to the headquarters of both contending parties and that the protective measures indicated above would be applied against either party without discrimination."

2. Reported to commander in chief.

MACMURRAY

893.00/7174 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 12, 1926—7 p. m.

[Received March 12—7:15 p. m.]

123. Your telegram 57, March 10, 2 p. m.

1. Chinese authorities of neither faction have taken steps to restore unimpeded navigation although several British and Japanese shipping companies have made private arrangements with the military forces for clearance of ships both inwards and outwards in individual instances in all cases subject to boarding and search.

2. The action taken in the circumstances indicated in the following telegram I am sending to commander in chief:

“The five interested Ministers today agreed to telegraph their respective naval authorities as follows:

‘On 10th of March the Senior Minister in behalf of the protocol powers notified the Chinese Government of the necessity of removing obstacles to the freedom of navigation in and out of Tientsin, either by the placing of mines or by gunfire, reserving their right to take action themselves to that end for the maintenance of the protocol of 1901 in case the Chinese Government failed to accomplish this forthwith.

Through the consular bodies at Tientsin and at Mukden and Tsinanfu, similar notifications have since been conveyed to the respective headquarters of the forces engaging in hostilities at the entrance of the harbor of Tientsin.

Inasmuch as no effect appears to have been given as yet to the demand of the protocol powers, the American, British, French, Italian and Japanese Ministers, representing the countries having naval forces at Tientsin, have agreed that it is desirable that, unless free navigation has been restored in time for vessels in and out of Tientsin by the morning tide on Saturday March 13th, the naval commanders should notify the military authorities in command of the fort at Taku and the naval officer in command of the Tsingtau flotilla to the following effect:

In order to maintain the general treaty right[s] of international commerce and the particular right of free access from the Capital to the sea, as provided by protocol of 1901, the powers concerned demand that: (1) All hostilities in the channel from Taku Bar to Tientsin must be discontinued; (2) all mines or other obstructions must be removed; (3) all navigation signals must be restored and not further molested; (4) all combatant vessels must remain outside Taku [Bar] and refrain from interference with foreign shipping; and (5) all searches of foreign vessels except by the customs authorities must be discontinued.

If satisfactory assurances on these points have not been received by the morning tide of Monday, the naval authorities of the foreign powers will proceed to take such measures as they may find necessary for the purpose of removing or of suppressing any obstruction to the free and safe navigation of the channel between Tientsin and the sea.

The five Ministers above mentioned nevertheless consider it desirable that the naval forces should not, unless in case of absolute necessity, resort to gunfire unless further advised.’

In view of State Department’s approval of naval action in case of necessity I recommend that you authorize U.S.S. *Asheville* and U.S.S. *Preston* to cooperate with naval forces of other nationalities at Tientsin for the purpose set forth above.”

3. Repeated to Tientsin.

MACMURRAY

893.00/7176 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 13, 1926—4 p. m.

[Received March 13—9:12 a. m.]

125. My number 123, March 12, 7 p. m. Naval commanders at Tientsin have found it necessary because of practical difficulties to request delay of one day in making the contemplated notification to Chinese military and naval authorities. I have approved.

MACMURRAY

893.00/7177 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 13, 1926—9 p. m.

[Received March 13—4:30 p. m.]

127. My number 125, March 13, 4 p. m.

1. Yesterday afternoon despite arrangements which had been made between Japanese consulate general at Tientsin and the military authorities at Taku for the entry of two Japanese destroyers, the latter were fired upon while passing the fort and returned the fire thereafter, retiring outside the bar. Four Japanese were wounded of whom three were officers including commander of destroyer flotilla of four vessels which had arrived off Taku Bar from Port Arthur.

2. A secretary of the Foreign Office who called upon me this morning to convey General Lu Chung-lin's appreciation of impartial attitude of the American and British authorities in the present Taku situation stated that General Lu had described the incident as a Chinese sentry having fired blank cartridges at the Japanese leading destroyer since she was not complying with the arrangements made as to hour of passage through the channel and that the Japanese had thus fired upon the fort without sufficient provocation. There seems no doubt of the fact that the Chinese military at Taku knew that the vessels were Japanese destroyers passing through according to arrangement since the incident occurred at 3:40 p. m. The vessels were flying squadron identified by [*identification?*] flags and were preceded by a steam launch with a Chinese officer from the port on board who had landed from the boat sufficiently in advance of firing by Chinese for a preliminary report to the authorities.

3. On the evening of the same day, March 12th, the Foreign Office protested orally to the Japanese Minister, expressing the hope that such an incident would not be repeated. This afternoon, on receipt of full advices, Japanese Minister called on Vice Minister for For-

ign Affairs, who is in charge of the Foreign Office, and protested in turn against the action of the Chinese military at Taku, reserving possible later proposals to Chinese Government in respect to settlement of the incident and demanding that Chinese Government meanwhile instruct local Chinese military authorities to take immediate definite and most effective steps to avoid repetition of such regrettable occurrences.

4. I understand that arrangements are being made locally at Tientsin for a Japanese destroyer to proceed there today.

5. Copy mailed to Tokyo.

MACMURRAY

893.00/7181 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 15, 1926—5 p. m.

[Received March 15—11:20 a. m.]

130. My 123, March 12, 7 p. m., and 125, March 13, 4 p. m.

1. Proposed action has been further postponed by the failure of Japanese naval force at Tientsin to receive necessary authorization from home government. That having now been received, the following identic telegram is being sent by five Ministers concerned to respective naval commanders:

“The Japanese Government having agreed to the joint action by the foreign naval commandants at Tientsin, which formed the subject of the identic telegram addressed by the American, British, French, Italian and Japanese Ministers to their respective naval commanders on March 12th, the five Ministers request that their commanders at Tientsin will now arrange to deliver as soon as possible the notification to the Chinese military authorities in command of the forts at Taku and the naval officer in command of the Tsitsihar [*Tsingtao*] flotilla in the terms prescribed in the aforesaid telegram.

The five Ministers suggest that the notification to the Chinese commander of the Tsitsihar [*Tsingtao*] flotilla could be delivered by the officer commanding H. M. S. *Carlisle* at about the same time as the foreign naval commanders in Tientsin arrange to deliver the notification to the Chinese military authorities at Taku.

The five Ministers desire to leave their naval commanders full discretion to choose the time for the delivery of the notification and suggest that an interval of from 36 to 48 hours should be given for compliance by Chinese on both sides. The five Ministers request that they may be kept informed of the decision reached in this matter.”

2. I shall telegraph date of proposed delivery of notification as soon as I am informed thereof, at which time it is proposed to communicate program simultaneously to the Chinese Government and to the press.

MACMURRAY

893.00/7189 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 16, 1926—5 p. m.

[Received March 16—2:55 p. m.]

134. My 130, March 15, 5 p. m.

1. Following is substance of message dated March 15, 12:30 a. m., from United States ship *Asheville* at Tientsin:

“Naval commanders of American, British, French, Italian and Japanese war vessels at Tientsin decided night of March 15th as follows:

Notification to be delivered to senior officer present of the Tsingtau flotilla at 4 o'clock Tuesday, March 16, 1926, by the captain of H. M. S. *Carlisle*; notification to be delivered to military authorities at Taku Fort at same time by commanders of French cruiser and Italian man-of-war, period for compliance to expire at noon Thursday, March 18th. Ministers also informed that if the commanding officer of Taku Fort fails to comply with terms of notification being sent, it is possible that use of foreign garrisons from Tientsin will be necessary to ensure compliance.”

2. The subject matter of the last sentence was considered at a meeting this morning of the Ministers concerned who have sent the following communication to their respective naval commanders at Tientsin:

“The five Ministers have duly considered the message from their five naval commandants conveying their opinion that, if the commander of the Kuominchun forts at Taku fails to comply with the terms of the notification, it is possible that the use of the foreign garrison at Tientsin will be necessary to ensure compliance.

The Ministers in reply wish to state that they did not contemplate either the use of the foreign garrison at Tientsin or the employment of naval landing forces to ensure compliance with the five demands embodied in their notification.

The five Ministers, who are hopeful that the exclusion of the Tsingtau flotilla from entering the channel will make easy the compliance of the Kuominchun with the demands made upon them, consider it highly undesirable to make use of land forces and would not be prepared to seek from their Governments, except as a last resort, the necessary authorization to that end.”

3. The statement in paragraph 2 of my 123, March 12, 7 p. m., beginning at the subquote as follows: “On March 10th” through the subquote, omitting last paragraph commencing “the five Ministers above mentioned nevertheless consider, etc.,” is being communicated to the Chinese Government by the Senior Minister this afternoon and simultaneously given to the press in accordance with paragraph 2 of my 130, March 15, 5 p. m.

4. Insert "Bar" after Taku in fourth demand in statement aforementioned.

MACMURRAY

893.00/7201 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 18, 1926—7 p. m.

[Received March 18—3:22 p. m.]

137. My 134, March 16, 5 p. m.

1. In view of satisfactory assurances from the commander of Tsingtau flotilla and from Kuominchun authorities at Tientsin, as well as from the Ministry for Foreign Affairs, I have informed our naval authorities that no further naval action is required in connection with the opening of communications between Tientsin and the sea.

2. The following is the substance of a note, dated March 17th, received last evening by the Senior Minister from the Ministry for Foreign Affairs, to wit: Foreign Office stated it had immediately forwarded to the competent military authorities Senior Minister's note of March 16th communicating to it the notification which naval commanders of the several powers in Tientsin had transmitted to both Chinese "belligerent parties" in Taku. "In conformity with the stipulations of the protocol of 1901 the free communication between Peking and the sea must remain unobstructed, a principle which the Chinese Government has always respected." Then follow excuses for restrictions upon navigation as a result of warfare near Taku and statement that Chinese forces had been doing everything possible to restore free communication between Peking and the sea. The note thereafter complains of the impatience of the protocol powers and the fixing of a time limit for a reply to their demands which the Chinese Government cannot recognize as equitable. It then states that competent Chinese military authorities have been authorized to take the proper measures with regard to the five demands and requests ministers with naval forces at Tientsin to authorize their naval commanders in Tientsin to enter into relations with local military authorities in order that they may find together proper ways and means for maintenance of communication to the sea. The note closes with the statement that it is essential that no recourse should be had to extreme methods, especially in view of the friendly relations which exist between China and the foreign powers.

3. Fuller report to follow.

4. Repeated to Tokyo.

MACMURRAY

893.00/7202 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*PEKING, *March 18, 1926—9 p. m.*

[Received March 18—7:25 p. m.]

138. 1. On the afternoon of March 17th representatives of Kuomintang demonstration besieged the Foreign Office in the endeavor to force the Vice Minister to approve a draft prepared for the purpose by the Soviet Embassy in reply to the demands of the powers concerning Taku incident, instead of the note which was actually sent by the Foreign Office to the Senior Minister, as reported in paragraph 2 of my 137, March 18, 7 p. m. Demonstrators also visited the Chief Executive's residence, and participants claim that some of them were bayoneted by the bodyguard when attempting to force entrance. This morning another demonstration was organized and about two thousand attempted to force entrance into the Chief Executive's office. The bodyguard, forewarned, first repelled demonstrators with cudgels and subsequently about half past 1, apparently without other warning, fired into the crowd. Seemingly accurate reports state 17 were killed and about 40 wounded. Bodyguard are not regular Kuominchun troops but remnants of Feng-tien force.

2. Demonstrations yesterday and today were against the demands of the protocol powers relative to Taku matter. Japan and Great Britain especially singled out, but the slogans included cancelation of the protocol and eviction of the protocol ministers. Demands of protocol powers were represented as a threat of war against China. Demonstrations were directed also against the present Government and Tuan in particular. . . .

3. City apparently quiet. Acting head of police is reported, from reliable official sources, to have issued special instructions for the protection of foreign residents.

MACMURRAY

893.00/7201 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *March 19, 1926—6 p. m.*

67. Your 134, March 16, 5 p. m., and 137, March 18, 7 p. m. I learn with much gratification that forceful action has not been necessary to settle question of maintaining protocol status of Tientsin. I

think that in general it should be our policy not to use force of arms to enforce treaty rights unless such action is necessary in order to protect the lives of Americans.

KELLOGG

893.00/7217 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 22, 1926—7 p. m.

[Received March 22—2:15 p. m.]

143. My 141, March 20, 5 p. m.¹¹

1. Mandate was issued March 20th in deference to popular indignation at the numerous deaths on March 18, which, while insisting on guilt of the radical leaders and the justifiability in principle of the measures taken by the military and police, nevertheless directs the Ministry of the Interior to grant solatiums to any innocent persons injured and directs Ministries of War and Justice to investigate whether the measures taken were unnecessarily severe.

2. Ex-Premier Wang Shih-chen has issued a circular telegram proposing termination of hostilities roughly based on restoration of *status quo* before present war. On the 20th, leaders of Kuominchun issued circular telegram accepting Wang's suggestion and announcing intention on the part of the Kuominchun to retire to the northwest. A responsible Kuominchun officer today at luncheon informed British Minister and me that this force had withdrawn from the conflict. I learn that orders for the withdrawal of fronts south and north of Tientsin were issued on the 19th instant. Troop withdrawals from these fronts have been continuous during the past two days. Whether the Paotingfu-Peking area will be evacuated entirely without struggle seems not yet determined but total evacuation Chihli Province seems probable. I am informed that Feng left for Urga for Europe on March 20th.

3. On March 18th a group of prominent ex-officials including Sun Pao-ch'i issued the text of a telegram to Governor Yen of Shansi and General Sun Ch'uan-fang, asking that they mediate in the war between Kuominchun and Chang-Wu alliance. Governor Yen has lately made threatening military dispositions on Peking-Hankow and Peking-Suiyuan Railways that probably had their part in bringing about Kuominchun withdrawal. Same group issued text of a circular telegram same date to leaders of both factions in the war urging them to compose their differences. Kuominchun leaders have issued text of reply acceding to the proposal in principle. Feng's name not mentioned in lists of signers of telegrams.

¹¹ Not printed.

4. The Cabinet submitted their resignations to Tuan on the 20th instant but the resignations were rejected. I consider nevertheless that a reconstitution of the Cabinet must necessarily take place before long. Only five members are functioning. Tuan will probably remain as for the present.

5. Please send to the War and Navy Departments.

6. Copy to Tokyo by mail.

MACMURRAY

893.00/7222 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, *March 23, 1926—7 p. m.*

[Received March 23—5:33 p. m.]

146. My telegram No. 143, March 22, 7 p. m.

1. According to reliable authority General Lu Chung-lin, who for some time has commanded both the police and the Kuominchun precautionary troops guarding Peking, had a heated conversation last night with the Prime Minister and the Chief Executive in which he declared that none of his command would take any action against agitations by students or other demonstrators and finally demanded the disarming of the Chief Executive's bodyguard of 4,600 men. Although this demand was refused, the Prime Minister immediately afterwards took refuge in the Legation Quarter.

2. This morning the Vice Minister, who is in charge of the Foreign Office, approached the Senior Minister with the statement that serious fear was felt by the authorities for the safety of Peking. They are uncertain whether the Kuominchun forces will remain in Peking but are afraid that they will evacuate without notice, thus leaving the city to be protected by the bodyguard of the Chief Executive and the police force which is believed to have been demoralized very seriously by changes which General Lu has made in the personnel and by lack of pay for a number of months. This fear is so great that the Senior Minister was asked by the Vice Minister whether it would not be possible to entrust the Legation Guards with the policing of the southeastern part of the Tartar City. In this section are the Legation Quarter and most foreign residences.

3. The Vice Minister also asked whether the diplomatic corps could not take the initiative in demanding the exclusion of Peking from the field of military operations and its neutralization, action similar to that in 1924 at Shanghai.¹² The Vice Minister said any

¹² See *Foreign Relations*, 1924, vol. 1, pp. 363, 370, 377, and 380.

such suggestion or request made by the foreign representatives would be gladly supported by the Chamber of Commerce and other representative Chinese organizations.

4. General Lu has communicated to the diplomatic corps by a roundabout way his ability and willingness to adequately protect the city, but he makes the condition that a loan be arranged.

5. A meeting of interested Ministers today considered these questions. While they did not definitely refuse, they thought it would not be possible to have the Legation Guards undertake the policing of any part of the city. They also felt unable to discuss the matter of the loan which General Lu desired. They felt also that it would not be wise to take any initiative with respect to the neutralization of Peking. They did, however, authorize the Senior Minister to contact representatives of the Chamber of Commerce with a view to the possibility of giving support to any initiative which that organization might take in regard to asking for the establishment of a police force to replace the protective force which the dominant military faction placed in control of the city.

MACMURRAY

893.00/7223 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 24, 1926—3 p. m.

[Received March 24—10:07 a. m.]

147. My 108, March 3, 1 p. m., and my 146, March 23, 7 p. m., paragraph 2.

1. Chang Tso-lin's forces having captured Lanchow, despatched columns toward Tientsin and overland toward Peking, forcing evacuation by National Army [of] Tientsin and adjacent area. National Army is now hastily retiring on Peking. Tientsin is now occupied by Li Ching-lin's troops.

2. Sun Ch'uan-fang is still inactive. Hunan has been seized by forces allied with Canton Government. Wu Pei-fu's campaign is stationary.

3. Railroad traffic has been interrupted since the 22nd, but an effort has been made this morning to run a train from Peking to Tientsin, with what success I am not yet informed.

4. I have heard on reliable authority that National Army leaders are endeavoring to effect a compromise with Chang Tso-lin for the establishment in Peking of coalition government to the exclusion of Wu Pei-fu.

5. Please repeat [to] War and Navy Departments as at request of military and naval attachés.

MACMURRAY

893.00/7229 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 26, 1926—7 p. m.

[Received March 26—9:35 a. m.]

153. My number 147, March 24, 3 p. m.

1. Information just received from British military attaché is to the effect that Li Ching-lin's forces have advanced from Tientsin and that fighting between them and the Kuominchun is now in progress at Hwangtsun, some 10 miles south from Peking.

2. I have just been informed by Lu Chung-lin that the First Kuominchun has established line of defense around Peking and that any attempt on the part of the enemy to penetrate the line will be resisted. Lu states he will hold Peking until its fate shall have been determined by peace negotiations. He announces ultimate intention to retire from the capital but assures me he will not do so precipitately, and he undertakes responsibility for peace and order.

3. Eight well-known ex-officials of high standing have been endeavoring to mediate between the contending factions. Lu's messenger assured me Kuominchun leaders and Chang Tso-lin had indicated willingness to accept this mediation but Wu Pei-fu had not. The messenger stated Wu was fully occupied in Hupeh and Honan and would be unable to conduct an offensive against the Kuominchun.

4. Please repeat to War and Navy Departments.

MACMURRAY

893.00/7274 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 3, 1926—5 p. m.

[Received April 3—10:30 a. m.]

164. My 153, March 26, 7 p. m.

1. Politico-military situation is still confused and offers little tangible or authoritative material on which to base judgment.

2. I am informed from two separate highly credible sources that, at a recent conference at Tangshan among Chang Tso-lin, Li Ching-lin and Chang Tsung-ch'ang, it was definitely decided to pursue campaign against the Kuominchun until they were eliminated.

3. Lu Chung-lin and that portion of the First Kuominchun under his command, seem to be the focus of the present negotiations among the various factions. According to well-informed Chinese and foreigners, Wu Pei-fu, on the one hand, is dickering with Lu Chung-lin in an effort to gain the latter's allegiance and at the same time strengthen his own position immeasurably by becoming associated with probably the best army in China and obtaining control of

Peking. Tuan, for his part, is believed to be negotiating with Lu with a view to Lu's joining Anfu clique and thus rehabilitating it by the addition [of] his personality and the armed forces under his command, a step which would continue Tuan and his adherents in possession of Peking and of the Government while constituting a powerful third party which could align itself either with Chang or Wu on an independent basis or oppose either of these leaders with reasonable promise of success should the latter policy seem preferable. Such negotiations among the various factions are doubtless responsible for the present stalemate. Consistent reports, however, continue to be received that the Fengtien forces are advancing against the Kuominchun.

4. This is confirmed by bombing of Peking yesterday morning and this morning. On April 2nd three bombs were dropped from an aeroplane flying at a great height which exploded near the Hsichihmen¹³ wounding or killing at least one person, official reports being difficult to obtain. One or more aeroplanes circled over Peking at 10 a. m. and 10:30 a. m. this morning. Bombs were dropped inside walls of Peking as follows: On first flight, 6 in and around North Lake in the Tartar City, 3 of which failed to explode; on second flight, 4 in a line from east to west about one-third of a mile south of southern boundary of the Legation Quarter, that is, the south wall of the Tartar City. Altogether 10 bombs were dropped but little damage was done and no one injured.

5. American newspaper correspondents inform me that they understand their reports of yesterday's bombing were deleted by the censor. They would appreciate the Department's bringing the facts of yesterday's and today's bombing to the notice of the principal news associations having agencies in Washington.

6. The city seems calm despite aeroplane attack and the uncertainty of the present state of affairs.

MACMURRAY

893.00/7279 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 7, 1926—noon.

[Received April 7—2:34 a. m.]

166. My 164, April 3, 5 p. m.

1. Bombs were dropped on Peking by an aeroplane again on 4th and 5th instant, but without serious results. Consequent upon a decision taken at a diplomatic meeting yesterday Senior Minister addressed note to the Minister for Foreign Affairs expressing concern

¹³ The railroad station near the northwestern gate to the Inner City.

at the danger threatening the Legations and the lives and properties of their nationals in Peking due to outbreak of hostilities in the Capital. While reaffirming their neutrality, the foreign Ministers reminded the Chinese Government of its responsibility to protect foreigners as well as to avoid further interruption of the Customs Conference. The note recalled the note of September 25, 1924, regarding air raids over Peking¹⁴ and, in protesting against flight of aeroplanes over the Diplomatic Quarter, held the Chinese Government responsible for any possible injuries to the life or property of foreigners concerned throughout the city. Note closed with an expression of sympathy, with an appeal made by various Chinese public organizations for the cessation of air raids.

2. Indications persist that Wu Pei-fu and Lu Chung-lin are negotiating an alliance, but it is also possible that the other armies of the Kuominchun may unite to eject the First Army from Peking. Secret negotiations are in progress and almost any regrouping of factions seems possible.

MACMURRAY

893.00/7289 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 10, 1926—5 p. m.

[Received April 10—12:20 p. m.]

170. My 166, April 7, noon.

1. Senior Minister has just officially circularized his colleagues to the effect that former officers of ex-President Tsao Kun had called to communicate the fact that Marshal Tuan had been placed under restraint in his residence; that Tsao Kun had been freed and would resume previous office; that General Lu Chung-lin had placed him[self?] under the command of Marshal Wu Pei-fu; and that General Chang Chih-chiang in Kalgan was in agreement with this action on the part of the Kuominchun which had originated [*sic*] growing discontent with Marshal Feng. Soon afterwards Senior Minister was informed by Y. L. Tong of Lu's office who had just given the same information to this Legation that Tuan had resigned; that his body-guard had voluntarily disbanded; that Lu was holding himself responsible for peace and order in the capital; that Marshal Wu would be invited to come to Peking; and that Tsao Kun had been freed.

2. A proclamation has been issued to [*by?*] General Lu, synopsis of which follows: Tuan since assuming office as Chief Executive has brought untold injury to the nation, especially in settling the gold

¹⁴ See telegram No. 364, Sept. 26, 1924, from the Chargé in China, *Foreign Relations*, 1924, vol. I, p. 379.

franc question arbitrarily and in killing large numbers of students. He is detested by the people and has surrounded himself with remnants of corrupt Anfu Party. He has violated laws and stirred up wars. This army on behalf of the nation and the people cannot but employ the most drastic measures to put an end to his actions. It has restored His Excellency Tsao Kun to liberty and has telegraphed to Commander in Chief Wu Pei-fu to come to Peking at once to assume control of the whole situation. Troops and police will continue to bear responsibility for the maintenance of peace and order in Peking. The proclamation ends with a warning against the spreading of rumors and exhorts all classes to pursue customary affairs.

3. From Anfu and independent Chinese and foreign sources of highest credibility I have been informed that *coup d'état* has not been entirely successful; that the combination between Wu and Kuominchun has not been effected; that Tuan's bodyguard has taken defensive positions at his house and at the Cabinet offices and President's Palace and that he himself took refuge in Legation Quarter midnight last night.

4. The Legation was first aware of the *coup d'état* early this morning when the city gates were closed and telephone service interrupted. Gates have now been opened and telephone service resumed. There are many extravagant rumors afloat. A report has even reached me from an ordinarily credible source that Marshal Feng has returned to Peking and taken charge.

5. It is too early yet to determine definitely what has actually taken place or how Chang Tso-lin, whose troops are reported to be closing in more and more on Peking, will react to the *coup d'état* if it has been successful.

6. All quiet in Peking.

7. American newspaper correspondents here state that their reports to the United States have been either suppressed or emasculated. Please give principal American news associations above information.

8. Please inform War and Navy Departments.

9. Repeated to Tokyo and commander in chief, Asiatic Squadron.

MACMURRAY

893.00/7308 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 12, 1926—3 p. m.

[Received April 12—8:47 a. m.]

171. My 170, April 10, 5 p. m.

1. The situation is still undetermined. Kuominchun leaders have not received a reply from Wu Pei-fu, which lends credence to the

report that *coup d'état* was executed without the prior definite conclusion of an arrangement between them and Wu, possibly as a last resort by them to force Wu into an alliance or some form of association with them.

2. Peking remains quiet but heavy artillery and small arms fire was heard to the south for several hours during night of April 10th and early morning of 11th. Gunfire continues to be heard intermittently in that direction. A report from Tungchow states heavy firing heard to north and east.

3. Aeroplane attack resumed yesterday morning, nine bombs being dropped resulting in injury to two Chinese, the Peking-Suiyuan Railway yard apparently being the objective. During aeroplane attack this morning more than a dozen bombs dropped. American citizen, Roy Chapman Andrews, had very narrow escape at Hsichih-men station when several bombs spattered freight car under which he had taken refuge. Five Chinese killed there, four men and one child. Casualties in other parts of city reported but not tabulated. In neither instance did planes fly over Legation Quarter (see my 166, April 7, noon).

4. It now seems fairly certain that Tuan is in a private foreign residence in the Quarter.

5. Please repeat to War and Navy Departments.

6. Repeated to commander in chief, Asiatic Fleet.

7. Copy by mail to Tokyo.

MACMURRAY

893.00/7329 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 15, 1926—2 p. m.

[Received April 15—11:58 a. m.]

177. My telegram number 171, April 12, 3 p. m.

1. Such government as may be said to exist in China is in abeyance, with the Provisional Chief Executive, his Prime Minister and all but four of the Cabinet in hiding. On the 10th two telegrams were circulated to the provincial authorities in the name of the Cabinet to the effect that as consequences of the *coup d'état* "not only did it become quite impossible to transact any public business, but law and order in the capital could not be maintained," and that "the Cabinet has temporarily ceased to function." On the 12th the Ministers of Foreign Affairs, Finance, Justice and Education and acting heads of other ministries met and circularized all military and civil governors to the effect "the central organization (i. e. the Cabinet) is of crucial importance and no interruption to it of even a day can be permitted. Until political affairs are settled it is of

course our duty temporarily to maintain the *status quo*." This has been explained to Senior Minister in behalf of the Minister for Foreign Affairs to mean that while not acting as a cabinet the several remaining ministers and heads of ministries will continue at their posts for the purpose of carrying on the necessary routine of their respective organizations. The Prime Minister, April 13th, addressed to the Senior Minister a letter in which while stating that "the Government has temporarily ceased to function," he said, "although the rebellious forces of the one locality of Peking have made it temporarily impossible for the Chief Executive Tuan to exercise his functions and power, this does not signify that he has resigned his position."

2. The whole status of the Provisional Government remains indeterminate pending an outcome of political intrigues and military operations now in progress. It is credibly reported that there are internal dissensions within both Fengtien and Kuominchun ranks which complicate still further the process of mutual bargaining by all parties for the loyalty of one and another element. So-called Fengtien-Shantung allies have for some days been making a concentrated attack upon the Kuominchun defenders of Peking along an arc stretching from southwest to northeast at a distance of from 10 to 30 miles from the city. There are today some indications that the Kuominchun forces are beginning a general retreat towards Nankow. At the instance of prominent Chinese residents and commercial organizations there has been formed an unofficial committee of public safety comprising 10 members (most of them former Prime Ministers including Wang Shih-chen and W. W. Yen) to assume responsibility for order in the city in the event of interregnum.

3. Rail communication with Hankow [*Nankow?*] has been closed since March 6th and with Tientsin since March 24th. Limited passenger and postal service with Tientsin was maintained by motor until 5 days ago since which time Fengtien forces beyond Tungchow have been firing on all cars attempting to pass. A party of Americans in a motor bearing an American flag was yesterday turned back by machine-gun fire, fortunately harmless.

4. While some degree of progress in work of Customs Conference continues to be made through informal discussions and through consultations among the experts, no regular meetings permitted in the absence of any actual governmental [apparent omission] and C. T. Wang (who has taken refuge in one of the foreign concessions in Tientsin) and all the other Chinese delegates and commissioners, with the exception of Yen and Tsai, have in fact disappeared. Apart from the fact that it has been notified that such investigations would not be welcome in the territory giving adherence to so-called Canton Government, Extraterri-

toriality Commission has thus far found it impossible to visit any other city in pursuance of its plan of investigations, by reason of interruption of all means of transportation elsewhere than to the Gobi Desert.

5. Copy by mail to Tokyo.

MACMURRAY

893.00/7328 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 15, 1926—8 p. m.

[Received April 15—11:10 a. m.]

178. My telegram number 177, April 15, 2 p. m.

1. Tungchow was occupied this morning by Fengtien troops. Kuominchun is withdrawing from Peking and has turned over control of police to committee of safety.

2. Repeated to Tokyo.

MACMURRAY

893.00/7334 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 19, 1926—6 p. m.

[Received April 20—4 a. m.]

185. My 178, April 15, 8 p. m. and 177, April 15, 2 p. m.

1. Metropolitan area has been entirely evacuated by the First Kuominchun since the 16th, these forces having retreated on Nankow with little loss in men and munitions. The Ninth Division under General Tang Chih-tao, originally part of the Fengtien armies from which it deserted, refused to withdraw with the Kuominchun and entered Peking, imposing itself upon the committee of safety as part of the local police force. It is currently reported that the Fengtien forces are pursuing the First Kuominchun with the object of destroying them or at least securing the greater part of the Peking-Suiyuan Railway.

2. There appears to be increasing friction between the Ninth Division and the Fengtien troops encamped around and outside the city, many of whom are beginning to trickle in in small groups. It is understood that entrance into Peking of Chang Hsueh-liang and other Fengtien leaders awaits settlement of the status of the Ninth Division.

3. Tuan Chi-jui having emerged from hiding has resumed office as has the Cabinet its functions. Tuan has issued mandate which states in essence that he is ready to retire as soon as leaders of the country

so decide. It is generally considered that his tenure of office is apt to be of short duration.

4. Jealousies in respect of appointments to administrative positions in Peking have already appeared as between Chang and Wu factions, these appointments being made apparently without any regard to Tuan although technically there is again a government here; practically the situation remains as confused as before.

5. Train service with Tientsin was partially resumed on the 17th.

6. Please repeat to War and Navy Departments at the request of respective attachés.

7. Repeated to Tokyo by mail.

MACMURRAY

893.00/7335 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 20, 1926—8 p. m.

[Received April 20—12:28 p. m.]

189. My 185, April 19, 6 p. m., paragraph 3.

1. Tuan again took refuge in the Legation Quarter last evening and left by train today for Tientsin guarded by Fengtien troops. The Cabinet which handed in its resignation en bloc yesterday has apparently ceased to function.

2. Please repeat to War and Navy Departments.

MACMURRAY

893.00/7336 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 21, 1926—6 p. m.

[Received April 21—10:50 a. m.]

190. My telegram number 189, April 20, 8 p. m.

1. Tuan, before leaving, issued mandates that appeared today accepting resignations of the Premier, concurrent Minister of War, the Minister of Finance, the Minister of Communications and the Vice Minister for Foreign Affairs. He appointed the Minister for Foreign Affairs concurrently Acting Premier. In a final mandate he announced his retirement from office and instructed the Cabinet to assume the powers and act on behalf of the Provisional Chief Executive.

2. I am reliably informed that the Minister for Foreign Affairs has consented to continue temporarily if Foreign Office functions. At most, only three Cabinet Ministers remain.

3. Two officers appointed by Fengtien faction are now functioning in command of police and so-called precautionary troops. They comprise the only evidence of actual authority in Peking.

4. I learn from apparently trustworthy source that Lu Chung-lin, with his portion of the First Kuominchun, will shortly amalgamate with Wu Pei-fu and that this will probably precipitate early hostilities between Wu and Chang Tso-lin.

5. Attempts by Fengtien troops to force acceptance of military notes is producing financial panic in Peking while numerous outrages by these troops in the surrounding region are reported.

6. In order to avoid expense, may I assume that telegrams of this nature containing general information regarding political and military affairs are repeated to the War and Navy Departments.

7. Copy to Tokio by mail.

MACMURRAY

893.00/7373 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 4, 1926—6 p. m.

[Received May 4—11:48 a. m.]

201. My telegram number 190, April 21, 6 p. m.

1. Under date of May 1st ex-President Tsao Kun sent a circular telegram to Cabinet, Senate and House of Representatives of 1924, to the military and civil, and to public bodies throughout the country, which amounted in substance to a resignation in favor of the 1924 Cabinet, which he stated should resume the affairs of government and in accordance with law take over the duties of the President.

2. W. W. Yen, the Premier, and so the head of the 1924 Tsao Kun cabinet, issued a circular telegram on May 2nd expressing his own unwillingness to comply with the suggestion of Tsao Kun.

3. In the latter regard I was informed this morning by General Chi Hsieh-yuan, Marshal Wu Pei-fu's close adviser and representative at present in Peking, that it was expected Yen would eventually consent to head a regency cabinet government which it was hoped could be established within a few weeks. According to Chi, who stated that Chang Tso-lin and Wu were solidly in accord, the plan is to hold a parliamentary election in the near future for the constitution of such a body which would then proceed to elect a President. I was given to understand likewise by Chi that Chang continues as formerly to be in favor of the Tariff Conference and that Wu is now like minded although originally opposed to the Conference in view of the probability then existing that any moneys resulting therefrom would only find their way into the pockets of the Tuan government.

4. Chi also expressed himself to the effect that the Wu-Chang alliance was pursuing its intention of eliminating the Kuominchun by continuing the attack in the direction of Kalgan.

5. Repeated to Tokyo.

MACMURRAY

893.00/7397 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 14, 1926—7 p. m.

[Received 8:05 p. m.]

208. My 201, May 4, 6 p. m.

1. As foreshadowed in paragraph 3 of the above telegram the following mandates, dated May 13th, appeared today bearing Presidential seal, "by the Cabinet acting," and countersigned by Yen as Premier: (a) Relieving of their portfolios all members of Yen 1924 cabinet except Yen, Premier, Wellington Koo, Minister of Foreign Affairs, and Chang Kuo-kan, Minister of Justice; (b) transferring Koo to be Minister of Finance; (c) appointing Alfred Sze Minister of Foreign Affairs, Cheng Ch'ien, Interior, Chang Ching-hui, War, Tu Hsi-kwei, Navy, Wang Ch'ung-hui, Education, Yang Wen-kai, Agriculture and Commerce, Chang Chih-tan, Communications; (d) directing Yen to act concurrently as Minister of Foreign Affairs pending arrival of Sze.

2. An announcement with Cabinet seal has likewise been promulgated, stating that in view of President Tsao Kun's circular telegram of resignation May 1st, the Cabinet would henceforth perform duties of President as provided by law.

3. Although Cabinet appointees include representatives of Sun Ch'uan-fang, Chang Tso-lin and Wu Pei-fu, the support of Sun and Chang is not assured and I understand Wu's support is more nominal than effective. Lacking thus all real power it is hard to see what substantial results will follow appearance of these mandates except such recognition as may be accorded by the foreign powers, although in my opinion the new Cabinet possesses scarcely more than a color of legality. There is no other more qualified claimant to authority and I see no prospect of emergence of a government for a long time to come if this attempt fails. I respectfully request authorization in my discretion to deal with the Yen cabinet on a *de facto* basis if it gives satisfactory assurances as to the observance of treaty rights and if the representatives of principal power[s] decide to act likewise.

4. A week ago Yen issued a circular telegram boldly giving as the condition of his heading a cabinet, universal support of a policy of troop disbandment, restoration of Central Government revenues and restoration of transportation facilities. I have seen no evidence that the provincial militarists have pledged support to this policy and Yen seems to have displayed courage if not temerity in attempting his task of reviving a government under these conditions.

MACMURRAY

893.00/7397 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, *May 17, 1926—3 p. m.*

99. Authority requested in Paragraph 3 of your No. 208, May 14, 7 p. m. granted.

KELLOGG

893.00/7402 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *May 18, 1926—6 p. m.*

[Received May 18—11:17 a. m.]

214. My 208, May 14, 7 p. m.

1. On May 15 Yen addressed an identic note to the Legations stating that Alfred Sze had been appointed by Presidential mandate Minister for Foreign Affairs and that pending his arrival Yen himself was appointed temporarily concurrently Acting Minister. This morning the Legations received a second identic note dated May 15 but actually written on the evening of May 17. The second note was prompted by remarks made to Yen by the Senior Minister. It recalled that President Tsao was prevented, by political changes on October 23, 1924, from further carrying out the duties of his office and that Tuan thereupon temporarily administered Government, vacating his office in April last. The note continues that President Tsao had issued a circular telegram on May 1 last, turning over the duties of the Presidential office to be administered by the Cabinet as provided by law. After reporting widespread insistence, the note states that the Cabinet on May 13 entered upon the performance of the functions of the President's office as aforesaid. The hope was expressed that since the present governing Cabinet had been constituted in due legal continuity, foreign relations would be consolidated [*sic*] and the present international conferences prove successful.

2. At a meeting of the interested Ministers this afternoon it was decided to acknowledge receipt of the first note severally in third-person communications but to wait until a cabinet under Yen actually assumes office before dealing with that administration in any other routine matters; in the meantime the Senior Minister is to intimate to Yen that in any case his government would be expected to assume explicitly the existing treaty and other international obligations of the Chinese Government.

MACMURRAY

INVASION OF THE YANGTZE VALLEY BY THE SOUTHERN NATIONAL-
IST FORCES AND MEASURES TAKEN FOR THE PROTECTION OF
AMERICAN INTERESTS

893.00/7529 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 26, 1926—noon.

[Received July 26—7:55 a. m.]

304. Following from American consul general at Canton:

"July 23, noon. I assume Changsha and Hankow consuls are able to keep you advised respecting military situation. Canton army appears to be advancing rapidly and local leaders are now predicting early capture of Hankow and Wuchang. General Chiang¹⁵ of Whampoa Cadets is expected to leave Canton in a few days for Hunan."

MACMURRAY

893.00/7541 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 30, 1926—7 p. m.

[Received July 31—12:56 a. m.]

311. Legation's 304, July 26, noon. Following telegram has been received from the American consul general at Canton:

"July 29, 2 p. m. Referring to telegram of July 23, noon. Cantonese authorities now predict capture of Hankow and Wuchang in 10 days. General Chiang of Whampoa Cadets has left Canton for the Hunan front."

MACMURRAY

893.00/7543 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 5, 1926—noon.

[Received August 5—5:40 a. m.]

317. Referring to my 311, July 30, 7 p. m. Following from American consul general at Hankow:

"August 4, 11 a. m. Your July 31, 6 p. m. Believe this to be another Cantonese boast. No probability that they will reach Hankow. Sun¹⁶ is throwing heavy reinforcements into Kiangsi, and Wu¹⁷ is sending two more divisions to Yochow where his naval forces are known to be. Will keep you informed of any developments."

MACMURRAY

¹⁵ Chiang Kai-shek, commander in chief of the Cantonese Northern Expedition; also known as Chiang Kai-shih and Chiang Chung-cheng.

¹⁶ Sun Ch'uan-fang, Tupan of Anhwei, Chekiang, Fukien, Kiangsi, and Kiangsu.

¹⁷ Wu Pei-fu, commander of allied armies which overthrew the Provisional Government of Tuan Chi-ju. See pp. 591 ff.

893.00/7560 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 17, 1926—10 a. m.

[Received August 17—6:14 a. m.]

328. My 317, August 5, noon. Following from American consul at Changsha :

“Chiang Kai-shih arrived this morning. There is no serious fighting. Early renewal of drive toward Hankow is not unlikely. Department has not been informed.”

MACMURRAY

893.00/7580 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 24, 1926—6 p. m.

[Received August 24—2:40 p. m.]

347. 1. Following is summary of telegram of August 23, 1 p. m., received from American consul general at Hankow: Southern forces under Chiang Kai-shek having captured Milo and Pingkiang are advancing in general direction of Yochow and Wuchang and are within about 80 miles of latter place and may capture Yochow at any moment. While capture of Wuchang is not imminent, inadequacy of numbers of retreating troops and their low morale coupled with shortage of munitions and supplies have caused them steadily to lose ground, and control of territory between Hankow and Canton may be decided in 1 or at most 2 weeks. Arrival of Wu Pei-fu, Hankow, momentarily expected, and his followers there express confidence that he will master situation, in which view Lockhart¹⁸ concurs. It appears trains being held at Yochow for purpose of evacuating Wu's troops to Wuchang. Chinese in Hankow are particularly concerned lest situation has been permitted to go too far and possibility of Cantonese domination not relished.

2. I am further reliably informed that the Southern forces have now reached a point midway between Yochow and Hankow.

MACMURRAY

893.00/7581 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 25, 1926—3 p. m.

[Received August 25—9:25 a. m.]

348. Consul general at Hankow reports August 24, 4 p. m., that Cantonese troops have captured Yochow and have advanced a con-

¹⁸ Frank P. Lockhart, consul general at Hankow.

siderable distance towards Wuchang, causing some concern there. Three regiments of Sun Ch'uan-fang's troops have arrived off Wuchow and more are reported en route.

American consul, Changsha, reports August 23, 2 p. m., that Canton troops, having taken Yochow, are proceeding towards Hankow immediately.

MACMURRAY

893.00/7584 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 27, 1926—3 p. m.

[Received August 27—7:50 a. m.]

357. My telegram number 348, August 25, 5 [3] p. m. Following excerpt from telegram dated August 26, 3 p. m., from the consul general at Hankow:

"Marshal Wu arrived last night and is bringing with him three divisions of troops some of whom have already arrived. Sun Ch'uan-fang's troops are also arriving and a concentrated attack will shortly be made on the Cantonese forces who made some advance since yesterday. A more hopeful atmosphere prevails among the allies now that Wu has arrived and reinforcements are being put in the field. Local bankers and merchants are somewhat agitated because of the rumored levy of 2,500,000 on them for the support of his army."

MACMURRAY

893.00/7587 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 30, 1926—4 p. m.

[Received August 30—9 a. m.]

359. Following from American consul general, Hankow, which has been repeated to commander in chief, United States Asiatic Fleet:

"August 29, 5 p. m. Vincent¹⁹ telegraphs that he received official notice August 27 that Siang and Yangtze Rivers between Changsha and Hankow have been mined and that he has filed a protest. I have not yet received such a notice. General situation substantially unchanged except many unarmed soldiers, some wounded, passing through concessions, many refugees, others passing down river. Great quantities personal and household effects coming into the concessions, much Red propaganda being disseminated. *Hankow Herald*, American, editorially demanding despatch of destroyers here. British cruiser arriving tomorrow. So far good order has been

¹⁹ John C. Vincent, vice consul at Changsha.

maintained, but, since there is evident desire on the part of some Americans that American force be sent here as precautionary measure, especially since there is a possibility of looting by disgruntled soldiers, it is suggested that at least additional units be made available to come here on short notice. In this connection British naval vessels are conveying their merchantmen, and similar service for American vessels may be requested. Wu Pei-fu is at the front near Hoshengchiao which is about 30 miles from Hankow."

MACMURRAY

893.00/7590: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 30, 1926—5 p. m.

[Received August 30—11:48 a. m.]

360. 1. Following from American consul general at Hankow:

"August 27, 5 p. m. I have been informed through the Commissioner of Customs here that the commander of the Cantonese forces at Yochow on August 25th served notice that all foreign warships must stop at Chenglingki in order to be visited by his men, since he fears that Marshal Wu's gunboats may fly foreign flags to disguise themselves, and that if the vessels do not stop, his men will fire upon them until they do stop. Have communicated this information to our local naval authorities, who state that of course notice will be disregarded. It is assumed that the Changsha consulate has been informed through the Customs there and that it has made an appropriate reply. Wu crossed the river here this morning en route to the front where heavy reinforcements have been counted on. Generally believed that Cantonese will be unable to make any further advance unless their present fighting strength is augmented. Many Chinese from Wuchang and other points across the river have come to the foreign concessions here in the past few days for refuge and to store their valuables."

2. In reference to which I have telegraphed as follows to American consul general at Canton:

"August 30, 4 p. m. American consul general at Hankow reports that he has been informed through Commissioner of Customs there that commander of Cantonese forces at Yochow on August 25th served notice that all foreign warships must stop at Chenglingki in order to be visited by his men, since he fears that Marshal Wu's gunboats may fly foreign flags to disguise themselves, and that if the vessels do not stop, his men will fire upon them until they do so. Lockhart further telegraphs that he has communicated this information to local American naval authorities, who state that of course the notice will be disregarded.

3. [*sic*] You should bring this state of affairs immediately to the attention of the Cantonese authorities, expressing my surprise that such an attitude should be adopted on their part with which American public vessels obviously cannot fall in. You will request

that notice be canceled in order that no untoward incidents may arise for which Cantonese authorities would be responsible. In making this communication to Cantonese authorities you should assure them that we will make every effort to prevent misuse of American flag in the manner indicated."

4. Both of above messages have been repeated to commander in chief, United States Asiatic Fleet.

MACMURRAY

893.00/7596 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 1, 1926—noon.

[Received September 1—5:51 a. m.]

362. My 357, August 27, 3 p. m.

1. Following from American consul general, Hankow:

"August 31, 10 a. m. Wu Pei-fu has suffered serious setback at the hands of the Southerners and has fallen back early this morning. Southern troops now very near Wuchang. Admiral Hough²⁰ returning today via commercial transport. *Isabel* in Shanghai for overhauling; *Palos* and *Portage* [*Pigeon?*] now here. Suggest that destroyers be sent here at once as a precautionary measure since there is some danger of looting from the retreating forces. Local American community requests this measure of security.

2. I concur in suggestion regarding despatch of destroyers to Hankow and have so informed commander in chief, United States Asiatic Fleet, repeating to him Lockhart's telegram aforementioned.

MACMURRAY

893.00/7597 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 1, 1926—7 p. m.

[Received September 1—1:45 p. m.]

366. My 360, August 30, 5 p. m. Following from American consul general at Hankow:

"Concessions here overcrowded with refugees. Frightened Chinese from the native city still coming in, creating great concern and resulting in much confusion. They are much alarmed, not at the prospect apparently of the Southern troops arriving but of looting by Northern troops. In case of trouble in the concession, foreign volunteer forces and naval units will be utilized, in cooperation with the Chinese authorities, in protecting life and property. Chinese authorities have made such a request of the foreign consuls. Wu is known to be in desperate straits across the river and this is having an unfavorable reaction here."

MACMURRAY

²⁰ Rear Admiral Henry H. Hough, U. S. N., commander of the Yangtze Patrol.

893.00/7606 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*PEKING, *September 2, 1926—5 p. m.*

[Received September 2—8:50 a. m.]

369. My 362, September 1, noon. Commander in chief informs me that prior to receipt of suggestions that additional naval forces be sent to Hankow, two destroyers were dispatched from Chefoo for that port at request of Rear Admiral Hough, commander of Yangtze Patrol.

MACMURRAY

893.00/7609 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*PEKING, *September 3, 1926—2 p. m.*

[Received September 3—8:15 a. m.]

372. My 366, September 1, 7 p. m. Following from American consul general at Hankow:

“Urgent. September 3, 7 a. m. Heavy sustained attack started from Pagoda Hill on Wuchang this morning at 4 o'clock. Heavy artillery, machine-gun and rifle fire plainly heard here and visible. Bombardment still continues but now somewhat reduced. Distance from Pagoda Hill to Wuchang about one mile. Volunteer forces and naval units were called out here at 6:40 this morning. Much excitement but as yet no actual trouble reported on this side of river. Will telegraph later.”

MACMURRAY

893.00/7611 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*PEKING, *September 4, 1926—11 a. m.*

[Received September 4—8:17 a. m.]

373. My 372, September 3, 2 p. m. Following two telegrams from American consul general at Hankow:

“September 3, 9 a. m. Bombardment of Wuchang still in progress. Intermittent firing towards Wuchang side in the river by Chinese gunboat immediately opposite concessions and special districts. Still no outbreak reported on this side of the river but intense excitement prevails. Volunteer forces and naval units at their posts as a precautionary measure. Flood of Chinese rushing into the concessions and special districts for protection has been stopped. Believe that the situation is in hand if no trouble encountered from defeated soldiers or agitators. All business at a complete standstill. No report of Americans killed or wounded at Wuchang, but telephone message just received [from] American Church General Hospital states that it

has been struck more than 20 times by shells and bullets. Department has not been informed of this or the previous telegrams."

"September 3, noon. *Elcano*²¹ has just arrived, was fired upon by troops, presumably Cantonese, on left bank 7 miles below Hankow, struck 4 times by rifle bullets but did not return fire. British shipping between here and Ichang and Changsha stopped until further orders; convoys not available. Firing immediately adjacent to Wuchang continues. Fairly reliable evidence that Cantonese are in danger of [omission ?] attack from Sun Ch'uan-fang's troops near Changsha. Wu is still holding Wuchang."

MACMURRAY

893.00/7615 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 7, 1926—3 p. m.

[Received September 7—6:49 a. m.]

376. My 373, September 4, 11 a. m.

1. Following telegram from American consul general, Hankow :

"September 6, noon. My September 6, 10 a. m. Special administration district director has just sent a representative to me to say that Hanyang Arsenal has been surrendered and that terms of peace are shortly to be arranged. Wu's officers and men are understood to be determined to make no further resistance. Wu only is anxious to continue the war. Actual peace terms are now understood to be under discussion."

2. Above telegram in continuation of telegram September 5, 10 a. m., reporting heavy fighting around Wuchang on that date and announcing presence of Southern troops just above Hanyang Arsenal on Hankow side of river.

MACMURRAY

893.00/7616 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 8, 1926—5 p. m.

[Received September 8—8:35 a. m.]

379. 1. A conversation with British Legation has confirmed following information: Two British gunboats and an armed merchant ship manned by 4 naval officers and 60 bluejackets were heavily fired upon and compelled to retreat down river after an unsuccessful attempt to release two British merchant vessels which were being illegally detained at Wanhsien by General Yang Sen. Commander and 3 other officers of armed merchant ship, British marines, killed

²¹ U. S. gunboat in the Yangtze Patrol.

and it is believed 13 other British enlisted men of the force wounded. During the course of the engagement the British vessels fired into the town causing apparently considerable damage by fire. A French gunboat was hit by Chinese shore batteries during fighting. British Minister expressed considerable apprehension lest reprisals be taken against officers of merchant vessels held by Yang Sen, not all of whom apparently succeeded in escaping during the engagement.

2. Sir Ronald Macleay²² yesterday intimated that the naval authorities might renew with larger force the attempt to release these vessels.

MACMURRAY

893.00/7618 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 8, 1926—6 p. m.

[Received September 8—2:30 p. m.]

381. My 376, September 7, 3 p. m. The following two telegrams from American consul general at Hankow:

"September 6, 9 p. m. Wu Pei-fu left Hankow shortly after 7 tonight for kilometres 10 north of Hankow accompanied by several trains of loyal troops. He stated that he will attempt to return to Hankow when reinforcements from the North arrive. His ability to return seems doubtful however."

"September 7, 10 a. m. In his retreat northward last night Wu was accompanied by 294 cars of troops, others were being loaded to follow, and large numbers retreated northward on foot. Some looting by soldiers on foot. Evacuation of Hankow by Wu and his soldiers before daylight this morning is understood to have been demanded by the Cantonese yesterday afternoon, and arrangements were hastily made. Many of Wu's soldiers disarmed. Practically no machine-gun and rifle fire at Wuchang last night but intermittent artillery fire throughout the night. Wuchang apparently is still in the hands of the Northerners but it is inconceivable that these can hold it indefinitely. Hanyang Arsenal now completely in the hands of Southerners. Wu's main difficulty seems to have been the disloyalty of some of his principal officers and his troops. His gun-boats which were operating opposite the concessions for several days and drawing the fire of the Cantonese have left for down river.

Generally believed that Cantonese will consolidate their position between here and Canton with a view to carrying the campaign northward.

Intense excitement in native city last night but no serious trouble reported."

MACMURRAY

²² British Minister in China.

893.00/7619 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 10, 1926—noon.

[Received September 10—4:04 a. m.]

386. Following telegram has been sent to commander in chief, United States Asiatic Fleet:

“September 10, noon. British Minister has received reports regarding anti-British feeling at Chungking and has requested that in the absence of British naval vessel at Chungking, any American gunboat there might assist British subjects in the event of need for evacuation or otherwise. I should be grateful if you could comply with this request, so notifying me in order that I may advise the British Legation accordingly.”

MAYER

893.00/7623 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 11, 1926—noon.

[Received September 11—7:55 a. m.]

388. My 386, September 10, noon. Commander in chief has instructed commander of South China [*Yangtze?*] Patrol to give necessary protection and assistance to British subjects at Chungking in the absence of British business interests [*naval vessel?*] there.

MAYER

893.00/7624 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 11, 1926—4 p. m.

[Received September 11—8:05 a. m.]

391. 1. Following from American consul, Swatow:

“September 10, noon. Authorities have officially advised that principal channel at the entrance to Swatow Bay has been mined and issued 5 regulations governing ship movements, including one calling for notice 1 day in advance of arrival of foreign naval vessel. Regulations affecting naval forces are being referred to higher naval authorities by the American naval officer in command here.

Request instructions as to whether I should inform local authorities in case Admiral declines to recognize regulations. Writing in full.

Conditions quieter during the last few days.”

2. I have requested Chamberlain²³ to radio at once more complete information regarding regulations issued by Swatow authorities governing shipping movements.

MAYER

893.00/7630 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 13, 1926—5 p. m.

[Received September 13—1:30 p. m.]

394. Legation's 390, September 11, 3 p. m.²⁴ Following from American consul general, Hankow:

"September 12, 3 p. m. No firing on foreign vessels since Friday afternoon. Protest had previously been filed by consular body; and at my direction Huston²⁵ made oral representations Friday afternoon to General Tang, commander of the Cantonese forces in this area, protesting the firing, and the General agreed to [issue?] order forbidding firing on foreign vessels within his jurisdiction.

Stated officially that commission form of government will eventually be instituted.

Conditions in Hankow gradually improving. Wanh sien incident still a lively topic of discussion and speculation. British flagship *Hawkins* with commander in chief of Asiatic Fleet has arrived. Volunteer forces and naval units still ashore but may be withdrawn from special district and French Concession tomorrow if situation continues to improve.

Wuchang still holding out and negotiations for settlement continuing."

MAYER

893.00/7636 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 14, 1926—5 p. m.

[Received September 14—11:20 a. m.]

400. Legation's 391, September 11, 4 p. m.

1. Upon receipt of more detailed information regarding regulations issued by Swatow authorities, I telegraphed him²⁶ as follows:

"Pending further instructions on any additional action which may be required, you should protest in concert with your colleagues concerned, or alone if necessary, on general treaty grounds against regulation calling for 1 day's notice in advance of arrival of foreign naval vessels."

²³ Culver B. Chamberlain, vice consul at Swatow.

²⁴ Not printed.

²⁵ Jay C. Huston, consul at Hankow.

²⁶ i. e., the American consul at Swatow.

British Legation states it is taking similar action.

2. After consulting by telegraph with commander in chief and acting upon his suggestion, I telegraphed American consul at Swatow as follows:

“September 14, noon. Regarding 24 hours’ advance notice regulation I consider after consultation with commander in chief that notice upon arrival channel entrance should be sufficient. You should likewise reserve the right for our vessels to leave at night in an emergency after due notice to the authorities.”

3. I agree with commander in chief that mining the entrance to Swatow Harbor might be accepted without protest, provided the authorities there made reasonable arrangements for the safe ingress and egress of foreign vessels, since we cannot entirely ignore the actual although not technical belligerency of the contending forces. As similar situations are apt to arise, I should appreciate the Department’s instructions in this general regard.

MAYER

893.00/7636 : Telegram

The Acting Secretary of State to the Chargé in China (Mayer)

WASHINGTON, September 14, 1926—5 p. m.

192. Your 400, September 14, 5 p. m. Instructions to consul at Swatow referred to in paragraph 2 are approved. See in this connection your 447 of October 16, 7 p. m., 1925, and Department’s 308 of October 29, 6 p. m.²⁷

GREW

893.00/7642 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 15, 1926—11 a. m.

[Received September 15—7:44 a. m.]

403. Following telegram has been sent to the American consul general at Canton:

“September 15, 11 a. m. 1. The American consul at Swatow has informed me that the Chinese authorities there have mined the principal channel at the entrance to Swatow Bay and have issued certain regulations governing ship movement in that regard. After consultation with the commander in chief of the United States Asiatic Fleet, I have directed Chamberlain to protest against the regulation requiring that foreign naval vessels before entering the port shall

²⁷ *Foreign Relations*, 1925, vol. I, pp. 746 and 747.

give 1 day's notice of their arrival to local army headquarters. I have likewise directed him to reserve the right for our naval vessels to leave at night in an emergency after due notice to the authorities.

2. Obviously our naval authorities cannot comply with the unreasonable regulation requiring notification of arrival as described above and must reserve the right to enter or leave the harbor at night after due notice, both of the regulations concerned being in contravention of treaty rights. You should bring these considerations immediately to the attention of the Canton authorities, requesting them to issue to the Swatow military command instructions responsive to my protest and reservation above mentioned.

3. Please inform commander South China Patrol for information commander in chief.

4. Department informed."

MAYER

893.00/7644 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 15, 1926—3 p. m.

[Received September 15—8:45 a. m.]

407. My 402, September 14, 7 p. m.²⁸

1. Following from American consul general at Hankow :

"September 14, 11 a. m. Extremely heavy attack on Wuchang began last night at 12 o'clock and continued for 1 hour preceded by an aeroplane bombing about dusk, resulting, it is said, in some loss of property among civilians. City has now been besieged 12 days, much of the time under intense artillery and machine-gun fire. Conditions gradually improving in Hankow.

Establishment of government in Hankow extremely slow due largely to failure to take Wuchang and persistent rumors that Cantonese troops formerly belonging to Wu are wavering in their allegiance as between the North and the South. I foresee many difficulties in dealing with the new authorities, and I should like instructions as to my official relations with them. Until otherwise instructed I shall maintain informal contact only conducting as little correspondence as possible and avoiding any act which might seem to denote a recognition of the new regime."

2. I have telegraphed Lockhart approving his proposed attitude toward new authorities as set forth in the last sentence, second paragraph, of his telegram aforementioned.

MAYER

²⁸ Not printed.

893.00/7645 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 15, 1926—5 p. m.

[Received September 15—10:05 a. m.]

408. 1. Following sent to American consul, Chungking, for information commander in chief:

“At request of British Minister you are instructed to extend unofficial good offices in behalf of British interests during temporary absence of British consul.”

2. British Minister explained that his consul at Chungking will be absent from his post for a short time as he is to accompany second British expedition Wanh sien in connection with release of two British merchant vessels still in the hands of Yang Sen (see Legation's number 379, September 8, 5 p. m.).

3. British Legation informs me that while this expedition is to be sent, it is hoped that Yang Sen will agree to release of the ships so that no further bloodshed may ensue. British Legation however states that they are going through with the affair until boats are released by Yang Sen, either voluntarily or otherwise.

MAYER

893.00/7650

Memorandum by the Chief of the Division of Far Eastern Affairs (Johnson)

[WASHINGTON,] September 15, 1926.

Conversation.

The Italian Ambassador, Nobile Giacomo de Martino.

The Secretary of State.

Mr. Nelson T. Johnson present.

Subject: Attitude of United States Government towards question of coöperation with British Government in firmer policy in China.

The Italian Ambassador called to see the Secretary under instructions from his Government to inquire as to the attitude of this Government towards the question of cooperation with the British Government in firmer action in China. The Ambassador stated that Mr. Mussolini's telegram to him indicated by its wording that some suggestion may have come to him that the British and American Governments contemplated joint action. The Secretary informed the Italian Ambassador that the British Government had not approached him with regard to joint action in connection with the Wanh sien affair on the Yangtze. The Secretary stated that this Government has not given any consideration to the question of joint

action; that it had considered that the affair at Wanhsien was very much an affair between Great Britain and China. He stated that standing instructions to our naval forces in the Far East empowered them to give every possible protection to American life and property and that he understood that cooperative arrangements existed between the naval forces of the several Powers whereby each naval force extended protection in an emergency to the lives of other friendly nationals when the naval forces of those nationals were not present, and recited the incident of the assistance given to British wounded by an American naval vessel near Hankow. He stated to the Ambassador that this Government not only did not contemplate any joint action but that he believed that there was hardly any occasion for joint action at the present time.

N[ELSON] T. J[OHNSON]

893.00/7648 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 16, 1926—10 a. m.

[Received September 16—5:54 a. m.]

410. My 407, September 15, 3 p. m. Following from American consul general, Hankow:

“September 15, 3 p. m. American gunboat *Pigeon* was fired upon by Southern shore battery offshore Chenglingki yesterday afternoon. *Pigeon* returned fire with machine gun. No casualties reported from *Pigeon*.

Four commercial vessels which could be used in case evacuation of foreigners at Chungking should become necessary are now at or near that place. Conditions reported quiet there yesterday.

From Saturday noon to yesterday noon 81 cars of Southern troops moved northward. It is definitely established that Sun Chuan-fang's troops have employed Southerners at Wusüeh on left bank of Yangtze above Kiukiang. Considerable concentration of Sun's troops at Kiukiang. Wuchang is still holding out, consequently British Admiral in command of the Yangtze Patrol sailed on the *Bee* for up river yesterday afternoon in connection with Wanhsien incident.”

MAYER

893.00/7652 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 17, 1926—4 p. m.

[Received September 17—8:15 a. m.]

413. My 410, September 16, 10 a. m. Following from American consul general, Hankow:

“September 16, 4 p. m. American volunteer forces and naval units will be withdrawn this afternoon; small naval guard at the consulate general.

French gunboat *Balny* fired upon by shore battery at Chenglingki Tuesday afternoon and returned the fire with 75-millimeter gun.

Plight of inhabitants in Wuchang gradually growing worse as they are cut off from the outside world. Have made arrangements through the military authorities to send limited food supplies by mail to Americans there."

MAYER

893.00/7655 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 18, 1926—1 p. m.

[Received September 18—11:20 a. m.]

414. My 413, September 17, 4 p. m. Following from American consul general at Hankow, which, although delayed in transit, contains information of interest for the Department:

"September 10, noon. *Palos* and *Pigeon* convoyed by destroyer *Stewart* for 7 miles above Hanyang, left Hankow this morning at 7 o'clock for up river accompanied by merchantmen *Iling*, American, and *Changsha*, British. At 7:30 in proceeding past Hanyang, now occupied by Southern forces, all vessels were fired upon by machine-gun and rifle fire; *Palos* and *Pigeon* hit about 30 times each and destroyer hit many times. *Palos* returned fire with machine gun; and destroyer, after returning fire with rifles and machine guns for about 10 minutes, silenced the shore fire with a 4-inch shell. No casualties on naval vessels. No report on merchantmen. Destroyer *Stewart* in returning to Hankow was hailed by British merchantman *Kiang Wo*, which had on board injured officers and men from Wanh sien attack and they were transferred to the *Stewart* and brought to Hankow, since *Kiang Wo* did not wish to be subjected to shell and rifle fire while wounded were on board. *Stewart* was not fired upon in passing Hanyang on return trip. *Palos* and *Pigeon* proceeding upstream. *Pigeon* will proceed halfway to Ichang; and *Palos* will proceed to Chungking if possible to support *Monocacy*.

Although but little gunfire heard at Wuchang last night, city is still in the hands of Northerners. Negotiation for its surrender still in progress.

Fighting yesterday afternoon between retreating Northern soldiers and pursuing Southerners near Hengtien. Two aeroplanes passed over Hankow flying northward this morning.

Good order still being maintained in the concessions, but scores of lower-class Honanese have been brutally murdered by Hupehese of similar class in native city within the last two days. This trouble is subsiding now.

Business almost at a complete standstill; practically all Chinese banks and big shops still closed. Money situation very serious, medium of exchange being confined principally to foreign banknotes, military notes being issued.

River transportation demoralized, as practically all ships including big passenger carriers are being fired upon above and below Hankow. The situation of the foreigner is becoming increasingly difficult.

Admiral Williams²⁹ will communicate to you details of Wanh sien incident."

MAYER

893.00/7657 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 19, 1926—noon.

[Received September 19—6:50 a. m.]

416. My 414, September 18, 1 p. m. Following from American consul general at Hankow :

"September 18, 3 p. m. Intermittent gunfire and aeroplane attacks on Wuchang continue. Bombs have been dropped in various parts of Wuchang, resulting in some loss of life and property damage. Shrapnel from antiaircraft guns in Wuchang have fallen in Hankow concessions.

Hankow side quiet. British and French forces still on duty, Japanese withdrawn several days ago.

Southern troops still making advances northward, now understood to be well into Honan. Sun Ch'uan-fang troops and Southerners have had several engagements in Kiangsi near the Hunan border but without appreciable fighting on either side.

British [*sic*] firing on river steamers and naval vessels in this immediate vicinity for several days."

MAYER

893.00/7659 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 20, 1926—4 p. m.

[Received September 20—2:50 p. m.]

418. My 416, September 19, noon. Following three telegrams from American consul general, Hankow :

"September 19, 3 p. m. American gunboat *Pigeon* was fired upon by rifle and machine-gun batteries at 11 o'clock this morning while passing Hanyang. Three enlisted men wounded but not seriously. Commander estimates that vessel was struck approximately 100 times. He promptly returned fire with machine gun. Vessel was attacked from both Hanyang and Wuchang sides, the latter perhaps from outside the wall.

²⁹ Rear Admiral Clarence S. Williams, commander in chief, U. S. Asiatic Fleet.

I assume that you are keeping the Department informed fully concerning developments here. It would be helpful if the Legation or the Department could give me some indication of its policy towards the new regime and the unreasonable attitude which it has assumed toward foreign interests, or whether the handling of the situation in cooperation with the naval authorities as the changing conditions may arise is to be left to my discretion. There are possibilities of far-reaching consequences involved."

"September 19, 3 p. m. I have received today the following letter dated September 18th from the Commissioner of Foreign Affairs:

'It is urgent that the military operations at Wuchang and Hankow should be settled. I am now in receipt of an instruction from the commander in chief of the National Revolutionary Army directing me to circularize the gunboats of the various countries promptly to sail down river to a comparatively distant place and not to anchor in the river in the vicinity of the war zone at Wuhan in order to avoid danger and to prevent misunderstanding.

Aside from notifying other parties concerned thereof I beg to request that you in turn notify the various (American) gunboats to act accordingly.'

Obviously the American ships now here will not be withdrawn. I am disposed to make either no acknowledgment or a simple acknowledgment, adding that the request cannot be complied with in view of treaty right of American vessels to navigate the inland waters without let or hindrance. Have you any instructions?

Notice has also been received that hereafter, without the sanction of the headquarters of the commander in chief of the National Revolutionary Army, no *huchao* shall be issued to cover the export of money and foodstuffs, the purpose of the order being to conserve food and stabilize the money market which is now in a deplorable state.

Navy telegram dated last night states that *Mei Chuen*, American vessel, en route to Ichang with foreign refugees, mostly British; that very large demonstration took place yesterday both sides of the river and that foreign houses on hill looted; much anti-British and increasing antiforeign feeling; that American and British subjects safe.

Another aeroplane bombing attack on Wuchang yesterday afternoon. Planes dropped propaganda circulars on Wuchang and Hankow, offering big rewards for capture of Military Governor and Civil Governor, dead or alive, and \$30 each to soldiers giving themselves up."

"September 19, 5 p. m. There will be repeated to you by Admiral Williams a telegram from Admiral Hough, commenting on and giving a résumé of a notice communicated to me by the Commissioner of Foreign Affairs, forbidding the navigation of the Yangtze from 6 p. m. to 6 a. m. in the Hankow-Wuchang-Hanyang war zone and serving notice that all vessels will be fired upon by artillery if they fail to stop on signal for search at certain places designated during daylight hours.

While I object in principle to applying such restrictions to commercial vessels, the shipping companies concerned—as they have been doing at Chenglingki for some days—seem to prefer to have their vessels searched rather than to subject them to artillery fire or to have them convoyed and thereby perhaps draw fire from shore batteries. I therefore doubt the advisability of requesting or compelling

commercial vessels to disregard the notice if they prefer, under the peculiar circumstances prevailing now along the river, to have their vessels stopped and searched.

With reference to naval vessels it seems to me that American prestige, to say nothing of the undoubted right of such vessels to navigate the Yangtze freely and without molestation, demands a complete disregard of the regulations. This of course will require for the safety of the officers and men and the vessels themselves the return of any fire directed against them.

Your instructions requested."

Instructions from the Legation for the American consul general at Hankow as requested and comment to the Department on the state of affairs as set forth in the above telegrams, are now under consideration. I shall shortly telegraph to the Department my conclusions.

MAYER

893.00/7661 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 21, 1926—4 p. m.

[Received 4:30 p. m.]

422. My 418, September 20, 4 p. m.

1. I have given most careful consideration to the three telegrams mentioned in my 418, September 20, 4 p. m., as well as to the telegram from Admiral Hough to Admiral Williams, referred to in the first paragraph of Mr. Lockhart's September 19, 5 p. m., which maintains the differentiation between commercial vessels and ships of war as regards observance of the navigation regulations.

2. I agree in general terms with Lockhart's and Admiral Hough's opinion. In relation commercial vessels, there are seemingly insurmountable practical difficulties to our compelling them to refuse to comply with the navigation regulations and to take the risk of running the so-called blockade or to accept convoy which would be very difficult to supply and tactical[ly] as difficult to make effective should the Chinese actually employ artillery fire from the banks of the river. There is likewise the important consideration that American shipping apparently prefers to comply with the regulations, as do the other foreign shipping interests concerned, and that a defiance of the regulations would not meet with their approval and therefore not have their cooperation. I greatly deplore the necessity for the conclusion set forth above since I foresee increasing difficulties for our shipping on the Yangtze, if not a total loss, in the near future, when it may be driven from the river by the restrictions which the Chinese will in all probability increasingly impose. A determined opposition to terminate present regulations, were it practicable, might defer the

case envisaged above. [Apparent omission] be the greater of two evils. . . .

3. [Paraphrase.] I feel that in the situation which faces us we must either retain our warships on the Yangtze by forced [*by force of*] arms if necessary, or else remove them entirely. I must favor the former alternative, as the latter is unthinkable at this time. I have arrived at this conclusion fully realizing the consequences which may follow. I have instructed our consul general at Hankow as follows: [End paraphrase.]

"September 21, noon. Your two telegrams of September 19, 3 p. m.; and September 19, 5 p. m. Repeat of telegram from Admiral Hough to Admiral Williams mentioned in first paragraph of your September 19, 5 p. m., also received.

(1) In the circumstances you describe, I entirely concur with paragraph No. 2 of your September 19, 5 p. m., and consider it inadvisable to request or compel commercial vessels to disregard the notice forbidding navigation of the Yangtze during certain designated hours in the so-called war zone and that commercial vessels shall stop on a signal for search at certain designated places and times on penalty of being fired upon by artillery if they fail to comply.

(2) While I generally agree with your point in the last paragraph of your telegram of September 19, 5 p. m., with reference to naval vessels, I believe it would be advisable after consultation with Admiral Hough if he so agrees, for him to tell the local military authorities that our war vessels will endeavor to comply with the restrictions on navigation during the night when practicable, but should emergency arise they must disregard this regulation; that we must however continue to place full responsibility upon the Cantonese authorities for any firing upon American war vessels which may be transvering [*traversing?*] the so-called war zone or otherwise.

(3) You should therefore reply to the Commissioner of Foreign Affairs to the following general effect: that the Government of the United States considers extremely drastic the regulations concerning the navigation of the Yangtze from 6 p. m. to 6 a. m. in the so-called war zone and those concerning search at certain places during the daylight hours on penalty of artillery fire if there has been failure to stop on signal, which are contrary to treaty provisions, but is willing, with due reservation of the treaty rights involve[d] and as a purely temporary measure, not to prevent commercial vessels flying the American flag to comply [*from complying?*] with these regulations, should they so desire. On the other hand, the American Government will not direct its war vessels to comply with the above regulations, and more especially with the circular from the commander in chief of the so-called National Revolutionary Army requesting such vessels promptly to sail down river to a comparatively distant place, and not to anchor in the vicinity of the war zone at Wuhan, in order to prevent danger and avoid misunderstanding. The Government of the United States desires to bring immediately and forcibly to the attention of all the Chinese authorities concerned their grave responsibility should any untoward

incident arise from an effort to put these regulations into effect, with which it is obviously impossible for American men-of-war to comply.”³⁰

4. Pursuant to the Legation's policy as expressed in the Legation's 360, August 30, 5 p. m., and 403, September 15, 11 a. m., I am instructing the American consul general at Canton to protest vigorously with the authorities there against the navigation regulations and request their cancelation or [apparent omission] on the Yangtze appear to have determined not to comply with the regulations as to their ships of war. No definite information is available regarding British attitude.

6. [*sic*] I regret exceedingly that the exigencies of the situation prevented my referring preliminarily to you for instructions. I earnestly trust you approve the action taken.

7. Commercial attaché requests that his department be informed of general conditions on the Yangtze.

MAYER

893.00/7662 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 21, 1926—6 p. m.

[Received September 21—5:11 p. m.]

423. My 422, September 21, 4 p. m., paragraph No. 4. The following telegram has been sent to American consul general at Canton:

“Urgent. September 21, 5 p. m.

1. The American consul general at Hankow has informed me of the receipt of a notice from the Commissioner for Foreign Affairs there forbidding the navigation of the Yangtze from 6 p. m. to 6 a. m. in the so-called Hankow-Wuchang-Hanyang war zone and that all vessels will be fired upon by artillery if they fail to stop on signal for search at certain designated places during daylight hours. The Commissioner for Foreign Affairs has likewise sent Mr. Lockhart the following letter dated September 18:

‘It is urgent that the military operations at Wuchang and Hankow should be settled. I am now in receipt of an instruction from the commander in chief of the National Revolutionary Army directing me to circularize the gunboats of the various countries promptly to sail down river to a comparatively distant place and not to anchor in the river in the vicinity of the war zone at Wuhan in order to avoid danger and to prevent misunderstanding.

Aside from notifying other parties concerned thereof I beg to request that you in turn notify the various (American) gunboats to act accordingly.’

³⁰ The consul general at Hankow telegraphed to the Minister in China on Sept. 26 the text of a note which he had delivered to the Chinese Commissioner for Foreign Affairs embodying the substance of this paragraph (file No. 893.00/7832).

I have instructed Mr. Lockhart to reply to the Commissioner of Foreign Affairs to the following effect:

'You should therefore reply to the Commissioner of Foreign Affairs to the following general effect: that the Government of the United States considers extremely drastic the regulations concerning the navigation of the Yangtze from 6 p. m. to 6 a. m. in the so-called war zone and those concerning search at certain places during the daylight hours on penalty of artillery fire if there is a failure to stop on signal, which are contrary to treaty provisions, but is willing, with due reservation of the treaty rights involved and as a purely temporary measure, not to prevent commercial vessels flying the American flag to comply [*from complying?*] with these regulations, should they so desire. On the other hand, the American Government will not direct its war vessels to comply with the above regulations, and more especially with the circular from the commander in chief of the so-called National Revolutionary Army requesting such vessels promptly to sail down river to a comparatively distant place, and not to anchor in the vicinity of the war zone at Wuhan, in order to prevent danger and avoid misunderstanding. The Government of the United States desires to bring immediately and forcibly to the attention of all the Chinese authorities concerned their grave responsibility should any untoward incident arise from an effort to put these regulations into effect, with which it is obviously impossible for American men-of-war to comply.'

I have also informed the consul general at Hankow that I believe it advisable after consulting with Admiral Hough that if the latter so agrees he should tell the local military authorities that our war vessels will endeavor to comply with the restrictions on navigation during the night, when practicable, but should emergency arise they must disregard this regulation.

2. You should immediately communicate to the Acting Minister for Foreign Affairs the attitude we have necessarily adopted vis-à-vis these regulations as evidenced by my instructions to Lockhart, which you may give in substance to Chen.⁸¹ You should then protest vigorously against these regulations, leaving an *aide-mémoire* stressing their drastic nature as regards commercial ships and the impossibility of compliance therewith in respect of our war vessels and request that Chen telegraph at once to the military authorities to cancel or at least radically revise the regulations in question. Invite his particular attention to the temporary concession we have made regarding our commercial ships and the effort which our naval authorities will undoubtedly make to comply with restrictions on navigation during the night.

3. At the same time please express forcibly verbally to the Acting Minister of Foreign Affairs my astonishment that these regulations should have been issued, particularly those requiring the visit and search of our war vessels and the request that our warships leave the Hankow area, which appear of an entirely provocative character since obviously we could not be expected to comply therewith."

MAYER

893.00/7661 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, September 22, 1926—1 p. m.

203. Your 422, September 21, 4 p. m. In general the Department after consultation with Navy Department approves your instructions.

⁸¹ Eugene Chen, Acting Minister of Foreign Affairs in the Canton Government.

However, I think it would be well also to inform the Chinese authorities that the American war vessels represent a friendly nation, that they are acting strictly within treaty rights and not in any way interfering with the contending factions but are there for the purpose of protecting American citizens and property as they have a right to do. Obviously the presence of American naval vessels can be of no disadvantage or danger to either faction and it is the expectation of the American Government that both sides will give these ships the friendly cooperation in protecting American citizens to which they are entitled.

[Paraphrase.] We do not understand British attitude unless paragraph 6 of commander in chief's telegram September 20th³² is misquoted to us. It states that the British intend to comply with the regulations both with their merchant ships and the naval transport service. We were not aware that they had any naval transport service on the Yangtze. Do British intend to comply with their naval vessels? If they do intend to comply with their naval vessels, it will probably embarrass position of our naval vessels in same area. Communicate foregoing to commander in chief. [End paraphrase.]

KELLOGG

893.00/7667 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 23, 1926—1 p. m.

[Received September 23—8:30 a. m.]

426. Legation's 379, September 8, 5 p. m. Following from American consul general at Hankow:

"September 22, 4 p. m. *Mei Chuen* has arrived at Ichang from Chungking with about 70 refugees aboard, mostly British.

Daily aeroplane attacks on Wuchang continue, peace negotiations having been broken off.

American naval officer at Ichang reports that Wanhsien case has been amicably settled. Probable that second expedition will not proceed above Ichang. Details of settlement unknown beyond immediate release of two seized ships."

MAYER

893.00/7680

Memorandum by the Secretary of State of a Conversation With the Portuguese Minister (D'Alte)

[WASHINGTON,] September 23, 1926.

The Portuguese Minister called on me and asked what the condition was in China. I told him that conditions were not good, especially

³² Not printed.

along the Yang Tze River; that the Cantonese army had captured Hankow and Hanyang and were now besieging Wuchang; that the latter was a walled city and so far as I have been advised, it had not yet been captured. He wanted to know whether, if one of our gunboats were fired on, we would return the fire. I told him they had only been fired upon once or twice. Two soldiers had been wounded and I understand they returned the fire and they probably would in the future. He said their concession at Macao, south of Canton, had been fired on and they had returned the fire. I told him that I understood that all of the Powers represented at Peking who were interested in China had agreed that they would not compel their merchant ships to refuse search; that they did not approve it and there was no recognition of the Cantonese as legal belligerents and, therefore, no recognition of their right to search merchant vessels. Nevertheless, if the merchant vessels insisted they would rather be searched and comply with the orders than to have a convoy, we did not feel like objecting to it or compelling them not to comply but this is no recognition of the Cantonese right of search. He said that if they fired on other warships and on the concessions, he wondered if it would not be best for all the Powers to unite and return their hostilities or oppose the attack. I told him I doubted if there was any necessity for the Powers to unite; that each one was there with its own gunboats and forces in order to protect their citizens and I doubted very much if the Cantonese would go to the extent of bombarding concessions; that I thought the firing on these ships was a desultory firing by lawless Chinese soldiers who took pot shots for the fun of it. He said that he believed that was true. I am under the impression that he wished to be informed as to our view as to joint action. He did not press the matter and I did not give him any encouragement nor did I answer his inquiry other than to say I did not think it was necessary.

893.00/7670 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 24, 1926—4 p. m.

[Received September 24—3:10 p. m.]

430. My 426, September 23, 1 p. m. Following two telegrams from American consul general, Hankow :

“September 23, noon. Following from American consul at Chungking:

‘September 20, noon. It is reported that the Chungking military authorities are arranging to support General Chiang Kai-shih, thus giving increased freedom to radical Kuomintang organization here. Please inform Legation.’

Information of a similar character yet unconfirmed is coming in concerning the military situation at Ichang.

Practically all labor activities suspended all day yesterday in Hankow; participation in large mass meeting and parade in celebration advent of Kuomintang into Hankow. The day passed quietly after much speech making and wide distribution of propaganda pamphlets.

2. Additional American destroyers arriving this afternoon." And

"September 23, 4 p. m. American destroyers *Truston* and *Peary* arrived today and were not fired upon. Destroyers *Pillsbury* and *Ford* were sent down river to escort them past danger zone established immediately outside Hankow port limits.

Mei Yung, Standard Oil Company motorboat, fired upon yesterday up river near Shasi and quartermaster, presumably Chinese, killed. This attack is believed to have come from Northern soldiers now in that vicinity.

Sun Ch'uan-fang arrived yesterday at Kiukiang. Estimation of number of Sun's troops recently arrived and passed through Kiukiang ranging from 60,000 to 100,000."

MAYER

893.00/7672: Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 25, 1926—1 p. m.

[Received September 25—8:20 a. m.]

432. My 422, September 21, 4 p. m. American consul general, Hankow, in telegram dated September 22, 1 p. m., just received, states that in note dated September 20th Commissioner for Foreign Affairs refers to his previous note conveying instruction from commander, Cantonese army, regarding withdrawal of foreign gunboats to lower river and states that it was meant to refer to river below Wuchang and Hanyang and did not mean "the river below the whole port of Hankow because gunboats anchoring within the boundaries of the concessions will not be endangered by the military operations." In view of the foregoing explanation, Lockhart is making no reply to Commissioner of Foreign Affairs to this and the previous note on this subject.³³

MAYER

³³ Lockhart did, however, present a note of protest. See footnote 30, p. 637.

893.00/7698 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 29, 1926—3 p. m.

[Received September 30.]

438. Department's 203, September 22, 1 p. m.

1. Despite persistent efforts within past 10 days I have been unable to get from the British Legation any conclusive information on the subject of the compliance of their naval authorities with the Yangtze navigation regulations.

2. I am informed, however, . . . that the British naval authorities on the Yangtze have agreed with Cantonese to stop British war vessels on signal and receive a courtesy visit by a Chinese officer at Chenglingki.

MAYER

893.00/7694 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 30, 1926—10 a. m.

[Received September 30—6:25 a. m.]

439. My 432, September 25, 1 p. m. Following from American consul general at Hankow:

"September 28, 4 p. m. Cantonese authorities have laid small mines electrically controlled at Chenglingki. Vessels from Ichang must stop 2 miles above Kweiyinchow Spit from Changsha off the creek in Changsha Village and from Hankow off Lienhuatang. After stopping, vessels will be met, examined and guided by military launch through the dangerous area. Mines are buoyed to indicate position and two have been fired off the bund at Chenglingki by way of demonstration to local inhabitants. American merchant vessels will endeavor to meet regulations, but naval vessels exercising due caution in the navigation of the area involved will not stop and allow inspection.

No American vessels fired upon for more than a week, notwithstanding several have passed danger zones. I shall call to the attention of the Commissioner of Foreign Affairs the notes quoted in my telegrams September 21, 6 p. m., and September 23 [22, 1 p. m.?] and say that it is not understood that any [apparent omission] will be made to apply the inspection regulations at Chenglingki to naval vessels.

The situation at Wuchang remains unchanged. Large bodies of Sun Ch'uan-fang troops on both banks of the river a few hours this side of Kiukiang. Situation at Kiukiang for several days has been rather tense. Gunboat *Pigeon* proceeding there today. Hankow quiet. British volunteers withdrawn yesterday. Some of the native banks have reopened but business remains practically at a standstill."

MAYER

893.00/7701 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, *October 2, 1926—5 p. m.*

[Received October 2—9:46 a. m.]

447. My 438, September 29, 3 p. m. Following from American consul general at Canton:

"October 1, 1 p. m. In accordance with your telegram of September 21, 5 p. m., I filed protest with Eugene Chen on September 25th, to which he has now replied. The substance has been telegraphed to Commander in Chief Chiang Chung-cheng for his information and action.

Chen declines to admit the regulations restricting navigation on the Yangtze are in violation of the treaties. He declares that as war is now raging in the Wuhan area foreign men-of-war should withdraw as requested, stating he also expresses the hope that American men-of-war will comply with the regulations to proceed to certain designated places, anchor and notify the military authorities of their nationality in order that appropriate action may be taken. Despatch will be forwarded with copies of correspondence".

MAYER

393.1163/62 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, *October 5, 1926—10 a. m.*

[Received October 5—8:09 a. m.]

453. My 288, July 17, 4 p. m.³⁴ Telegrams received by Legation from Eglund, American missionary at Shihlipu near Sianfu, dated September 30th, report that situation there desperate. Legation was requested to take immediate steps to evacuate foreigners of whom 29 appear to be Americans who are detained within city. American consul general, Hankow, has reported that owing to inaccessibility of Sianfu it is impossible to afford relief from Hankow.

I have sent telegram[s] to commander[s] of the besieging army and of beleaguered forces inside the city asking them to afford every facility to American missionaries to leave Sianfu. Have also made representations to Foreign Office. It is extremely doubtful however that these measures will bring about any tangible result. I recommend and request authorization to send an American military officer attached to Legation to Sianfu with instructions and authority to take all necessary steps [and] practicable measures for rescue of American missionaries there, his necessary expenses, estimated to be about \$500 gold, to be defrayed by Department of State.

³⁴ Not printed.

It will be recalled that similar action was taken successfully in case of Mrs. Kilen—see the Department's telegram number 7, January 5, 6 p. m., 1924,³⁵ and previous pertinent correspondence.

MAYER

893.00/7703 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 5, 1926—1 p. m.

[Received October 5—8:20 a. m.]

454. My 448, October 2, 6 p. m.³⁵

1. Following from American consul general, Hankow:

“October 4, 5 p. m. Two destroyers convoyed gunboat *Elcano* from Hankow to point shortly above Chenglingki. Gunboat *Pigeon* from Ichang joined them there, and the three vessels returned here this afternoon. None of them fired upon either at Wuchang or at Chenglingki, going or returning, which seems to indicate more moderate attitude of the Cantonese towards American naval vessels.

Aeroplane attacks again yesterday and intermittent firing throughout the night and today. General situation there and at Hankow unchanged. Sun Ch'uan-fang's troops making some advance towards Hankow near Hwangshihkang.”

2. Unofficial reports from reliable source are to the effect that Sun Ch'uan-fang's forces are being successful all along the line and that the position of the Cantonese is becoming increasingly hazardous.

MAYER

393.1163/62 : Telegram

The Secretary of the State to the Chargé in China (Mayer)

WASHINGTON, October 5, 1926—8 p. m.

218. Your 453, October 5, 10 a. m. Your recommendation approved. Five hundred dollars allowance granted. Draw on Secretary of State. Render separate account.

KELLOGG

893.00/7706 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 7, 1926—5 p. m.

[Received October 7—7:32 a. m.]

459. My 447, October 2, 5 p. m. Following from American consul general at Canton:

“October 5, 1 p. m. Local authorities have declared martial law in Boca Tigris and Whampoia Fort areas and forbid all vessels to

³⁵ Not printed.

pass during the night. I shall protest as formerly but I am being guided by your telegram of September 21, 5 p. m., especially with respect to merchant ships. Despatch will be forwarded."

Telegram of September 21, 5 p. m., above referred to, was repeated to the Department in the Legation's 423, September 21, 4 [6] p. m.

MAYER

893.00/7709 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 8, 1926—noon.

[Received October 8—9:25 a. m.]

461. My 454, October 5, 1 p. m. Following from American consul general at Hankow:

"October 7, noon. Authentic reports indicate that there is taking place a rapid evacuation of Sun Ch'uan-fang's troops from Kiukiang. Sun Ch'uan-fang himself is said to be proceeding down river on a Chinese gunboat followed by many transports filled with soldiers. Many troops presumably from Anhwei are crossing to the north side of river at Kiukiang. Southern troops are on the outskirts of Kiukiang. Many Sun troops on the river between here and Kiukiang have been withdrawn below Kiukiang. Destroyer *Ford* sent to Kiukiang yesterday; *Pigeon* also there. Inform naval attaché that one Chinese cruiser at Kichow and three gunboats and two transports at Wusüeh.

Many refugees, mostly women and children, are being evacuated from Wuchang daily; estimated 20,000 to 30,000 have already come out. Careful and conservative estimates indicate as many as 50 women and children, all Chinese, have been killed by being trampled to death in the rush through the gates to board the rescue vessels, otherwise Wuchang is quiet and no reports of Americans being wounded.

Hankow quiet but big demonstration and parade being organized for October 10th and British will land bluejackets tomorrow as a precautionary measure."

MAYER

893.00/7733 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 9, 1926—3 p. m.

[Received October 9—5:29 a. m.]

465. My 471 [461], October 8, noon. Following from American consul general, Hankow:

"October 8, 4 p. m. My October 7, noon. Sun Ch'uan-fang is still at Kiukiang on one of his gunboats, and the movement of his troops out of Kiukiang did not reach large proportions. A considerable number were removed but there has been as yet no com-

plete evacuation. Cantonese are now very near the city, and decisive developments are expected there shortly.

Conditions in Wuchang have been greatly exaggerated; American visitors there yesterday confirm considerable loss of life among women and children by being trampled to death at the gates, but practically no deaths from starvation. All Americans safe and well. Movement of refugees out of the city practically ceased as it is understood that Northern and Southern factions are close to settlement of the issue by compromise."

MAYER

893.00/7733 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 9, 1926—2 p. m.

224. Press reports dreadful suffering civilian population in Wuchang. You are instructed to correspond with Lockhart in the endeavor to ascertain whether we can be of assistance.

Your 465, October 9, 3 p. m., just received. Should situation of civilian population in Wuchang become such as to seem to justify it, it is suggested that consular body in Hankow endeavor to arrange armistice, during which some means of relief might be devised. Red Cross would be disposed to assist in case of necessity. Wire your recommendation.

KELLOGG

893.00/7734 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 10, 1926—3 p. m.

[Received October 10—7:15 a. m.]

467. Your 224, October 9, 2 p. m. No action seems required in view of following telegram from American consul general, Hankow:

"October 9, 3 p. m. Terms of surrender of Wuchang have been agreed upon between Northern and Southern commanders except removal and disposition of small guns still in dispute. Terms contemplate incorporating armed Northerners into Southern army under General Liu Tso-lung with certain guarantees for their pay; arrangements to be made for their safe evacuation and transportation to Kotien and Ocheng a few miles down the river. When the one obstacle to complete agreement is removed evacuation will begin.

Situation at Kiukiang substantially unchanged. No withdrawal of troops being made and Sun still on boat in the harbor."

MAYER

893.00/7738 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 12, 1926—5 p. m.

[Received October 12—10:05 a. m.]

472. My 467, October 10, 3 p. m. Following from American consul general, Hankow :

“October 11, 11 a. m. My October 9, 3 p. m. Notwithstanding agreement for the surrender of Wuchang had almost been reached, Southern army under Generals T'ang Sheng-chi and Teng Yen-ta captured the city yesterday morning. Through a ruse Southerners passed through one of the principal gates and attacked the defenders of other gates and shortly thereafter the Southerners were within the walls in large force. Northerners in the rout discarded their arms, uniforms and other accoutrements and attempted to escape from the city by other gates which were still intact. The Northerners who had been atop the walls came down into the city and followed the example of the defenders of the gates. Estimated by eyewitnesses several hundred casualties. Many dead still lying about the streets late yesterday afternoon, and the streets were littered with discarded paraphernalia.

General Liu Yu-chun who was a refugee in the home of an absent American in Boone University compound was captured by the invading army and his fate is still unknown although rumors persist that he was promptly court-martialed and shot. Am seeking confirmation of this.

Tupan Chen Chiao-mo is understood to have escaped to this side of the river.

Cantonese are reassuring the people by proclamation and propaganda. Order is being restored. Disarmed soldiers are being given the option of joining Southern army or being given their freedom. Many are joining the Southerners. Wuchang was scene of great turmoil and excitement throughout all of yesterday and not until the late afternoon was order being brought out of chaos. Conditions much improved this morning. All Americans safe but some of their houses thoroughly searched.

Approximately 9,000 Northern soldiers arrived at Kiukiang yesterday from up river, indicating a gradual withdrawal from the region between Hankow and Kiukiang.

Although trouble was expected by reason of parades and demonstrations here yesterday on the 15th anniversary of the founding of the Republic, no untoward event occurred.”

MAYER

893.00/7746

The British Chargé (Chilton) to the Secretary of State

No. 602

WASHINGTON, October 13, 1926.

SIR: I have the honour to inform you of the receipt by His Majesty's Government of a report from the British Commander-in-Chief, China, of which the following is an extract:

"While Steamship *Kiangwo* with wounded from Wanh sien was approaching Hankow she was heavily fired at between Wuchang and Hanyang and after being turned back twice retired above Hanyang and anchored. Thereupon United States ship *Stewart* which had just escorted a convoy past the same place, where they also had been fired on, went alongside *Kiangwo* and took off the wounded and British passengers and brought them to Hankow. The wounded were efficiently transported to destroyer and treated with great courtesy. This prompt action in relieving them from the anxiety of being again fired on was most considerate and much appreciated."

I have been instructed to inform you of the extreme gratification with which His Majesty's Government learnt of the above, and I have much pleasure in conveying to you, and through your kind intermediary, to the interested authorities of the United States Government, an expression of the cordial thanks of His Majesty's Government for the prompt and considerate action of the Officer Commanding the United States Ship *Stewart*.

I have [etc.]

(For H. M. Chargé d'Affaires)

G. H. THOMPSON

393.1163/65 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 13, 1926—4 p. m.

[Received October 13—9:35 a. m.]

476. My 453, October 5, 10 a. m. British Legation have received a telegram from British missionary near Sianfu, dated October 12th, indicating that all British and American missionaries who desired to leave are safely out of Sianfu. American military officer will not therefore proceed to Sianfu unless report proves incorrect.

MAYER

893.00/7748 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 15, 1926—11 a. m.

[Received October 15—3:50 a. m.]

481. My 472, October 12, 5 p. m. Following from American consul general, Hankow :

“October 14, 3 p. m. French gunboat *Alerte* fired upon yesterday near Wusüeh, killing one sailor, seriously injuring another. *Alerte* fired upon again below Hankow this morning but no casualties. Fire returned both times.

Conditions at Wuchang continue to improve. Shops are opening and food supplies ample. About 400 bodies inside and outside walls in crude coffins now awaiting burial. All Northern troops evacuated.

No change in the situation at Kiukiang.”

MAYER

893.00/7752 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 18, 1926—11 a. m.

[Received October 18—5:56 a. m.]

488. My 481, October 15, 11 a. m. Following from American consul general, Hankow :

“Commissioner of Foreign Affairs has notified me that inspection station at Liuchiamiao below Hankow has been withdrawn in view of capture of Wuchang. Station at Yingwuchow near Hanyang will be continued however. Notwithstanding British have submitted to inspection of the merchantmen, several such vessels have been vigorously fired upon without warning below Hankow by Southern troops this week.

Iping, American merchant vessel, heavily fired upon between Shasi and Ichang Tuesday. Chinese soldiers boarded *Iping* at Ichang on the 14th and endeavored to force ship to sail. Armed guard from *Elcano* promptly cleared ship of soldiers. Sailing temporarily suspended.

Fighting in progress north, east and west of Kiukiang and considerable anxiety now being felt there.

Unconfirmed rumors of concentration of Northern troops just about [*above?*] Sinyang for drive on Southerners.

Three additional French gunboats arriving Sunday with French admiral.

Telegraph lines out of commission for 3 days from 13th.”

MAYER

893.00/7772: Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 21, 1926—5 p. m.

[Received October 21—9:45 a. m.]

503. Following from American consul general, Hankow:

"October 20, 4 p. m. Commissioner of Foreign Affairs here was informed last night that Central Executive Committee at Canton has approved proposed removal of capital from Canton to Wuchang.

Southern forces are very close to Nanchang on three sides and decisive fighting is imminent. This and uncertainty of situation in Chekiang has made even more delicate Sun Ch'uan-fang's position in the Kiukiang area."

MAYER

893.00/7809: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 6, 1926—11 a. m.

[Received November 6—5:03 a. m.]

533. Following from American consul general at Hankow:

"November 5, noon. American naval radio from Kiukiang 11:30 last night stated that city captured by Southerners. Northerners offered but little resistance, and evacuation of the city was in progress. Considerable firing in the neighborhood of railway station and desultory firing in other parts of native city. British, Japanese and American naval units landed yesterday afternoon as a precautionary measure for the protection of foreigners in the Concession. No trouble reported in Concession. Large number of junks loaded with soldiers passing downstream from Kiukiang and there are 12 steamers and 4 gunboats on the river below Kiukiang at the entrance of Po-yang Lake. Many Northern troops have crossed river at Kiukiang to north bank and French report states that Sun Ch'uan-fang has left for Nanking. This report is unconfirmed by American authorities. Gunboats *Isabel* and *Pigeon* and destroyer *Truxton* now at Kiukiang. Latest report from British sources states Northerners counterattacking at Kiukiang."

MACMURRAY

893.00/7810: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 8, 1926—noon.

[Received November 8—2:48 a. m.]

534. My 553 [533], November 6, 11 a. m. Following from American consul general, Hankow:

"November 6, 1 p. m. American naval radio from Kiukiang this morning states city quiet and completely occupied by Southern troops,

practically all Northerners having been evacuated down river. Japanese and American landing forces withdrawn. Fighting reported in vicinity of Wusüeh."

MACMURRAY

893.00/7988

The Minister in China (MacMurray) to the Secretary of State

No. 834

PEKING, November 29, 1926.

[Received January 4, 1927.]

SIR: Supplementing the Legation's despatches No. 780 of October 6, 1926 ⁸⁷ and No. 794 of October 27, 1926 ⁸⁷ relating to the navigation of American owned vessels on the Upper Yangtse, I have the honor to invite the attention of the Department to despatch No. 132 of October 22, 1926 from the Consulate at Chungking to the Legation, copies of which appear to have been transmitted to the Department; ⁸⁷ also to the Legation's telegraphic reply of November 24 to this despatch, a copy of which is respectfully enclosed herewith.

A careful consideration of the conditions now existing along the Upper Yangtse as described in Mr. Adams' reports has caused the Legation to feel that the cessation of navigation by American owned vessels for the time being would obviate the risk of the possible occurrence at any time of incidents seriously detrimental to the relations between China and the United States and that such cessation would consequently tend to safeguard the general interests of Americans in China. The Legation has not, however, formed the opinion that it is as yet necessary to take steps looking toward a complete suspension of navigation. It appears that there is a considerable amount of American capital invested in shipping in this part of China which would be affected by such a course of action. Moreover, inasmuch as the operation of these vessels would appear, from a legal standpoint, not to differ from the conduct of any other kind of legitimate American business in China, there would not seem to be any legal authority whereby their operation could be terminated so long as the shipping companies concerned are carrying on business in accordance with the stipulations of the treaties between China and the United States. In its consideration of this matter, the Legation has reference, of course, to the conduct of enterprises in which there is a substantial American interest and not to those concerns from which protection might properly be withheld by reason of their failure to possess other than a slight or nominal American interest.

On the premises outlined above, the Legation assumes that American owned vessels of the character specified will, unless obstacles to

⁸⁷ Not printed.

a profitable operation become too formidable, continue to ply on the Upper Yangtse and that the American Consular and Naval officers in that part of China will continue to be faced with perplexing questions severely testing their intelligence and soundness of judgment. In this connection, the Legation desires to commend the ably reasoned report of the Commanding Officer of the U. S. S. *Monocacy* to the Commander of the Yangtse Patrol, dated October 1, 1926, a copy of which is attached to the despatch from the Consulate at Chungking of October 22, 1926, above mentioned.

In view of the chaotic conditions now prevalent on the Upper Yangtse, the Legation has come to the conclusion that, not only the employment of armed guards on American owned vessels, but also the unvarying use of naval force to prevent the transportation of Chinese soldiers and other unneutral services, may at any time be the cause of incidents of a character prejudicial to the good relations between China and the United States. In using the expression "unvarying use of naval force", the Legation has in mind a policy by which American naval vessels are, whenever necessary, to use force to prevent unneutral services regardless whether such action may bring on possibly serious conflict with Chinese military or naval forces. The Legation sees no reason why American vessels should not, as discretion may dictate, endeavor to prevent unneutral services when such action may be taken without the likelihood of involving serious results. As indicated in its telegram of November 24 to Mr. Adams, the Legation agrees with the Consul's view that the only practicable method of protecting the American flag on the Upper Yangtse under existing conditions is the temporary suspension of sailings during disturbed periods. This recommendation would not be made if it seemed possible under present circumstances to afford adequate naval protection to American owned vessels in the exercise of their treaty rights. But the lesson of the Wanhsien incident of September 5 last is that naval vessels of a type capable of navigating the Yangtse Rapids, and under the tactical disadvantage of the conditions of navigation in a comparatively narrow channel with a swift current, are not a match for shore batteries; and it is thus a physical impossibility for them to afford adequate protection to shipping against Chinese forces in the event that the latter are in a mood of recklessness as to possible ulterior developments. It appears that, subsequently to the Wanhsien incident, the American naval authorities brought about the suspension of sailings from Ichang by reason of the fact that the Commissioner of Customs at that port, upon request, was willing to withhold clearances of the American owned vessels; also that on one occasion the Commissioner of Customs at Chungking withheld the clearance of a vessel at the instance of the American Consul. The Department will note the

tentative expression of opinion on the part of the Legation in its telegram to Mr. Adams, that, except in some outstanding emergency demanding that ordinary considerations be set aside, a Consul would be exceeding the scope of his authority in attempting to regulate sailings through bringing pressure to bear upon a Commissioner of Customs for the purpose of inducing him to withhold clearances to American owned vessels during periods when the Consul deemed it inadvisable for such vessels to operate. The Legation would be glad to receive an expression of the Department's opinion with respect to the question of the responsibility of the Consul, should he make such a request, and also with respect to the propriety and advisability of his so doing in the event that there should appear to be no legal obstacle to that course of action.

With reference to the question raised by Mr. Adams whether he should attempt to control sailings in emergencies by warning the American steamship companies in his district that the operation of their vessels would result in the withdrawal of Consular protection so far as concerns events arising out of such disapproved action, the Department will note that the Legation has substantially authorized Mr. Adams to adopt that course, if necessary, in dealing with the American steamship companies concerned, at the same time safeguarding himself from any commitment with respect to his attitude in matters which, by reason of their contingent character, belong in the category of hypothetical cases. Should the Department feel that the Legation has given Mr. Adams an undue degree of latitude in this particular, or that such action might fairly be open to criticism as an attempt to exert an unwarranted degree of control over the rights of individuals in the conduct of their private business, it is requested that the Legation be promptly advised by telegraph. The Legation has been led to authorize the Consul at Chungking to take the action indicated only by reason of the very precarious nature of the situation on the Upper Yangtse, and by the feeling that every rightful effort should be made to forestall, if possible, the repetition of any such incident as the unfortunate conflict at Wanhsien on September 5 last between the British naval and Chinese military forces.

Should the American shipping companies concerned be unwilling to co-operate in a policy dictated by a consideration for the general welfare of American interests in China, or should conditions on the Upper Yangtse reach a state in which apparently any operation whatsoever of American owned shipping would be hazardous to American interests, it would of course be necessary for the Legation to consider further what measures may be taken to meet the situation. It is hoped, however, that the negotiations between the Chinese and British authorities with regard to the settlement of the Wanhsien

incident may serve to protect all foreign owned shipping on the Upper Yangtse from the enforced performance of unneutral services. The Legation would welcome a full expression of the Department's views with respect to the various phases of the urgent problem presented by the situation now existing with respect to American owned shipping on the Upper Yangtse.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure—Telegram]

The Minister in China (MacMurray) to the Consul at Chungking (Adams)

[PEKING,] *November 24, 1926—5 p. m.*

1. Your despatch No. 132, October 22nd.³⁸ The Legation agrees with your view that the suspension of sailings during disturbed periods is the only practicable method of protecting the American flag on the Upper Yangtze from violation under existing conditions. The Legation is, however, of the tentative opinion that, except in some outstanding emergency demanding that ordinary considerations be set aside, you would be exceeding the scope of your authority in attempting to regulate sailings through bringing pressure to bear upon the Commissioner of Customs for the purpose of inducing him to withhold clearances to American owned vessels during periods when you deemed it inadvisable for such vessels to operate. This question, however, is being referred to the Department.

2. With reference to the question raised in your despatch No. 69, March 2nd,³⁸ whether the Legation desired you to attempt to control sailings in emergencies by warning American steamship companies that the operation of their vessels would result in the withdrawal of Consular protection so far as might concern events arising out of such disapproved action, the Legation does not believe that you would be justified in a categorical statement that you would withhold protection in the event of any incident which might take place in the future and which would therefore be of a hypothetical character. You are authorized, however, to inform American shipping companies operating in your district that, while reserving a complete freedom of decision with respect to your attitude in any given case that may arise, you do not propose to extend the protection of the American Government, and they may not expect to receive such protection, in the event that the companies operate their vessels during periods when such operation would unduly imperil the vessels themselves, the general interests of American citizens in China, or the relations between the United States and China.

³⁸ Not printed.

3. It is to be hoped that the good sense of the American companies concerned will persuade them to co-operate in a course which will accord with the general welfare and that you may thus have no occasion to warn them in the sense indicated.

MACMURRAY

893.00/7881 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 29, 1926—4 p. m.

[Received November 29—8:44 a. m.]

585. 1. Following from American consul general, Hankow:

“November 27, 4 p. m. With armed soldiers marching in groups of from one hundred to five hundred through the foreign concessions almost daily, strikes in many lines of industry, threatened strike of the police in the foreign concessions and special districts and a general feeling of unrest and uncertainty, the foreign communities at Hankow are greatly concerned over possibility of the situation and especially inadequacy of foreign naval force. Due to the low water, last American destroyer left yesterday, leaving three small gunboats here. British destroyers probably leaving Monday; and French, Italians and Japanese have only small force. Representative Americans are insistent that more adequate protection be afforded even to the point of sending several destroyers and keeping them here through the winter. There is a possibility also of the port being so completely tied up soon that the question of food supply will be serious and that stringent measures will be necessary to protect the port. While not disposed to magnify the gravity of conditions I think the Legation and the Department should know that the situation here is becoming more involved daily and that not only are the Chinese likely to lose complete control but that [a] foreigner may also not be able to protect himself.”

2. Commander in chief ordered U. S. S. *Pope* and U. S. S. *Truxton* to Hankow, November 28th. Due to falling river they will be obliged to remain there until early spring.

Hankow informed.

MACMURRAY

893.00/7886 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 30, 1926—7 p. m.

[Received November 30—10:48 a. m.]

587. 1. Consul at Foochow telegraphed November 29 that retreating Northern forces had reached Foochow and trouble might be expected. Governor had intimated that local authorities could not afford protection to foreign lives and property and, although sub-

sequently retracted by him, the making of this statement occasions apprehension. Consul suggested that an American warship be held in readiness to proceed there and stated that other consuls were taking similar action. He again telegraphed November 30, 11 a. m. as follows:

“Fukien navy joining 23rd mixed brigade under the command of Li Sheng-chun have turned over to the South. Fighting now in progress here between the forces above mentioned and those of Chiang. I request the despatch American warship as soon as possible.”

2. I have transmitted his request to commander in chief with my endorsement.

MACMURRAY

893.00/7889 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 1, 1926—11 a. m.

[Received December 1—2:50 a. m.]

589. My 585, November 29, 4 p. m. Following from American consul general, Hankow:

“November 29, 3 p. m. My telegram of November 27, 4 p. m. Strike against the Japanese has been amicably settled but general situation unimproved. British naval forces were landed today to reinforce the Concession police and enforce the Concession regulations. All processions and armed forces will not be allowed to come into the British Concession unless permission has first been obtained. Some British volunteers have also been called out. French naval forces have also been landed to protect French Concession. Due to the anxiety over the situation considerable number of foreign women are preparing to leave the port. While precautions are being taken against any untoward incidents, the situation is very tense and the utmost is being done to avoid serious trouble. American destroyers *Truxton* and *Pope* have been ordered to return to Hankow. Several large demonstrations yesterday.”

MACMURRAY

893.00/7887 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 1, 1926—4 p. m.

[Received December 1—7:32 a. m.]

591. My 589, December 1, 11 a. m. Following from American consul general at Hankow:

“November 30, 11 a. m. Your November 29, 1 p. m. *Pope* and *Truxton* with present force will afford adequate protection. British sloop *Magnolia* arrived a few days ago and one British destroyer

departed, one still here but may leave because of low water. Effort is being made to retain this very secret. Other nations not sending reinforcements. Situation less tense today. Press packers' and egg packers' strikes settled yesterday."

MACMURRAY

893.00/7888 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 1, 1926—5 p. m.

[Received December 1—8:42 a. m.]

592. My 587, November 30, 7 p. m. Commander in chief has ordered warship to proceed Foochow.

MACMURRAY

893.00/7896 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 4, 1926—noon.

[Received December 4—6:16 a. m.]

596. My 591, December 1, 4 p. m. Following from the consul general at Hankow:

"December 3, 3 p. m. My November 30, 11 a. m. Destroyers *Pope* and *Truxton* now here together with U. S. S. *Isabel*, *Pigeon* and *Palos*. British destroyer *Woolston* arrived this morning with small contingent of marines. Other British destroyer which was being held here has departed. French gunboat *Algol* arriving in a few days. New British Minister Lampson arriving here Tuesday on a naval vessel. Saburi⁴⁰ also arriving in a few days.

General situation unchanged. While some strikes have been amicably settled, many lines of industry still seriously affected by labor troubles. Strike leaders and pickets by high-handed methods are completely dominating the local authorities who are either helpless or indifferent to curbing their activities. New regime's prestige and authority have been seriously impaired by recent developments here. Eugene Chen and others mentioned in Canton's November 17, 10 a. m., to the Legation,⁴¹ are understood to be at Nanchang and will arrive here probably next week. It is hoped their coming may do something toward stabilizing a situation which is giving the foreign as well as the Chinese community much concern."

Consul general at Canton in a telegram of December 3rd stated that Chen had assured Lampson of courteous reception at Hankow.

MACMURRAY

⁴⁰ Sadao Saburi of the Japanese Foreign Office, delegate to the Special Conference on the Chinese Customs Tariff.

⁴¹ Not printed.

893.00/7910 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 7, 1926—3 p. m.

[Received December 7—10:40 a. m.]

601. My 596, December 4, noon. Following from American consul general, Hankow:

"December 6, 11 a. m. British and French landing parties have now been withdrawn. Situation much improved, measures adopted have put a stop to armed soldiers and parades passing through concessions. Saturday and Sunday passed quietly.

During the last few days large bodies of Southern troops have arrived from down river. It is understood some of these have been despatched up Hankow River and also small contingents up Peking-Hankow Railway.

It seems now definitely established that Yang Sen ⁴² has aligned himself with the Southerners."

MACMURRAY

893.00/7923 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 9, 1926—11 a. m.

[Received December 9—7:48 a. m.]

605. 1. The following is résumé of recent developments in the general political and military situation: The Southern troops have steadily extended their control until they are now in possession of all the territory to the line including Fukien, Kiangsi, southwest Anhwei, Hupeh and Shensi. Plans of Cantonese doubtless include securing possession of Chekiang and Shanghai at an early date but it is improbable that invasion of North will be undertaken until they have consolidated their position south of Yangtze. It is currently reported that Szechuan leader, Yang Sen, now in vicinity of Ichang, has shifted his allegiance to Cantonese.

2. Sun Ch'uan-fang has withdrawn his forces for defense of southern Kiangsu and Chekiang, and at present time position of Anhwei is in the balance. Shantung troops are advancing into Anhwei in support of Sun but have thus far refrained from entering Kiangsu, doubtless realizing their unpopularity with the people of that Province.

3. Kuominchun have split their force, the main body remaining in Suiyüan-Paotow area, with a minor force in Shensi now threatening western Honan. Feng Yu-hsiang ⁴³ is believed to be in Ningsia.

⁴² Military leader in Szechwan.

⁴³ In control of the Kuominchun prior to his retirement in January 1926.

4. The policy of Northern or allied leaders for some months past has been undecided and vacillating. A conference of Northern leaders was recently held in Tientsin for the purpose of formulating united policy and making plans to combat Cantonese. At this conference Chang Tso-lin was elected commander in chief of a reorganized military coalition under the name of "Ankuochun" or Pacification Army, while Sun Ch'uan-fang and Chang Tsung-ch'ang were appointed vice commanders.

5. Coalition includes Fengtien, Shantung and Shensi troops, as well as the forces operating under Sun Ch'uan-fang and Wu Pei-fu. Owing to the doubtful loyalty of Wu's subordinates, he is not, at least for the time being, considered an important factor and it is possible that the plans of Ankuochun contemplate his complete elimination.

6. It is believed that a lack of funds prevents immediate offensive on the part of Coalitionists, although present defensive measures include movement of troops into Anhwei and a gradual progression of troops down Peking-Hankow Railway in order to forestall loss of Chengchow in case of defection of Wu's subordinates.

7. Although the Ankuochun is merely association of military leaders, propaganda is already being disseminated to make it appear that this organization is representative of major portion of Chinese people and that its purpose is to deliver China from a "Red" menace and to protect foreign lives and property. Plans of its leaders are thought to include early installation of an administration in Peking which will seek recognition of the powers.

Repeated to Tokyo by mail.

MACMURRAY

893.00/7930 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 11, 1926—1 p. m.

[Received December 11—7:17 a. m.]

610. My 609, December 9, 4 p. m.⁴⁴ Following from American consul general, Hankow :

1. "December 10, 11 a. m. Eugene Chen and party arrived late yesterday. Other high officials of the Cantonese Government accompanied by approximately one hundred attachés have arrived and affairs of new government will henceforth be conducted from here. Not yet definitely decided whether offices will be established on Hankow or Wuchang side of river. Most of higher officials with their families and staffs now quartered in Terminus Hotel in German [*French*] Concession, Hankow. Lampson is seeing Eugene

⁴⁴ Not printed.

Chen today. Mayer ⁴⁵ expected today. Unless otherwise instructed, will pay my respects to Chen, since I shall necessarily be compelled to have certain official relations and contacts with him and his government."

2. "December 10, 2 p. m. My December 8, 11 a. m.^{45a} All employees of Standard Oil Company candle factory and number 2 oil installation now out on strike. Both plants which are outside city limits and below Japanese Concession are being picketed but no disorder thus far. As a precautionary measure American gunboats now opposite each plant for the purpose of protection."

3. Mayer arrived in Hankow December 10th.

MACMURRAY

893.00/7941 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 15, 1926—3 p. m.

[Received December 15—7:20 a. m.]

615. Following from American consul general at Shanghai:

"December 14, 4 p. m. Fifteen hundred men being the vanguard Southern forces have invaded Chekiang from Kiangsi and are advancing unopposed on Hangchow. Declaration of independence of Chekiang momentarily expected. If it is accompanied by expulsion of Southern[ers], it is believed Sun Ch'uan-fang will acquiesce; otherwise, Sun expected to move loyal forces into Chekiang to meet Southern [forces]. His forces on Chekiang border rapidly being strengthened."

It is understood that Southern Nationalists will not assent to making Chekiang a buffer region but are determined to occupy it.

MACMURRAY

893.00/7952 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 17, 1926—10 a. m.

[Received December 17—2:32 a. m.]

616. Following from American consul general at Hankow:

"Standard Oil Company vessel *Mei Foo* heavily fired upon 13th between Shasi and Ichang, presumably by Kweichow troops. No casualties. Situation has suddenly become aggravated at Ichang by appearance of the Kweichow and Cantonese troops in that vicinity. General Yang Sen's troops placed on Yangtze Rapids steamers but subsequently removed at the request of commander of the *Elcano*. Considerable firing in the city and harbor at Ichang but tenseness of the last few days somewhat relieved today. Yang Sen's alignment

⁴⁵ Ferdinand L. Mayer, counselor of the American Legation in China.

^{45a} Not printed.

now said to be uncertain. His troops restless and disturbances of past few days attributed to dissatisfaction with his wavering attitude. It is possible that situation in Upper Yangtze will undergo decided change in the next few days, as Cantonese and Kweichow troops are within 30 miles of city but on opposite sides of the river.

Hankow situation has remained substantially unchanged for several days."

MACMURRAY

893.00/7953 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 17, 1926—11 a. m.

[Received December 17—4:28 a. m.]

617. My 615, December 15, 3 p. m. Following from American consul general at Shanghai:

"December 16, 3 p. m. Southern vanguard entered Hangchow yesterday morning and with the assistance of Chekiang officers forced Civil Governor Ch'en Yi to abandon office. Southern or allied Chekiang forces have cut railway and established themselves south of Linping, while Marshal Sun and vanguard have reached Changan and hostilities are imminent. Heavy Southern reinforcements are already moving from western Chekiang. Shanghai outwardly quiet at the moment."

MACMURRAY

893.00/7951 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 17, 1926—5 p. m.

[Received December 17—9:15 a. m.]

622. My 616, December 17, 10 a. m. Following from American consul general at Hankow:

"December 16, 3 p. m. New Government gradually getting settled and the general situation locally is clearing. Ministries Finance, Foreign Affairs, and Communications will function from Hankow and remainder of the Government from Wuchang.

Lampson has had several conferences with Eugene Chen and has been waiting for three days for instructions from his Government, exact nature of which I have not been able to learn. Thus far Saburi has had no conference with Chen and seems to be waiting for the situation to crystallize. He intimates that he will get in touch with Chen when Lampson leaves.

I greatly appreciate your keeping me informed of your recommendations to the Department. It is most helpful."

MACMURRAY

893.00/7960 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 19, 1926—10 a. m.

[Received December 20—6:03 a. m.]

627. 1. The Legation has received from the consul general at Shanghai a despatch relating to proposed defensive measures in case of a state of emergency arising there, should the Shanghai region be invaded by the Cantonese forces.

2. Informal meetings have been held by Council officials, consular representatives, and senior naval officers. Council represents that such a situation would require landing force of from four thousand to five thousand men and states that having brought its views to the attention of the interested consular representatives it considers that it would be absolved from responsibility should the provision made be insufficient for the protection of foreign life and property.

2. [*sic*] Gauss⁴⁶ reports that he and Commander Armstrong, senior American naval officer, are in agreement on certain points of which the following is a brief summary: First, in the event of such an emergency, a larger landing force will be required than on former similar occasions. Second, size of landing force estimated by Council is larger than will be likely to be required unless situation develops beyond that experienced at other ports. Third, Nationalist Party and Kuomintang sympathizers and agitators, apparently contemplate that the peak of their efforts against the "imperialistic powers" shall be reached at Shanghai and they have therefore recently eased the situation in Hankow. Fourth, the possibilities of the situation suggest the desirability of plans for increasing naval landing forces with a minimum of delay should occasion require; foreign naval forces now in port are entirely adequate for the present situation, and it might be unwise, at this time, to make any ostentatious display of extraordinary defense preparations by the concentration in Shanghai of a large foreign naval force. Fifth, "in landing United States naval forces it should definitely be understood that they are landed for the protection of foreign life and property and that they will not, except under orders of the higher American authorities, be used to oppose any organized occupation of the International Settlement by the armed forces of the Nationalist Government". Sixth, inclusion of foreign occupied areas to west and north of Settlement boundaries within the defense area is as fully justified and necessary now as in 1924 and 1925 in view of the large foreign population.

⁴⁶ Clarence E. Gauss, temporarily consul general at Shanghai, in the absence of Consul General Cunningham.

3. The Legation is in agreement with Gauss and Armstrong on all the foregoing points although it does not consider that the defense of the extra Settlement areas referred to would be justified at the imminent risk of collision with organized Cantonese forces unless, first, defense of these areas is a military necessity incidental to defense of the Settlements proper, or, second, their occupation should prove necessary for the protection of foreign residents, on which principle forces would be landed at any point irrespective of its administrative or territorial status.

4. With regard, however, to fifth point, I am of the firm opinion that the integrity of the International and French Settlements must be maintained under any circumstances even should it mean collision with organized Cantonese forces. Otherwise, occupation of other settlements, denunciation of extraterritoriality and widespread and systematic disregard of foreign lives and interests would in all probability be only a matter of time. Should a landing force be required, I regard it as essential that its main objectives and the scope of its responsibility should be definitely understood in advance. Such a force should know which it is there for, the purpose of protecting both the integrity of the Settlements and foreign life and property or only the latter.

5. I request frank expression of the Department's views on this matter, as well as upon the other points which have been raised, in order that I may be in a position to discuss the subject with my colleagues if and when occasion demands.

6. Meanwhile, I am communicating by radio with the commander in chief, suggesting continued consideration of the possible necessity of augmenting, without delay, the present American landing force available at Shanghai in the event of the state of emergency anticipated by council.

MACMURRAY

893.00/7960 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 23, 1926—11 a. m.

307. Your 627, December 19, 1926, 10 a. m. Should an emergency arise at Shanghai involving the necessity of landing force from American naval vessels present, it must be definitely understood that this force is present for the purpose of protecting American life and property at Shanghai. This Government is not prepared to use its naval force at Shanghai for the purpose of protecting the integrity of the Settlement and should any question of this sort arise Department would desire to be consulted.

KELLOGG

893.00/7978 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 28, 1926—10 a. m.

[Received December 28—4:58 a. m.]

642. 1. I earnestly recommend that British, French, Italian, and Japanese Governments be informed by the Department of its decision as stated in the final sentence of your telegram No. 307, December 23, 11 a. m.

2. There seems to be a prime necessity for this action, both because the other powers with naval forces at Shanghai would seem to be entitled to know the attitude of the United States and because if they are not informed there is the possibility that our Government might be criticized should the other interested powers consider it expedient to take certain measures of defense in a sudden emergency in order to protect the integrity of the Settlement in a way in which our Government would not be ready to cooperate.

MACMURRAY

893.00/7978 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 30, 1926—noon.

312. Your No. 642 of December 28, 10 a.m. As other powers have made no inquiries of the Department respecting this matter, will it not be sufficient for you to inform your interested colleagues?

KELLOGG

**DECISION OF THE UNITED STATES TO AWAIT DEVELOPMENTS
BEFORE RECOGNIZING ANY FACTION CLAIMING TO ACT WITH
AUTHORITY FOR CHINA**

893.01/213 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, February 27, 1926—9 a. m.

[Received 1:45 p. m.]

93. 1. The Chinese Secretary of the British Legation called in behalf of the British Minister on February 25th to consult me regarding the long-established question of the customs at Canton. The opinion held by the British Foreign Office, he stated, is gravitating

in the direction of early recognition of the Canton Government, and if independence was the desire of the people of South China and if capacity for the maintenance of a comparatively satisfactory separate administration was shown thereafter by them, to continue to withhold recognition would not be right.

2. As suggested in my telegram 73, February 12, 8 p.m.,⁴⁷ third paragraph, I cannot but feel that the motive which impels the British Government to make a decision so momentous is the hope that by placating the Canton regime, the strike and boycott can be terminated. There is perhaps also the hope of eventually placing British interests vis-à-vis the new government in a position of special advantage. I myself am unable to perceive in regard to Canton and other regions of South China that any basis exists for viewing them as a political entity which is separate from the remainder of China. While it is true that they have for several years maintained an autonomous administration of their own with some degree of success, all along their so-called independence has been a political fiction rather than a reality. A faction which had been ousted from power has in a particular section of China maintained its organization without considering itself actually separate, in fact, from China as a whole. For example, in representing China at Paris it participated with the Peking Government. At times it has claimed that it was itself the sole legitimate government of China, and assembled the rump parliament at Canton. From time to time it has sought by military force to regain control of the country. Through personal representatives, its leaders constantly continue informal relations with leaders of other factions. In its territories it permits the Central Government to function with regard to customs, wine and tobacco, salt, telegraphic and postal services (although, except in the case of customs, the conversion of revenues to local uses is acquiesced in by the Central Government).

3. The representative of the Government of China on the Commission on Extraterritoriality, Dr. Wang Chung-lin [*Wang Ch'ung-hui?*], who is himself a Cantonese, has just called on me for the purpose of making, in behalf of the Canton Government, certain informal representations in the pending customs question. He confirms my understanding that while they claim complete independence, nevertheless the Canton authorities regard themselves, while waiting for opportunity to extend throughout China their influence in accord with the policies which Dr. Sun Yat-sen laid down, as administering a portion of the territory of China.

4. Were the British to extend recognition to the Canton Government, the Cantonese faction doubtless would be gratified by that

⁴⁷ Not printed.

action as tending to strengthen greatly their influence in Chinese affairs. It would, however, lead to these questions: could the British continue recognition of the independence of a regime which lacks desire for separation from China, and would the British withdraw the recognition they have given to the government existing at Peking?

5. It is doubtful, when such recognition is considered from the standpoint of British interests as a matter of expediency, whether it would be effective in any case in conciliating those influences which are concentrating under Russian guidance their attack upon Great Britain in line with what is a considered antforeign policy.

6. British recognition of Canton would condone the similar action taken by Soviet Russia toward Mongolia. It would afford temptation at least for encouragement of the secession of north Manchuria and Chinese Turkestan by the Russians, of south Manchuria by the Japanese, and of Yunnan by the French. While it might be possible to reconcile such action with the letter of the Washington Treaty in regard to policies, such action would have the effect of restoring the scramble for spheres of influence and for concessions and, under new names, of recommencing the process of partitioning China.

MACMURRAY

893.00/7464 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 16, 1926—noon.

[Received June 16—5:46 a. m.]

248. My telegram 214, May 18, 6 p. m.⁴⁸

1. Yen⁴⁹ cabinet has not yet functioned, as, in addition to Yen, only the Ministers of the Navy and of Agriculture and Commerce have assumed office.

2. I was informed by a representative of Chang Tso-lin headquarters that Chang and Wu Pei-fu⁵⁰ have, through conferences of their delegates, practically agreed that the Yen "governing cabinet" shall disappear and a new cabinet shall be formed. Chang in times passed [*past?*] insisted that the election of Tsao Kun⁵¹ . . . was unconstitutional and Chang is therefore unable to recognize Yen's status as Premier since he was appointed by Tsao. My informant said Chang has left formation of the cabinet to Wu. Constitutional issues are not to be raised, which means apparently that the Provisional Constitution

⁴⁸ *Ante*, p. 617.

⁴⁹ Yen Hui-ch'ing (W. W. Yen), Premier and Acting Minister of Foreign Affairs.

⁵⁰ Chang Tso-lin and Wu Pei-fu were allied military leaders who overthrew the Provisional Government of Tuan Chi-ji. See pp. 591 ff.

⁵¹ President of China, 1923-24.

of 1912 will be revived. Chang's proposal to Wu is that the former's political influence shall be supreme in Manchuria, Suiyüan, Chahar, Jehol, Chihli and Shantung, and the latter's everywhere else. Wu has not published his acceptance of these proposals nor indicated when he will meet Chang in Peking to confirm the arrangements, but reports are current that Yen has ceased to function and that he will be succeeded by former Minister of Communications Chang Chih-t'an or by Wellington Koo.⁵²

3. The joint campaign against the Kuominchun⁵³ is being prosecuted with renewed vigor but without substantial result. Chang and Wu profess to be united in determination to eliminate Kuominchun and with it Soviet influence in the North.

4. I consider the Chang-Wu alliance unstable and see little prospect of China's emerging in the near future from the present military, political and financial chaos.

MACMURRAY

893.00/7481 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 26, 1926—4 p. m.

[Received June 26—10 a. m.]

257. My telegram No. 241, June 7, 3 p. m.⁵⁴

1. Eugene Chen has insisted upon being addressed as "Minister for Foreign Affairs" as a condition precedent to dealing with international questions including negotiations with the British on the question of the Hongkong boycott. British and French consuls general are doing so although the former has written him officially that the use of this title is a matter of mere politeness and that recognition is not to be implied therefrom. American consul general is following this procedure. Mail report follows.

2. Canton telegraphs June 22, noon, as follows:

"Chen has now begun to sign section 6 certificates,⁵⁵ instead of Commissioner of Customs, who appears to have been designated by the last-recognized Peking Government. Shall I decline to accept certificates signed by Chen? I shall greatly appreciate definite instructions in above matters, but, at the same time, I would suggest the advisability of showing the Canton Government as much consideration as possible since we must deal with it as the *de facto* authority."

⁵² Chinese Minister of Finance and former Minister of Foreign Affairs.

⁵³ National armies, formerly controlled by Marshal Feng Yu-hsiang, director general of the Northwestern Defense.

⁵⁴ *Post*, p. 721.

⁵⁵ Certificates of identification of Chinese coming to the United States required by section 6 of the Chinese Exclusion Act of July 5, 1884 (23 Stat. 115).

3. Although not disposed to assume a needlessly antagonistic attitude towards the Canton regime, I do not consider that we would gain its favor or its respect by taking liberties with our legal requirements in deference to Cantonese pretensions to a governmental status.

MACMURRAY

151.096/126 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 3, 1926—1 p. m.

135. Your 257, June 26, 4 p. m., 266 July 1, 1 p. m.⁵⁶ Department is not disposed to insist on issue of certificate of identity prescribed by Chinese Exclusion Act of 1884 by appointee of Peking Government in view of present disorganized condition of country and since title and personality of official issuing certificate is largely a matter of technical formality, the essential part of it being the Consular visa. Department considers, however, that acceptance of certificate issued by one styling himself "Minister of Foreign Affairs" should be avoided if possible. Department suggests that it might be tactfully pointed out to Canton authorities that certificates in other parts of China are issued by Commissioners of Foreign Affairs and that if there is at present no one at Canton using this title certificates issued by a provincial official of corresponding rank such as "Superintendent of Customs" would be acceptable. Repeat to Canton and report action.

KELLOGG

893.01/224

*The Consul General at Canton (Jenkins) to the Minister in China (MacMurray)*⁵⁷

No. 482

CANTON, July 7, 1926.

SIR: In connection with this Consulate General's telegraphic correspondence with the Legation respecting the form of address to be employed in relation to Mr. Eugene Chen, I now have the honor to transmit a copy of an article published in the semi-official *Canton Gazette* of July 5, 1926.

It will be observed that this publication was authorized by the Foreign Office and that it embodies my letter of June 30 to Mr. Chen and his reply of July 2. It is obvious, of course, that Mr. Chen's reply was prepared primarily for publication,—that he saw an oppor-

⁵⁶ Letter not printed.

⁵⁷ Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 582, July 7; received Aug. 11.

tunity to let the Powers know his attitude with respect to recognition and made use of it.

As authorized by the Legation, my note to Mr. Chen was addressed as follows:

“Honorable Ch'en Yu-jen,
Acting Minister of Foreign Affairs,
Canton.”

Unless the Legation directs otherwise, I shall not make any reply to Mr. Chen's communication of July 2.

I have [etc.]

DOUGLAS JENKINS

[Enclosure]

Article Published in the "Canton Gazette" July 5, 1926

The Foreign Office has authorised the publication of the following statement:

In view of the excellent relations now existing between the Government at Canton and the American Consular authorities, the Acting Minister for Foreign Affairs believes that no misunderstanding will be created by the publication of the following letter, dated, June 30, from Mr. Douglas Jenkins, American Consul General, to Mr. Chen Yu-jen (Eugene Chen), Acting Minister for Foreign Affairs, with the reply of the latter dated July 2:

Sir: Adverting to this Consulate General's dispatch of June 16 in acknowledgment of your note of June 4, 1926,⁵⁸ concerning the abolition of the office of Commissioner of Foreign Affairs and the intention of the Ministry of Foreign Affairs to deal with all international cases in the future, I have the honor to explain that while this Consulate General is pleased to correspond directly with the Ministry of Foreign Affairs, it is of course understood that recognition is not implied.

I have the honor to be, Sir,
Your obedient servant,

(Signed) Douglas Jenkins,
American Consul General

FOREIGN MINISTER'S REPLY

REPUBLIC OF CHINA

NATIONALIST GOVERNMENT

MINISTRY OF FOREIGN AFFAIRS

SIR: I have the honour to acknowledge the receipt of your letter dated June 30, in which you explain—what has already been quite clear and obvious to me—that recognition is not implied in your despatch of June 16 acknowledging my note of June 4, which notified you of the abolition of the Office of Commissioner for Foreign Affairs

⁵⁸ Not printed.

and the decision of the Ministry of Foreign Affairs to deal with all international cases in the future.

Though in ordinary circumstances your letter might call for no specific reply, I believe the best interests of the American people and of the Chinese people as represented by my Government would be served if I make the categorical statement that, while my Government (which has stabilized an independent political regime founded here nearly a decade ago and has unified a group of territories larger in area than France and Italy combined, with a population of 60,000,000 people) demands that it be treated with respect, it neither desires nor expects from America and other Foreign Powers the sort of recognition which even considerations of political realism and international dignity have not prevented them from granting to the phantom governments successively set up in Peking by Mandarin squeezers, military plunderers and ex-bandit chiefs. The Foreign Powers, apparently, have not yet realised that Peking has long ceased to represent the Chinese nation and that it is today but an organ of exploitation and plunder in the hands of the Mandarinate and the Northern militarists. As long as this fundamental fact remains ungrasped by the Foreign Powers, the state of China must necessarily worsen and some of the ominous possibilities of the situation may well become realities.

With a clear apprehension of what it all means, my Government is striving to forward the work of establishing the new equilibrium between the Chinese system (i.e. the Chinese people in their organization as a social and politico-economic aggregate) and the altered environment brought about largely by foreign intercourse and pressure. And though unrecognized but withal the only ruling group in China at the moment that really governs, my Government is not without hope of planting the foundation of a great new structure of relations between China and America and other friendly Powers which, while assuring the latter a friendly and profitable market for their goods and services, will enable the Chinese people to live in freedom and to work out the modernisation of their country in terms of the best both in their historic experience and individual culture and in the doctrinal systems and material progress of the West.

I have etc.,

(Signed) Ch'en Yu-jen
Acting Minister for Foreign Affairs

893.00/7558 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 12, 1926—11 a. m.

[Received August 12—9:28 a. m.]

324. My 277, July 7, 5 p.m.⁵⁹

1. The present so-called governing cabinet continues futile, existing without power even in the capital. Its only important occupation is the quest of money. On June 5th it requested release of \$1,000,000

⁵⁹ Not printed.

for pay of the Peking garrison and police and, on July 10th, of \$300,000 maintenance of peace and order from Customs funds. Interested Legations deny that any interest in the disposition of these funds after stipulated obligations were safeguarded but by decision of the Inspector General only the second sum was paid to the Chinese Government. On July 20 the cabinet requested release of [\$]50,000 per month for administrative purposes, to which no reply has been made. It is reliably reported that the Government is endeavoring to arrange for the issue of \$25,000,000 of bonds secured on customs revenue now considerably in arrears. This I intend to protest against with interested colleagues as unjust discrimination against prior foreign obligations having general security.

2. Marshal Wang Huai-ch'ing, commander in chief of the Metropolitan forces, has tendered his resignation. He has been hounding Inspector General for funds which have been refused. This appears to be mainly for the purpose of securing money for the maintenance of his troops; may also be in protest against rival activities of a Fengtien appointee who is commander of *gendarmerie* and obeys only Chang Tsung-ch'ang.⁶⁰

3. Military affairs seem to be at deadlock on the Hunan-Shansi and Nankow battle fronts.

4. Yang Wen-kai,⁶¹ who is Sun Ch'uan-fang's⁶² representative in the cabinet, left Peking July 30th, which may indicate that Sun is withdrawing his support from the Peking regime.

5. Execution by order of Chang Tsung-ch'ang without pretense of trial of Chinese editor August 6 exemplifies negligibility of governmental authority.

MACMURRAY

893.01/223 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, August 14, 1926—7 p. m. [2 p. m.?]]

[Received August 17—6:47 a. m.⁶³]

325. My telegrams 275 of July 7th and 301 of July 24th.⁶⁴

1. There has been no regime at Peking since 1918 asserting an even plausible claim to being a legitimately constituted government.

⁶⁰ *Tupan* of Shantung.

⁶¹ Minister of Agriculture and Commerce in the Regency cabinet headed by Admiral Tu Hsi-kwei.

⁶² *Tupan* of Anhwei, Chekiang, Fukien, Kiangsi, and Kiangsu.

⁶³ Telegram in six sections.

⁶⁴ *Post*, pp. 712 and 847.

Each has in turn exercised diminishing power. Nevertheless we and other powers have found it advantageous hitherto to grant at least *de facto* recognition to each group succeeding to control of the capital and offering to carry out the obligations of the Government of China, even though in other respects the requirements usually regarded by accepted international practice as conditions precedent to recognition were obviously not met by such administration. This continuing acceptance of diplomatic relations with administrations not having essential qualities of a government has not been due (at least in our case) to mere inertia but has been due in each instance to the result of a deliberate decision that we had less to lose than to gain in maintaining a diplomatic fiction by which we could continue necessary contacts with China through an instrumentality which admitted its international obligations and which would have a feeling of responsibility for the protection of the lives of foreigners and of their rights as declared in treaties or as generally incumbent upon a state in its international relations. It was obviously worth-while to deal with a central government which we clearly understood to be a fiction as if it were really substantial so long as it continued to be, within the limitations of its power, a conservative force which employed what influence it had in safeguarding legitimate foreign interests against violation through arbitrary action by local authorities.

2. In recognizing on these grounds the successive administrations set up in Peking hitherto, I still believe we have been well advised in each instance. However, through various stages of uneasy doubt I have arrived at the definite conviction that conditions have been brought about by developments of the past year or so under which we cannot expect that a conservative or even friendly influence will characterize any new regime here. The Central Administration, with the dwindling away of its actual authority and power recently accelerated, has naturally lost its sense of responsibility for the carrying out of the obligations of the country as a whole. It is unable beyond a small locality to make its will effective. Having no stake in the maintenance of prosperity and order in other areas, its interest in the trading sections of the country has ceased, as has its concern for the maintenance there of normal relations with foreign countries and their interests, and whether agitations disrupt the normally mutually profitable economic structure and jeopardize the safety of foreigners. Increasingly the governmental entity maintained at Peking has become a mere agency of whatever military factions control it. Witness the levy of the 20 percent cigarette tax. A year ago the Foreign Office admitted that tax to be in violation of treaties and its inability to prevent it in the Yangtze provinces was

deplored. Now, for the profit of the occupying forces, it is levied within the walls of Peking and is defended by the Foreign Office with sophistries to which no resort was earlier attempted. The tendency of the Peking administration has been to become a local political organization, like, for instance, those at Canton and at Shanghai; its distinction from other than merely regional organizations lies fundamentally in the recognition by the foreign governments which it enjoys. While this fact confers no power upon Peking to control other sections of China in behalf of foreign rights, it does afford to Peking the opportunity of making an appeal through the country to nationalistic sentiment as the doughty champion of China for the Chinese. Thus, when Peking pursues a policy of whittling down or repudiating China's obligations, it can be sure of sympathy even from its domestic enemies. A degeneration in the morale of the administrative organization has resulted. The permanent officials of that organization have been a steadying influence until recently, but this is the case no longer. For the most part, those officials whose salaries are in arrears and who have available no other livelihood have become mere place holders. Each, by a record of patriotic zeal in opposing foreigners, is bent upon insuring his tenure.

3. The matter of rendition of the Shanghai Mixed Court⁶⁷ has forcefully illustrated this. Last December the Foreign Office repudiated all previous negotiations and a preposterous arrangement ignoring foreign rights was insisted upon. A committee representing interested Ministers sought for months to work out a compromise with a technical commission in the Foreign Office which would preserve essential foreign interests and rights. No disposition was found to accord an even open-minded hearing to the foreign point of view. The chairman of our committee, Peck,⁶⁸ then enlisted the personal interest of Wang Ch'ung-hui.⁶⁹ The latter was impressed with the fairness of our proposals and their conciliatory spirit. He offered to use his great influence to the utmost with the officials of the Foreign Office and Ministry of Justice to persuade them, before this question became acute, to accept the proffered solution. He acknowledged his complete failure two days later . . . In regard to any consequences possibly ensuing in Shanghai should a breakdown of the negotiations occur, they were altogether reckless. The interested Ministers resolved at that point upon the experiment of transferring the negotiation of a preliminary agreement,

⁶⁷ See pp. 1023 ff.

⁶⁸ Willys R. Peck, Chinese Secretary of the Legation.

⁶⁹ Chinese member of the International Commission on Extraterritoriality and former Chinese Minister of Justice.

along the lines they had tried in vain to get the Foreign Office to consider, to the consular body at Shanghai. An offer of a more satisfactory arrangement from the viewpoint of foreign interests than the compromise proposed by the Ministers to the Foreign Office was made within a few days to the consuls by Sun Ch'uan-fang. Presumably this was not because he is better than other Chinese militarists, but because in fact he does control the Shanghai area, is involved in its prosperity himself, and, therefore, is interested parties [*party?*] in assuming responsibility for seeking a settlement which might contribute to produce conditions of order in his bailiwick favorable to trade. The upset of this agreement is even now being attempted by interested bureaus of the Peking Government.

4. The lack of a sense of international responsibility in the Peking regime is illustrated from a somewhat different angle by representations made by it recently to the British Legation, bearing upon the negotiations regarding the Hongkong strike and boycott with the Canton authorities. Occasion was taken by the Foreign Office to state that although the claims of Canton for compensation were viewed with approval by the "Chinese Government", a caveat must be entered against the suggested loan to the Canton authorities from the Hongkong government for industrial development. Its intervention in this matter had for its sole purpose the imposition of an additional condition of settlement as though from above. Thus, while professing to represent the whole of China internationally, the Peking regime stultified that claim by recognizing complacently that, with its approval but without its participation, negotiations relating to questions of its own treaty obligations to Great Britain were being carried on by a section of the country ignoring the existence here of a so-called government.

5. I feel convinced from these and similar indications of its attitude that neither the regime now in existence nor any likely to succeed it will, except as moved thereto either by some *quid pro quo* of support of this factional group against its rivals or by coercion, make any attempt to meet its international responsibilities. Of these means of influencing, neither is open to us. The practical reason for a continuation of the diplomatic fiction of a central government has come to an end. The fact must be accepted by us. When in the future China is able again to constitute such a government as can be recognized because of its merits, conformably to the practice prevailing in other countries, recognition will have to be considered according to those circumstances. However, under the circumstances now existing and which will exist while we continue to offer a basis for

the North China militarists to believe that semiautomatic recognition will be accorded by us to any group occupying Peking by force, nothing more in the way of a conservative or stabilizing force can be expected by us from this Central Administration. From it we will never get again any recognition of our rights, nor will we get any willingness to deal in a spirit of good will with us, or of good faith. It will continue, on the contrary, to be an irresponsible agency, always currying popular favor, as far as it dares, by undermining the rights of foreign nationals and the position of foreign powers. It is as though we had taken to the Central Government as a life raft in the political shipwreck of the Chinese Republic; and that raft, its buoyancy lost now, is no longer keeping us afloat. To keep it afloat we are swimming, but despite this, it must soon drag us down.

6. In the eyes of the country, the Central Administration represents less in status than it has ever before. It formerly commanded throughout the country some slight degree of prestige and respect at least . . . since it was the only formulation politically of the feeling of cultural and racial unity found among the Chinese people. It has been brought into shame and derision by the events of the last six months, becoming in the hands of the Northern militarists a neglected toy. No serious effort was made for several weeks by Wu Pei-fu and Chang Tso-lin to reconstruct a cabinet after the flight of Tuan. Then for another series of weeks, when at Wu's instance W. W. Yen consented to act as Premier, Yen was left without the support of a single colleague. The body functioning now was constituted only after a cynical announcement was made by Wu that serious consideration must be given to the matter of a government as the only means for getting from the powers the additional revenues to be made available by the Conference. Even the Cabinet members (which I may say include several of my friends) make little effort to conceal their attitude that it is a farce. Two of them who are nonpartisan and who have been associated on and off for years with Central Government have privately given clear intimations of their feeling of distaste for the whole adventure. Naturally this so-called government is taken no more seriously by the people at large than by itself. I have grave doubts whether any Chinese consider it to be more than a pawn used in a fantastic game being played among military rivals having no loyalties and no principles. My feeling is that the idea of central government has lost its traditional prestige so far that in the future no administration can command greater respect than can be enforced by it upon the country.

7. Regardless of what is effect or cause, this decline of central government politically accords with an unmistakable trend in the

political ideas of the Chinese. However little we may like the idea of administrative decentralization from the standpoint of American interests or from that of what we regard as the interests of China, it is becoming established. This is going on in the midst even of the so-called nationalistic movement, which, to a large degree, has aroused the people to a common impulse of assertion of themselves as against alien peoples. As I foresee the development through which China is destined to pass before it will be able to evolve a reasonably coherent organization of government, it must experience first a resolution into a loose confederation, with autonomous component regions, held together by bonds of sentiment rather than of law, merely tolerating in degrees both various and fluctuating the continuance of essential national services such as the railways and telegraph, customs, salt, posts, and perhaps the judicial system. I conceive it as possible that were these organizations able to keep beyond the control of any faction and aloof from politics, they might be permitted to function as quasi-independent entities fairly generally and regularly, as is now done in large degree by the Customs Administration. But if their subordination to the authority of a nominally central government exercising control only locally and for the benefit of a faction is to continue, they are bound to break up sooner or later.

7a. This tendency towards decentralization, which is at least temporary, we cannot check through an attempt to confer a factitious existence upon a central administration not considered by the Chinese people to be representative. Nor would our appearing to stand in opposition to the course of the political development of China be something we could afford. In my opinion, the time has come when an accommodation to the progress so far shown by this development must be made by us. We have begun to do this to a certain extent already. For some time cases involving protection have been handled, not through the Foreign Office which lacks authority to act even if it should possess the good will, but more and more frequently through consular officers who deal with local authorities possessing all responsibility and power. And certain categories of claims, as arranged with the Foreign Office, are taken up in a number of provinces with the local commissioner for foreign affairs. This official acts under the instructions given by the provincial authorities, though nominally he holds his post under the Minister of Foreign Affairs.

8. Our position in regard to endeavoring to protect our nationals and secure fair treatment for them is anomalous in the present ultimate phase of the breaking up of central authority. Though the Peking administration really exists by virtue of the recognition ex-

tended by us and other powers, it gives us no help. Rather it is disposed more and more to act as a devil's advocate against our interests and our rights. And the various regional or provincial authorities, resentful over what is construed by them to be our support of the rival faction in control of Peking, are antagonized and are only too ready to renounce those responsibilities which, if we dealt directly with them, they might be prepared to undertake. If our supreme duty in China is, as I conceive it to be, to do everything we can do legitimately and honorably to maintain the interests of Americans here and at home, we must to that end adopt methods conforming to actual conditions. We do not need to temporize, nor need we alter in its essentials our policy toward China as a whole, but, even though we look forward still hopefully and with a desire to be helpful to eventual reestablishment here of an actual central government, we should face the fact that no longer in China's political turmoil is the Peking regime more than an unrepresentative unit.

9. We do not recognize today the existence in Peking of a government. We ought to withhold such recognition, in my opinion, not only until a substantial government has come into being, but we should declare our intention publicly and unequivocally to that effect. Should I have wrongly estimated how hopeless it is to expect in the reasonably near future the reconstituting of a representative central government, then the taking of such a position by us would stimulate such latent potentialities as may exist and result in a serious, possibly successful, effort toward bringing a real government of China into being. Yet, whether that fortunate result should or should not follow, in my mind there is no doubt that if we took such action, it would enable us, despite all the difficulties as to details which obviously would be involved, to get results far better than we can obtain at present in protecting just American rights and interests. Our nationals everywhere in China are on the defensive and are deprived of that protection from Chinese authorities which we might expect to be able to secure for them were we to place responsibility squarely upon those having the power to act and the incentive to do so.

10. The proposal I am making, that we discard frankly the fiction that a central government exists in Peking, has for a considerable time been maturing slowly in my mind. I did not feel warranted, however, in committing myself in regard to it even in my own thought up to the time when the possibilities of carrying out the Washington Customs Treaty provisions were exhausted by the American delegation to the Tariff Conference.⁷¹ If we could on July 3rd have ob-

⁷¹ See pp. 743 ff.

tained consent from the other powers to proceed immediately to the negotiation of an agreement on the Washington surtaxes, with the cooperation of those members of the Chinese delegation still remaining, despite the fact that at the moment there was no recognized government, I would have regarded it as a defensible sequel, and probably a wise one, to the negotiations previously conducted in connection with the Conference. However, on that date, in the meeting of the foreign delegations, it was disclosed that a resumption of negotiations would come about only after indefinite delay and, furthermore, only with a recognized government. Thus, if the implementation of the Washington surtaxes were made by us an occasion of recognition rather than a consequence of recognition, we would find ourselves bound to the wheel of a policy of extending recognition to anything in Peking which declared itself to be a government, regardless of its representative character, its competence or its willingness to deal with our rights and interests faithfully. I do not feel, in view of the unreality and the futility of the administration which has been formed in the meantime, that we can so commit ourselves either with dignity or with safety to those national interests in regard to which we are trustees.

11. The prospect that we may find that it is now impossible to conclude any arrangement with a government of China for giving effect to the Washington Customs Treaty, gives me a feeling of deep concern. But, according to the situation, that is not dependent upon our attitude toward the Peking regime. It is dependent upon facts beyond our control and independent of our policy. One of these facts is that the British and Japanese, among others, are unwilling, until there again is a recognized government, to proceed with Conference matters, and another is that the status of the Central Government has changed so far since the Conference began, that, whereas at that time we could have implemented the Washington Treaty, feeling that the utmost was being done by us to realize the purposes contemplated by that treaty, now we could not do so without being conscious that what we were professedly doing for the whole of China in fact would benefit nobody save that faction in China which, at the moment, might be in a position to convert into immediate cash, for the purpose of conducting civil war, the proceeds of surtaxes for years [ahead?]. Except for the somewhat remote possibility of the establishment of a real government here, the working out of an arrangement for accomplishing this purpose might prove feasible by means of a separate arrangement, either severally or collectively, with the various regional administrations.

12. With regard to anticipated benefits from the Conference, it is my mature opinion that our position would be no worse than if we concluded an agreement with a central administration which is and

for years must be a political nonentity. The promises to relieve trade of the incubus of likin and other inland taxation are not seriously believed by anybody to be realizable. Nor, under the circumstances that have come to exist, could an undertaking for the consolidation and funding of unsecured debts possibly be carried out. Seizure of control of customs by leaders in each area would merely be provoked by the attempt, which would thus precipitate a break-up of Customs Administration: the only stabilizing influence and the only source of revenue by which the indebtedness of China can conceivably be met. The suggestion of the British two months ago that our agreement with the existing regime be concluded by us, subject to the condition that assent be given to it by other regions, falls between two stools, it seems to me: the "outs" would take our committing of ourselves to an arrangement profitable to the "ins" as a challenge; the "ins" would be resentful of our offering them an agreement, of which the precedent condition obviously could not be fulfilled. In my judgment, we must dismiss as absolutely futile and illusory any hopes based upon the possibility that a central administration in China could carry out any obligations it might assume in connection with the Conference.

13. After consulting Strawn,⁷² who indorses strongly the above views, I have considered carefully this question: whether our position regarding the manner of our contacts with China ought to be determined and announced immediately or whether developments in respect to the present indeterminate situation in North China should be awaited. My firm conviction is that this position, if it is to carry the moral weight of a decision formed with a view to the larger aspects of our relations with China, must be taken without dependence upon any exigency confronting us incidental to the factional contest in progress at present. Its significance would tend inevitably to be limited were some concrete situation made the occasion of our action, and implications that partisanship influenced our action would be involved.

14. This question has still greater urgency because of the possibility or probability that a return of the Kuominchun to power in Peking may shortly occur. I would have less apprehension in regard to the policy which that party might pursue were there not reason for believing that in that event, Feng Yu-hsiang,⁷³ who has been freshly schooled at Moscow in revolutionary methods, as contrasted with evolutionary methods, and in the doctrines of repudiation, would return to China. In such a case, possibly arising soon, Feng, in the name of the central government he had set up, would quite probably

⁷² Silas H. Strawn, American commissioner to the Special Conference on the Chinese Customs Tariff.

⁷³ In control of the Kuominchun prior to his retirement in January 1926.

have all existing treaties with the United States and other "capitalistic" powers canceled by a declaration he would cause to be made. It seems to me that in such a contingency we would be in a much stronger position tactically if our policy that there is in existence no government representing China had been taken definitely already.

15. Though the views set forth above are novel in some respects, they are not peculiar to this Legation or to me by any means. In speaking recently with members of the Danish, British, and Dutch Legations, and Saburi of the delegation from Japan,⁷⁴ I have learned that among them there is a drift toward similar views. This arises out of recognition of the fact that the most important problem faced today by foreign interests is the question concerning the reality of any government professing to represent China.

16. I am offering in another telegram concrete suggestions with regard to the action I would recommend pursuant to the views herein indicated.

MACMURRAY

893.01/225 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, August 14, 1926—3 p. m.

[Received August 17—7:35 a. m.]

326. 1. In my telegram 325, August 14, I presented my opinion that, in the present circumstance in which the Tariff Conference is in abeyance as the result of the practically complete disintegration here of a governmental entity, the necessity confronts us of making a definite decision concerning this question: whether we should not take the position frankly and openly that any administration which professes to be China's Government cannot be dealt with by us until an administration has been established which actually is representative of a [united China?], and which possesses authority sufficient to carry out its international obligations.

2. If you approve the course I recommend, the question comes up whether we preferably should act to that end singly or cooperate with Japan and Great Britain. While I think that cooperation with them would be preferable if arrangements could be made safely and readily, I am doubtful, because of our experiences with the indecisiveness and vacillation characterizing British opinion regarding China at present and with Japanese meticulousness in insisting that their own views should prevail, and even their own phraseology (shown

⁷⁴ Sadao Saburi, of the Japanese Foreign Office, a delegate to the Special Conference on the Chinese Customs Tariff.

in the preparation of the Shanghai judicial inquiry report and in the recent negotiations for implementing the Washington surtaxes), whether at this phase we could seek cooperation without serious danger of loss of control of the situation and the risk of its being subordinated as to time and manner of action to the views of Great Britain and Japan. In consequence, cooperation might, for instance, be made a mere occasion for opposition to the Kuominchun, in case that party regained power here. It would be my suggestion therefore that rather than seek cooperation from other interested powers, the Embassies at London and Tokyo might merely be used by you to inform the respective Foreign Offices of your views, in strictest confidence, and to give the further information that I had been asked by you to state our position publicly within a brief period and had been authorized by you to have a full discussion of the matter in Peking with my British and Japanese colleagues.

3. I venture the suggestion that the statement might take the following form:⁷⁵

"In pursuance of its traditional policies towards China, which found formulation in the decisions of the Washington Conference, the American Government has consistently joined in according recognition to the several administrations that during recent years have successively established themselves in control of the agencies of the Central Government, because in each case it was hopeful that such recognition would contribute towards providing the fullest and most unembarrassed opportunity for China to develop and maintain for herself an effective and stable government. Those hopes have been repeatedly disappointed. Instead of developing any sounder and more satisfactory governmental entity, each of these administrations in turn has become less able to command the recognition and the support of its own people, has possessed a diminishing extent and declining domestic authority, and has been less able to live up to its international responsibilities as the repository of the sovereignty of the Chinese Nation. The Government of the United States feels that those administrations which during the past few years have received international recognition as the Government of China, have not in fact been similarly recognized by the people of China, or possessed those attributes and qualifications which in accepted international practice are ordinarily deemed prerequisite to the recognition of a government by foreign states; and it has come to feel that, with whatever eagerness of hope and with whatever spirit of helpfulness it looks forward to the reestablishment in China of a system of government possessing the approval and the loyal support of the country itself, no purpose beneficial to the interests either of the United States or of China would be served by recognizing as a central government any administration which is not in fact generally representative of the Chinese people and competent to exercise the ordinary functions of government."

MACMURRAY

⁷⁵ Quotation not paraphrased.

893.01/223 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, August 24, 1926—2 p. m.

171. Your telegram 325, August 14, 2 p. m., and your 326, August 14, 3 p. m.

Your recommendations have received my very careful consideration. As you are aware, the Department assumed the lead in being insistent that in pursuance to the Washington Treaty a Customs Conference should be held; that the scope of the Conference should be broadened so that the whole subject of tariff relations would be considered; that a Commission on Extraterritoriality should be appointed with full power to consider the subject in its entirety and report; and that this was insisted upon by the Department with the other powers, of whom some were disposed not to go to the extent we were willing to go, though at last they substantially acquiesced in our views. The responsibility for the Washington treaties was largely this Government's, and we have insisted on various occasions that we intended to carry out those treaties in absolute good faith and to consider the whole matter of extraterritoriality and our tariff relations with the objective of satisfying Chinese aspirations. I realize how weak the Government is, and I concur fully in your views regarding its impotency. However, since we have insisted on going ahead, and in view of our responsibility for the Washington treaties and for their fulfillment, I cannot believe that it is wise for the United States to take the lead in abandoning the Conference and in giving public notification to China that she has no government. Even if we believe that there is no prospect of a central government sufficiently strong to carry out its treaties, it seems to me that we should not take the lead. It would bring the hostility of the Chinese people upon us and give to other nations an opportunity to lay the blame upon us for the failure of the Conference and furnish them at the same time with a sought-for excuse for abandoning the Conference. I realize that you are on the ground, and I place in your opinion and Mr. Strawn's the greatest confidence. But the action you suggest, I feel certain, would fail to be understood in the United States and would meet quite likely with disfavor. It is my preference that, unless you are able to put forward some controlling reason, action should not be taken. Cable to me fully, please, whatever further suggestions you may desire to offer.

KELLOGG

151.096/128 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 8, 1926—9 a. m.

[Received September 8—8:20 a. m.]

377. Your 135, July 3, 1 p. m. Jenkins reports special bureau created for issuance of passports to Chinese proceeding to America from Liang-Kwang whose seal reads "Bureau of issuance of passports for America from Liang-Kwang." Seal of signing officer reads "Seal of special officer issuing passports for America from Liang-Kwang." It is trusted that this arrangement which now appears satisfactory to the Cantonese and Jenkins will meet with the approval of the Department.

MACMURRAY

151.096/128 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 1, 1926—5 p. m.

211. Your 377, September 8, 9 a. m. Inform Jenkins that arrangement is acceptable to Labor Department and is approved.

KELLOGG

893.01/235 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 31, 1926—noon.

[Received 10:10 p. m.]

522. Following from American consul general at Canton:

"October 30, 11 a. m. Chen states that one of the important resolutions adopted at recent Kuomintang conference regarding his government's diplomatic policy was the centralization of diplomatic functions in the regularly established Minister of Foreign Affairs at Canton and that the government would not be bound by the diplomatic agreements and alliances of Chiang Chung-cheng⁷⁶ or other military officer if made without the consent of Chen's office."

MAYER

755.93/36

Memorandum by the Chief of the Division of Far Eastern Affairs (Johnson)

[WASHINGTON,] November 11, 1926.

The Italian Ambassador called and read to the Secretary portions of telegrams received from his Government concerning China. . . .

⁷⁶ Also known as Chiang Kai-shek, commander in chief of the Cantonese forces.

The Ambassador stated that his Government had received confidential information to the effect that the British Foreign Office was at this time making a careful study of the situation at Canton with a view to extending recognition to the Canton regime. He said that his Government desired information as to whether we had contemplated any action.

The Secretary informed the Ambassador that the policy of this Government was to enter into friendly relations with any government representing China capable of negotiating for China and committing China; that the question of extending recognition to the regime at Canton had not been considered by this Government; that we were not prepared to enter into relations of a formal nature with any part of China; that doubtless the question of extending recognition would have to be considered if and when that regime obtained control over the greater part of China.

N[ELSON] T. J[OHNSON]

893.01/239 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 17, 1926—10 a. m.

[Received November 17—6:53 a. m.]

556. My 547, November 13, noon.⁷⁸ Following from American consul general, Canton:

"November 14, 4 p. m. Referring to my telegram[s] of November 11, 1 p. m.,⁷⁸ and November 11, 5 p. m.⁷⁸ I interviewed Eugene Chen yesterday. He denied that his note⁷⁹ was intended to be a demand for recognition but admitted that it might be construed as an intimation that the Canton regime desired to open negotiations with the powers looking toward recognition of some sort. Primarily, he said the note was intended to inform the powers that the Cantonese regime was not disposed to follow the practice, peculiar to China and unknown to international law, of dealing with the several powers through the diplomatic corps. He had established the practice of addressing separate, though often identic, notes to the several consuls and would henceforth insist upon separate notes from them.

2. This would also apply to the diplomatic corps, Chen said, which had been allowed to develop into a sort of administrative organ, to the serious detriment of Chinese sovereignty. Nothing was more harmful to China than this system of aligning the powers on the offensive and China on the defensive. The interests of the powers were not identical, and from now on China must deal with them separately and not en masse.

⁷⁸ Not printed.

⁷⁹ Of November 8; p. 900.

3. In response to the suggestion that in spite of his explanation the note looked like a bid for recognition, Chen said it scarcely seemed fair that the powers should turn to the Canton regime respecting such important questions as to the preservation of treaty rights and yet not accord any form of recognition to the Government. He intimated that while there might be some excuse for withholding full recognition, the powers should be prepared to accord international status of some sort. He declared Canton Government was expanding rapidly and that sooner or later the question would have to be solved.

4. Chen did not seem quite so cordially disposed to us as formerly. He expressed 'entirely unofficially' his surprise that our Government should continue to protest against consumption and production taxes and similar measures which we must know had come to stay and referred to our 'legalistic' attitude in foreign relations.

5. Neither the British nor the Japanese consul has protested individually against the new taxes.

6. As Tredwell⁸⁰ has doubtless informed you, Hongkong press recently had much to say anent recognition of the Canton regime. November 15, noon."

MACMURRAY

893.01/244 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 18, 1926—11 a. m.

[Received December 18—7:04 a. m.]

625. 1. Wu Tsing, the representative of Chang Tso-lin whose call on me on the 16th was referred to in 5th paragraph of my number 621, December 17,⁸¹ called again the following day and rather insistently sought to ascertain what view the American Government would take if Chang were to come to Peking and establish, under his authority as leader of Ankuochun,⁸² a government with somewhat pretentious program of reforms. I assured him we were anxious to witness the establishment of a real government representative of the people of China and possessing the will and the power actually to govern and to live up to its obligations, but that we must have a satisfactory state of facts to act on and cannot assume in advance that a particular action by some exalted personage will convert the present sham government into a reality.

2. He said that before undertaking this task Chang wanted to be reassured of the attitude of ourselves and other powers on two ques-

⁸⁰ Roger Culver Tredwell, consul general at Hongkong.

⁸¹ *Post*, p. 914.

⁸² An army of Manchurian and allied forces.

tions, the first relating to finance and the second to our attitude toward treaty revision.

3. As to the first it appeared that he had in mind prospects of being permitted to levy surtaxes which the Special Conference had had under consideration. I recalled that we and the other powers had persevered in those negotiations up to the time that there ceased to be any authority in China capable of carrying out its part of any of the reciprocal obligations necessarily involved. I said we would welcome possibility of continuing such negotiations whenever any substantial and responsible government of China might be established.

4. With regard to question of treaty revision he said that while of course all patriotic Chinese aspired to status of international equality for their country, Chang did not approve of Nationalist attempt to attain that aspiration by tearing up treaties; he realized that actual conditions do not justify complete relinquishment of all special rights of foreigners in China; he expected only that powers would be prepared to negotiate in reasonable spirit for such modifications as the present state of progress might warrant in the interest of both Chinese and foreigners. In reply to my inquiries he said that Chang had in mind no particular points as requiring immediate revision in the "unequal treaties" and particularly stated that it was well understood that the foreigners could not be expected to give up extraterritoriality until the state of Chinese judicial institutions may enable the country to assume that responsibility. He said that primarily to satisfy that very considerable section of Chinese opinion which demands revision of the treaties, Chang wants to be in a position to give the assurance that powers would meet him in a spirit of reasonableness and good faith. I assured him that we are for our part always ready to discuss with any actually competent Chinese authorities such modifications of our treaty rights as may be consistent with the real state of affairs.

5. It is not unlikely that Chang will shortly set up here an administration of his own and seek the recognition of the powers. It would in any case have authority over only a portion of the country, and I doubt whether it would have any but military support and whether it would have any degree of permanency. Should the question be presented I trust I have your approval for an attitude of expectancy not antagonistic but insistent upon the actual demonstration of its substantial representative character and of its willingness and ability to govern.

MACMURRAY

893.01/245 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 18, 1926—3 p. m.

[Received December 18—10:22 a. m.]

626. My 622, December 17, 5 p. m.⁸³ Following from American consul general, Hankow :

"December 17, noon. In the course of an informal call on Eugene Chen this morning he stated that the office of Commissioner of Foreign Affairs is now in process of being merged into the office of the Minister for Foreign Affairs and that actual merging will shortly take place. He stated further that his government is now known to be definitely national in scope and will soon be much more so. As a national government he will shortly request that in order to conduct the affairs of the government on a basis of some semblance of diplomatic regularity, all correspondence will necessarily have to be addressed to him by the local American official representative as 'Minister for Foreign Affairs' and that the person so addressing him must be clothed with the authority either of a commissioner or possibly 'diplomatic agent and consul general'. He cited the method of correspondence now employed by the Legation when a subordinate officer, in the absence of the Minister, signs correspondence 'For the Minister'. I seriously doubt whether this plan is feasible. It seems rather vague and indefinite, illogical, quite irregular and to denote in fact a form of recognition which, as I understand it, the American Government is not yet prepared to extend. Should such an arrangement be deemed advisable, however, Chen stated that he could be addressed direct from Peking, if the need should arise, or by me or some other authorized representative here signing 'For the Minister'. It would seem far preferable that the representative here both were vested with the authority of commissioner or 'diplomatic agent and consul general'. The latter probably lacks the sanction of substantive law. Chen is not yet clear in his own mind as to which form would be preferable but stated that the matter would have to be definitely settled soon and he wishes you to give it your prompt and most thoughtful consideration. He said that he wished to have a further talk with me on this and other subjects in a few days. I asked him quite frankly what would be the alternative should it be impossible to work out mutually satisfactory plan of carrying on our relations here, and he said that intercourse would necessarily cease until such a plan could be evolved, intimating that short of recognition itself relations could not be continued under the new order of things unless one of the three suggestions are adopted.

In the course of the conversation Chen remarked that the American Government is often too technical in matters of this kind and that it overlooks the practicalities of a case."

MACMURRAY

⁸³ *Ante*, p. 661.

893.01/253 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*PEKING, *January 14, 1927—10 a. m.*

[Received January 14—4:38 a. m.]

28. 1. "Regent Cabinet" recognized day before yesterday as follows:

Minister for Foreign Affairs and Acting Premier, Koo; Interior, Hu Wei-teh; War, Chang Ching-hui; Finance, Tang Erh-ho; Communications, P'an Fu; others as in previous Cabinet.

2. Although dominated by the influence of Chang Tso-lin, this Cabinet includes none of his immediate adherents. It is a mere transitory makeshift until such time as he feels it expedient to substitute a cabinet of his own Fengtien party men.

3. In the absence of such instructions as I requested in fifth paragraph of my telegram 625, December 18, 11 a. m., I have assumed, with Chang himself and with his various representatives who have called upon me, the attitude that we have no prepossessions as to who should govern China, and that while earnestly hoping for some administration that will be representative of the Chinese people and willing and able to exercise authority throughout the country and live up to its international obligations, we nevertheless want to rely upon realities rather than upon hopes or vague assurances without performance. Now that a new cabinet is seriously announcing itself and doubtless intending to make some bid for international recognition, I trust I may receive an indication of your views.

MACMURRAY

893.01/253 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *January 15, 1927—6 p. m.*

12. Your telegram number 28, sent January 14, 10 a. m. Your position as presented in third paragraph is approved.

In view of the developments taking place in the Chinese situation and the opposition that is very evident and widespread against the factions now in control at Peking, the opinion of the Department is that the direction of events should be awaited before considering the granting of recognition to any group or faction making a claim that it acts with authority for the whole Chinese people.

KELLOGG

PROTECTION OF AMERICAN MISSIONARY INTERESTS ENDANGERED
BY ANTIFOREIGN MOVEMENT IN SOUTH CHINA

393.1163/25 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 5, 1926—9 p. m.

4. With reference to personal letter from Strawn dated November 18, 1925,⁸⁴ and particularly to paragraph concerning possibility of your covering question of the elimination or modification of missionary privilege clauses in treaty which Conference is now preparing, the Department does not desire to take up this question at this time but prefers to leave it until it can be dealt with in negotiations for a new commercial treaty with China to take the place of previous treaties.

KELLOGG

893.00/7056 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 2, 1926—3 p. m.

[Received February 2—8:44 a. m.]

63. 1. Admiral Williams has referred to me, through naval attaché, a request of Navy Department for my opinion relative to proposed considerable reduction in destroyers attached to Asiatic Fleet. I consider the present a most inopportune time for any reduction. The political and military situations are so undefined and the temper of Chinese popular feeling so inflammable that it is impossible to predict what may eventuate even in the near future, especially as concerns the status of the foreigner. There can be no assurance that in any place where antiforeign agitations arise there will prove to be, on the part of Chinese, either the authority or the good will necessary to assure the proper protection of American interests. The necessity may, and in all probability will, arise again at any time for naval vessels to proceed instantly to any of a number of ports for the protection of American lives and property. By reason of their speed, destroyers have proved of particular value in cases arising in coastal cities.

2. I cannot too strongly urge that the Asiatic Fleet be maintained, at least as at present.

MACMURRAY

⁸⁴ Not printed; Silas H. Strawn was American commissioner to the Special Conference on the Chinese Customs Tariff.

893.00/7190

*The Consul General at Canton (Jenkins) to the Minister in China
(MacMurray)*⁸⁵

No. 380

CANTON, February 6, 1926.

SIR: I have the honor to acknowledge the receipt of the Legation's instruction of December 8, 1925, in reference to my despatch No. 326 [323] of November 6, 1925,⁸⁶ concerning the lack of respect shown in Canton for the rights due to American citizens under the treaties, and suggesting that I prepare a frank and full statement of my views as to the measures the United States Government might advantageously take to protect American citizens and their property from encroachments by officials of the Canton regime, strike pickets and others.

I trust the Legation understands that I had no intention of undertaking to criticize the attitude of our Government in relation to Canton, or China as a whole. I realize fully how extremely delicate the situation is and with what care American policy must be developed and carried out if we are to avoid even greater difficulties than are now being encountered. While I can have little or no expectation of adding anything new to the information already in the Legation's possession, I shall endeavor to report the situation as I see it. It is barely possible that I may have something to suggest of value with respect to Canton which, it seems to me, is somewhat apart from the general situation in the rest of China.

Needless to say I am entirely opposed to the use of force. I cannot, however, escape the impression that our present policy with relation to the Cantonese is lacking in decision and firmness. I believe that we ought to be just and exceedingly friendly in our dealings with these people, but that we should carefully guard against creating the impression, as I now think we are doing, that we are afraid to meet the issue and are prepared to put up with almost anything rather than stiffen our attitude.

It is only natural, in view of what has gone on during the past seven months, that the mass of the Cantonese should have gotten the impression that the Powers are really afraid to do more than mildly protest, as one treaty right after another is disregarded and brushed aside. There has been a mass of propaganda in Canton tending to convince the students and the general public that the powers are divided and weak, that they have no justice on their side, and that all the right lies with China. The local regime, assisted by its Russian Soviet advisers, has been steadily feeding propaganda to the

⁸⁵ Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 455, Feb. 6; received Mar. 17.

⁸⁶ Neither printed.

people of Canton and at the same time doing everything in its power to prevent the dissemination of information contrary to its interests and aims. The local newspapers are not permitted to print anything unfavorable to the present administration. Adverse criticism is suppressed, but everything published in the United States and other countries favorable to China (and there has been a great deal of it) is seized with avidity and given the widest possible publicity.

The Canton government is using the strike to further its aims. There could be no valid objection, of course, to the strike as such were it not encouraged and directed by the authorities, but there is, it seems to me, a very serious cause for complaint in the fact that the local government has permitted the strikers to uniform and arm themselves and to arrest foreigners alleged to have broken strike regulations as well as to seize foodstuffs and other merchandise in the possession of foreigners. Some six weeks ago a Japanese steamer, alleged to have touched at Hongkong, was boarded by armed pickets upon arriving at Canton and is still being forcibly detained pending the payment of a heavy ransom. The local authorities say that they are not responsible for the strike and yet they not only fail to prevent outrages of this sort but have actually promulgated laws conferring extensive police and other powers on the strikers.

The United States government and the other powers were right, in my opinion, in not attempting to interfere with the ordinary course of the strike. Any interference on their part would have been unwarranted and would have been a cause for just condemnation on the part of the outside world. When the strikers went further, however, and began to interfere forcibly with the freedom of movement of American citizens and to seize food products intended for their personal use, it seems to me the situation passed beyond a point where the Powers could longer remain passive and continue merely to file ordinary notes of protest.

In the beginning the strike leaders probably had no intention of interfering directly with foreigners, but when they found that they could take one step without difficulty they naturally tried another and another, so that I should not be surprised at any time now to find the pickets forbidding foreigners entering or leaving Shameen at all, nor should I be surprised to hear that the strikers had decided to prevent the American communities at Tung Shan and Paak Hok Tung from obtaining supplies from neighboring native shops, or even transporting foodstuffs for their own use. Such things have actually been threatened but have not as yet been put into effect.

The ultimate aim of the Kuomintang, or the Canton branch of it at least, is clearly to force the United States and the other Powers to surrender extraterritorial rights and it seems to me quite clear that

as long as the Powers submit to the present methods of attack the campaign will gradually become more and more reckless of treaty rights to the very grave discomfort of Americans and other foreigners residing here.

If the Powers are not going to insist upon retaining extraterritoriality in some form we should, it seems to me, let the fact be known without delay. If we continue to cling to these treaty rights in theory and allow them to be taken away piece by piece in practice we shall not only find ourselves without the rights in the end but also without the good will that would come with the voluntary surrender of extraterritoriality.

I do not believe that the Powers should surrender extraterritorial rights but I feel we might get along much better if we could amend the existing treaties without delay and at the same time retain such safeguards as may be necessary. I understand from what I have seen in the newspapers that the Secretary of State has announced that we are not prepared to surrender our extraterritorial rights until we can be reasonably assured of the maintenance of law and order and the proper administration of justice in China. This being true, should we not make it quite clear to the Chinese, and especially to the Cantonese, that we are prepared to go so far and no farther, and that a continuation of the present policy of disregarding the treaties (the more vital features of them) will not be tolerated?

I do not believe such a step would worsen our relations with the Chinese or in any way increase the danger of a possible resort to force. On the contrary I am convinced that the Cantonese would realize, as they do not now, that while the United States Government is disposed to be most patient and kindly it will not permit unjust and unreasonable encroachments upon the rights of its citizens even in China.

In order to assume such an attitude, however, the United States Government must have the support of the American people and to secure this support it would be necessary to let the American public know just what is going on in China. So far the people at home have heard a great deal about the rights of the Chinese and the injustice of the powers but they have not been fully informed respecting violations of essential treaty rights, the absence of any real government in China, the corruption of the judiciary, and the brutality and lawlessness of the Chinese military, not to mention the interference of Russian Bolshevik agents and the open declaration on the part of the Canton régime that it will pursue a policy of friendliness only to those Powers which treat China as equals. The indignities to which American citizens are now being subjected at

the hands of the strikers should also be stressed. It is believed that a change in the attitude of the American press would immediately react on the Canton politicians, who are working on the assumption that the American Government does not enjoy popular support in its China policy.

So far as I can ascertain the present Canton régime does not desire recognition, or at least will not until it has secured control of Peking or a large part of China. Dr. C. C. Wu⁸⁷ said only a few days ago that they were not "secessionists" and were not especially interested in the question of recognition at this time. It is clear, however, that the Canton government holds the present Peking régime in the utmost contempt and that communications addressed to Peking with respect to matters in Canton are not only almost useless but irritating to the Cantonese. Might it not be possible, with certain precautions and within certain limits, for the United States Government to communicate with the Canton régime through this Consulate General? This would have the advantage of directness and would lend greater emphasis to our government's views in relation to Canton.

To summarize I would suggest:

(a) The use of force is most inadvisable and should not be considered except in connection with the gravest possible emergencies involving the preservation of American lives.

(b) The abolition of extraterritoriality is inadvisable so long as China is without a responsible government, including a reliable judiciary.

(c) The speedy and extensive amendment of the existing extraterritorial treaties seems highly desirable so that unessential and objectionable features may be dropped while essential rights should be maintained although possibly under a radically different form.

(e) [*sic*] Some plan should be adopted under which the Canton régime might be dealt with more or less directly rather than through Peking. Moreover the Canton régime should be informed that further encroachments upon the essential rights of Americans cannot longer be tolerated.

(f) To make this position in relation to the Cantonese effective and at the same time remove the danger of having to resort to force, steps should be taken to awaken the American public to the true state of affairs in China.

Trusting that the above suggestions may be of some small value to the Legation,

I have [etc.]

DOUGLAS JENKINS

⁸⁷ Wu Ch'ao-ch'u, prominent leader in the Kuomintang.

893.00/7256

*The American Minister in China (MacMurray) to the Chinese Minister of Foreign Affairs (Wang)*⁸⁸

No. 164

PEKING, February 10, 1926.

EXCELLENCY: I have the honor to inform Your Excellency that reports received from the various American Consular officers in China indicate that a most deplorable state of lawlessness has existed in several of the provinces during the past months and that conditions have been growing steadily worse. This is particularly true in the provinces of Honan, Shensi, Anhui, Shantung and Fukien, although lawlessness is by no means confined to those provinces, but exists in varying degree in practically all parts of China. Many reports are received from time to time regarding looting and burning by large bands of brigands in which American missionaries are often the direct or indirect victims. In addition there has lately been carried on a considerable amount of anti-Christian propaganda, including threats to destroy mission stations and kill missionaries and native converts. While this state of affairs is not of recent origin, and this Legation has in the past been obliged to make representations to Your Excellency's Ministry in regard to specific instances involving the loss of American life and the destruction of American property at the hands of Chinese bandits, I am constrained to take this occasion again to invite Your Excellency's attention to the general situation as it exists at present, and to insist that the Chinese Government take all available measures, through the instrumentality of the provincial authorities and otherwise, for the protection of American citizens and their legitimate interests, wherever they may be.

I avail myself [etc.]

J. V. A. MACMURRAY

893.00/7078a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 10, 1926—7 p.m.

39. Central News despatch from Hongkong via London published today reports attack by students and Bolshevik sympathizers on American Presbyterian mission in Kachek, Hainan Island, Kwangtung. Please cable brief report.

KELLOGG

⁸⁸ Copy transmitted to the Department by the American Minister as an enclosure to his despatch No. 478, Feb. 26; received Mar. 30.

893.00/7079 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 11, 1926—4 p. m.

[Received February 11—9:45 a. m.]

71. Your number 39, February 10, 7 p. m.

1. Only information available is message just received from Inspector General of Customs to the effect that he has been informed from Kiungchow, Hainan Island, that students are reported to have invaded American mission compound, Kachek, January 31st, entered hospital, beat Chinese hospital assistants, hauled down, tore up and trampled upon, American flag. No foreigners molested but their servants taken away. Protest lodged by American mission with Commissioner for Foreign Affairs. French consul also protested concerning treatment French Catholic mission. Hoihow quiet.

2. American consul general, Canton, and commander in chief, Atlantic [*Asiatic?*] Fleet, informed and former requested to report immediately by telegraph any available information and possible recommendations for despatch of naval vessel to Hainan.

MACMURRAY

893.00/7126 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 26, 1926—noon.

[Received February 26—6:47 a. m.]

92. Following telegram has been received from American consul general, Canton:

"February 23, 6 p. m. Radio message was received just now from American destroyer, Hainan Island, reporting antiforeign and anti-Christian propaganda but thinking American lives and property in no immediate danger. American flag at the Kachek mission torn down by students but soldiers only watched. Chinese officer made a feeble attempt to prevent outrage and Commissioner of Foreign Affairs, Hainan, issued proclamation warning people against violence to foreigners. Commissioner and local magistrate have promised missionaries to protect American lives and property, so missionaries have returned to Kachek.

At Nodoa troops overran mission compound on February 5th, threatened American citizens and billeted in American mission school, presumably for Chinese boys.

According to a report unofficially from a Hainan missionary, several American-owned chapels occupied by soldiers and, in some, Christian inscriptions torn down and destroyed. Threatened strike against the mission has not developed.

Destroyer reports mission does not desire presence of man-of-war but does wish ship to call fortnightly. As the mission has not rendered official report to the consulate general in spite of urgent requests, it is evident mission does not desire governmental assistance or interference except in grave necessity. There are 32 Americans on the island including women and children. I have repeatedly warned them not to reside at Kachek and other interior stations.

I am informed that there will be from four to six steamers monthly between Hainan and Hongkong. If this is confirmed, presence of destroyer will not be necessary, but I suggest that man-of-war call occasionally when practicable.

As troops did not take part in insulting flag and in view of the delicate political situation I suggest consulate general be instructed to insist upon written expression of regret from the Canton authorities respecting flag incident and promise to prevent further outrages and threats against Americans and their property, also that proclamation shall be issued at Kachek expressing regret and [warning?] people against insulting the flag of friendly nations."

To which I have replied as follows:

"I approve suggestions in last paragraph. From your penultimate paragraph I am uncertain whether you definitely conclude that the presence of destroyer is not necessary. Reply at once by radio."

MACMURRAY

893.00/7128 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 1, 1926—3 p. m.

[Received March 1—6:20 a. m.]

101. My 92, February 26, noon. American consul general, Canton, reports February 28, 10 a. m., that presence of destroyer no longer necessary and he has so advised Navy.

MACMURRAY

893.00/7132 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 1, 1926—5 p. m.

[Received March 1—10:43 a. m.]

103. My 92, February 26, noon. Following from American consul general, Canton:

"February 26, 4 p. m. Referring to my telegram of February 23, 6 p. m., concerning Island of Hainan affair, I have just received copy of a private letter written by an American missionary woman at Nodoa and forwarded by the British consul which shows much worse conditions than the previous reports had indicated. According to this letter Cantonese troops entered mission compound by force, occupying chapel and boys' school, also threatened to occupy American residence and threatened lives of American missionaries. Soldiers

continually yelling 'kill foreigners' and invading private dwellings. Officers commanding the army extremely rude and showed no disposition to hold men in check.

Missionaries do not believe their lives in danger because the troops evidently instructed to carry outrages as far as possible without endangering lives and property.

I am still awaiting further particulars in report from destroyer commander, which I understand has been mailed. Meantime, I would urge immediate authorization to take strong position with the Cantonese Government, insisting upon expressions of regret from the Government, as well as general commanding troops, and assurances order will be maintained in the future and American rights respected, including evacuation of American property. Consular officer should be sent to Hainan but this is impossible so far as my office is concerned."

MACMURRAY

893.00/7133 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 1, 1926—7 p. m.

[Received March 1—1:52 p. m.]

105. My 103, March 1, 5 p. m. I have telegraphed consul general, Canton, approving proposal in the concluding paragraph of his telegram on the assumption that regret and assurances are to be expressed to him.

MACMURRAY

893.00/7133 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 1, 1926—8 p. m.

50. Your 105, March 1, 7 p. m. Your action approved.

KELLOGG

893.00/7134 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 1, 1926—8 p. m.

[Received March 1—3:05 p. m.]

106. Supplementing my telegram 103, March 1, 5 p. m.

1. I greatly regret there is no consular officer in China that can be spared for the purpose of proceeding to Hainan.

2. I venture to invite the Department's attention to the necessity for bringing up to normal standard the personnel of the consulates in China in the disturbed conditions that have for some time existed. Consular officers have been working at high pressure with insufficient

assistance and in the majority of cases unable to be spared for the normal leave of absence necessary to prevent their becoming stale.

3. Hainan incidents are typical of what we may expect to occur with increasing frequency and seriousness. Throughout China there is no adequate governmental authority to prevent such outrages and at points beyond the reach of gunboats we are unable to bring force to bear. Our sole recourse is to [make] investigations and representations to the authorities concerned, which resolve themselves largely into a question of the activity and personal influence of our consular representatives. Even if we should wish to do otherwise we must bear our own part as under present circumstances other nationalities are not in a position to give us effective help. We must moreover make up our minds to place no further reliance upon the prevalence in China of a disposition particularly favorable to Americans. The new spirit of Chinese nationalism recognizes no obligations of friendship except with Russia, but classes us with the British and Japanese with the sole distinction that we are considered less aggressive and therefore the less to be feared. I earnestly recommend that we plan our consular establishment for the present and the future in China on the basis required by the new situation.

MACMURRAY

393.1162/1: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *March 13, 1926—5 p. m.*

[Received March 13—12:22 p. m.]

126. 1. Following two telegrams received from American consul, Canton:

“March 10, 11 a. m. At 11 o'clock yesterday morning strikers' pickets surrounded Canton hospital and forced all domestic helpers to leave under threats of death. Entrances to hospital are guarded by the pickets in uniform armed with clubs who refuse to permit any Chinese to enter. Hospital management declines to accept demands for the complete unionization of staff and may close institution temporarily if the local authorities fail to afford adequate protection. Police are standing by but evidently authorities do not dare openly to oppose strikers. Other American mission institutions expect similar attacks but the American staffs thought not to be in any immediate danger.

Information just received strikers preventing food supplies from entering hospital. Water supply has been cut off. This consulate general protesting vigorously.” And:

“March 12, 5 p. m. Referring to my telegram of March 10, 11 a. m. and March 11, 4 p. m., paragraph number 2.^{88a} Local government has failed utterly to protect hospital against the strike pickets

^{88a} For telegram of March 11, see *infra*.

and openly states that it favors so-called pro-labor union policy. All patients (Chinese) have been removed and only American members of the staff remain observer [*sic*]. Pickets still surround hospital and prevent food supplies being brought in even by Americans. Water supply still cut off also.

If these conditions continue much longer Captain Constien⁸⁹ and I agree Navy should undertake to revictual American staff. Should this become necessary, force would not be used except as last resort and only to repel attack by the pickets. It is not anticipated that either local government or the pickets would permit matters to go so far but we should be prepared for any eventuality.

Alternative plan would be to abandon hospital property, but this would very probably lead to occupation of the premises by the Chinese and similar attacks on other American missionary institutions.

I am firmly of the opinion that the time has come for us to warn local government that it cannot continue this cowardly policy of hiding behind the strike pickets while deliberately depriving American citizens of their elemental rights not to menace those under the treaties. Am awaiting Legation's instructions.

Canton Christian college expects strike of employees shortly."

2. I have replied as follows:

"(1) I approve procedure proposed by you to revictual American staff of hospital. I assume that it is not to be used until other means of carrying out this program are exhausted and fire action only employed to repel attack. I await reply to my March 1, 4 p. m.,⁹⁰ before instructing regarding the suggestion you made in penultimate paragraph of your March 12, 5 p. m.

(2) I leave to your judgment the expediency of requesting commander in chief to despatch further naval forces to Canton.

(3) I have informed commander in chief of my approval of your proposal and requested him to afford you whatever assistance you may request."

MACMURRAY

393.1162/2: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 14, 1926—10 a. m.

[Received March 14—4:54 a. m.]

128. Supplementing my telegram number 126, March 13, 5 p. m.

1. Following received from Canton:

"March 11, 4 p. m. Letter received from Hainan reports American missionary, Thomas, accompanied by wife and several small children, was attacked by bandits on March 3rd while en route Hoihow from Kachek. All escaped without injury by hiding in rice fields. Chinese authorities showed justifiable annoyance that missionaries persist in residing in interior Hainan under present conditions.

⁸⁹ Edward T. Constien, U. S. N., commander of the South China Patrol.

⁹⁰ Not found in Department files.

Canton hospital strike situation still acute but there are some prospects of a satisfactory settlement. Strikers' pickets continue to prevent food supplies entering hospital. American business manager, Auger, was arrested by pickets but was released within two hours.

Canton Christian College also in receipt of unreasonable labor demands."

2. Regarding first paragraph, I strongly recommend that the Department take up with the interested missionary organizations the advisability of withdrawing their missionaries from the interior of Hainan in view of the impossibility of affording them protection during the present period of lawlessness.

MACMURRAY

393.1162/1: Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *March 15, 1926—2 p. m.*

64. Your telegram number 126, March 13, 5 p. m. Department approves the instructions to Canton as given in your paragraphs 2, 3, and 4.⁹¹ In the judgment of the Department, military force should be employed only as a last resort and only if considered to be absolutely necessary.

KELLOGG

393.1162/7: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *March 24, 1926—4 p. m.*

[Received March 24—11 a. m.]

148. My 142, March 22, 11 a. m.⁹² Following from American consul general at Canton.

"March 23, 1 p. m. Referring to my telegram of March 20, 1 p. m.⁹² Wuchow situation continues very threatening. Movement evidently developing amongst Chinese to demand possession of hospital. Serious anti-Christian, antiforeign rioting at Kweilin, Kwangsi Province, on March 12th and 13th. American [Baptist?] mission invaded and Chinese Christian beaten. At first troops gave protection but later commander lost courage and apologized to the radical leaders for protecting mission. I anticipate serious attempts to seize various mission properties in the near future unless we are

⁹¹ Apparently refers to last three paragraphs.

⁹² Not printed.

prepared to call local authorities to account or Canton regime changes policy.

Situation in Canton growing tense. Respecting action of the Whampoa Cadets Saturday morning when the strike headquarters and Soviet Russian residences were surrounded by soldiers, I have just been informed reliably that General Chiang⁹³ of Cadets has become suspicious of crew of the cruiser *Wingfung* [and] also of the attitude of certain strike leaders and Soviet Russians. With customary promptness his troops took control of cruiser and at the same time surrounded labor headquarters and all Soviet residences while searches were made for arms. A number of arrests were made including several Russians and some of General Chiang's own followers at Whampoa. Great secrecy is being maintained by the officials but I am reliably informed Chiang will have no more Russian advisers, also that Cantonese General Li Chai-sum [*Li chi-shen?*] is lukewarm to Chiang and Wang Ching-wei, chairman of the Canton regime, disapproves of Chiang's action. Moderates in the Government appear to support Chiang and seem to expect more conservative policy unless the Russians succeed in uniting Cantonese radicals and ousting Chiang and his Cadets. No immediate fighting is expected."

Following inquiry has been received from the consul general at Canton, dated March 16, 11 a. m.:

[Paraphrase.] "Department's 202, August 15, to Legation.⁹⁴ There is an inclination on the part of Captain Constien to interpret this telegram as meaning the Navy is only to be used to protect American life and not property. Is this justified?"

I have replied to Jenkins on March 22, 5 p. m. as follows:

"Referring to your March 16, 11 a. m. Considering the last paragraph and the next to the last sentence of Department's telegram 202 of August 5 [15], 1925, 1 p. m., to the Legation, it is our policy, stated in general terms, to distinguish between protecting American life and property, only employing destructiveness, especially fire action, for the former purpose. However, in view of the fact that, although these two situations are theoretically different, it is difficult in practice to make a clear differentiation between them, I consider that the interpretation of this policy must be made in the light of the particular circumstances and the policy applied according to the necessities in each instance. For example, the Department gave its approval to the procedure which you deemed expedient in the recent case concerning the proposal to revictual the American staff of the Canton hospital." [End paraphrase.]

MACMURRAY

⁹³ Chiang Kai-shek.

⁹⁴ *Foreign Relations*, 1925, vol. I, p. 760.

893.00/7234 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*PEKING, *March 28, 1926—11 a. m.*

[Received 12:33 p. m.]

156. My 154, March 27, 2 p. m.⁹⁶ Following from American consul general at Canton:

"March 27, 1 p. m. Referring to my telegram of March 26, 3 p. m.⁹⁶ American missionaries have decided to evacuate Wuchow because of the strike against the hospital and antimissionary demonstrations. I have asked U. S. S. *Pampanga*, which reached Wuchow last night, to assist missionaries to leave, then seal mission buildings and inform local authorities they will be held responsible.

"Soldiers are again threatening to occupy American mission property Hoihow, Island of Hainan, in spite of protests. No further news from Kweilin mission in Kwangsi Province. If general conditions do not improve and Canton Government continues present negative attitude, I may find it necessary to urge all missionaries to evacuate island stations.

"Actual negotiations with Hongkong for the settlement of the strike and boycott expected to begin in the near future."

MACMURRAY

393.1162/6

The Secretary of State to the Minister in China (MacMurray)

No. 192

WASHINGTON, *March 30, 1926.*

SIR: The Department has received your telegram No. 128 of March 14, 1926, 10 a. m., in regard to the safety of American missionaries in Hainan. The contents of this telegram were communicated on March 18, 1926, to the Executive Secretary of the Board of Foreign Missions of the Presbyterian Church in the United States of America, 156 Fifth Avenue, New York City, and the Board was urged to dissuade the members of the mission from reoccupying the interior stations on that island. There is enclosed for your information a copy of a reply dated March 20, 1926, which has been received from the Board on this subject.⁹⁶

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

⁹⁶ Not printed.

393.1162/7 : Telegram

The Secretary of State to the Consul General at Canton (Jenkins)

[Paraphrase]

WASHINGTON, April 3, 1926—2 p. m.

Your telegram to the Legation, March 23, 1 p. m. The Associated Press has reported from Hongkong that the Kweilin rioting was a Communist movement against American missionaries, and it informally asks if this and other incidents, such as the picketing of the hospital at Canton, are a part merely of a general antiforeign feeling or are evidences that there is a special hostility against Americans. Has there been at Kweilin no molestation of missionaries of other nationality than American?

KELLOGG

393.1163/39 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

[Paraphrase]

CANTON, April 7, 1926—3 p. m.

[Received April 7—9:58 a. m.]

Department's telegram April 3, 2 p. m. The anti-Christian movement is apparently a general one. Americans are affected primarily, probably for the reason that American missions are the most numerous. Since the original outbreak, in June, no British missions have been attacked. The Italian Catholic mission was occupied by troops recently.

JENKINS

893.00/7403

*The Consul General at Canton (Jenkins) to the Minister in China (MacMurray)*⁹⁷

No. 422

CANTON, April 14, 1926.

SIR: I have the honor to refer to my despatch No. 414 of April 7, 1926,⁹⁸ and to report that the radical elements in the Government now seem to be gaining strength so rapidly that it is becoming a question whether they may not expel the moderates before the latter finally muster sufficient energy and courage to put the radicals out.

⁹⁷ Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 498, Apr. 14; received May 19.

⁹⁸ Not printed.

THREATS TO SEIZE AMERICAN MISSION PROPERTIES

In this Consulate General's Despatch No. 419 of April 13, 1926,⁹⁹ reference was made to the fact that Chinese agitators had begun to advocate the seizure of the American Southern Baptist Hospital at Wuchow. This movement now appears to be spreading for similar propaganda has been started in Canton with respect to the Canton Hospital. According to the native press the Hongkong strike committee is urging that the Canton hospital property be "borrowed" by the strike committee as a hospital for its members. It will be recalled that the Canton hospital, like the institution in Wuchow, was forced to close its doors some weeks ago because of the failure of the local authorities to protect it from the unreasonable demands of so-called labor organizations.

In addition to the two hospitals trouble has been stirred up in the Canton Christian College between the labor organization at that institution and the student body. Every effort is being made to smooth out these differences but the indications are that the local authorities are siding with the labor element as against the students and that if a settlement is not reached in the near future the college may be forced to close its doors.

As soon as this is accomplished a movement will undoubtedly be started urging the Chinese authorities to take over this splendid institution which owes its existence entirely to American missionary efforts.

Similar labor difficulties are being fomented at the John Kerr Hospital for the Insane, another American institution which has done a great work in Canton. A labor union has been formed amongst the employees in this hospital and it is not unlikely that exorbitant demands will soon be forthcoming which may necessitate the closing of the hospital, in spite of the fact that it is now housing 700 Chinese patients.

As was pointed out in this Consulate General's Despatch No. 419 it is becoming increasingly evident that the Communists and radical members of the Kuomintang party in Canton are following a definite plan to force the American Missionary institutions in South China to close their doors in order that an excuse may exist for the Chinese authorities to seize them. Millions of dollars have been invested by American missionary organizations in this part of China and some splendid hospitals and educational institutions have been built up through the course of 75 years. If the present campaign is allowed to continue and no pressure is brought to bear upon the local authorities to protect these institutions I feel convinced they will be ruined and ultimately seized by the authorities who are now entirely under the control of the radical elements bent upon destroying the work of the Christians in this part of the world.

⁹⁹ Not printed.

As has been pointed out repeatedly in the past it will not be sufficient to protest to the local authorities against the seizure of these institutions for protests will have no effect whatever. If the United States Government is to intervene effectively sharp warnings will have to be addressed to the Canton regime and we should be prepared to follow these warnings with force if need be. If we are not prepared to take these drastic steps then I fear we must expect to see the results of nearly a century of missionary effort swept away in the course of another 6 or 12 months.

In order that the Legation may realize that the writer of this despatch is not alone in viewing the present situation in Canton with alarm, a copy of a letter dated April 12 from Dr. J. Oscar Thomson, President of the American Association of South China is enclosed,¹ in which he points to the danger of American missionary institutions being seized, and suggests that the American Association appeal to the United States Government for protection. While I deemed it advisable to caution Dr. Thomson against undertaking to send any communication directly to the local authorities and also advised against resorting to publicity locally, I told him frankly that the Consulate General would welcome any expressions of opinion which the American Association may see fit to address directly or through this office to the Department of State.

With respect to the dangers to which American missionary institutions may be exposed it should be explained that the entire situation would be greatly improved from the American point of view if and when the moderate elements in the Kuomintang party should gain complete control.

I have [etc.]

DOUGLAS JENKINS

893.00/7407 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, May 20, 1926—3 p. m.

[Received May 20—11:37 a. m.]

219. 1. I call the Department's attention to the following despatches from Consul General Jenkins at Canton: No. 380, February 6; No. 413, April 1;² and No. 422, April 14. From these and other relevant reports it is clear that Jenkins seriously fears that the continuance of a passive policy or one of "drift" concerning the increasing infringements upon American rights and interests in territory

¹ Not printed.

² Despatch No. 413 not printed.

which is controlled by the Canton regime will be very dangerous. Jenkins has repeatedly recommended that we should call the Canton authorities to account and demand that they stop the illegal acts practiced against foreign persons and properties. He believes this demand might be made jointly with the other interested powers. I telegraphed Jenkins for a final statement of his views, in the light of developments to date. In his reply, which has just been received, he states that there is no improvement in the situation and that he has not changed his view expressed in his despatch No. 380 of February 6. . . .

2. The American Association of South China has adopted a memorial, which is being forwarded by mail, setting forth temperately the consciousness of danger confronting American interests. From this memorial I quote the following:³

“We are living in a section of China which is largely controlled by a group that refuses to believe in the good intentions of the American Government, which seems to decline to cooperate in policies looking toward future good will, and which has allowed American interests to be illegally destroyed without affording protection.

Americans in South China are now facing a crisis. We have to make decisions which involve not only our personal interests and those of the firm or mission we represent but involve important interests of the American people as well. Therefore the executive committee of the American Association on behalf of the Americans living in South China asks the Department of State of the United States Government to give us some practical indications as to how to proceed in the face of these destructive forces.”

3. A dilemma of the greatest difficulty is presented by the problems indicated above. One must agree, on the one hand, with Jenkins that if we allow the Cantonese to disregard with impunity foreign rights to life and property, it will encourage them in a line of action which is sure to become more and more outrageous and irresponsible, [possibly or certainly?] leading to tragic incidents. . . .

4. On the other hand, the people of South China are in a temper to seek occasions for offense, being still strongly under the influence of the hysterical mood of self-assertion, which I described in my telegram No. 293 of July 28, 1925.⁴ It is therefore difficult to judge whether the Cantonese would be brought to their senses by a more active insistence upon our rights backed by the presence of a naval force and an evident readiness to use that force in any clean-cut case in which our people and their rights were flagrantly menaced or whether popular feeling would be so inflamed by such action that the safety of Americans beyond the reach of our protection would be jeopardized.

³ Quotation not paraphrased.

⁴ *Foreign Relations, 1925*, vol. 1, p. 799.

5. If a passive policy is followed it is certain that conditions will go from bad to worse, perhaps to the very worst. If we adopt a policy of positive action to protect our rights, using force if necessary in cases where the implication is clear and it is feasible to take naval action, we may improve the situation or we may hasten catastrophe. I frankly feel unable to make any estimate of these possibilities better than a guess as to the gambling chances in following one or the other policies. For this reason I do not feel able to offer any recommendation as to a choice between the two policies mentioned above without a more satisfactory report on the situation than I feel can be obtained in the absence of more personal contact than is afforded by official correspondence. In dealing with the local situation Jenkins has shown exceptional ability and judgment, but considering the grave and imminent danger involved and the very different backgrounds and points of view in North and South China, I feel the necessity in making up my own mind as to the course to follow, to supplement the written reports from Jenkins by consultation with him through some one who has the Legation's point of view. I therefore urge that the Department authorize me to send Mayer⁵ to Canton and Hongkong to spend about two weeks between those two cities, consulting with Jenkins and Tredwell.⁶ I think that the mere fact of his visit would give heart to American interests, which are becoming very despondent, and also would have a tendency to lead the Canton authorities to take an attitude of somewhat less unfriendly indifference. The reason, however, why I especially want authority to send Mayer is that consultations, particularly with Jenkins, would give me a basis for making more confident and intelligent recommendations to the Department as to the policy to be pursued regarding the alarming developments which are now in progress in South China. If the Department authorizes this trip Mayer would probably leave here about June 1 and be absent a month.

MACMURRAY

893.00/7407: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 21, 1926—1 p. m.

104. Your 219, May 20, 3 p. m. Approve your sending Mayer to Hongkong and Canton at once. I appreciate difficulty of your recommending action this Government should take to meet situation facing American interests in South China. This Government de-

⁵ Ferdinand L. Mayer, counselor of Legation.

⁶ Roger Culver Tredwell, consul general at Hongkong.

sires of course to extend protection for American lives. If problem is one concerning operation of hospitals or schools under foreign control question should be considered from broader aspect of the possible results of the use of force in connection therewith.

See in this connection Department's telegram No. 67 of March 19, 6 p. m.⁷

KELLOGG

893.00/7411 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 23, 1926—2 p. m.

[Received May 23—10:30 a. m.]

226. 1. Department's 104, May 21, 1 p. m., greatly appreciated. I shall inform the press that Mayer is proceeding to Canton under instructions from the Secretary of State of the United States to consult with the American consulates in South China in regard to the situation in that region where a number of recent outrages against Americans and their interests have caused increasing concern to the American Government.

2. [Paraphrase.] I also think Mayer should be instructed, but not for publication, that, although his mission is chiefly for the purpose of personal contact between the Legation and the consuls general at Canton and Hongkong, he should use any opportunity that seems favorable to tell the Canton officials that we cannot understand their attitude regarding foreigners in general and Americans in particular, which we believe to be inexcusable from the point of view of justice and international friendship. Should there be an appropriate opportunity I think that Mayer could, with advantage, try to impress upon the Canton officials the unfortunate effect upon public opinion in the United States which their treatment of American citizens is having, pointing out that American sentiment has hitherto been very favorable to the Chinese and particularly to the Cantonese who comprise the greater part of the Chinese residents in America.

3. To avoid possible misinterpretations, Mayer will go to Canton without stopping at Hongkong on the way, but will stop there for several days on his way back, giving an opportunity for him to have informal conversations with Hongkong officials. I suggest that Tredwell be given instructions to cooperate in every way with Mayer and to go to Canton to confer with Mayer and Jenkins, if and when Mayer so requests him. It would be well to have Chamberlain⁸ also present at any such conference and I request that he be author-

⁷ *Ante*, p. 603.

⁸ Culver Bryant Chamberlain, vice consul at Swatow.

ized to go to Canton for a brief visit, unless the exigencies of the situation at Swatow prevent it. [End paraphrase.]

4. In order that Mayer's mission may be expedited and conducted in the most economical manner, it may prove desirable for him to use naval transportation between Tientsin and Shanghai, or vice versa. I respectfully suggest that the Navy Department be requested to authorize the commander in chief of the United States Asiatic Fleet to cooperate with the Legation in every way practicable. I am informing the commander in chief of Mayer's [apparent omission] as well as Canton, Shanghai and Hongkong.

MACMURRAY

893.00/7411 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, May 26, 1926—5 p. m.

107. Your telegram No. 226, May 23, 2 p. m. Instructions suggested in second paragraph of your telegram are approved.

The Department considers it preferable to have Mayer confer with Tredwell only at Hongkong. However, in instructions sent to Tredwell¹⁰ he is authorized to go to Canton if Mayer so requests. If you consider it necessary you may authorize Chamberlain to go to Canton for conference with Mayer.

The Department prefers to have Mayer use commercial transportation. If commercial transportation is available, no request will be made of the Navy.¹¹

KELLOGG

393.1164/33

The Minister in China (MacMurray) to the Secretary of State

No. 614

PEKING, June 8, 1926.

[Received July 14.]

SIR: Referring to my despatch No. 498, of March 10, 1926,¹⁰ and previous correspondence regarding the widespread character of the anti-Christian movement in China, I have the honor to transmit herewith a copy of a note which I addressed to the Ministry of Foreign Affairs on April 7, 1926, protesting against the treatment which had been accorded to missionaries and Christian converts in the district of Waichow in Kwangtung. There is likewise trans-

¹⁰ Not printed.

¹¹ Mayer left Peking May 31, and his arrival at Canton was reported June 12.

mitted herewith a copy of a further note dated May 22, 1926, protesting against the continuance of the anti-Christian activity in that region and also protesting against the anti-Christian agitation on the Island of Hainan. As regards conditions in Hainan, I have the honor to refer to the Department's instruction No. 192, of March 30, 1926 (File No. 393.1162/6), transmitting a copy of a letter from the Executive Secretary of the Board of Foreign Missions of the Presbyterian Church in America, stating that from the latest news received by the Board all was well in Hainan. However, on May 10th the American Consul-General at Canton reported that he had received a telegram from the American Presbyterian Mission at Hainan that the Americans had all left Kachek because of the unfriendly attitude of the Chinese people and also that the mission at Nodoo was occupied by soldiers. This information was transmitted to the Department in my telegram No. 205 of May 11th, 11 a. m.^{11a} On May 18th the Consul-General at Canton again telegraphed that the mission at Kachek had been entered and looted by an anti-Christian mob and considerable damage had been done to the property. This information was transmitted to the Department in my telegram No. 220, of May 20th, 4 p. m.^{11a} The latest news received from Canton in regard to Hainan is contained in a telegram from the American Consul-General, dated May 31st, 5 p. m.,¹² in which he states that troops have finally evacuated the mission at Nodoo and that Americans are prepared to leave Nodoo on short notice, if necessary. However, he believes that they can safely continue to remain for the present at Hoihow, which is the treaty port on the coast of the island.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure 1]

The American Minister (MacMurray) to the Chinese Minister of Foreign Affairs (Hoo)

No. 203

PEKING, April 7, 1926.

EXCELLENCY: I have the honor to refer to my despatch of February 10, 1926, regarding the increase both of lawlessness and anti-Christian propaganda in China, and to inform Your Excellency that I have received a report from the American Consul-General at Canton describing the outrageous and insulting treatment which is being accorded to missionaries and Christian converts in the District of Waichow, Kwangtung, by Chinese troops known as the "Whampoa Cadets". It appears that on Christmas day, 1925, a large anti-Christian parade and demonstration was held at Waichow by students

^{11a} Not printed.

¹² Not found in Department files.

and soldiers. From that date up to the present, the missionaries of the Seventh Day Adventist Mission at Waichow, together with their students and native converts, have been subjected to all manner of persecution by the soldiers. The walls, gates and buildings of the mission have been written over with obscene pictures and characters; students of the mission schools have been threatened and fired at with blank cartridges; soldiers have been stationed at the mission gates to prevent any one going into the mission, and workmen employed by the mission have been threatened and beaten. The American missionaries and their families have been constantly subjected to insult and four of their chapels and schools have been robbed and the furniture broken up by soldiers living in them.

I have the honor to request that Your Excellency will issue instructions to the authorities concerned to cease at once this persecution which is, as Your Excellency is aware, a violation of international law and contrary to the treaties between China and the United States.

I avail myself [etc.]

J. V. A. MACMURRAY

[Enclosure 2]

The American Legation to the Chinese Ministry of Foreign Affairs

No. 230

The American Legation presents its compliments to the Ministry of Foreign Affairs, and has the honor to refer to the note of April 7, 1926, from the Legation, regarding the outrageous and insulting treatment which is being accorded to American missionaries and Chinese Christian converts in the district of Waichow, Kwangtung, including the occupation of various of their chapels and schools by soldiers. The American Legation now desires to inform the Ministry of Foreign Affairs that it has received a telegram from the American Consul-General at Canton stating that soldiers continue to occupy these mission chapels. The same telegram reports that the American members of the American Presbyterian Mission at Kachek, Island of Hainan, have left that place because of the unfriendly attitude of the Chinese people; and also that the compound of the American Mission at Nodoo, Island of Hainan, is still occupied by soldiers, in spite of repeated protests from the American Consul-General at Canton. A later telegram reports that the mission at Kachek was entered and looted by an anti-Christian mob and that considerable damage was done to the property.

The American Legation must again protest in the strongest possible manner against this continued ill-treatment of American missionaries and their property.

PEKING, May 22, 1926.

893.00/7504 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 7, 1926—8 a. m.

[Received 9:45 a. m.]

275. My telegram No. 219, sent May 20, 3 p. m. The report which Mayer has made upon his experiences and observations indicates apparently that the problem of protecting American interests in South China must be considered together with a broader problem of American relations with the people of China as a whole, in view of the fact that there is no administrative entity for representing them internationally. Hitherto we have found it to be a convenient diplomatic fiction, so long as the somewhat shadowy Central Government at Peking possessed any degree of authority and had a corresponding sense of responsibility, to deal with that administration. Mayer's comments greatly tend to strengthen my doubt as to whether the regime at Peking has not dwindled throughout the country so far into insignificance and contempt as to make our insistence upon having dealings with it a positive detriment to American interests and a means of enlarging the Chinese people's antagonism in regard to us. I believe that in the light of recent events we must consider some alteration in the character of our relations both with the so-called Chinese Government and the component regional units. The latter in fact are autonomous and alone have any political vitality. As the issues which are involved are so significant and far reaching, I beg permission to put off my further report or comment, pending an opportunity for reflection.

MACMURRAY

393.1162/21 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 19, 1926—1 p. m.

[Received July 19—6:47 a. m.]

290. My 186, April 20, 11 a. m.¹³ Following from American consul general at Canton:

"July 18, noon. Reliable information just received that Chinese have taken over American Baptist hospital at Wuchow which is now full of sick and wounded soldiers. Further details later."

For the Minister:

MAYER

¹³ Not printed.

393.1162/22 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 24, 1926—4 p. m.

[Received July 24—9 a. m.]

299. My 290, July 19, 1 p. m. Following from American consul general at Canton:

"July 22, noon. Deed to Wuchow hospital contains clause giving Chinese authorities the right in the event of necessity to use property temporarily for military purposes; and, under these circumstances, I have not felt free to demand immediate evacuation of the hospital but suggested to Eugene Chen that he advise the Wuchow authorities to ask American staff to return and to reopen hospital immediately on the old basis. Chen consented to do this and will give me a reply as soon as an answer can be obtained from Wuchow. Baptist mission also approves of the plan and will arrange to reopen hospital if Chinese vacate and promise full protection and cooperation in the future.

"If Wuchow authorities fail to accept the proposal outlined above and/or do not agree to evacuate in a reasonable time, I recommend that the consulate general and the United States naval authorities take such action as may be necessary to clear hospital of Chinese. Clause in the deed, though rather obscure, cannot possibly be construed to give Chinese the right of permanent occupation, and, as American Baptist mission has expended \$300,000 on this property, I believe failure on our part to prevent its seizure would be tantamount to inviting Chinese to take over other valuable missionary enterprises in this area."

MACMURRAY

393.1162/22 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 26, 1926—7 p. m.

149. Your 299, July 24, 4 p. m. Instruct Consul General at Canton to limit efforts to recover hospital property at Wuchow to negotiation with authorities and notification that this Government reserves right to claim for reimbursement to mission of value of property—damaged, destroyed or seized.

Department desires Jenkins make full report enclosing copy of deed.¹⁴

KELLOGG

¹⁴ The report of the consul general at Canton was transmitted to the Department by the Minister in despatch No. 618, Aug. 2 (file No. 393.1162/26).

393.1162/29 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 1, 1926—1 p. m.

[Received October 1—11:52 a. m.]

441. Legation's 363, September 1, 4 p. m.¹⁵ Following from American consul general at Canton:

“September 28, 1 p. m. On September 19th Chinese soldiers vacated Baptist mission hospital at Wuchow, and Americans are now in complete possession of the institution, which, it is hoped, will soon reopen. Threatened labor troubles with former employees have apparently been settled with the assistance of the local authorities.”

MAYER

POLICY OF THE UNITED STATES WITH RESPECT TO PROTECTION OF AMERICAN INTERESTS DURING CHINESE BOYCOTTS AND STRIKES AT CANTON AND TIENTSIN

893.5045/300 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 10, 1926—6 p. m.

[Received February 10—1:09 p. m.]

69. 1. Inspector General of Customs today discussed with me the following very confidential telegram from Commissioner General of Customs at Canton:

“Boycott pickets have commenced seizing import cargo between ship and shore to an extent that has to be met as a principle. Such cargo is detained and fined and confiscated at will by them. Official representations to Government extending over some weeks have met evasive or procrastinating replies. Yesterday five loaded cargo boats escorted by Chinese tidewater proceeding from Chinese steamer from Shanghai were carried off by pickets. I proceeded with party to spot to which taken, first sending word to Superintendent that I should not leave cargo until it was brought back to Customs and if not so brought back should stop loading and discharge of all steamers in harbor until Government moved one way or the other. This was supported by Superintendent and, finally, but not until after 10 hours on the spot, I was able to return to the Customs with the five cargo boats. Pickets intend take back cargo when examination by Customs completed. I shall refuse release to them until all cargo now held by them and not yet presented for examination by Customs is surrendered for examination. This includes American, Japanese, and German seized ex¹⁶ different ships. This may succeed but may

¹⁵ Not printed.

¹⁶ i. e., free of charges on cargo until taken from the ships.

also bring deadlock between Government and pickets. Action will also undoubtedly involve possibility of Government assuming Customs Fund. I am of opinion action absolutely necessary and timely. There is no flaw in our case and I expect full support of foreigners and claim merchants."

Inspector General pointed out that if Canton local agent supports the strikers in this lawless interference with the landing of cargoes it will raise a direct issue as to the right to trade with China under the treaties and in that event will probably involve the seizure by the local authorities of the customs from the Maritime Customs Administration at Canton and doubtless before long at other ports.

2. I fully concurred in this view and assured him of my readiness, in case it should become necessary, to instruct American consul general at Canton to join with interested colleagues in protest to the local authorities. I stated my opinion that American naval forces would be warranted in furnishing protection in the landing of cargo from American vessels to the customhouse. I reserved, however, subject to your instructions, any opinion as to action to be taken to prevent seizure of the customs by the local authorities.

3. Repeated to Canton and to commander in chief for information only.

MACMURRAY

893.5045/300 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, February 11, 1926—3 p. m.

40. Your number 69 of February 10, 6 p. m., paragraph 2. Attitude you adopted in your conversation with Inspector General of Customs is approved. In this connection see telegram 321 from Department November 23, 1925, 9 p. m.,¹⁷ regarding action to prevent the customs being seized by local authorities.

KELLOGG

893.5045/322

The Minister in China (MacMurray) to the Secretary of State

No. 471

PEKING, February 20, 1926.

[Received March 30.]

SIR: As an unhappy illustration of the difficulties that will doubtless in the future confront American and other manufacturers at ports open to trade, I have the honor to transmit herewith enclosed

¹⁷ *Foreign Relations*, 1925, vol. I, p. 748.

copies of four despatches from the American Consul-General at Tientsin to the American Minister ¹⁸ describing a strike of Chinese workmen at certain rug factories at Tientsin operated by American citizens. Copies of one of the despatches in this series, that of February 4, 1926,¹⁸ have already been sent to the Department without accompanying comment. There is likewise enclosed herewith a copy of my despatch of February 4th to Mr. Gauss on this subject.

During the Fengtien régime in Tientsin, under Military Governor Li Ching-lin, labor unions were suppressed, on the ground that their activities were subversive of order. At the end of December, last, Li Ching-lin was expelled by the Kuominchün forces and the labor unions hoped for recognition and liberty to act under the latter's more liberal régime. The claim of the Wu P'ei-fu ¹⁹-Chang Tso-lin ²⁰ alliance is that it is "anti-red", while the party headed by Feng Yü-hsiang ²¹ adopts as its slogan liberty and equality among the citizens of the Republic.

An American concern, H. J. Tavshanjian, Incorporated, operates a carpet factory in the ex-German Concession at Tientsin with some seven hundred Chinese workmen. On January 19th these workmen went on strike, their main object being, apparently, to reestablish their labor union. There had been no antecedent labor troubles of any importance. Immediately they went on strike the workmen put on white badges indicating that they were members of the carpet workers' union and took possession of the factory premises. Several Chinese appeared wearing red badges, who seemed to direct the actions of the workmen.

The Chinese police at once attempted to negotiate with the strikers and thus to end the trouble without resort to violence. They succeeded in getting the six or seven hundred strikers to the police compound, where they were given the alternatives of returning to work, or of being paid off and dismissed. The Manager of the factory made an offer of three days' bonus at the Chinese New Year (February 13th) if the men returned to work and performed their duties satisfactorily until then. This offer was accepted and work was resumed on January 22nd.

On January 25th there was again trouble in the factory. This time it was a dispute between two factions of the workmen themselves, but the result was that the American Manager was deprived of his control over the factory, and he became convinced that the only practicable course open to him was to close the institution. Civil

¹⁸ Not printed.

¹⁹ Former commander of Chihli troops who had been defeated in the civil war of 1924.

²⁰ General in control of Manchuria.

²¹ Former commander of the First Kuominchun or National Armies.

and military police, and also two hundred soldiers, arrived and some twenty strikers were arrested, which restored quiet. In spite of the Manager's desire to close the factory the police were most averse to his taking this step and about half of the force went back to work next day.

At this time similar strikes occurred in other American-owned rug factories in Tientsin. In the handling of these later strikes the Provincial authorities were much milder in their methods and resorted almost entirely to negotiations with the workmen. Finally, by giving the men a bonus, the owners, Messrs. Ellbrook, Incorporated, were able to close their factories. The changed attitude of the authorities was suspected by Mr. Gauss to be due to pressure brought to bear by Communist sympathizers. Inflammatory literature and the presence of many agitators indicated the source of the disturbances in an unmistakable manner, and Mr. Gauss was of the opinion that after the Chinese New Year the strikes would spread to the cotton mills.

The Communist Party finds in China only very limited scope for its special type of propaganda, since the class of industrial laborers and transportation workers is only a minute fraction of the total population. Nevertheless, this class can be most vociferous and its members are found mostly at the open ports, where their activities attract disproportionate attention.

Mr. Gauss throughout the recent troubles at Tientsin followed the wise policy of insisting that the Chinese authorities themselves decide upon and execute measures for handling the situation. He not only refused to invoke the use of American military and naval force, but he even declined to request the authorities to eject the workmen from the factories. I commended him for adopting this policy and to it I attribute the avoidance of a possible repetition of incidents similar to those of May, last, in Shanghai.²² It must be admitted that Mr. Gauss did not succeed in keeping the American-owned factories in operation, but I cannot see that it would have been possible to do so. I fear that American industrialists and merchants in China must face the probability, however discouraging it may be, that in addition to wars, extortionate taxation, and brigandage, their various enterprises will for some time to come be hampered by fomented ill-will and labor agitations. This is the end to which the Third International and its paid emissaries are directing their sinister activities, and although the Chinese, with their common sense, will ultimately see that they are being made the dupes of the Communists and will awake to the advantages of a co-operative, rather than an obstructive, attitude toward the world-tide of economic progress, the moment of

²² See *Foreign Relations*, 1925, vol. I, pp. 647 ff.

their awakening may be postponed for an indefinite period. Unfortunately there are no organized efforts to show the Chinese where their economic advantage lies in these matters, as there are energetic efforts to mislead them.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure]

The Minister in China (MacMurray) to the Consul General at Tientsin (Gauss)

PEKING, February 4, 1926.

SIR: I have received your despatch of January 26, 1926, and preceding correspondence relating to strikes of Chinese laborers in American-owned rug factories at Tientsin, and I note your statement that you would be glad to receive from the Legation any general or special instructions that may be deemed appropriate as outlining either the American policy or the course to be pursued by the Consulate-General.

I share your misgivings in regard to the probable trend of political affairs in North China during the coming months. The present Government in Peking, like the Provisional Government of Chihli, is financially destitute, and there is only a slight prospect that it will be able to secure the funds necessary for it to meet the financial settlement day at Chinese New Year, February 13th, with any show of success. Since there is no large industrial class in Peking with any semblance of organization there is no reason to fear industrial disorders of a serious nature, however, in the Capital itself. I allude to these circumstances as indicating that there is little hope that any politically stabilizing influence will emanate from Peking, unless assistance comes from some source unforeseen at the present.

The course of events in Tientsin resembles ominously the course taken by events at Canton under the late Sun Yat Sen Government. While conditions at Canton are now greatly improved, for a long time, as you are doubtless aware, the strikers' organization there had, to all intents and purposes, an official status. The professed government deferred to it and appeared to accord recognition to its regulations. There remains, as yet, this dissimilarity, that the Chihli Government has not yet announced its open support of the labor unions, so far as I am aware.

In these circumstances I consider that you have decided wisely in insisting that it is the duty of the Chinese authorities to decide as to the measures that must be taken for the protection of the property

of the American factories, and in pursuing and urging on American interests a policy of patience, caution and tolerance.

It is obviously impossible for American officials in connection with labor disturbances, to make good the deficiencies of the Chinese authorities, except insofar as urgent official representations may awake the latter to a realization of their duties. You should, of course, at all times apprise the authorities of danger threatening American interests, with a view to possible future demand for compensation for losses, should the circumstances seem to justify such demand. With the present sinister forces actively at work fomenting discontent and anti-foreign feeling the after effects to be feared from the use of force seem to outweigh the advantage that it might be expected to produce.

In view of the accusations that already have been made regarding the length of working hours and under-payment in the American-owned rug factories at Tientsin I should be greatly interested in receiving such information as you could conveniently secure in regard to these points.

I am [etc.]

J. V. A. MACMURRAY

893.5045/324 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 1, 1926—5 p. m.

[Received April 1—8:55 a. m.]

159. 1. The American consul [general] at Canton informed me by his despatch number 398 of March 8, 1926, copy of which I am sending by next pouch,²³ that the Standard Oil Company had renewed its request for naval convoy from Hongkong to Wuchow, Kwangsi, the company desiring to send large quantity of petroleum products there where the so-called oil monopoly is not in force, that the cargo could not be safely moved unless protected against pirates and possible interference by boycott pickets through that area under Canton regime, and further that the military authorities in Wuchow had given the company undertaking in writing to prevent difficulties with strikers or others (presumably in Kwangsi territory) if oil were shipped up from Hongkong. He further reported that important area of Kwangsi Province can only be reached effectively by the West River and that it seemed highly important that, if possible, means should be taken to keep this open to American trade, providing danger of complications with the Cantonese authorities were not too

²³ Not printed.

great. He also stated that it was not contemplated that naval vessels should participate in forcing delivery of oil, since, if local authorities at Wuchow were incapable of preventing disorder during unloading, company could return entire shipment to Hongkong.

2. To his request for telegraphic instructions I have replied as follows:

[Paraphrase]

"March 31, 5 p. m. Although I am of the opinion that in conveying Standard Oil lighters to Wuchow we would be acting well within our rights under article 9 of the American treaty with China, 1858,²⁴ I consider it inexpedient to do so at present. I have come to this conclusion after considering the possibility that the difficulties of the situation at Canton at this time may be resolved soon as a result of anti-Soviet action taken there recently, and the probability, in case of need to resort to actual force during the convoy against strike pickets, of an undesirable reaction against our position, particularly in the Canton area and generally in China, which at present is relatively favorable."

MACMURRAY

893.5045/328 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 15, 1926—noon.

[Received April 15—7 a. m.]

176. My 159, April 1, 5 p. m. Following telegram sent to the American consul general, Canton:

"April 15, noon. My telegram March 31, 5 p. m.

1. Representative of Standard Oil has communicated to me a telegram from their Hongkong office from which the following is quoted:

"Chinese merchants now arranging supply Wuchowfu with miscellaneous California brands en route Whampoa and if successful we fear strike organization Wuchowfu on that account influenced to prohibit importation by our lighters. To date Wuchowfu officials and strikers association would welcome arrival our goods, and British have demonstrated by recent naval escorts to A. P. Company lighters that no conflicts with Kwangtung government would result if lighters conveyed by foreign gunboats."

Telegram further requests reconsideration decision not to furnish naval convoy.

2. In view of new factors presented and particularly of its appearing that in the case of British convoys strike pickets have not brought on conflicts, please telegraph me whether in your judgment the facts warrant a reconsideration [of] the question of expediency of convoy."

MACMURRAY

²⁴ Malloy, *Treaties, 1776-1909*, vol. I, p. 214.

893.5045/329 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, April 21, 1926—3 p. m.

[Received April 22—7:27 a. m.]

192. My telegram 176, April 15, noon. Following from American consul general, Canton:

“April 19, 3 p. m. Your telegram April 15, noon; my April 17, noon.²⁵ As my despatch March 8²⁶ explained, possibilities of trouble with Chinese seem to be so remote that I think an escort should be furnished, and especially in view of the fact that several times British convoys experienced no trouble and that oil shipments have been requested by Wuchow authorities.”

I replied April 22 [*sic*], 3 p. m., as follows:

“Your April 19, 3 p. m. I approve naval convoy to Wuchow be provided, in the circumstances, for Standard Oil lighters.”

MACMURRAY

893.00/7441 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 7, 1926—3 p. m.

[Received June 7—7:25 a. m.]

241. My 239, June 3, noon.²⁶ Following from American consul general at Canton:

“June 5, noon. Canton regime has appointed Eugene Chen, T. V. Soong and Chan Kung-pok²⁷ to negotiate with Hongkong for the settlement of the strike. Government has ordered also the abolition of the oil monopoly on June 15th, but it is understood high stamp tax will be retained.

Office of provincial commissioner of foreign affairs has been abolished and Ministry of Foreign Affairs will communicate direct with consuls.”

MACMURRAY

²⁵ Latter not found in Department files.

²⁶ Not printed.

²⁷ Replaced at the actual strike conference by Professor Ku Meng-yu.

893.5045/365 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 24, 1926—5 p. m.

[Received July 24—9:15 a. m.]

300. My 295, July 22, 5 p. m.²⁹ Following from American consul general at Canton:

"July 22, 2 p. m. Referring to my telegram of July 20, 11 [1] p. m.²⁹ At the boycott conference yesterday Chinese demanded cash indemnity but reserved the right to fix the amount. British delegates definitely refused this, whereupon Chinese demanded submission of the entire matter to international commission of inquiry including Shameen shooting affair.³⁰ British delegates said this must be referred to London but proposed industrial loan to Chinese. Chinese took the question of industrial loan under advisement. Meanwhile further meetings postponed until the British have received a reply from London. In view of the military successes in Hunan, Cantonese are evidently playing for delay."

MACMURRAY

893.5045/366 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 26, 1926—10 a. m.

[Received July 26—7:52 a. m.]

302. My 300, July 24, 5 p. m. Following from American consul general at Canton:

"July 24, noon. Referring to my telegram July 22, 2 p. m. Boycott conference adjourned sine die, and it is generally conceded that efforts at settlement have failed for the present.

At the meeting yesterday Canton renewed demand for international inquiry. British again declared that this question must be decided in London and pointed out that inquiry must include French who were equally concerned in Shameen shooting. Cantonese demurred, and it became evident, according to the British, that the Cantonese no longer desired to continue negotiations after the British had definitely refused to pay indemnity and in spite of British offer [of] industrial loan not to exceed \$10,000,000 Hongkong currency for public works, including development of the port of Whampoa. Full report by mail follows."²⁹

MACMURRAY

²⁹ Not printed.³⁰ See *Foreign Relations*, 1925, vol. I, pp. 749 ff.

893.5045/372

*The British Ambassador (Howard) to the Secretary of State*WASHINGTON, *September 2, 1926.*

SIR: In compliance with instructions which I today received from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that in consequence of the serious piratical outrages which have been committed in Canton harbour by strike pickets, and which culminated in the recent unprovoked firing on British and other nationals, His Majesty's Government have instructed the British naval forces at Canton to seize and disable all boats employed by strike pickets.

In view of the recent outrage on and imprisonment of a United States citizen, I am to enquire whether the United States Government wish to associate themselves with the action which His Majesty's Government are taking.

I have [etc.]

(For the Ambassador)

ADRIAN BAILLIE

893.5045/372: Telegram

*The Acting Secretary of State to the Minister in China (MacMurray)*WASHINGTON, *September 2, 1926—5 p. m.*

182. British Embassy today left with Department a note from which the following is quoted:

[Here follows essential part of note, printed *supra.*]

Department has no information regarding firing on British and other nationals mentioned in British note nor of the imprisonment of a United States citizen. In order to make suitable reply to British note Department desires report on these incidents.

Department is disposed to decline invitation to associate itself with the action which the British Government is taking and to reply that it prefers to pursue present policy in accordance with which American naval officers are under standing instructions to take all action necessary for the protection of American lives and property. Before replying, however, Department desires your advice and comment in regard to British inquiry. See in this connection Department's 202 August 15, 1 p. m., 1925.³¹

GREW

³¹ *Ibid.*, p. 760.

893.5045/373 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 4, 1926—4 p. m.

[Received September 5—11:40 a. m.]

374. Your 182, September 2, 5 p. m.

1. I received, August 29th, the following telegram from the American consul general, Canton:

"August 28, 1 p. m. J. W. Banbury, American citizen, was captured by strike pickets early this morning but was released 2 hours later as the result of consular intervention. A Russian, employed by Banbury, was released at the same time. British subject and the Russian was [*were*] driving motorboat with Chinese passengers to the Hongkong steamer when the pickets opened heavy rifle fire, forcing boat to stop. British subject escaped under fire but Banbury, the Russian and Chinese were captured. British gunboat is now searching for motorboat which strikers took away with the prisoners and in which British subject owned half interest. See my personal letter to the Minister of August 20th mentioning Banbury.^{31a}

Pickets have fired several hundred shots in the harbor during the last few days. One shot struck United States ship *Sacramento* against which the consulate general protested."

2. While considering the above telegram with a view to possible recommendations to the Department for action, I received, September 2nd, a despatch from Jenkins informing me of an attack on two American citizens, Bratt of the Texas Oil Company and Waples, local architect, by strike pickets, August 18th, at French bridge from Shameen. In reporting this incident he stated that the usual reply to his protest had been received from Canton Foreign Office to the effect that an investigation had been ordered, but he felt quite certain nothing further would be done in the matter in the present circumstances. The despatch concluded with the statement that the incident was indicative of insults to which American citizens must now submit in Canton, with practically no assurance of redress.

3. I received telegrams, September 2nd and 3rd, from the consuls general at Hongkong and Canton, respectively, giving me substantially the same information contained in Department's 182, September 2, 5 p. m. Jenkins, in discussing with the British consul general at Canton latter's instructions to endeavor to secure American naval cooperation in checking activities of pickets, told Brennan that he disapproved of Banbury and other Americans engaging in the business of carrying Chinese passengers to the Hongkong steamers, that as Banbury had been released no forcible measures were necessary on

^{31a} Not found in Department files.

our part, that he therefore opposed cooperation, in this instance at least, but would refer the matter to the Legation.

[Paraphrase]

4. I disagree with Jenkin's disapproval of the business in which Banbury and other Americans engage as affecting the policy which we ought to adopt as a result of such incidents. I feel that the business is entirely legitimate. It is a general transportation and ferry service between the shore and the Hongkong-Canton river boats; it is not limited to Chinese. The only objection to it is that it meets with the violent antagonism of a lawless, independent organization of Canton strike pickets, whose blackmailing operations have been outrageously in opposition to our treaty rights for more than a year and whose renewed activity at the present time should be made, in my opinion, to cease without any delay whatever. I have concluded after most careful consideration that, whenever feasible in respect of attacks such as described above on American citizens, we should adopt a firm attitude and inform the regime at Canton that if it cannot protect American citizens in accord with treaty requirements and general international obligations, the United States Government will be compelled with regret to take on its own account measures necessary to that end. I urge that instructions be given to the commander of the South China Patrol that any strike picket boat which shall have attacked or shall attack an American citizen be seized and disabled, and that Jenkins convey these instructions orally to the Canton authorities.

5. I am strongly in favor of informing the British Government that we have taken this position, which would involve action on our part, so far as protecting American citizens might require, similar to but not as drastic as that of the British, though it would not associate us with British instructions to British naval forces at Canton and would not be publicly cooperative.

6. I may add with reference to last sentence of second paragraph of my telegram 326 of August 14,³² that while I do believe that in many instances it is wise for us to act in accord with the British, and the Japanese as well, in China, this should in my opinion be mainly cooperation as to understanding and complete information with regard to the plans and policies of each other, with a view rather to simultaneous action than to our direct and public association with them in joint action.

MACMURRAY

³² *Ante*, p. 680.

893.5045/378 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *September 7, 1926—7 p. m.*

185. Department agrees with you that the business of carrying on general transportation and ferry service between the shore and the Hongkong-Canton river boats is as a general proposition open to Americans as it is to others; but the Department believes that such business as it might be carried on when conditions are normal is to be distinguished from the actual conduct of such business at present when it has apparently developed solely as an outcome of the conflicts existing between British steamers and local Chinese. Department believes that the policy which this Government would pursue regarding such business under normal conditions should not be permitted to encourage Americans under present abnormal conditions to involve their Government in questions which it seems would be the care entirely of the British shipping interests that are involved. Of course a distinction should be drawn between general maintenance of communications from ship to shore between steamers and Canton, and the attempts of Americans in their own interest to communicate with ships in Canton harbor, which are proper and in which all the protection that can be given to the American citizen should be received by him. The Department thinks that the commander of the South China Patrol should be guided by the above distinction in his efforts to extend protection to such Americans.

It is desired by the Department that you inform the commander in chief of these considerations. The Department is prepared, if in his opinion new instructions are necessary, to discuss the matter with the Navy Department with a view to the issuance of new instructions.

KELLOGG

893.5045/372

*The Secretary of State to the British Ambassador (Howard)*WASHINGTON, *September 9, 1926.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of September 2, 1926, in which you stated that you had received instructions from His Majesty's Principal Secretary of State for Foreign Affairs to inform this Government that in consequence of the serious piratical outrages which had been committed in Canton harbor by strike pickets, and which had culminated in the recent unprovoked firing on British and other nationals, His Majesty's Government had instructed the British naval forces at Canton to seize and disable all boats employed by strike pickets. You stated that

you had been directed to inquire whether, in view of the recent outrage on and imprisonment of an American citizen, the United States Government wished to associate itself with the action which His Majesty's Government was taking. The situation at Canton has for some time been receiving the careful attention of this Government and earnest consideration has been given to the inquiry contained in your note under acknowledgment. I regret, however, to inform you that this Government is not in a position to associate itself with the action which His Majesty's Government is taking in this matter as set forth in your note. It is believed that standing instructions which have been issued to the Commander of the American Naval forces are sufficient to enable him to protect the lives and property of American citizens in any foreseeable emergency.

Accept [etc.]

FRANK B. KELLOGG

893.5045/376 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 14, 1926—4 p. m.

[Received September 14—9:27 a. m.]

399. Following radiogram received by American naval attaché from U. S. S. *Sacramento* at Swatow, September 14th.

“After September 11th the British discontinued campaigns against the striking pickets of the Canton River. Negotiations concerning removal of boycott are to be resumed between the British and Canton Governments.”

MAYER

893.5045/377 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 14, 1926—6 p. m.

[Received September 14—4:04 p. m.]

401. 1. The substance of Department's 185, September 7, 7 p. m., and first paragraph Legation's 384, September 9, 3 p. m.,³³ were transmitted to the commander in chief, United States Asiatic Fleet, in accordance with last paragraph Department's 185 above mentioned. Commander in chief has now replied to following effect:

“Commander in chief does not consider it necessary that the Navy Department be asked to issue new instruction. He notes the policy of the State Department as contained in your construction of the Department's instructions and is prepared to direct the commander of the South China Patrol to be guided by them. The commander in chief understands that Banbury has been afforded no protection by our Navy. That part of the Department of State's policy which re-

³³ Not printed.

quires that 'all available protection is to be afforded to American citizens who on their lawful occasions make use of this or similar commercial enterprises' will present practical difficulties to our naval officers as regards Banbury's boats. To endeavor to protect his boats on every occasion on which they may carry an American among their passengers and not protect them at other times would almost inevitably lead to misunderstandings and disagreeable incidents. It is suggested that Americans be notified that it will be impracticable for the Navy to give them physical protection if they use Banbury's boats."

2. I must concur in the Admiral's opinion regarding practical difficulties which naval officers will encounter in putting into effect a distinction to be made in respect of operation of legitimate commercial enterprises such as Banbury's by American citizens and their use of the same on their lawful occasions. Furthermore I respectfully submit my apprehension that it may be difficult for the Canton consulate general to explain the distinction to American citizens in South China, who in all likelihood will construe it to mean that we will not protect American citizens whose interests would otherwise be safeguarded should they in the pursuit of legitimate commercial enterprises transgress the regulations of a lawless independent organization such as the Canton strike pickets. While in no way desirous of encouraging Americans to engage in commercial enterprises which however lawful are likely to bring the American Government into opposition with Chinese organizations, unofficial or otherwise, I am strongly of the opinion that American citizens so engaged should be protected without discrimination at this critical time in China.

3. In these circumstances I respectfully recommend for the Department's renewed consideration the policy suggested in paragraph 4 of the Legation's 374, September 4, 4 p. m.

MAYER

893.5045/379 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 15, 1926—2 p. m.

[Received September 15—8:13 a. m.]

406. Legation's 67, February 6, 7 p. m.³⁴ Following telegram has been received from American vice consul, Swatow:

"September 13, 10 a. m. Strike of Standard Oil Company employees of more than 7 months' duration having been brought to a close with government aid, operations were resumed today."

MAYER

³⁴ Not printed.

893.5045/380 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 15, 1926—6 p. m.

[Received September 15—10:20 a. m.]

409. My 399, September 14, 4 p. m.

1. On September 4th British gunboats began operations against strike pickets, stationing men-of-war in front of picket examination sheds and facing strike craft in harbor. This action has been entirely successful in achieving its purpose since I am now informed by British Legation that after discussion between British acting consul general and Eugene Chen the latter has addressed a communication to the British consulate general stating that the Municipal police had been reinstated in charge of wharves and the river strike pickets having [*had*] been cleared from these regions. Replying to this note the British acting consul general affirmed that in the premises British naval action would be discontinued. It appears that British naval forces cleared river and wharves of strike pickets without any resistance on their part or the firing of a single shot.

2. Chen is likewise seeking to reopen formal boycott settlement negotiations on a new basis which the British Legation state they now have under consideration.

3. The success which has attended British efforts in the above regard would seem to confirm the wisdom of adopting a firm policy at Canton which, while being eminently just, would compel the Cantonese by display of force, if necessary, to respect our treaty rights and the lives and property of our citizens. In this connection I respectfully refer to my number 401, September 14, 6 p. m.

MAYER

893.5045/377 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, September 17, 1926—1 p. m.

195. Your 401, September 14, 6 p. m. The only information which the Department has regarding the activities of Banbury is contained in your 374 of September 4, 4 p. m. From that information Department understands that Banbury, an American citizen, is part owner in a motor vessel which is engaged in the business of transporting Chinese and other passengers from the shore to Hongkong steamers of British nationality anchored in stream off Canton. It is the understanding of the Department that this is not a normal business at Canton in which Americans or other nationals ordinarily engage, but that it is incident to a conflict between local Chinese and British steamship companies. Banbury and others engaged in sim-

ilar business therefore appear in this instance to the Department to be serving a British interest, no essential American interest being involved. American citizens desiring to avail themselves of British passenger facilities to Hongkong should be protected in the normal means of accomplishing their purpose but should be discouraged from taking the risk of abnormal means of boarding British ships when such means involve conflict with local Chinese of whatever character. As a practical means of overcoming difficulty mentioned by Commander-in-Chief Department suggests that Commander of the South China Patrol arrange to furnish Navy transportation to any American citizen desiring to board Hongkong steamer at Canton. Such facilities if offered should be limited entirely to American citizens and their personal baggage.

KELLOGG

893.5045/384 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 20, 1926—5 p. m.

[Received September 20—8:55 a. m.]

419. My 417, September 19, 1 p. m.⁵⁵ Following from American consul general, Canton:

“September 19, 4 p. m. Referring to my telegram of September 18, noon. Cantonese authorities have informed British consulate general officially that arrangements have been made to end boycott before October 10th and that proper Chinese authorities will levy two and a half percent consumption tax on imports with five percent on luxuries and two and a half percent production tax on exports to raise funds to compensate strikers.”

MAYER

893.5045/385 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 24, 1926—3 p. m.

[Received September 24—10:05 a. m.]

429. My 419, September 20, 8 [5] p. m. Following from American consul general, Canton:

“September 23, 4 p. m. Referring to my telegram of September 19, 4 p. m. There were no pickets at Shameen gates today and indications are that boycott as constituted during the last year is coming to end. It seems certain however that British manufactured goods will still be under the ban. Antiforeign feeling continues very widespread.”

MAYER

⁵⁵ Not printed.

893.5045/391 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 12, 1926—4 p. m.

[Received October 12—9:35 a. m.]

471. My 466, October 9, 4 p. m.³⁶ Following from American consul general at Canton:

“October 11, 2 p. m. Kuomintang and strike committee issued lengthy statements yesterday declaring boycott ended but reaffirming intention to carry into effect ‘economic struggle’ with renewed vigor against the British and imperialists generally throughout China. A few Chinese came on the Island³⁷ today but the general public seems very slow to resume pre-strike relations, and it is still too early to judge the situation. There were no disorders.”

MAYER

893.5045/392 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 17, 1926—3 p. m.

[Received October 17—5:57 a. m.]

487. Following from American consul general, Canton:

“October 16, 1 p. m. Referring to my telegram October 11, 2 p. m. Strike pickets have been removed and Chinese are now entering Shameen freely. Passenger traffic with Hongkong is also quite free but no British goods are moving, and stevedore coolies are declining to handle cargo for British ships or goods routed via Hongkong. Unless this situation clears up in a short time, British will have gained nothing as a result of the so-called ending of the strike boycott.”

MAYER

FORCED LEVIES UPON AMERICAN BUSINESS IN CHINA

393.1152 St 2/-

The Minister in China (MacMurray) to the Secretary of State

No. 624

PEKING, June 14, 1926.

[Received July 14.]

SIR: I have the honor to inform the Department that one outgrowth of the disturbances which have taken place in China during the past few years is that it has become customary for Chinese mili-

³⁶ Not printed.³⁷ Shameen.

tary leaders to levy contributions or forced loans from the various Chinese merchants doing business in the territory which they occupy. These contributions may be levied when a military leader first enters into occupation of a new territory, when he is about to leave the territory, or during the course of his stay there. The time of levy and the amount levied depend entirely on the financial needs or rapacity of the military. A procedure quite frequently resorted to in making a levy is to ask the local Chamber of Commerce for a lump sum and the latter then proceed to apportion it themselves among the merchants who are forced to make up the sums demanded by fear of looting by soldiers or other evil consequences. The particular phase of this matter to which I desire to invite the Department's attention is the inclusion in this levy of Chinese firms acting as selling agents of American companies, notably the Standard Oil Company of New York. This Company has selling agents in practically every town in China of any importance, and they are with increasing frequency forced to pay these contributions. There is transmitted herewith a copy of a despatch No. 96, of May 15, 1926, from the American Consul at Chungking,³⁸ in which he refers to a levy of \$100 on the agent of the Standard Oil Company at K'aihsien. This levy was made in the name of the "Mei Foo Hong", which is the Chinese name of the Standard Oil Company. Mr. Adams requests the instructions of the Legation as to whether he should

In my opinion a forced loan or contribution made in the name of a like nature pending.

In my opinion a forced loan or contribution made in the name of the Standard Oil Company from its Chinese agent is in fact a levy on the business of the Standard Oil Company, regardless of whether or not the latter reimburses its agent for the amount which he has been forced to pay. On the other hand if a levy were made against the Chinese agent in his personal capacity or a levy were made on the general business done by him including that of selling agent for the Standard Oil Company, then I should consider that it was not within the province of the American Consular authorities to enter a protest against it. In the former case, however, I believe that a right of protest exists.

I have the honor to request the instructions of the Department for my guidance in dealing with this and similar cases which may arise in the future, particularly as to whether the Department considers that a protest should be made against levies of this sort on Chinese agents of American firms doing business in the interior.

³⁸ Not printed.

There is transmitted herewith a copy of my instruction to the American Consul at Chungking,³⁹ stating that the question raised by him has been referred to the Department.

I have [etc.]

J. V. A. MACMURRAY

393.1152 St 2/-

The Secretary of State to the Minister in China (MacMurray)

No. 287

WASHINGTON, July 23, 1926.

SIR: The Department has received your despatch No. 624 of June 14, 1926, in regard to the levy of a forced contribution, in the name of the Standard Oil Company, on the native agent of the Company at K'aihsien, Szechwan, by one of the local Chinese military leaders. The views expressed by you on the second and third pages⁴⁰ of the despatch under acknowledgment are approved. With respect to the question whether grounds for protest exist in this case you are informed that, in the circumstances, the Department considers that a protest could properly be made.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

CONTINUATION OF THE EMBARGO ON SHIPMENTS OF ARMS TO CHINA⁴¹

893.113/952: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 3, 1926—2 p. m.

[Received April 3—7:22 a. m.]

162. 1. Reuter telegram from London March 31st reports that in replying to Labor members of Parliament who referred to the supply of arms to Chinese factions from abroad, British Minister for Foreign Affairs said that "he was not inclined to take any very active steps in regard to this matter 'unless the ban was applied on all frontiers, land as well as sea'".

2. As a result of almost a year's observation here I would strongly urge upon the Department a consideration of the arms embargo of 1919,⁴² which I have convinced myself is wholly ineffective to accomplish prohibitions intended and whose partial enforcement results in favoring some factions to the disadvantage of others.

³⁹ Not printed.

⁴⁰ Refers to second paragraph of the despatch.

⁴¹ For previous correspondence, see *Foreign Relations*, 1925, vol. I, p. 641 ff.

⁴² See *ibid.*, 1919, vol. I, pp. 667 ff.

3. I have reached this conclusion against my own prepossessions, because when stationed here before I had a certain part in bringing about establishment of the embargo and because while in the Department I still felt that it should be maintained in the absence of concrete and conclusive evidence of its general violation. I am now convinced beyond any doubt that even though such positive evidence is not available it is the fact that the embargo is not vigilantly and scrupulously enforced by any nationality except the British and ourselves. The British control over imports into China as well as exports from home territories enables them to deal with the matter more effectively than we but even so there are quantities of British as well as of American arms that find their way into China. Non-participation of various countries furnishes channels through which arms can be brought in practically without restriction. Arsenals in various parts of the country are also in operation which enable the Chinese to a large extent to supply themselves. The existence of embargo merely makes it a trifle more difficult and expensive to obtain arms. It does not appreciably diminish the means for either warfare or brigandage.

4. Apart from this general ineffectiveness of the embargo is the particular question of supply of arms by Russia to such forces as are willing to cooperate in Soviet policies in this country. This supply is on a large scale and, in the face of it, refusal to permit the sale of arms to the Government or to other factions becomes tantamount to intervention to their detriment. It is known that Chang Tso-lin and Wu Pei-fu,⁴³ for instance, strongly resent the restriction thus imposed upon them.

5. To withdraw embargo immediately might have the appearance of giving support to the forces combined against the Kuominchun in the present situation. If however the announcement were to be made that embargo would be withdrawn at some future date (say 3 or 4 months hence) this action would not have the appearance of being prompted by a particular situation.

6. Apart from the statement of the British Minister for Foreign Affairs quoted by Reuter, I have reason to feel that the British Legation shares the belief that the embargo wholly fails to serve its purpose and prejudices impartiality of the attitude of the powers towards the various factions in China. I believe that the same opinion is held by the French Legation. Knowing the Department's desire to maintain an attitude of unquestioned loyalty towards the embargo I have refrained from expressing to any of my colleagues my own convictions as set forth above. I venture however to ask your authorization to discuss the matter with them frankly on my

⁴³ Chinese military leaders in Manchuria and the Yangtze Valley, respectively.

own responsibility in order to ascertain more definitely the general attitude in this matter with a view to your consideration of the question.

MACMURRAY

893.113/952 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 13, 1926—3 p. m.

80. Your 162, April 3, 2 p. m. While inclined to agree with you that present arms embargo has failed materially to restrict the supply of arms to warring factions in China, the Department does not believe that the United States should take the lead in recommending its revision or discontinuance, especially at the present time when to do so would offer seeming justification for a charge that we desired to favor one faction against another. The Department would therefore prefer that you refrain for the present from initiating any discussion of question.

KELLOGG

893.113 Airplanes/1 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 30, 1926—5 p. m.

[Received July 30—10 a. m.]

309. My telegram 162, April 3, 2 p. m. I am reliably informed that the British Government has recently removed commercial aeroplanes from the list of articles procured under the arms embargo and that Avro machines are now being offered for sale in China by representatives of British interests.

MACMURRAY

893.113 Airplanes/2 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 5, 1926—3 p. m.

157. Your 162, April 3, 2 p. m., 309, July 30, 5 p. m. Department's 80, April 13, 3 p. m.

You are authorized in your discretion to discuss question of possible cancellation China arms embargo with your colleagues as suggested in your 162, reporting result of discussion to Department. If information contained in your 309 can be officially confirmed Department would be disposed in the meantime to amend present regulations to permit sale to China of commercial airplanes.

KELLOGG

893.113 Airplanes/3 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 3, 1926—noon.

[Received September 3—6:22 a. m.]

370. Your telegram 157, August 5, 3 p. m.

1. British Legation has advised me that the following instruction was issued to British consular officers July 12th last:

“It has been decided by His Majesty’s Principal Secretary of State for Foreign Affairs that the importation of aeroplanes for commercial purposes should not be regarded as coming within the scope of the 1919 arms embargo or of the King’s regents [*regulations* ?].”

2. Since it seemed advisable to take up the matter first with the British as the only nationality scrupulously observing embargo, discussion with colleagues has been delayed in consequence of absence of the British Minister and of such members of his staff as are familiar with this question.

MACMURRAY

RECOMMENDATION OF THE MINISTER IN CHINA THAT AMERICAN
TROOPS STATIONED AT TIENTSIN BE WITHDRAWN

893.00/7428

The Minister in China (MacMurray) to the Secretary of State

No. 562

PEKING, April 29, 1926.

[Received May 28.]

SIR: I have the honor to advert to my despatch No. 366 of December 30, 1925,⁴⁴ and to subsequent despatches from the Legation,⁴⁴ reporting and commenting upon an incident occurring December 16th last, when several motor trucks loaded with Chinese troops, heavily armed, entered within the American Sector of the defense lines at Tientsin. As Mr. Gauss⁴⁵ remarked in his despatch of December 18th, enclosed in my communication first-mentioned, this was the first case when Chinese armed troops have entered this sector. Theretofore, as Mr. Gauss stated, the Chinese police authorities had always cooperated with the United States Army forces at Tientsin in deflecting any bodies of armed Chinese troops approaching this area, sending them by outside routes around the defense lines to their destination in the Chinese City or elsewhere.

⁴⁴ Not printed.⁴⁵ Clarence E. Gauss, consul general at Tientsin.

This incident, and the critical state of affairs in Tientsin during the Kuominchun ⁴⁶ occupation of that city on December 24-26, 1925, in conjunction with the question of international trains between Peking and Tientsin, brought up for renewed consideration the entire matter of open communications between Peking and the sea, as provided for in Article IX of the Protocol of 1901,⁴⁷ and particularly the situation in which the American Army forces at Tientsin found themselves with respect to their part in the combined defense plan there.

In order to lead up logically to the particular difficulties in the above regard, and for purposes of record, I venture to review the situation at some length and chronologically, at the risk of repeating much of which the Department is doubtless informed.

The Commandants of the military forces of the United States, Great Britain, Italy and Japan, stationed at Tientsin for the purpose of maintaining open communication between Peking and the sea by virtue of the terms of Article IX of the Protocol of 1901, necessarily had to establish about the district for foreign residence and trade in Tientsin a defense area to serve as a military base. This the Commandants rightly considered as an area which they must be prepared to defend and into which, therefore, no armed Chinese troops should be permitted to enter. This defense area included *inter alia* the British, French, Italian, and Japanese Concessions. The sector allotted each Command corresponded, generally speaking, with the concession of the respective nationality; but for military reasons the sectors included, in addition, certain adjacent areas, at the outer boundaries of which lines were to be established even during civil strife in order to divert any approaching troops from entrance into the defense area. By reason of there being no American Concession, the sector allotted to the American Command is in the former German Concession and other adjoining territory wholly under Chinese administration. It is adjacent to the British Sector.

With the practical failure on the part of the Powers concerned to compel the observance of the Agreement of July 15, 1902 (See MacMurray's *China Treaties*, p. 317 *et seq.*) respecting the marching and stationing of Chinese troops within twenty *li* of Tientsin, the question of the maintenance of such lines became increasingly important, and especially so for the American Command which, not being based upon a foreign concession, was left particularly liable to contact with

⁴⁶ National armies then under control of Marshal Feng Yü-hsiang.

⁴⁷ *Foreign Relations*, 1901, appendix (Affairs in China), p. 312.

Chinese troops by reason of the different trunk roads passing through its sector. Unless the other foreign commands, especially the British, were to maintain the lines assigned them under the combined defense plan, including the area outside of their concessions, our forces would be left in an untenable position.

Disregarding the agreement entered into by the Commandants as to the exclusion of armed Chinese troops from territory within the defense lines, the British forces at Tientsin on December 25th, and the French on December 26th, permitted columns of such troops to pass through this territory, subsequently explaining and defending this action on the grounds of expediency and the absence of any anti-foreign sentiment among the Chinese troops concerned. On the other hand, faithfully carrying out the agreement above alluded to, at one moment a small American picket was confronted with an entire Division of Chinese troops seeking a short-cut in pursuit of Li Ching-lin's defeated Fengtien forces. Fortunately, the Chinese officer commanding the advance guard of the Division assented to the request of our picket and turned aside. This incident, one of many during two days, was of extreme delicacy and danger. A clash was narrowly averted, which, had it occurred, might have had far-reaching results. This serves to illustrate the difficulty that has developed from the fact that Commandants at Tientsin, other than the American, felt justified in departing from the combined defense plan, and considered themselves safe in the inviolability of their concessions as a point for ultimate retirement, while the Americans, without a concession and compelled by elementary military reasons, were forced thereby to an issue of great danger in order to preserve the integrity of their base. (See page seven of mail despatch from the American Consul-General, Tientsin, dated December 28th last, on the subject of conditions in the Tientsin area.⁴⁸)

Upon learning of the above incident, I called a conference here with General Connor⁴⁹ and the American Consul-General at Tientsin, as soon as the disturbed conditions permitted. It was agreed at this conference that in view of the present irrational state of mind of the Chinese, it would be utterly impracticable to take up the matter with the Chinese Government with a view to obtaining its cooperation in adjusting the position of the American Command at Tientsin to the new situation created by the breakdown of the combined defense plan. After careful consideration it was decided that, as a first step toward this adjustment, General Connor should confer with his colleagues and present the facts frankly to them and seek an equally candid

⁴⁸ Not printed.

⁴⁹ Maj. Gen. William Durward Connor, in command of the American forces in China.

statement of exactly what he could expect his position to be in the future vis-à-vis these Commandants as regards the carrying out of the defense plan. This conference between General Connor and his fellow-Commandants at Tientsin, although amicable, brought forth no proposal such as he requested for the purpose of relieving his position.

General Connor stated to me, as his considered judgment, that the position of his command at Tientsin, by reason of the failure of the foreign Commandants in general and of the British and French Commandants in particular, to adhere to the provisions of the defense plan for Tientsin, had become militarily untenable and liable to force provocative contacts with Chinese troops. In view of the seriousness of the situation and of the fact that civil strife might at any time again break out in and around Tientsin, I discussed the matter at once with my colleagues concerned—the British, Italian, French, and Japanese Ministers—with the result that a conference of the five interested Ministers, and their Commandants at Tientsin, met at the Italian Legation on February 4, 1926, to discuss the general situation of the foreign commands at Tientsin, with particular reference to the position of the American forces there.

At this conference an agreement was drafted, supplementing the combined defense plan, which more nearly placed the other foreign commands on a parity with the American Command, in that Article 3 of the Supplementary Agreement would provide that when, in the opinion of the Commandant of a Sector, there is any danger arising from an attempted passage of armed Chinese troops through the inner lines of defense, or from civil disturbances in territory under Chinese administration within the area of the inner defense lines, the foreign force in the sector concerned shall, on the demand of the Commandant controlling such sector, be assisted by contingents from the other foreign forces comprising the international corps of occupation. The proposed Supplementary Agreement was by no means entirely satisfactory, having principally a negative value in placing the other foreign commands in the same awkward position in which the American forces might find themselves, through the ability of the American Command to summon other foreign forces to its aid in the event of a clash in territory under Chinese jurisdiction; but this arrangement was at any rate designed to guarantee the United States from the solitary odium of any untoward incident at Tientsin between foreign and Chinese armed forces, by dividing what may be termed the political responsibilities involved in excluding Chinese troops from our Sector.

After discussion and long delay, due principally to misunderstanding on the part of the Japanese and perhaps in some degree

to a desire on their part to interpret too broadly the extent of the new agreement, the foreign Commandants at Tientsin have now adopted the Supplementary Agreement with certain minor amendments, together with an explanation (at the instance of the Japanese) to which I have referred above. I have the honor to enclose copies of both these documents.^{49a}

I regret to be compelled to observe that in the opinion of General Connor and myself it is somewhat problematical whether or not all the foreign commands at Tientsin will faithfully observe this new agreement in any given crisis. The British, French, Italian, and Japanese forces have each their respective concessions into which they may retire, within which they are actually less likely to be attacked, and which they have particular reason to defend as a matter of protection to the lives and properties of their nationals. They will, quite naturally, be strongly tempted to contain themselves within their respective concessions, without attempting to control the activities of Chinese troops or disturbers of the peace outside. The American Command, on the other hand, has no concession into which it can withdraw, its base being on territory entirely within Chinese jurisdiction. And the topographical situation, furthermore, is such that the retirement of the other foreign commands into their concessions automatically shifts a much heavier burden onto the American forces in preventing the entry of Chinese troops into their defense lines, as the rudimentary necessities of defense require of a military force.

Having in mind the generally unsatisfactory character of the position of the American forces, which I have described above, and in accord with the strategic retreat which the Powers are seeking to effect in China in respect of their rights under the so-called "unequal treaties", we appear to be logically confronted with the consideration of the question of the ultimate withdrawal of the foreign garrisons at Tientsin as a necessity in that relation. I consider that the eventual withdrawal of our Army forces at Tientsin—which are clearly to be differentiated from the Legation Guard at Peking—will be expedient at a later date, although I believe their immediate withdrawal would be gravely unwise, if not highly dangerous to the welfare and even the safety of Americans and other foreigners in China. In this connection, I have the honor to submit that, as a condition precedent to withdrawal when the psychological time occurs, the Department should preliminarily approach the British, French, Italian, and Japanese Governments with a proposal for simultaneous action; and that every opportunity should be offered the respective Governments to join in a common gesture which would

^{49a} Neither printed.

be beneficial to all foreigners in China alike. It seems to me that it would be desirable, if possible, to avoid isolated action, on the part of any one Power, which, while perhaps accruing to the immediate popularity of that nationality, would almost inevitably react to its disadvantage scarcely less than that of other nations, in consequence of the nationalistic agitation which would thereby be stirred up against those which retained forces at Tientsin—such agitations always tending to become indiscriminately anti-foreign, and leading indirectly to new assaults upon the rights and interests even of the countries not immediately concerned. Only in the event that the other Governments concerned should refuse to join in the withdrawal of the foreign commands at Tientsin, upon the opportunity being thus offered them, I believe, as does General Connor, that the United States should act alone in this matter.

My principal reason for recommending withdrawal of the foreign garrisons, at some time in the future which I hope will not be far distant, is that the reason for their presence in China has virtually ceased to exist. The maintenance of open communication between Peking and the sea, by compelling the running of international trains between Peking and Tientsin, can no longer be counted upon as feasible, in view of the recent developments in the technique of military operations by Chinese forces. In my opinion, that portion of the Protocol of 1901 is no longer practically enforceable under circumstances such as arose in December last and in March and April of this year, and which are likely to recur in the course of the prevalent civil disorders in China,—the only part of the Protocol, in this general regard, remaining to us as practicable of execution, being the maintenance of an open port at Tientsin (as in the case of the recent Taku incident⁵⁰). A foreign garrison at Tientsin is, therefore, virtually relegated to a secondary function not originally contemplated by the Protocol, namely, the protection of foreigners and of foreign interests at the port of Tientsin. This function, I believe, does not justify the maintenance there of forces whose presence affords recurrent occasions for clashes with the Chinese, which the new temper of the Chinese people makes almost inevitable, sooner or later, as a result of some misunderstanding or accident impossible to foresee and guard against. Should the situation at Peking or around Tientsin become such that a foreign expeditionary force would have to be landed for the purpose of opposing a Chinese army, with modern equipment, acting offensively against foreign lives and interests, I believe (and in this General Connor concurs) that this force could establish itself at Tientsin, by means of naval contingents alone, practically as easily and with as little loss of life as

⁵⁰ See pp. 591 ff.

if foreign troops maintained a base there. It is furthermore problematical whether such a small foreign force as is now stationed at Tientsin, say a total of 3,900, would not be defeated during the period of time which would be required for adequate reinforcements to reach Tientsin.

I enclose herewith a copy of a secret letter addressed to me by General Connor on January 13th last in this general regard.⁵¹ This sets forth certain conclusions at which General Connor has arrived and which were discussed at the conference I have referred to above as having been held with him and the Consul-General at Tientsin in January last. General Connor is forwarding a copy of this letter to the War Department, by the Legation pouch, simultaneously with the present despatch.

I have the honor to invite the Department's attention especially to the summary of the situation at Tientsin in General Connor's opinions set forth on page 8 of his letter of January 13th, and to his conclusions A and B under paragraph 29 on the following page. In the main, I concur heartily in General Connor's statements. It is necessary, however, to add, as indeed he wishes me to do, that certain of the remarks in the summary of the situation are no longer pertinent, owing to the supplementary defense agreement enclosed with this despatch.

I should likewise observe, in conclusion, that General Connor agrees in my conclusions that (1) in view of the risks now being incurred with insufficient military justification, the situation at Tientsin must ultimately be resolved by the withdrawal of the American Army Forces stationed there—if possible, in conjunction with the other foreign Powers maintaining similar forces; but that (2) this action must be timed with the greatest care in order to avoid what is at the present time the very serious danger of creating a situation in which nationalistic sentiment would be further incited against foreign rights and interests, rather than appeased by such a withdrawal. In view of this latter consideration, I venture to express the most earnest hope that the Department, even though on consultation with the War Department (for which purpose I enclose an extra copy) it may feel fully convinced of the wisdom of such eventual withdrawal as I recommend, will withhold, until it shall have received a further report from me, any definite decision as to the time when it may be advisable to initiate discussions with the other interested Powers concerning the withdrawal of all the foreign occupational forces at Tientsin.

I have [etc.]

J. V. A. MACMURRAY

⁵¹ Not printed.

893.00/7428

The Secretary of State to the Secretary of War (Davis)

WASHINGTON, June 7, 1926.

SIR: I have the honor to enclose for your strictly confidential information a copy of despatch No. 562 of April 29, 1926, from the American Minister at Peking⁵² in which he discussed the question of the possible withdrawal at some time in the future of the American Army forces stationed at Tientsin. This Department is not now in a position to make definite recommendations in regard to this matter pending the receipt of a further report from Minister MacMurray. I have the honor therefore to request that in view of the peculiar situation at that port no action be taken for the present.

I have [etc.]

FRANK B. KELLOGG

THE SPECIAL CONFERENCE ON THE CHINESE CUSTOMS TARIFF⁵³

500.A4e/552: Telegram

The American Delegation to the Secretary of State

PEKING, January 30, 1926—5 p. m.

[Received January 30—10:40 a. m.]

Conference 24. Legation's 36, January 20, 8 p. m.⁵⁴ Financial requirements of Chinese Government daily growing more desperate. Aglen⁵⁵ declines to furnish them any security from existing customs for a loan. We have it on good authority that within the next 10 days the powers will be asked to permit two and one-half percent surtax provided by Washington Treaty⁵⁶ to become effective immediately. Revenue derived therefrom to be immediately and unconditionally available to Central Government. At beginning of Conference all powers except Japan agreed to immediate putting into effect of the two and one-half percent provided by Washington Treaty, the revenue derived therefrom to be impounded and to be hereafter disposed of as agreed by the Conference in accordance with article 3, Washington Treaty. We do not believe powers will recede from that position and grant request of Central Government for unrestricted use of revenue. As above indicated, powers believe, first, that present administration has no influence in any province and that its life will be of very short duration; second, that granting its request would be regarded by provinces and other war lords as an effort, on the part of

⁵² *Supra*.⁵³ Continued from *Foreign Relations*, 1925, vol. I, pp. 833-835.⁵⁴ Not printed.⁵⁵ Sir Francis Aglen, Inspector General of Chinese Maritime Customs.⁵⁶ *Foreign Relations*, 1922, vol. I, p. 282.

the powers, to perpetuate the existence of present Central Government and would preclude the possibility of obtaining cooperation of provinces and war lords in the support of any new treaty which we may evolve.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A4e/552 : Telegram

The Secretary of State to the American Delegation

WASHINGTON, February 1, 1926—4 p. m.

11. Position outlined in your Conference Number 24, January 30, 5 p. m., has the approval of the Department.

KELLOGG

500.A4e/559 : Telegram

The American Delegation to the Secretary of State

PEKING, February 22, 1926—8 p. m.

[Received February 22—2:43 p. m.]

Conference number 25. With reference to Conference summary number 10,⁵⁷ the Chinese delegation offered two resolutions, the first proposing that the powers agree that the interim surtaxes on imports be levied so as to yield between 90 and 100 million Chinese dollars, the second proposing that, since the above-named surtaxes require sanction of a new treaty, surtax authorized by Washington Treaty meanwhile be made effective April 1st.

The foreign delegations unanimously rejected the first resolution, taking the position that no agreement could be made with regard to the amount of revenue to be raised from interim surtaxes independently of a definite understanding as to the purposes for which said revenues would be used, a subject which had not been agreed upon. The powers also rejected second resolution because it did not contain provision for impounding revenue until the Conference should determine its disposition. At a meeting Saturday of subcommittee named in Conference summary number 10, the Chinese again presented substantially the same resolutions in combined form and the powers rejected them for the reasons above indicated, whereupon subcommittee adjourned to Tuesday, 23rd. Now postponed by request [of] Chinese to Wednesday, 24th.

We feel the effort of the Chinese to name the amount of surtaxes agreed upon by the powers is for political purposes only and that such action would be very embarrassing not only to the powers but to the Chinese also because the amount would be given wide publicity

⁵⁷ *Foreign Relations*, 1925, vol. I, p. 879.

which would not be coupled with the fact that the amount was dependent upon purposes to be hereafter agreed upon and that such action would make it exceedingly difficult by the powers to agree with China on the purposes. We are also convinced that if the amounts derived from surtaxes provided in the Washington Treaty are not impounded with the Customs Administration to await the decision of the Conference they would be dissipated, hypothecated or pledged immediately. We believe all foreign powers agree on the above propositions.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A4e/561 : Telegram

The American Delegation to the Secretary of State

PEKING, *March 3, 1926—3 p. m.*

[Received March 3—9:43 a. m.]

Conference 26. British delegates inactive, say they are waiting instructions from their Government respecting the attitude of Chinese provinces toward Conference and proposed treaty. We told them we proposed to proceed with negotiations irrespective disturbed conditions; that we were bound to effectuate Washington Treaty and thought it advantageous that powers should endeavor to get in accord on general tariff policy toward China, then if China went to pieces before treaty ratified, responsibility of disintegration would not be on powers. Under all the circumstances we believe we should diligently proceed with negotiations and encourage others to do so.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A4e/561 : Telegram

The Secretary of State to the American Delegation

WASHINGTON, *March 3, 1926—5 p. m.*

12. Your Conference 26, March 3, 3 p. m. Your attitude regarding negotiations approved.

KELLOGG

500.A4e/579 : Telegram

The American Delegation to the Secretary of State

PEKING, *April 26, 1926—6 p. m.*

[Received April 27—9:55 a. m.⁵⁸]

33. The British delegates have suggested that the powers make a public declaration in substance: That the delegates have been

⁵⁸ Telegram in two sections.

working 6 months in the face of difficulties created by civil war and internal political dissension to frame a treaty providing for tariff increases and the removal of tariff restrictions within fixed period in accordance with program of the Chinese delegation; that the consummation of these negotiations has been frustrated by political disorder, culminating in the recent dissolution of the Central Government; that the various problems under consideration have been carefully examined and concrete proposals for their solution in accordance with China's wishes put forward; that the active leadership of the Chinese Government and cooperation of Chinese provincial authorities are now required to conclude negotiations and effect a settlement satisfactory to all concerned, that such leadership and cooperation cannot be forthcoming under existing political conditions and that further progress is therefore impossible without a Chinese delegation able to speak for the country as a whole; that the delegates of the powers who are animated by the sincerest feelings of friendship and sympathy towards China, while awaiting reestablishment of a Chinese Government with which negotiations can be resumed, appeal to the Chinese people and the leaders of all parties in the State to sink internal differences and take all possible means to restore peace and establish settled government, in order that these negotiations may then be carried to a speedy and satisfactory conclusion.

2. The British attitude indicates a desire to adjourn the Conference and postpone indefinitely attainment of its objectives, the delegations other than Chinese not having yet put forward concrete proposals implementing Washington Treaty and agreement respecting a new treaty covering interim surtaxes. We believe that British suggestion is premature and if followed would expose the powers to the charge of having availed themselves of the present political crisis to delay any substantial increase in the customs tariff. We think the delegations other than Chinese should continue their efforts to effectuate Washington Treaty and complete program covering interim surtaxes, likin abolition and debt consolidation, and that agreement should go sufficiently into detail so that there would be no misunderstanding among the powers and the Conference could lay on the table a definite program for the consideration of the new Chinese Government when it is organized. The Japanese delegation is apparently in general accord with our views and we are hopeful the British will abandon the idea of attempting to adjourn the Conference until the foreign delegations have reached common agreement.

3. The French have circulated a memorandum protesting against the proposed schedule of tariff increases which has been informally

agreed upon by the other delegations. They call attention to Mackay treaty⁵⁹ providing for seven and one-half percent surtax in compensation for the abolition of likin and say:

“The surtaxes, the establishment of which we now contemplate, must include a tax in compensation for likin and exempt foreign goods from all other duties in transit. The powers signatory or adherent to the Washington Treaty find themselves formally obligated therefore to agree that these surtaxes shall be fixed at seven and one-half percent. The strict execution of this agreement would easily furnish the sums necessary for the ends which we have in view and promise the most favorable solution for our commerce. Nevertheless my Government in a friendly spirit toward the other nations represented at the Conference and in order to satisfy their interests as far as possible, is ready to agree that a class of goods in which, moreover, will be found listed the majority of those exported from France shall be subject to a surtax double that provided for by the Mackay treaty and that, on the other hand, for certain articles which may be recognized, unable without serious inconvenience to bear a heavier burden, the surtax should by way of exceptions be reduced from seven and one-half to two and one-half percent.”

4. [Paraphrase.] In case we can agree with other powers to plan an implementing of the Washington Treaty and agree upon a general draft of a new treaty with respect to imposition and allocation of interim surtaxes, calculated to result in an additional revenue of \$90,000,000, it is our belief that if the French remain opposed to such a program, they should be disregarded. We should appreciate having general instructions from you on this point and also upon our views as outlined above concerning the continuation of our work here until our efforts to secure a general accord with the delegations of the principal foreign nations have been exhausted. [End paraphrase.]

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A4e/579 : Telegram

The Secretary of State to the American Delegation

WASHINGTON, April 28, 1926—6 p. m.

20. I approve attitude outlined in paragraph 2 of your telegram number 33 of April 26, 6 p. m.

KELLOGG

⁵⁹ Commercial treaty between Great Britain and China, signed at Shanghai, Sept. 5, 1902; for text, see *Foreign Relations*, 1903, p. 551.

500.A4e/581 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

WASHINGTON, May 5, 1926—8 p. m.

66. Department has just received a telegram from the American Delegation to the Tariff Conference⁶⁰ now sitting in Peking to the effect that the British Delegation appear reluctant to continue further with negotiations at Peking and are planning to return home. The American Delegation informs the Department that it has been unable to determine the extent to which British attitude reflects the position of their government or their own personal views. American delegates state that they are of the opinion that the British Delegation are mistaken in ignoring the danger of a renewed outbreak of prejudice against foreign riots [*rights ?*] and interests especially in view of the approaching anniversary of the Shanghai riots of May 30.⁶¹ They state that Japanese Delegation appears to share their view that an adjournment in the manner which appears to be contemplated by the British would be a catastrophe for foreign interests and that they are already authorized to go on even without the British to implement the Washington Treaty and exhaust their best efforts to agree upon the draft of a treaty providing for interim surtaxes. The French and Dutch Ministers are reported personally to favor such action though as yet without instructions from their Governments.

The American Delegation reports that there is to be a meeting on Thursday morning of interested Ministers accompanied by the other plenipotentiaries of their delegations for the purpose of considering the political situation in relation to the Conference. At that meeting the American Delegation will, with the approval of the Department, take the position that it is prepared to go on with the Conference as far as political conditions will permit no matter what other nationalities may refuse to go along with them. You may bring the above informally to the attention of the British Foreign Office and explain orally that this Government is of the opinion that the gravity of the situation in China respecting foreign rights and interests demands that the interested Powers who have been participating in the Tariff Conference should exhaust every effort to fulfill the undertakings entered into at the Washington Conference and the promises made to the Chinese Government last fall.⁶² You will express to the

⁶⁰ Not printed.

⁶¹ See *Foreign Relations*, 1925, vol. I, pp. 647 ff.

⁶² See note No. 41, Sept. 4, 1925, from the Minister in China to the Chinese Minister for Foreign Affairs, and footnote 36, *ibid.*, p. 831.

British Foreign Office this Government's sincere hope that the British Government may find itself able to continue to cooperate with us and the other interested Powers in bringing to a conclusion the task which was begun last October and upon which it would appear much progress has been made.

KELLOGG

500.A4e/583 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

LONDON, May 6, 1926—5 p. m.

[Received May 6—3:50 p. m.]

92. Your 66, May 5, 8 p. m., was read to Wellesley⁶³ today, who stated Peel and Stewart of the British delegation were not government officials and for business reasons could not delay leaving China although their actual departure was not known to Foreign Office until yesterday. Wellesley pointed out this still left official British members of the delegation to continue conversations with the possibility of the two above-mentioned members returning later. He will discuss your telegram of May 5, 8 p. m., with Chamberlain⁶⁴ on Monday or Tuesday and advise Embassy of British position, which he stated was still under contemplation but naturally influenced by reports from British Minister, Peking.

[Paraphrase.] Wellesley said that he himself feared that granting tariff autonomy with a consolidation of debts under foreign control might postpone still further any benefit from customs revenue to China as a whole. He pointed out that the Chinese did not favor debt consolidation. Since more debt consolidation looked toward giving security to the many and in some instances very questionable loans made by the Northern Government, which proceeds had in part been used to fight against the South, he indicated that he was fearful about what attitude might be taken by Canton in regard to such debt consolidation, in view particularly of British interests in South China. He remarked that it was his recollection that when he had his conversations in Washington with MacMurray,⁶⁵ the latter was in agreement with him about the inadmissibility of debt consolidation and the tendency of such consolidation to thwart the fulfillment of the Washington Conference's purposes.

⁶³ Victor Wellesley, British Deputy Under Secretary of State for Foreign Affairs.

⁶⁴ Sir Austen Chamberlain, British Secretary of State for Foreign Affairs.

⁶⁵ In 1923; memoranda of conversations not printed.

In his opinion, this program seemed to be inconsistent with the frequently announced policy to release China from foreign interference, as far as possible, with which the British Government was in accord. [End paraphrase.]

HOUGHTON

500.A4e/585: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 12, 1926—1 p. m.

[Received May 12—2:37 p. m.]

[Conference] 37. British, Japanese and our advisers have agreed upon draft of protocol implementing Washington Treaty which is being distributed among the advisers of other delegations today with a request for meeting of advisers of all delegations tomorrow morning to consider the subject. Following is the draft of protocol:^{65a}

[Agreement.] "In the exercise of authority vested in them by their respective Governments, and for the purpose of giving effect to the provisions of article 3 and the second paragraph of article 6 of the treaty relating to the Chinese customs tariff, signed at Washington on February 6, 1922, the representatives of the powers assembled at this Conference, to wit (blank) hereby agree that, beginning 3 months from the (blank) day of (blank) 1926 (the date of signature of the present agreement) the Chinese Government shall impose and collect surtaxes on dutiable imports as follows: On all commodities listed in the schedule hereto annexed a schedule [*surtax*] equal to the amount of the regular duty prescribed in the revised import tariff for the trade of China at the time being in force (that is, either the specific duty or the 5 percent ad valorem provided in that schedule), and on all other dutiable commodities a surtax equal to one-half of the regular duty prescribed in the revised import tariff for the trade of China at the time being in force; and that these surtaxes shall be levied uniformly at all land and maritime frontiers;

And do hereby agree that these surtaxes shall be collected by the Maritime Customs Administration and that, until this agreement shall have been superseded or modified by provisions of a later treaty [, treaties,] or agreements, such as have [been] and are under consideration at this Conference, the additional customs revenue which will accrue from their levying shall be applied as follows:

1. As an immediate measure in preparation of the way for the speedy abolition of likin, the collections taken in payment for transit passes (which passes shall continue to be issued as heretofore at the same rates) shall be distributed through the Maritime Customs Administration to the provincial authorities in proportion to the amount of the transit duties collected on the merchandise destined to, or passing through, or originating in the various provinces, respectively, under the cover of the transit passes.

^{65a} Corrected on the basis of despatch No. 5117, Nov. 1, 1940, from the Ambassador in Japan (file No. 026 Foreign Relations/1511).

For the loss occasioned by this action there shall be taken from the surtax collections the sum of \$5,000,000 per annum, and this sum shall be credited, by way of compensation, to the ordinary customs revenue.

2. As a further measure in preparation of the way for the speedy abolition of likin and as a step looking toward the abolition of export duties, both on foreign and on domestic trade, China will, simultaneously with the going into effect of the above-mentioned surtaxes, abolish the tax known as the 'coast-trade duty', that is, the half duty at present charged on the reimport of goods of domestic origin which, after having been exported from one Chinese port, are imported into another Chinese port.

For the loss occasioned by this action there shall be taken from the surtax collections [*collection*] the sum of \$4,000,000 per annum, and this sum shall be credited, by way of compensation, to the ordinary customs revenue.

3. From the surtax collection there shall be remitted monthly through the Maritime Customs Administration to the Ministry of Finance the sum of \$750,000 to be used solely for the current administrative expenses of the Government.

4. After the purposes specified above shall have been served, the remaining portion of the proceeds from the collecting [*collection*] of the surtaxes shall be held by the Maritime Customs Administration, free from all encumbrances, as an accumulated fund to be applied later to the liquidation of the unsecured and inadequately secured debts of the Chinese Government. Disbursements shall be made from this fund in accordance with the provisions of the treaty, treaties or agreements concluded at this Conference, or, if such treaties [*treaty*], treaties, or agreements shall not have come into effect within 2 years after the date of the signature of the present agreement, in accordance with the principles which may at that time be agreed upon.

5. The proceeds from the collection of the surtaxes shall be deposited in such banks, in such manner, and in such proportions, as are specified in the resolution hereto annexed.

It is understood that the foregoing agreements for the disposal of the additional customs revenue which will accrue from the levying of the surtaxes are adopted in the expectation that there will be concluded a new treaty, treaties or agreements, as indicated above, in which provision shall be made for the levying of such graduated import duties as will yield a further increase in the customs revenue with a view to serving purposes under discussion, and that these arrangements will be superseded by the provisions of such treaty, treaties or agreements.

It is furthermore understood that, in view of the essential importance of the Chinese railways in the promotion of China's prosperity hence [*and the*] rehabilitation of her credit which are fundamental purposes of this Conference, China will take the earliest possible steps to restore the commercial efficiency of her railways and to ensure that the financial obligations of the railways be adequately served from railway revenues."

500.A4e/586 : Telegram

The American Delegation to the Secretary of State

PEKING, May 12, 1926—5 p. m.

[Received May 13—6:11 a. m.]

38. With regard to reference made in the Department's telegram May 7, 4 p. m.,⁶⁶ to the conversations in Washington between Wellesley and MacMurray concerning debt consolidation, it is the personal recollection of MacMurray, Hornbeck and Perkins, all three of whom were present during these conversations, that the understanding was the consolidation of the unsecured debts might be left out of the scope of the Congress if such consolidation could be previously effected by a refunding operation based upon salt surplus and that it was not understood that these debts could in any event be left out of consideration.

The Department's position on this subject was furthermore definitely stated in its telegram to London number 67, March 26, 1923,⁶⁷ the contents of which the Embassy was instructed to communicate to Wellesley. His comment in reply was reported to the Department in London's number 140, May 2, 1923.⁶⁷

With regard to the subsequent attitude of the British Foreign Office, see Perkins' confidential report to the Department July 29, 1925.⁶⁷

It should also be borne in mind that the views expressed in 1922 contemplated merely the disposal of funds to accrue from the Washington surtaxes, an amount regarded as insufficient adequately to refund the whole floating debt of the Chinese Government, whereas now after a lapse of almost four years we are confronted with an entirely new situation. We are now proposing to raise almost treble the amount of new revenue calculated to accrue from the Washington surtaxes, the whole situation having become such that if something is not done about the debts along with other matters in the near future the Chinese Government may take action which will put it forever out of our power to deal effectively with it.

AM[ERICAN] TAR[IFF] DEL[EGATION]

⁶⁶ Not printed; it transmitted telegram No. 92, May 6, from the Ambassador in Great Britain, p. 749.

⁶⁷ Not printed.

500.A4e/589 : Telegram

The American Delegation to the Secretary of State

PEKING, May 17, 1926—5 p. m.

[Received May 17—1:22 p. m.]

39. Our number 37, May 12, 1 p. m.

1. At a meeting at Dutch Legation May 15, subsequent to meeting of advisers May 13, foreign delegates after making a few unimportant verbal changes unanimously adopted draft agreement for implementing Washington surtaxes to be referred by foreign delegates of [*to*] their respective Governments for approval. The only change of any consequence relates to coast-trade duties and is found in paragraph 2 in which phrase "within 3 months after" is substituted for "simultaneously with".

2. We request the Department's approval, at the earliest moment, of the draft as now submitted in order that we may be prepared to cooperate with the other foreign delegates in presenting this matter to the Chinese with a view to early and definite agreement for effectuating Washington surtaxes.

3. At the meeting of delegates above referred to, the Japanese submitted proposal for an additional paragraph as follows:

"It is furthermore understood that, with a view to increasing the facilities enjoyed by traders, suitable adjustments will be made in the appointment [and assignment]^{67a} of the foreign staff of the Chinese Maritime Customs Service, giving due consideration to the trade relations with Chinese of the foreign powers concerned."

American delegates stated that while they were not unfavorably disposed toward the principle expressed in this proposal, they thought it would be very unfortunate to embody such a provision in the agreement, as it would open the way for the Chinese to raise the whole question of customs administrations. It was agreed that subject matter of the proposal should be considered, but that for the present at least paragraph should not be adopted as a part of the draft agreement.

AM[ERICAN] TAR[IFF] DEL[EGATION]

^{67a} Corrected on the basis of despatch No. 5117, Nov. 1, 1940, from the Ambassador in Japan (file No. 026 Foreign Relations/1511).

500.A4e/589 : Telegram

The Secretary of State to the American Delegation

WASHINGTON, May 20, 1926—5 p. m.

24. Your 39 May 17, 5 p. m. Department does not know just what commodities are listed in schedule annexed to draft protocol but presumes list is consistent with principle set forth paragraph 3A of Department's 303, October 23, 7 p. m.⁶⁸ Subject to the foregoing, Department approves of draft agreement for implementing Washington surtaxes communicated in your 37 May 12, 1 p. m. as modified by paragraph 1 of your telegram under acknowledgment. Department believes it highly inadvisable to include in such an agreement any reference to increased employment of foreign staff of Chinese maritime customs such as that given in paragraph 3 of your 39.

KELLOGG

500.A4e/597 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

[Paraphrase]

TOKYO, May 26, 1926—11 a. m.

[Received May 26—9:32 a. m.]

53. Last night the Foreign Minister, in an interview, said that reports to the effect that he expected the suspension of the Customs Conference at Peking had no truth in them, and that he had every reason for believing that the Conference would continue until the conferees reached some plan that was definite, at least sufficiently definite to submit it to the Government of China when one was established, reiterating the substance of the statements contained in my 39 of April 26, 5 p. m.⁶⁹ He believed it to be the expectation of other powers also that the Conference would continue. He said that when Colonel Peel⁷⁰ went through Tokyo on his way, Peel told him that his departure from Peking in no way indicated any relaxation of British efforts to gain an agreement; the British Minister was to stay in Peking, and the experts for the most part were to continue. The Foreign Minister further stated that Mr. Saburi, the Japanese delegate, might go on a vacation in the latter part of June because he had recently been in poor health owing to overwork, but that at present there was no intention of withdrawing him from Peking.

MACVEAGH

⁶⁸ Telegram to the Minister in China, *Foreign Relations*, 1925, vol. I, p. 859.

⁶⁹ Not printed.

⁷⁰ Col. Sidney Peel, British delegate to the Customs Conference.

500.A4e/600

The Ambassador in Great Britain (Houghton) to the Secretary of State

No. 1045

LONDON, *May 28, 1926.*

[Received June 5, 1926.]

SIR: I have the honor to refer to my telegram No. 107, of May 25, 1 p. m.,⁷¹ relating to the Customs Conference now meeting at Peking, and to transmit herewith a copy of the Note mentioned therein.⁷²

A memorandum, a copy of which is also enclosed, was handed today to a member of the Embassy staff by Mr. Mounsey, of the Foreign Office, who stated that Mr. Wellesley was at the moment out of town.

In referring to the question of debt consolidation, Mr. Mounsey informally stated that His Majesty's Government were in his opinion prepared to consider favorably a proposition which they understood was now being entertained by the Conference, namely, that up to one third of the customs revenue be devoted to debt consolidation. It would seem evident from the conversation however that the British are most anxious that some action of the Conference should commend itself to the Chinese public in order that there may be no increase in anti-foreign feeling thereby increasing any existing resentment against Great Britain. To this end it would seem that the British may insist that the Washington surtaxes be granted before any adjournment, even temporary, of the Conference takes place. Secondly, that a scheme of foreign control of the customs revenue for debt consolidation will not be favorably considered in view of the probable dissatisfaction this might create among the Chinese over the alleged increase of foreign interference and control thereby.

I have [etc.]

For the Ambassador:

F. A. STERLING
Counselor of Embassy

[Enclosure]

The British Foreign Office to the American Embassy

MEMORANDUM

His Majesty's Government have received through the United States Embassy in London a message from the United States Government⁷² enquiring whether His Majesty's Government endorse the attitude ascribed to the British Delegation at Peking of desiring to abandon

⁷¹ Not printed.

⁷² See telegram No. 66, May 5, to the Ambassador in Great Britain, p. 748.

the negotiations at Peking and break up the Tariff Conference; and expressing the hope that His Majesty's Government will continue to cooperate with the other interested Powers in bringing to a conclusion the task which was begun last October.

2. His Majesty's Government desire to assure the United States Government that the report received by them that the British Delegation desire to withdraw from the negotiations at Peking appears to be based on a complete misunderstanding. His Majesty's Government have no intention whatever of breaking up the Tariff Conference. It is true that the question has been considered whether at the present juncture it might not be convenient to arrange a brief suspension of the conference over the summer months. It was realized, however, that in existing circumstances suspension of the conference might prove to be more prolonged than was intended, and in order to prevent the possibility of misunderstanding as to the sincerity of the Powers, His Majesty's Government considered it to be of the greatest importance that before even such a brief suspension as above contemplated took place, there must first be a complete liquidation of the promises made at Washington.

3. The British Delegation in Peking fully shared this view, and appreciated the prime necessity of liquidating the Washington Treaty. A considerable interchange of views has, however, taken place between the Foreign Office and the Delegation in regard to the proceedings of the conference on the subject of the unsecured debt; and it is probable that the misunderstanding to which reference is made above has arisen in consequence of the attitude which the Delegation has been instructed to take on this matter, and which was formally stated by the chief British Delegate at the meeting at the Netherlands Legation on the 6th May.

4. The United States Government will no doubt recollect that His Majesty's Government were from the first averse to the imposition on the Chinese Government of any scheme of consolidation of the unsecured debt as part of the work of the Tariff Conference, and that they only agreed later and with great reluctance to the discussion of any such scheme at the conference. If the schemes of the foreign Delegations for the consolidation of the unsecured debt should postulate too strict a control over China's customs revenues (shortly to be increased by tariff autonomy) His Majesty's Government are afraid that a dangerous deadlock may arise, for the discussions on this subject show that the Chinese, though willing to bind themselves to devote a proportion of their revenues to the unsecured debt, have declined to allow the details of debt consolidation

to be dealt with by the Tariff Conference, and will refuse to submit to any extension of foreign control—for that or any other purpose—over China's customs revenues.

5. His Majesty's Government, after full consideration and prolonged consultation with their Delegation in Peking, have come to the conclusion that, while they are ready to agree to any reasonable scheme for dealing with the unsecured debt put forward by the Chinese and agreed to by the other Powers, it would not be right to associate themselves with any attempt to force upon the Chinese a greater degree of foreign control over the revenues required for that purpose than they are prepared voluntarily to concede. A policy involving increase of foreign control, and capable of being regarded as an encroachment on that sovereignty and independence of China which the Powers agreed at Washington to respect, is so fundamentally opposed to the traditional policy of the United States towards China that His Majesty's Government are disposed to believe that the State Department will share their anxiety on this subject.

6. It is true that His Majesty's Government originally desired to exact proper guarantees from China in regard to the abolition of likin as a condition precedent to the grant of the Washington surtaxes, but they have come to the conclusion that, in the altered circumstances and changed atmosphere of to-day, any attempt to insist upon guarantees against the will of the Chinese Government would only result in postponing indefinitely the liquidation of the Washington promises. They are as anxious as the United States Government fully to implement these promises at the earliest possible moment, and believe that it would be contrary to the intentions of both governments, both at and subsequent to the Washington Conference, to subordinate the fulfilment of these promises to the imposition upon China of a scheme for the consolidation of her unsecured debt and extension of foreign control over her customs revenues. Any failure to implement the Washington Treaty might create a very dangerous situation, and His Majesty's Government, now, therefore, hold the view that if any reasonably satisfactory assurances are given by the Chinese Government as to the use which it proposes to make of the new revenues the Powers should accept such assurances, abstain from any attempt to impose control or exact guarantees, and forthwith authorize the levy of the surtaxes. They feel confident that a policy, so closely in accord with the friendship and generosity always displayed by the United States of America towards the people of China, will receive the full and cordial support of the United States Government.

500.A4e/602 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 10, 1926—3 p. m.

[Received June 10—8:28 a. m.]

Conference 43. 1. Although the technical experts representing all foreign powers reached definite agreement June 1st upon resolution respecting custodian banks to be attached to protocol implementing Washington surtaxes, the Japanese delegation at a meeting of delegates this morning refused to consider the report of experts until they had further instructions from their Government and advanced the opinion that the foreign delegations should make further immediate effort to reach an agreement upon questions considered heretofore, with a view to concluding a new treaty concerning larger projects, including consolidation of debts.

2. British delegates suggested that when Washington surtax protocol was agreed upon they would decide whether there was a Chinese Government to treat with, in which case the protocol should be submitted to the Chinese as a basis of negotiation accompanied by a note to the effect that the foreign powers assumed that the Chinese Government would make the necessary arrangements for giving effect to the agreement and that in event that opposition by any of the several provinces should make it impossible for the Chinese Government to give effect to said agreement, collection of surtaxes therein provided would be postponed until such opposition should be removed. There was informal general approval of this suggestion but the meeting adjourned without any definite action because of refusal of Japanese delegates to proceed until they heard from their Government, which they expect to do at any time.

MACMURRAY

500.A4e/605 : Telegram

*The American Delegation to the Secretary of State*⁷³

PEKING, June 13, 1926—10 a. m.

[Received June 12 (13?)—6:43 a. m.]

Conference number 44. Your number 30, June 10, 6 p. m.⁷⁴ quoting cable [*sic*] British Foreign Office. The British cable evidences misconception of the underlying purpose of debt consolidation which is not so much one for the satisfaction of China's foreign creditors as it is for the reestablishment of China's credit, which is necessary

⁷³ Copy of this telegram was enclosed in Department's instruction No. 569, June 23, to the Ambassador in Great Britain, with instructions to bring the contents informally to the attention of the British Foreign Office.

⁷⁴ Not printed; it summarized despatch No. 1045, May 28, from the Ambassador in Great Britain and the British memorandum enclosed, p. 755.

condition precedent to continuation of China's foreign trade and her development.

2. Rebellious and impatient attitude of China's foreign creditors is caused not so much by their failure to receive payment of their debts as by the persistent ignoring and violation by the Chinese Government of its contracts with foreign creditors and the superimposing of domestic loans ahead of the foreign debts, the proceeds of which loans have been devoted to carrying on of useless wars.

3. The British cable evidences solicitude that if the powers are too insistent upon an orderly consolidation of China's debts it will prejudice British trade. On the contrary we believe that the leading Chinese merchants and bankers will agree with foreign traders and creditors that the reestablishment of China's credit is her most vital problem. The thoughtful Chinese welcome an equitable debt consolidation to that end.

4. We would be doing a great injustice to the Chinese people as well as to foreign trade if we agreed upon treaty largely increasing China's revenue without consolidating her debts and attempting to reestablish her credit. Unrestrained by such obligation the Chinese Government would continue in the future as it has in the past to dissipate all the revenue in the perpetuation of useless wars.

5. There is no protest from the Chinese delegates against the participation of foreign powers in evolving plan for a debt consolidation. Principal arguments have arisen among the powers themselves as to the rates of interest and as to what debts should be included.

The conferences respecting debt consolidation were continued until the British delegates refused longer to sit, and the two members representing them in this phase of conference work left for home (see our telegram number 35, May 4, 6 p. m.).⁷⁵

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A4e/600 : Telegram

The Secretary of State to the American Delegation

WASHINGTON, June 19, 1926—noon.

123. Your Conference No. 44 and Department's 119 of June 14, 6 p. m.⁷⁶

1. Colonel Peel called upon the Chief of the Far Eastern Division on the afternoon of the 17th. He stated, among other things, that a difference of opinion had grown up between the British and American Delegations at the Conference over the question of debt consolidation, the British feeling that the plan worked out by the

⁷⁵ Not printed.

⁷⁶ Latter not printed.

Americans and the Japanese placed too heavy a burden upon the customs revenues. He stated that British Government was unwilling to consent to a plan which might become so burdensome upon the customs revenue as to absorb the greater part of that revenue and make it impossible for the British Government in the future to support the customs régime. No comment was made to Colonel Peel's remarks other than to say that we hoped to continue negotiations until some equitable and mutually satisfactory settlement had been reached.

2. Has question of bearing of any scheme for debt consolidation upon future of customs régime been considered by you? Customs Administration is already unpopular in China although created by China itself. Any question of necessity of supporting Customs Administration by foreign force to insure fulfillment of arrangement for meeting interest of consolidated debt would not meet with popular support in the United States.

KELLOGG

500.A4e/628

The American Delegation to the Secretary of State

PEKING, June 28, 1926.

[Received July 26.]

SIR: Reference is made to Conference telegram No. 43, dated June 10, 3 p. m., in which it was stated that a meeting of Delegates was held on that date for the purpose of dealing with a draft Resolution respecting Custodian Banks, to be attached to the Protocol implementing the Washington Treaty surtaxes, and that this meeting adjourned without any definite action being taken because of the refusal of the Japanese Delegates to proceed until they had heard from their Government, from which they expected to receive instructions at an early date.

In this connection, it should be made clear that the Japanese Delegates declined not only to discuss the draft Resolution respecting Custodian Banks, but also to give any intimation of the attitude of their Government toward the Protocol for implementing the Washington surtaxes which had been unanimously adopted *ad referendum* by the Delegates on May 15. (See Delegation's No. 39, May 17, 5 p. m.) In taking this position, which apparently was done under instructions, the Japanese Delegates took upon themselves the sole responsibility for further delay with respect to the implementing of the Washington Treaty surtaxes: for all the other foreign Delegations were able to announce substantial acceptance of the Protocol as a basis of negotiation with the Chinese Delegation, or to state that they anticipated no objections from their Governments upon the subject.

On June 17 Mr. Strawn telegraphed the Department that he expected to sail on July 13, but that he might be delayed another two weeks on account of the dilatory tactics now being practiced by the Japanese respecting the Tariff Conference, and that he would remain here until he had exhausted his efforts to effectuate the purpose of his mission.

The same day a message was received from the Japanese Delegation, stating that instructions had been received from Tokyo and that the Japanese Delegates would like to confer with the American Delegates. A meeting was accordingly held at the American Legation on the afternoon of June 18.

At this meeting Mr. Hioki⁷⁷ stated that his Government would prefer not to implement the Washington surtaxes apart from the negotiation of the larger treaty which the Conference had had under consideration heretofore and that, in view of the difficulties in the way of concluding this task at the present juncture, the Japanese Government, while not proposing, would be willing to see the Conference take a recess for the summer, with the definite understanding that the Conference should reconvene on September 30. If, however, it was desired to proceed with the implementing of the Washington surtaxes at the present time, the Japanese Government would be prepared to agree to this course if the first two sections were deleted from the draft Protocol adopted by the Delegates *ad referendum* on May 15.

Mr. Hioki did not produce the text of his instructions either with regard to the Washington Treaty surtaxes or with regard to the recess. Mr. Strawn stated the reason for the insertion of the first two sections in the Protocol, explaining that they had been put there largely to satisfy the desire of the British Delegation that a definite beginning should be made with respect to the abolition of likin and that the omission of any step in this direction was regarded by the British as contrary, at least, to the spirit of the Washington Treaty. Mr. MacMurray made a lengthy statement with regard to the position of the American Delegation to the effect that the foreign Delegations ought to make no move which would give the Chinese opportunity, whether fairly or unfairly, to say that the foreign Powers had not performed their pledges and were not acting in good faith. It would be better to avoid any adjournment or recess by formal action. Mr. MacMurray then said that he was not in a position to say off-hand what might be the view of the American Delegates with regard to the Japanese proposals; but, since the British Delegation had been more primarily interested in the sections which it was proposed to delete, it might be advisable if the Japanese Delegates should ascertain the

⁷⁷ Eki Hioki, chairman of the Japanese delegation.

views of the British Delegation with respect to their proposals. Mr. Hioki replied that they had arranged for a conference with the British Delegation on the following morning.

On the afternoon of June 19 it was learned from the British Delegation that the Japanese Delegates had made the same proposals as they had previously made to the American Delegates and that they had been informed that the British Delegates would submit the proposals for the consideration of their Government. So far as can be ascertained, the British Delegation is not yet formally in a position to make known the views of the British Government with respect to the Japanese proposals. However, from conversations which Messrs. Mac-Murray and Strawn have had with the British Minister, we believe the British, if necessary to come to an accord with the Japanese, would consent to the deletion of the first two paragraphs of the proposed Protocol (paragraph one being with respect to the coast-wise reimport duties \$4,000,000, and paragraph two the transit pass permits \$5,000,000) and let all of the revenue from the surtaxes, except the \$9,000,000 annually for administrative purposes, be impounded to await future disposition by the Conference.

The Japanese attitude during the past six weeks has been very disappointing to the American Delegation especially in view of the very cordial spirit of co-operation which had existed between the two Delegations throughout the Conference and of the efforts which the American Delegation had consistently made to accommodate the Japanese in matters which were regarded by them as of primary importance in the maintenance of their commercial and financial interests in China. The new attitude of the Japanese, indicative of a desire to dictate terms, or, in the alternative, of a readiness to take independent action, has been a surprise. The situation is probably to be explained by reason of a difference of opinion between the Japanese Foreign Office and the Japanese Delegation . . . Whatever the cause, the effect has not been the less annoying with respect to proceeding with the work of the Conference.

While it is, of course, impossible to ascertain the exact purpose of the Japanese proposals, one cannot avoid the impression that the Tokyo Foreign Office does not desire, at the present juncture, to make any commitments, preferring to watch the development and outcome of the present political situation at Peking.

Simultaneously with this unexpected action of the Japanese in insisting upon matters involving delay in the work of the Conference, there have been appearing in the press various articles, indicating the Japanese Delegation as their source of information, referring to Mr. Strawn's early departure for the United States and drafted in such a way as to suggest that any eventual failure on the part of the Con-

ference to reach agreements and effectuate concrete results will be due to the unwillingness of the American Delegation longer to cooperate. As illustrative of this sort of propaganda, there is enclosed herewith a copy of an article issued by the Nippon Dempo (Japanese Telegraph News), appearing in the *People's Tribune* of Peking on June 25, entitled "Strawn Leaving—Conference will Hold Sessions";⁷⁸ also a copy of an article appearing in the *Peking North China Standard* (Japanese) of June 25, entitled "Expect to Settle Surtax Question Here—Mr. Strawn Sails."⁷⁹

To offset this obvious effort on the part of the Japanese to place the blame upon the American Delegation for a delay of the work of the Conference attaching solely to the Japanese themselves, Mr. Strawn issued to the local press a statement of his position with respect to the matter of his return to the United States. This statement appeared in the Peking press on the morning of June 26 and a copy of it is enclosed herewith for the Department's information.⁷⁸

In view of the failure to date of the Chinese to form a government with which negotiations can be carried on, it is, of course, difficult for the American Delegation to take any action in the face of the Japanese policy of delay. Should the Chinese form a nucleus of government within the immediate or near future, it would then, of course, be possible to resume negotiations and be necessary for any Delegation desirous of delay either to renounce such desires, or to disclose its reasons for refusing to co-operate. The American Delegation hopes that the present confused situation in which the Tariff Conference now finds itself may be clarified at an early date.

I have [etc.]

J. V. A. MACMURRAY

*Chairman, American Delegation to the Special
Conference on the Chinese Customs Tariff*

500.A4e/614: Telegram

The American Delegation to the Secretary of State

PEKING, June 30, 1926—9 a. m.

[Received June 30—6:46 a. m.]

Conference 45. 1. All other sources of revenue except anticipated Washington surtaxes being exhausted, indications are that Chang Tso-lin and Wu Pei-fu⁸⁰ will shortly agree to Cabinet in expectation

⁷⁸ Not printed.

⁷⁹ Not printed. The title of the article is incorrect; it should read "Expect to settle surtax issue ere Mr. Strawn sails."

⁸⁰ Military leaders in North China.

that the powers will then negotiate the protocol implementing Washington Treaty, thus enabling Chang [and] Wu to borrow money to carry on their war against Kuominchun. The latter have a large army, well organized, supplied with food and ammunition and technical assistance primarily by Russia and fortified in strong positions so that their defeat by the allied forces of Chang [and] Wu is by no means certain. Indeed there is at least possibility of Kuominchun prevailing, which might result in their resumption of control of Peking Government.

2. If by implementing Washington Treaty we enable Chang [and] Wu to continue the war, the powers will undoubtedly be criticized by Kuominchun and Canton party and their followers, and Canton area and some other provinces will probably refuse either to collect surtaxes or decline to remit them to the Central Government. They will take the position that Washington Conference did not contemplate increased surtaxes to be used to carry on factional wars.

3. On the other hand if we refuse to implement Washington treaties, Chang, Wu and followers will charge powers with bad faith.

4. Indications are that we shall shortly have to decide which of three courses we shall follow: (a) refuse to negotiate protocol with Chang-Wu cabinet because we do not recognize it as the central government of China; (b) recognize their cabinet at least for the purpose of implementing Washington surtax treaty and give them unconditionally \$750,000 per month for administrative purposes, impounding remainder of Washington surtax revenue to await disposition by the Conference—this would mean that Chang-Wu government would immediately borrow money which would be used to carry on war and not for administrative purposes; or (c) accompany protocol implementing Washington surtaxes with note to the effect that foreign powers expect the Chinese Government to remove all opposition among the provinces to the agreement and, in the event of failure of Chinese Government to remove such opposition before the date when rates are to become effective (90 days after the date of protocol), then effective date of rates shall be postponed until opposition is removed.

Following arguments may be made in favor of this note: (1) Preservation of Maritime Customs Administration and prevention of its disintegration; (2) test of strength of Central Government—obviously, if it is unable to carry into effect Washington surtax treaty, it cannot hope to make effective proposed interim surtax treaty; (3) prevention of opposition of Kuominchun, Canton and other factions which, if Washington treaty were tendered to the present Chinese Government unconditionally, might insist that the powers were aiding Chang and Wu by enabling them to borrow money as

above indicated; (4) note would allay fear of importers that tariff would become effective in some parts of China and not in others; (5) note would serve as notice to the bankers that tariff would not become effective unless provisions of note were complied with and present Government officials could probably not borrow money on the strength of anticipated revenues.

Arguments against sending note: (1) Chinese Government will probably not accept the proposition contained in the note because of conscious inability to deliver all provinces; (2) note invites opposition of the provinces; (3) note would by inference recognize obstructive powers of provinces to any action taken by Central Government; (4) if conditions were attached to implementing of the treaty the Powers might be charged with bad faith in that they did not fulfill unconditionally obligations of Washington Treaty; (5) so long as the Powers recognize existing Chinese Government by diplomatic contact is it consistent for them to insist that the Government is incapable of functioning without the approval of each of the provinces.

5. Japanese delegates have proposed elimination of paragraphs 1 and 2 of draft protocol set forth in our 37, May 12, 1 p. m., and that \$9,000,000 annually disposed of by those paragraphs be thrown into impounded fund to await disposition of Conference. The British are submitting Japan's proposal to Foreign Office. We believe present indications are the British will accept Japanese proposal. While we believe deleted paragraphs follow letter and spirit of Washington Treaty in that they evidence disposition *pro tanto* to effectuate abolition of likin we would not recommend standing out against the Japanese proposal if the British agree.

6. Unless we are prepared to withhold recognition until China evolves stable government, which course might ultimately be best for the Chinese people but which we believe other powers, especially British and Japanese, would not at this time adopt, we believe we should follow the plan to implement Washington surtaxes as suggested in paragraph 4 (b).⁸²

7. It may be the British will recede from their previous insistence about accompanying note as indicated in second paragraph of our 43, June 10, 3 p. m., and that they will deliver the protocol unconditionally. If, however, they or the Japanese insist upon accompanying note we should like to have your authority to vote with them on that proposition.

8. Inasmuch as decision as to which of the three courses above outlined we should follow involves general policy of our Government

⁸² Of this telegram.

toward China, we should much appreciate your instructions as promptly as possible.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A4e/614: Telegram

The Secretary of State to the American Delegation

[Paraphrase]

WASHINGTON, July 2, 1926—6 p. m.

33. Referring to paragraph 4 of your telegram, conference number 45, June 30, 9 a. m. The whole protocol, in the opinion of the Department, ought to be put into effect. If the British and Japanese do not desire to accept the protocol as a whole, the plan outlined in your fourth paragraph in subsection (b) is the next best plan. Forming an opinion on what course to take about the note is difficult here. The view of the Department is that we should not join in it but go ahead to put article III and paragraph 2 of the sixth article of the Treaty of Washington into effect on the assumption that the only Chinese government we can deal with is the Central Government. Undoubtedly we are running some risk. However, heretofore our policy in regard to carrying out the Washington Treaties has been to go as far as it was possible to go. The difficulties you face are realized by the Department, and in case you feel that it is very important for us to join in the note, will you please cable. If we do join in the note, the protocol will doubtless not go into effect at all, and possibly the charge may be made against us that we are unwilling to fulfill the Treaty of Washington, despite the truth of the fact that the imposition of the surtax was to be made on such conditions as might be determined by the Conference.

KELLOGG

500.A4e/617: Telegram

The American Delegation to the Secretary of State

[Paraphrase]

PEKING, July 3, 1926—7 p. m.

[Received July 3—5:43 p. m.]

48. Our 47 of July 3, 6 p. m.⁸⁸ We consider that the meeting held this morning marks the close, to our great disappointment, of all possibility of making progress, at least until autumn, with the work of the Conference.

AM[ERICAN] TAR[IFF] DEL[EGATION]

⁸⁸ Not printed; it contained a report of the meeting held July 3. For details of that meeting, see pp. 837-840.

500.A4e/649

The American Delegation to the Secretary of State

PEKING, July 8, 1926.

[Received September 11.]

SIR: For the convenience of the Department, and as a means of summarizing, as well as supplementing, the official Proceedings of the Special Conference on the Chinese Customs Tariff, a full set of which is enclosed herewith,⁸⁴ and copies of which have been furnished to the Department as they were issued, we have the honor to submit the following report concerning the work of the Conference to date:

The First Plenary Session, October 26, 1925.

The First Plenary Session of the Special Conference on the Chinese Customs Tariff was held at Peking on Monday, October 26, 1925, at 10:20 o'clock a. m., in the Chu Jen Tang, Chung Hai, Winter Palace. His Excellency, Shen Jui-lin, Minister for Foreign Affairs of the Republic of China, presided, and after formally opening the Conference, introduced the Chief Executive of the Chinese Republic, Tuan Chi-jui, who delivered an address of welcome. (See Minutes of First Plenary Session, October 26, 1925, for text of address). After the Chief Executive's address the Conference was organized for work, His Excellency, Mr. Shen Jui-lin, Minister for Foreign Affairs, being elected Chairman of the Conference on motion of Mr. Oudendijk, the Netherlands Delegate. The Chairman thanked the Delegates for the honor they had conferred upon him, and after a brief address of welcome, introduced Dr. C. T. Wang, who laid before the Conference the proposals of the Chinese Government on the question of Tariff Autonomy. Dr. Wang referred to the fact that at the Paris Peace Conference in 1919 the Chinese Delegation had presented the question of Tariff Autonomy, but that it was not discussed on the ground that it did not come within the scope of the Conference. He also stated that it was brought up at the Washington Conference and discussed but that it was not accepted *in toto* whereupon the Chinese Delegation at that Conference had declared, at the Seventeenth Meeting of the Committee on Pacific and Far Eastern Questions on January 5, 1922, that it was their intention to bring up the question of Tariff Autonomy again

⁸⁴ Enclosures not printed. For proceedings of the Conference, see *The Special Conference on the Chinese Customs Tariff, October 1925-April 1926* (Peking, 1928). A copy of this publication is available in the Library of Congress, and another in the Department of State filed as No. 500.A4e Minutes Special Conference/18.

for consideration on all appropriate occasions in the future.⁸⁵ He cited particularly Section I of Article I of the Nine Power Treaty relating to Principles and Policies, by which the signatory powers agreed to respect the sovereignty, the independence and the territorial and administrative integrity of China.⁸⁶ Dr. Wang stated that the Government of the Republic of China attached great importance to that declaration and considered that the Special Conference afforded an appropriate opportunity to renew the request for Tariff Autonomy. He thereupon submitted the following proposals for the removal of the restrictions imposed by the existing treaties with respect to the Chinese Customs tariff:

(1) The participating Powers formally declare to the Government of the Republic of China their respect for its tariff autonomy and agree to the removal of all the tariff restrictions contained in existing treaties.

(2) The Government of the Republic of China agrees to the abolition of likin simultaneously with the enforcement of the National Tariff Law which shall take effect not later than the 1st day of January in the 18th year of the Republic of China. (1929)

(3) Previous to the enforcement of the Chinese National Tariff Law, an interim surtax of 5% on ordinary goods, 30% on A grade luxuries (namely, Wine and Tobacco) and 20% on B grade luxuries shall be levied in addition to the present customs tariff of 5% ad valorem.

(4) The collection of the above-mentioned interim surtaxes shall begin three months from the date of signature.

(5) The decisions relative to the above four articles shall be carried into effect from the date of signature.

Following this announcement brief addresses were made on behalf of each Delegation by the following Delegates: American, Mr. MacMurray; Belgian, Mr. de Warzée; Danish, Mr. Kauffmann; French, Count de Martel; British, Sir Ronald Macleay; Italian, Mr. Cerruti; Japanese, Mr. Hioki; The Netherlands, Mr. Oudendijk; Norwegian, Mr. Michelet; Portuguese, Mr. de Bianchi; Spanish, Mr. Garrido; Swedish, Mr. Ewerlöf. The text of all these addresses may be found in the Proceedings of the First Plenary Session, October 26, 1925. After all the Delegations had responded to the address of welcome, Dr. Hawking Yen was elected Secretary-General of the Conference and the Chiefs of each Delegation, together with Dr. C. T. Wang, were appointed a Committee on Programme and Procedure. With the fixing of 11 o'clock a. m., October 27, as the time for the meeting of the Committee on Programme and Procedure, the First Plenary Session was adjourned subject to the call of the Chairman.

⁸⁵ See *Conference on the Limitation of Armament, Washington, November 12, 1921-February 6, 1922* (Washington, Government Printing Office, 1922), p. 1180.

⁸⁶ *Foreign Relations, 1922*, vol. I, pp. 276, 278.

Meeting of the Committee on Programme and Procedure, October 27, 1925.

At the meeting of the Committee on Programme and Procedure, held October 27, 1925, Dr. C. T. Wang was unanimously elected Chairman and, after expressing his thanks for the honor conferred upon him, he pointed out that the Agenda (See p. 22, Minutes of October 27, 1925), presented three different sets of questions to be discussed namely :

- A. Tariff Autonomy.
- B. Provisional Measures.
- C. Related Matters.

Dr. Wang suggested that there should be three different committees, one dealing with each of these three sets of questions, and that a fourth committee, a Drafting Committee, be appointed later. After brief debate this suggestion prevailed and each Delegation was requested to submit the names of the Delegates or experts to be included as members of the four committees.

In the course of the meeting suggestions were made by Sir Ronald Macleay, Mr. Cerruti and others that it would be well to make some rearrangement of the Agenda, as some of the questions seemed to be inappropriately placed. Dr. Wang voiced vigorous objection to any change being made in the Agenda on the ground that it had been sent out by the Chinese Government and accepted by the different Delegations and should therefore not be changed. A difference of opinion immediately arose as to whether the Agenda had actually been accepted by the participating governments and Mr. Oudendijk explained how the matter had been handled by him in his capacity as Senior Minister. He stated that the Agenda, with certain slight modifications which had been made after discussion in a meeting of the Diplomatic Body, had been telegraphed by his colleagues to their respective governments for approval. The modifications contemplated omitting the item of "Abolition of Likin" from "A", and making it a separate subject on the Agenda called "B", thus making the heading, "Provisional Measures", come under "C". "Related Matters" would then be called "D" and under this heading was the question of the Board of Reference authorized by a resolution adopted at the Washington Conference. Most of the Governments concerned approved the Agenda as modified, but when the matter was submitted to the Chinese Government the Chinese Committee of the Conference held that the time was too short to make alterations. There the matter had rested, according to Mr. Oudendijk. Notwithstanding Dr. Wang's insistence that the Agenda had been accepted, it was clear that this view was not shared by other Delegates, notably Count de Martel, Mr. Cerruti and Sir Ronald Macleay.

Considerable debate ensued and various suggestions were made with a view to a modification of the Agenda and since Dr. Wang would not agree to a change it was finally suggested by Mr. MacMurray that he (Dr. Wang) should draft a statement to be formally recorded in the Minutes to the effect that the Chinese Government proposed, in connection with Articles 1 and 2 under Section B, to include a discussion of the disposal of the proceeds of the surtaxes. This suggestion, by way of compromise, was accepted by Dr. Wang and the following statement was made a part of the Minutes:

“The question of the disposal of the proceeds from the surtaxes as provided in items 1 and 2 under “B” (Provisional Measures to be taken during the Interim Period) will be discussed when the Committee on Section B meets.”

Sir Ronald Macleay appeared not to be entirely satisfied with this statement, since he feared that the Delegates might be debarred from discussing any of the questions raised in the Nine-Power Treaty, such as the steps to be taken for the abolition of likin, the levying of the 2½% surtax on ordinary articles, the 5% surtax on luxuries and the purposes, time and conditions of the surtax. At the suggestion of Sir Ronald Macleay, Mr. MacMurray's statement was amended so as to read as follows:

“It is understood that the question of the disposal of the proceeds from the surtaxes as provided in Items 1 and 2 under B (Provisional Measures to be Taken During the Interim Period) as well as the questions of the date of enforcement and of the conditions subject to which they are imposed, will be dealt with by the Committee on Section B.”

This amended statement was adopted and made a part of the Minutes.

At this point Mr. MacMurray suggested that the Agenda under which the Conference would work contained no reference to the so-called Board of Reference authorized by one of the Washington Conference Resolutions,⁸⁷ and he proposed that provision should be made for discussing and dealing with that matter. Dr. Wang, after stating that the matter was not embraced in any treaty signed at the Washington Conference, but was merely a resolution, said quite frankly that the Chinese people seriously objected to the Board of Reference and requested Mr. MacMurray to withdraw the suggestion, as he did not consider it advisable to bring up matters which might seriously delay or hinder the successful conclusion of the Conference. Mr. MacMurray replied that while he would not insist upon an immediate discussion, he wished to make it clear that the American Delegation, first of all, was under instructions to fulfill its duties

⁸⁷ Resolution establishing a Board of Reference for Far Eastern Questions, adopted Feb. 4, 1922, *Foreign Relations, 1922*, vol. I, p. 289.

under the Washington Conference provisions and that the Delegation would reserve the right at any time that was appropriate during the Conference to discuss and dispose of all the questions which by the treaty or resolution were imposed upon them at this Conference. Sir Ronald Macleay made a similar reservation and the general debate that ensued divulged the fact that the Delegates wished it to be understood that the Agenda covered all points arising from the Washington Treaty and resolution for the purpose of which the Conference had been convened.

It was agreed that the official language of the Conference should be Chinese and English, but that any Delegate who so preferred could speak in French.

The Rules of Procedure were then taken up and, after discussion, were adopted with slight amendments. A copy of the Rules of Procedure as adopted may be found on p. 23 of the Minutes of the Committee on Programme and Procedure, October 27, 1925.

After deciding to issue a brief press communique the Committee adjourned.

Committee on Tariff Autonomy, First Meeting, October 30, 1925.

The third meeting held under the auspices of the Special Conference was that of the Committee on Tariff Autonomy which was held on October 30, 1925. At the suggestion of Mr. Oudendijk, Dr. C. T. Wang was elected Chairman of the Committee and in taking the chair he referred to the Proposals on Chinese Tariff Autonomy presented at the Plenary Session of October 26, and to the proposals presented by the Chinese Delegation at the Paris Peace Conference in 1919 (See p. 3, *et seq.*, of Minutes of October 30, 1925). He praised the spirit of the Washington Treaty, but stated that the Chinese people found it difficult to accept the conditions of the Treaty. He stated that the Chinese people were determined to exercise what was due China as a sovereign nation and that it had often been said that the right of tariff autonomy had been denied to China because of a lack of unity in the country, but that this seemed to him in the nature of a vicious circle. He stated also that the Government, in order to function properly should have freedom of action in fiscal matters and that China, by reason of various treaties with the foreign powers, was bound hand and foot and was not able to increase its revenues without the consent of the Powers concerned. In commenting on the fear expressed in some quarters that the additional revenues which might accrue to China would be squandered, he stated that no portion of the customs revenues had ever been dissipated. He spoke also of the overdue obligations of the Chinese Government and the need for the economic development of the country, especially railway construction. He asked for the views of

other Delegates and Mr. Hioki responded with a detailed statement of the views of the Japanese Government on the proposals of the Chinese Government (See p. 8, *et seq.*, of Minutes of October 30, 1925). Mr. Hioki stated that his remarks were a continuation of the statement made by him at the opening session of the Conference. At this point Sir Ronald Macleay sought the views of the Chairman on the question of Likin, but Dr. Wang, before passing to that question, preferred to hear from all the Delegations on the subject of Tariff Autonomy. Mr. Strawn responded on behalf of the American Delegation, saying that he assumed that each of the Powers represented at the Conference recognized the sovereign right of China to enjoy tariff autonomy, when conditions should warrant it. He voiced the view that the American Government would be glad to see the time arrive when China should enjoy full tariff autonomy. Mr. Strawn, like Sir Ronald Macleay, requested the views of the Chairman on the question of the abolishment of likin, especially since it appeared that this question was so closely related to Tariff Autonomy that the latter could not be discussed without some knowledge of the plans of the Chinese Government for the abolishment of likin. He stated also that the American Delegation was prepared to act immediately upon anything which came within the purview of the Washington Treaty, but that matters outside that category would have to be referred to his Government for instructions. He reiterated that the American Delegation had come to the Conference with open minds in the hope of arriving at an understanding which would be to the mutual benefit of all. The Chairman,* in reply, stated that the Chinese Government was determined to abolish Likin as soon as possible and that the plan contemplated its abolishment within three years, or not later than January 1, 1929, and even possibly by the first part of 1928. At this point the Chairman announced that after the Powers represented at the Conference should agree to tariff autonomy the Chinese Government, for its part, would agree to the abolition of Likin. Thereupon Mr. Strawn remarked that he did not think it would be very satisfactory to have a statement from each of the Powers that it was willing to concede tariff autonomy to China unless it could be known when and how tariff autonomy was to be enjoyed, whether likin was to be abolished and how that would affect the Treaty Powers. He pointed out that the mere statement by the Powers that they respected and conceded the right of China to enjoy tariff autonomy was easily made, but this did not, in his opinion, advance their position to any great extent. He reiterated the statement that the American Delegation was prepared to do all in its power to bring about at the earliest possible moment the aspirations of the Chinese Government, but it seemed to him that tariff autonomy

should be coincident with the abolition of likin. He thereupon asked for a frank statement as to the way in which it was proposed to abolish likin. The Chairman called upon the other Delegations for a statement of their views and Mr. de Warzée announced that Belgium in principle was willing to grant China tariff autonomy, provided a transitory period should precede its coming into force. He stated that, in his opinion, tariff autonomy should be simultaneous with the abolition of likin. Count de Martel stated that he was "prepared to consider in the most friendly and generous spirit and to submit to my (his) Government any reasonable proposal which may be put forward, with a view to meet the aspirations of the Chinese Nation in regard to their Customs tariff." Mr. Oudendijk stated that he believed that the right of Tariff Autonomy was an inherent right which belonged to the right of sovereignty, and that the Netherlands Delegation would do its best to meet the wishes of the Chinese Government. Mr. Cerruti stated that the Italian Government was in great sympathy with the wishes of the Chinese Government to attain full tariff autonomy, but that he considered the abolition of likin and tariff autonomy connected questions and that the abolition of likin must precede full tariff autonomy. Mr. Bianchi of the Portuguese Delegation took a similar view and asked for a statement of China's plan for the abolition of likin. Dr. Wang stated that the Chinese plan for the abolition of likin would be presented later and that he wished to hear from the other Delegates who had not spoken on the subject of tariff autonomy. Mr. Kauffmann, of the Danish Delegation, said that his views were similar to those expressed by Mr. Strawn; and Mr. Michelet of the Norwegian Delegation declared that his Government was prepared in principle to grant tariff autonomy, but that it would be necessary to have more definite information concerning the proposals of the Chinese Government before giving up any of the stipulations contained in the Treaty between Norway and China. The Spanish Delegate, Mr. Garrido, in very general terms, expressed sympathetic interest in the aspirations of China and Mr. Ewerlöf, the Swedish Delegate, stated that he was "very willing to discuss, in the most liberal spirit, the proposals of the Chinese Government," but that he could not accept them without instructions from his Government. The Chairman then expressed his appreciation of the declarations made by most of the Delegates present agreeing to accept in principle the proposal of the Chinese Government for full tariff autonomy. The Chairman thereupon placed in the hands of the Delegates two memoranda⁸⁸ and a Table showing the Chinese plan for the

⁸⁸ See telegram of Oct. 31, 1925, from the Minister in China, *Foreign Relations*, 1925, vol. I, p. 871.

Abolition of Likin. These memoranda and the Table, together with explanatory remarks by Dr. Wang may be found on p. 22, *et seq.*, of the Minutes of the Meeting of the Committee on Tariff Autonomy, October 30, 1925.

Committee on Tariff Autonomy, Second Meeting, November 3, 1925.

The Second Meeting of the Committee on Tariff Autonomy was held on November 3, 1925, and at this meeting Sir Ronald Macleay, on behalf of the British Delegation, gave his interpretation of the Chinese position on the question of Tariff Autonomy, citing particularly the first two proposals of the Chinese as follows:

“(1) The participating Powers formally declare to the Government of the Republic of China their respect for its tariff autonomy, and agree to the removal of all of the tariff restrictions contained in existing treaties.

“(2) The Government of the Republic of China agrees to the abolition of likin simultaneously with the enforcement of the Chinese National Tariff Law, which shall take effect not later than the 1st day of January in the eighteenth year of the Republic of China (1929).”

Sir Ronald inquired of the Chairman whether it was his wish that the Delegates should agree to these two Articles and on being informed affirmatively he stated that it would not be possible for him to agree to the phraseology proposed, although he was prepared to declare that tariff autonomy was an inherent right of sovereignty and that he was fully prepared to discuss the question. Sir Ronald said that he had not the power to agree to the removal of all tariff restrictions contained in existing treaties; that a statement in the phraseology used in the Chinese proposals would in effect be a renunciation of the present treaty provisions. The Chairman replied that while the Chinese Delegation wished the Powers to agree to the removal of the tariff restrictions contained in the present treaties, he did not mean that they should be brushed aside, leaving a vacuum. What he wished, he said, was the substitution of a bilateral treaty for a unilateral one and that, as he understood Sir Ronald's remarks, Great Britain was agreeable in principle to granting China tariff autonomy, but new treaties were necessary and had to be discussed. The wording of the Chinese proposal was further discussed, with the result that the British attitude could only be made clear by the submission of a formal statement reading as follows:

“The British Delegation, recognizing the inherent right of all independent and sovereign states to tariff autonomy, and considering that the fulfilment of the provision of the Treaty of Washington of February 6th, 1922, will constitute a step towards the attainment by China of such autonomy, formally declare that in addition to the

carrying out of the terms of that Treaty, they are willing to submit to the ratification of their Government such further measures as may be devised and agreed upon at this Conference, with a view to ensuring within a reasonable period the full realization of China's claim to complete liberty of action in matters relating to her tariff."

The Swedish Delegate, Mr. Ewerlöf, agreed with Sir Ronald's statement and Mr. Hioki of the Japanese Delegation then presented a formal statement of the Japanese view⁸⁹ (See pp. 9 and 10 of the Minutes of November 3, 1925). Mr. MacMurray of the American Delegation then presented the American proposals,⁹⁰ which had been worked out more in detail than any of the other proposals (See pp. 10, 11 and 12 of the Minutes of November 3, 1925). Sir Ronald Macleay said that on general outlines the American proposals seemed to be based very largely on China's own idea, which was the abolition of likin, and seemed to be one to which the British Delegation could commit itself, at least in principle. Sir Ronald also said that the Japanese and American schemes seemed in effect to be very similar. The Chairman declined to commit himself to the American plan because he had not had time to study it, although he remarked that it contained a number of things which had already been mentioned in the Chinese proposals. Count de Martel reserved the right to discuss fully the matter of the readjustment of the special relations which have been in force between China and French Indo-China since 1886, with regard to the Customs tariff. Mr. Oudendijk stated that from a superficial examination it seemed to him that the Japanese and American proposals covered practically the same ground, the main difference being that the American proposals, in which he was in full sympathy, were more detailed. He suggested, therefore, that the Committee consider the possibility of combining the two proposals into one, which would simplify and expedite the work of the Committee. The Chairman opposed this suggestion because, in his opinion, the American plan contained "many objectionable points which the Chinese Delegation would wish to reserve for answer after the statement had been examined into." The Chairman declared also that while it was true that the two propositions had a number of points in common, yet the American plan contained a number of other things which were not found either in the proposals of the Chinese Government or in those of the Japanese Delegation. Dr. Wang proposed that the Committee proceed to a discussion of the Japanese plan, but objection was made by Sir Ronald Macleay. Dr. Wang, however, took occasion to say that the Japanese plan did not contemplate raising enough revenue to "enable the Chinese Gov-

⁸⁹ See telegram of Nov. 4, 1925, from the Minister in China, *Foreign Relations*, 1925, vol. I, p. 875.

⁹⁰ *Ibid.*

ernment to abolish likin once for all as they had determined to do," and that the revenue "would not be sufficient to meet the purposes which the Chinese Government had in mind." A discussion ensued as to the functions of Committees A and B, Mr. Strawn remarking that the personnel was substantially the same and that there was no material difference between the work assigned the two Committees. Mr. Strawn again declared that the American Delegation desired to give China everything that was authorized by the Washington Treaty, which the Delegation could do without reference to its Government, and that the Delegation was prepared to recommend to its Government the speedy adoption of a new treaty which would give China something with which to abolish likin; that the American plan was designed to furnish sufficient revenues to meet the needs of China, but that the Japanese plan seemed to fall short in this respect. It was admitted that the surtaxes contemplated under the Washington Treaty would be insufficient for the purposes of China. After further debate, confined largely to a discussion of the functions of the two Committees and the personnel composing them, the Chairman submitted, just before adjournment, the Declaration of the Chinese Government regarding the Abolition of the Likin system⁹¹ (See pp. 25 and 26 of the Minutes of the Committee on Tariff Autonomy, November 3, 1925).

Committee on Provisional Measures, First Meeting, November 6, 1925.

The first meeting of the Committee on Provisional Measures was held on November 6 and Dr. C. T. Wang, upon the proposal of Mr. Oudendijk, was elected Chairman. Dr. Wang read a brief formal statement on the subject of abolishing likin. It was maintained by Dr. Wang that while the Chinese Government realizes that the compensation for likin is not one of the intended purposes for the levying of the 2½% and 5% surtaxes of the Washington Treaty, it was the purpose of the Chinese Government to earmark a portion of these revenues for the purpose of abolishing likin, in addition to the special fund which would be created by the interim surtaxes (See pp. 2 and 3 of the Minutes of the Committee on Provisional Measures, November 6, 1925, for Dr. Wang's statement). Dr. W. W. Yen then addressed the Committee, explaining the work which had been mapped out for the Committee, and emphasizing the fact that the Committee would be called upon to consider only provisional measures and not fundamental principles, which are permanent. He stated that Tariff Autonomy was the end and provisional measures the means to that end, and that in the very nature of things the provisional measures must not be allowed to delay the arrival of tariff autonomy. At the

⁹¹ See telegram of Nov. 4, 1925, from the Minister in China, *Foreign Relations*, 1925, vol. I, p. 875.

conclusion of his address, Dr. Yen read a formal statement showing the proposals of the Chinese Government on the rates of the interim surtaxes on dutiable commodities into China (See pp. 6 and 7 of the Minutes of the Committee on Provisional Measures, November 6, 1925).

Admiral Tsai Ting-kan then presented to the Committee three statements in the form of Annexes, as follows:

Annex I: Reasons for the Proposal to Levy on Ordinary Goods a 5% Surtax During the Interim Period.

Annex II: Reasons for the Proposal of the Chinese Government Regarding "A" Grade Luxuries.

Annex III: Reasons for the Proposal of the Chinese Government Regarding "B" Grade Luxuries.

These three Annexes, together with the Lists of "A" Grade and "B" Grade Luxuries, may be found on p. 9 *et seq.*, of the Minutes of the Committee on Provisional Measures, November 6, 1925. Following the presentation of these documents, Mr. Yoshizawa read a statement on behalf of the Japanese Delegation, giving in considerable detail the views of that Delegation on the subject of the Washington Treaty surtaxes and interim surtaxes, likin and tariff autonomy (See pp. 16 and 17 of the Minutes mentioned next above).

Mr. Strawn made a detailed explanation of the proposals submitted by the American Delegation on November 3. He declared that it was the intention and purpose of the American Delegation to accord, so far as possible, with the wishes of the Chinese Delegation, and that primarily it was the duty of the American Delegation to fulfill the provisions of the Washington Treaty authorizing the 2½% surtax on necessities and the 5% surtax on luxuries. He suggested the implementing of the Washington Treaty surtaxes with as little delay as possible. As for a new treaty granting larger surtaxes, Mr. Strawn stated that this was a constitutional function which must be exercised by the President with and by the consent and advice of the Senate of the United States, and that the American Delegation could go no further than to fulfill the provisions of the Washington Treaty and to recommend a new treaty to its Government. He then explained the American proposal regarding Article VI of the Washington Treaty concerning the rates of duty on land and maritime frontiers,⁹² and proceeded to a discussion of the question of abolishing likin, devoting particular attention to the rates of surtaxes. He referred to the advisability of continuing the present Customs Administration both for the collection and custody of the customs funds as contemplated by Paragraph 7 of Article 3 of the American Plan.⁹³

⁹² *Ibid.*, 1922, vol. I, pp. 282, 286.

⁹³ See telegram of Nov. 4, 1925, from the Minister in China, *ibid.*, 1925, vol. I, p. 875.

He referred also to the various small internal taxes related to likin, stating that he realized that all local activities of the provinces could not be stifled and that some arrangements would be necessary whereby some local taxes should be collected. In explaining Paragraph 5 of the Plan Mr. Strawn said with a view to keeping the funds intact and appealing to the business sagacity of those financiers who might be in a position to help China work out a plan of financial readjustment, the American Plan provided that if likin should be collected anywhere in violation of the Agreement for its abolition the tax payers should be entitled to a refund from the Customs Administration of the full amount paid as likin, the rebate being charged against the province in the distribution of customs revenues, the purpose of such a provision being to prevent the collection of customs duties and likin on the same commodity. Dr. Yen brought up the question of administrative expenses and debt consolidation and stated that he assumed that unsecured debts would naturally refer first to domestic and then foreign loans. Mr. Strawn replied that the two categories of loans would have to be treated on a parity and that no distinction should be made between loans obtained from individuals in China and those from individuals abroad, no preferential rights to be enjoyed by either. He stated that it had been suggested by some that those who had furnished materials for China's railways should have preferential rights, but on this point he expressed no opinion, confining himself to a citation of a ruling of a Federal Court of the United States that in the event of the insolvency of railroads those who had furnished materials within a period of six months prior to the insolvency had a preferential claim.

In connection with Paragraph 9 under Article III, Mr. Strawn emphasized the fact that it would be necessary to refer any treaty which the American Delegates might negotiate to the Senate of the United States for ratification. To obviate any long delay on the part of any signatory power in ratifying the treaty, he suggested that perhaps something could be worked out whereby the treaty might become effective when a certain number of the countries had ratified the treaties, or a certain number of countries representing a certain amount of foreign trade in China had ratified the treaty. Mr. Strawn also briefly discussed the provision in the American Plan calling for another Conference in 1928⁹⁴ for the purpose of declaring that likin had been abolished and of negotiating any further agreements that the situation might require.

The question of the levying of surtaxes at land frontiers was again brought up by Count de Martel, and Mr. Strawn reiterated that

⁹⁴ Art. III, par. 10.

Article VI of the Washington Treaty, in express terms provided that there should be no distinction in the rate of taxes collected at the land and maritime frontiers, and after reading Article VI he stated that if there exists anything inequitable about the situation it was the function of the Conference to remove the inequalities. Count de Martel reserved the right of making further statements on this point and after further discussion Mr. MacMurray was requested to give an explanation of what took place at the Washington Conference on this subject. He stated that it was the purpose of the Washington Conference to abolish all distinction between land and maritime frontiers save as might be required in view of any reciprocal arrangement which was not capable of being withdrawn. To state it more clearly, it was his understanding that in cases where in return for the reduction in Chinese duties at the land frontiers there had been given an advantage which could not be reconsidered, the adjustment would, in some way, have to be made equitable, but on the mere ground of reciprocity, there was no distinction to be made between land and sea frontiers.

A suggestion was then made by Colonel Peel that the American, Chinese and Japanese Plans be made a composite plan for purposes of discussion, the American Plan being, in the opinion of Colonel Peel, the most complete in form and the one which would make a very good basis for such discussion. There was general agreement that a composite plan should be put before the Conference for discussion and it appeared that there was a decided preference on the part of a considerable number of the foreign Delegates in favor of using the American Plan as the basis of the composite plan for discussion as it was complete in form, yet simple and concise in defining proposals. Colonel Peel suggested that the Chinese Delegation particularly should follow the American Plan as regards form and that in order to weld all the schemes into one and accomplish something for China it would be necessary to work in a spirit of mutuality and reciprocity. Colonel Peel also stated that the British Delegation did not contemplate proposing a plan, but would be content to proceed on the basis of the three plans already submitted. Other Delegations, on inquiry by the Chairman, stated that they had no definite plan to submit, but were prepared to proceed on the basis of a composite plan made up of the American, Japanese and Chinese proposals. The Italian Delegate, Mr. Cerruti, however, read a formal statement (See pp. 42 and 43 of the Minutes of November 6, 1925). It was finally agreed that the three plans, i. e., American, Chinese and Japanese, should be arranged in the form of a table of three columns, each proposal side by side, for convenient consideration at the next meeting.

Committee on Provisional Measures, Second Meeting, November 13, 1925.

At the second meeting of the Committee on Provisional Measures, held on November 13, 1925, the Chinese Delegation, following the suggestion made at the last meeting of the Committee, submitted a table showing the proposals of the Chinese Delegation side by side with those of the Japanese and American Delegations (See p. 2 *et seq.*, of the Minutes of November 13, 1925).

The Chinese Delegation also presented the following documents:

1. A declaration on the Purposes to Which the Proceeds from the Interim Surtaxes are to be Devoted.
2. A Table of Estimated Revenue from the Proposed Surtaxes on Foreign Imports according to the Customs Returns of 1924 and the Revised Import Tariff of 1922.
3. The Regulations Governing the Establishment of the Commission for the Interim Customs Surtax Sinking Fund, and
4. General Observations of the Chinese Delegation on the American and Japanese Proposals.

These documents may be found on p. 7 *et seq.*, of the Minutes of November 13, 1925. The Declaration of the Chinese Delegation on Purposes to which the Proceeds from the Interim surtaxes are to be put contained the views of the Delegation concerning the Special Fund for the Abolition of Likin, the consolidation of Inadequately Secured Debts, Domestic and Foreign, Expenditures for Constructive Projects, and Urgent Administrative Expenses. The estimate of revenues from the proposed surtaxes indicated that the Chinese expected to receive from "A" Grade Luxuries (Wine and Tobacco), 30% surtax, \$22,000,000 Mex.; "B" Grade Luxuries, 20% surtax, \$50,000,000 Mex.; and Ordinary goods, 5% surtax, \$30,000,000 Mex., making a total of \$102,000,000 Mex.

Under the heading of General Observations, the Chinese Delegation explained its position on Tariff Autonomy, Abolition of Likin, Disposal of the Proceeds from the Surtaxes, Necessity for Higher Taxes, Early Enforcement of the Washington Treaty, Surtaxes, and Reciprocal Treaties.

Sir Ronald Macleay laid before the Committee what he described as a "scheme of agenda", in order that various points raised in the Committee might be discussed in orderly sequence (See pp. 25, 26 and 27 of Minutes of November 13, 1925). Some question arose as to the need of supplementing the Agenda which had already been adopted and Mr. Oudendijk reviewed the work of the Conference up to November 3. In the course of this review he remarked that a certain laxness in parliamentary procedure had prevailed, stating that things had been declared adopted, which, he was sure, had not been adopted. He cited particularly the question of surtaxes, stating that the Dele-

gates had agreed only in a general way that the 2½% surtax could be instituted at once, but that so far as the interim surtaxes were concerned no Delegation, with the exception of the American Delegation, had even intimated a view on the subject. The same was true concerning the question of the allocation of these funds as well as of other subjects. At this point Count de Martel made formal reservation on several points in the Chinese proposal. His statement may be found on pages 32, *et seq.*, Minutes of November 13.

The Swedish Delegate, Mr. Ewerlöf, and the Danish Delegate, Mr. Kauffmann, made reservations, protesting that they had not committed their Governments to the extent claimed by the Chinese Government. Mr. MacMurray took occasion to say, in behalf of the American Delegation and in order that there might be no misunderstanding, that his Delegation could not go beyond the immediate provisions of the Washington Treaty and that there was therefore nothing to which they could agree with finality except after approval and ratification by his Government. He stated that he wished to make it clear that in the case of the American Delegation they had agreed only tentatively and provisionally in those matters which went beyond the terms of the Washington Treaty. With reference to such provisional and tentative agreement he said that he should point out that, apart from the recognition of certain general principles, there was nothing to which they had agreed, or could agree, other than a general agreement upon some homogeneous, coherent plan that covered not only simply certain principles but the details for the working out of those principles. It was therefore necessary to have a basis of discussion—a program which appeared to cover all the proposals made in the three plans already submitted—and he considered the British supplemental agenda a suitable vehicle for that purpose, since it afforded an opportunity to proceed to a point beyond that authorized by the agenda previously adopted. He wished a detailed and concrete agenda under which to work and the British program met that requirement. Mr. Bianchi also favored the British programme. Dr. Yen then discussed in a general way the procedure of the Committee and suggested that the Chinese Delegation, in an effort to present a harmonious whole, might make a further study of the three schemes that had been submitted. Mr. Strawn said that, in his opinion, the proposal of the British Delegation did not conflict in any way with the main agenda, since it arrived at no conclusion and asserted no personal viewpoints. He felt that the Conference had dealt in generalities long enough and that it was time to deal with concrete facts and arrive at definite results. After further discussion, participated in by several Delegates, Mr. Strawn suggested that it was the obvious duty of the

Delegates, if they wanted to proceed in an orderly way with the work of the Conference, to discuss whether they wanted to effectuate the Washington Treaty as soon as possible, and that this question came within the scope of Proposal No. 1 of the British supplemental Agenda. Colonel Peel gave his views on this phase of the Committee work and suggested, on behalf of the British Delegation, that a Drafting Committee be authorized to draw up a diplomatic protocol with a view to making possible the collection of the Washington Treaty surtaxes at once. Mr. MacMurray concurred with this view and submitted for the consideration of the Drafting Committee a concrete proposal for such an Agreement. (See p. 50 of the Minutes of November 13, 1925.) Colonel Peel stated that the American proposal was acceptable, although it might require some alteration by the Drafting Committee, and Dr. Yen said that it was well worded but he mentioned the question of the uniform rates on maritime and land frontiers, stating that this question had not been discussed at all and was not sure whether the Delegates were in accord on the subject. Mr. Strawn then suggested that the question be discussed, but Dr. Wang remarked that this would be bringing up a question which had not yet been presented by the Chinese Delegation. Although Mr. Strawn urged that the question be discussed at once, since it was within the scope of the Washington Treaty and so admitted by Dr. Wang, the latter said that the Chinese Delegation was not in position to discuss the question at that time and Count de Martel also requested a postponement. Further discussion took place with reference to the subject, or subjects, which would be first considered by the Committee and after finally agreeing that Articles I, II, III and IV (relating to Tariff Autonomy and Likin) of the American [*British*] proposal would be discussed, Dr. Wang stated that the Chinese Delegation wished to reiterate the position which it had taken on the question of the abolition of likin, to wit, that China voluntarily, but resolutely, declared her firm purpose to abolish likin and considered it to be an internal measure, for which reason a solemn declaration on the part of the Chinese Government to abolish likin would be sufficient. Colonel Peel remarked that he did not see why the discussion of Tariff Autonomy and Likin as related subjects should prejudice those questions and that he could not understand why such discussion should prevent them from also discussing the question of the 2½% surtax. Mr. Strawn referred to Article II of the Washington Treaty⁹⁵ and read: "Immediate steps shall be taken through a special conference to prepare the way for the speedy abolition of likin and for the fulfillment of other conditions laid

⁹⁵ *Foreign Relations*, 1922, vol. I, pp. 282, 284.

down in Article VIII" (Treaty of 1902.⁹⁶) Mr. Strawn remarked that he conceived it to be a part of the duty of the American Delegation to collaborate with the Chinese Delegation to find a way which would be satisfactory to all Powers, especially to China, for the abolition of likin, a duty which he did not assume that the Chinese Delegation, on its sole responsibility, would undertake to do without assistance from the other Powers. Dr. Wang said that he thought that the position of the Chinese Delegation differed from that of the American Delegation, and Mr. Strawn inquired of Dr. Wang whether he considered that the Chinese proposal complied with Article II of the Washington Treaty and whether it was the position of the Chinese Government that none of the other Powers would have anything to say in the Conference concerning the manner in which China should abolish likin and that China would not want any assistance from the other Powers. The only response of Dr. Wang was that the Chinese Delegation had presented to the Committee the measures whereby likin could be abolished. Mr. Strawn said that his understanding was that the purpose of the Conference was to discuss whether the Delegations were in accord with China's proposal and whether it was sound and effective. He said that some doubt might arise in the minds of the Delegates whether China would be able to abolish likin in the manner proposed by the Chinese Delegation. He said that it seemed quite necessary to discuss the Chinese plan, and that while everyone earnestly hoped and expected that likin might be abolished, the duty of the American Delegation, under the terms of the Washington Treaty, was to come to an accord with China as to the manner in which it should be abolished. He reminded the Chinese Delegation that the Chinese Government owed it to the other Powers with which it had treaties to come to an agreement as to the manner in which likin could be abolished. Colonel Peel supported this view and said that it would be necessary to discuss the abolition of likin because part of the revenues which were to be given for the abolition of likin would come from the proposed increase of the customs duties. The Chairman remained obdurate and addressing Mr. Strawn said that he desired to point out that the Chinese proposal presented at the plenary session did not say that tariff autonomy was to be enjoyed by China as a result of the abolition of likin. Mr. Strawn remarked that he had so interpreted the Chinese proposal and the Chairman again read the two points in the Chinese plan concerning tariff autonomy and likin, as follows: First, "The participating Powers formally declare to the Government of China their respect

⁹⁶ *Ibid.*, 1903, p. 551.

for its tariff autonomy and agree to the removal of all the tariff restrictions contained in existing treaties;" Second, "The Government of the Republic of China agrees to the abolition of likin simultaneously with the enforcement of the Chinese National Tariff Law." Dr. Wang then said that Tariff Autonomy was a principle which the Powers had already conceded and that China had agreed to the abolition of likin simultaneously with the enforcement of the Chinese National Tariff Law. Mr. Strawn remarked that he understood that to be a condition precedent to the enforcement of the National Tariff Law, that is, that likin should be abolished. On being again informed by Dr. Wang that the Chinese Delegation had presented the different measures for the abolition of likin to the various delegations, Mr. Strawn said that it was his understanding that the time had arrived, or would soon arrive, when the Delegates would take up in an orderly way and discuss the different measures and that he did not understand that the Chairman had put the proposals on the table and said, "Take it or leave it." It was pointed out that the American Delegation did not put its proposals forward as an ultimatum, but as the basis of discussion. On inquiry by Dr. Wang as to whether the Chinese proposals were satisfactory, Mr. Strawn replied that that was the very question which the Delegates wanted to discuss. Mr. Strawn quoted the language of the Chinese proposal: "The Government of the Republic of China agrees to the abolition of likin simultaneously with the enforcement of the Chinese National Tariff Law," and inquired with whom the Chinese Government agreed unless with the Delegates who were sitting at the Conference. In other words, if China was going to abolish likin and did it in her own way, and at her own pleasure, there certainly was not any agreement about it. His recommendation was that the subject should be set aside for discussion at a subsequent meeting of the Committee if it was not agreeable to discuss it then. Dr. Wang then admitted that it was not the purpose of the Chinese Delegation to decline to discuss the question of the abolition of likin, but to have all the Delegations recognize this problem as one of domestic concern. Mr. Strawn agreed with Dr. Wang on this point, saying that the foreign powers were going to furnish the wherewith to enable China to solve this domestic problem. He considered, however, that the amount wherewith, when and how it would be furnished, how it would be safeguarded in the interim were subjects for discussion. Dr. Wang said that on that point there was no disagreement, to which Mr. Strawn replied that he was glad to be so informed. The colloquy ended by the Chairman suggesting that the question of surtaxes be discussed, together with the ways and means necessary for the abolition of likin, and inquired whether that was agreeable.

After an affirmative answer had been given Mr. Yoshizawa inquired whether the question of tariff autonomy would be excluded, whereupon Dr. Wang replied that he thought tariff autonomy had been recognized, since all the Delegations had made their declarations. Mr. Yoshizawa said that he had made the inquiry because a few minutes before it had been suggested that Articles 1, 2, 3 and 4 of the British agenda should be discussed together and now the Chairman had said that they were going to discuss the question of surtaxes, together with the ways and means for the abolition of likin and not including the tariff autonomy question. Dr. Wang said that he did not mean that and that the question of Tariff Autonomy could be further discussed if the Delegates so desired.

At this point Colonel Peel pointed out that the British Delegation had made a definite proposal to support the immediate imposition of the 2½% surtax and 5% surtax on luxuries, which proposal had been supported by the American Delegation. He said that at least two Powers, therefore, had made a distinct promise to do what they could for China immediately and he wanted to know why they could not go on with that proposal immediately. Dr. Wang replied that Count de Martel and Admiral Tsai were not prepared to discuss the question at that time, but the Admiral stated that he was prepared to go ahead. Mr. Strawn, at this point, made it clear that the position of the American Delegation was that they were agreeable to giving China the 2½% surtax on necessities and 5% surtax on luxuries at the earliest possible moment, the money to be impounded by the Customs Administration to await disposition by the Conference. Again Dr. Wang placed an obstacle in the way by insisting that the question of Tariff Autonomy and the question related to the enforcement of the National Tariff Law to give effect to Tariff Autonomy should be discussed together. Mr. Strawn remarked that he did not want the Chinese Delegation to get the impression that they were holding back what China was entitled to receive under the Washington Treaty while they discussed a new treaty. It was the desire of the American Delegation to fulfill the terms of the Washington Treaty at once and they would give more as soon as they could agree on what it should be. Colonel Peel said that this represented the British view also, and the Japanese Delegation, while in accord with this plan, made it plain that the 2½% and 5% surtax agreement would require ratification by the Emperor, so far as Japan was concerned, before it could become effective under Japanese law. Adjournment was taken with the understanding that items 1, 2, 3 and 4 would be discussed together at the next meeting of the Committee.

Committee on Provisional Measures, Third Meeting, November 14, 1925.

The third meeting of the Committee on Provisional Measures was held on the morning of November 14, at which time the Chinese Delegation presented the following resolution:

"The Contracting Powers other than China hereby declare their recognition of China's right to enjoy tariff autonomy.

"China hereby declares her intention to abolish likin, and further declares that the Chinese National Tariff Law will come into force upon the abolition of likin."

Colonel Peel announced that at least some of the foreign Delegates could not agree to the resolution as submitted by Dr. Wang without referring it to their governments and going through the whole process of ratification because they were not authorized to go that far. What he wished to do, and what some of the other Delegations wished to do, notably the American Delegation, was to implement the Washington Treaty, but he understood that the Chinese Delegation, and possibly some other Delegations, were not anxious for these surtaxes to be levied at once. He proposed the following declaration in the preamble of the instrument authorizing the levying of these surtaxes:

"The Delegations of the Contracting Powers, other than China, having declared their intention to recommend to their respective governments the immediate adoption of a treaty which shall recognize the principle of China's right to enjoy Tariff Autonomy, and China having declared her intention to abolish likin, it is agreed that the treaties shall provide that China's National Tariff Law shall come into effect upon the abolition of likin."

Colonel Peel believed that these surtaxes, which they were authorized to impose, should not come into force until the signature of the new Treaty. Admitting that he did not know the exact meaning of the word "likin", Colonel Peel stated that he wished to guard his Delegation against accepting a Chinese word, of the exact meaning of which he was not sure. Dr Wang did not agree with the form of the declaration offered by Colonel Peel, and Mr. MacMurray, in discussing the Chinese declaration, said that it went not only beyond the powers of the American Delegation as negotiators, but beyond the powers of even the American Chief Executive. Since it involved a power which could be exercised only by the President, by and with the advice and consent of the Senate, it would be quite impossible for the American Delegates to accede to the resolution in the form proposed by the Chinese. It would be worse than useless and the American Delegation was therefore disposed to accept the British proposal which embodied the same purport, but in a form which fell within

the scope of the powers of the American Delegation. If the Chinese were not satisfied it was suggested that a drafting committee could quite readily iron out the difficulties and the 2½ per cent and 5 per cent surtax agreement would be effectuated. Dr. Wang objected, however, and desired the matter referred to a smaller committee in which suggestion Mr. MacMurray acquiesced. Mr. Oudendijk suggested a substitute resolution, but it was the sense of the committee that the matter could be resolved only by the appointment of a small special committee to compose the differences. Such a committee composed of Mr. Oudendijk, Mr. Strawn, Mr. Hioki, Sir Ronald Macleay and Dr. Wang, was appointed and the committee adjourned subject to the call of the chair.

Sub-Committee of Committee II, First Meeting, November 17, 1925.

The Sub-Committee appointed by the Committee on Provisional Measures at its meeting on November 14, met on November 17 and Dr. Wang submitted the following declaration for consideration:

"The contracting Powers other than China hereby recognize China's right to enjoy Tariff Autonomy; agree to remove the tariff restrictions which are contained in existing treaties between themselves respectively and China; and consent to the going into effect of the Chinese National Tariff Law on January 1st, 1929.

"The Government of the Republic of China declares that likin shall be abolished simultaneously with the enforcement of the Chinese National Tariff Law; and further declares that the abolition of likin shall be effectively carried out by the first day of the first month of the eighteenth year of the Republic of China (January 1st, 1929)."

Some discussion followed as to whether the declaration would form a preamble or an article of a treaty. Before this question was settled, however, Mr. Hioki brought up the question of a conventional tariff between China and Japan. He said that while the Japanese Delegation had endeavored repeatedly to make it plain that Japan was prepared to assist China in realizing her national aspiration in regard to tariff autonomy, Japan's important and special trade relation with China made it imperative to conclude a conventional tariff, as had been previously stated. Mr. Hioki asked if the Chinese Delegation was in a position to make a definite declaration of their readiness to enter into an agreement with Japan in the matter of a conventional tariff. Citing certain statements made at the First Plenary Session and at the Third meeting of Committee II, Dr. Wang stated that China was prepared to enter into a reciprocal tariff agreement with Japan or with any other Power which desired to enter into such a reciprocal agreement. It was pointed out that no such agreement then existed between Japan and China, but that in case one should be negotiated it would come into force

either before or after the enforcement of the National Tariff Law, item 5 of which relates to the subject.

Mr. Oudendijk inquired whether a reciprocity treaty such as described would contain a "most favored nation clause." Dr. Wang replied that it could be so made if there were things for exchange on the basis of reciprocity.

The question again arose as to whether the declaration submitted by the Chinese Delegation should be a preamble or an article in the treaty. Dr. Wang took the position that it would constitute an article, or two articles, of the treaty that was being negotiated at the Conference. Mr. Oudendijk favored the language in the American proposal,⁹⁷ as it was more emphatic. Mr. Strawn said that the first part of the American proposal, namely, "The Contracting Powers other than China recognize the right of China as a sovereign State to Tariff Autonomy", was put in because China had by previous treaties given away the sovereign right of tariff autonomy and it was now proposed to have China recover it and as a condition to regaining it and enjoying full tariff autonomy it would be necessary to remove the tariff restrictions contained in existing treaties. Further discussion on this point, participated in by several Delegates, and consideration of an amendment offered by Mr. Hioki, resulted in the adoption of the following preamble to the Chinese resolution, or proposed treaty articles, which had the unanimous approval of the Delegates:

"The Delegates of the Powers assembled at this Conference resolve to adopt the following proposed article relating to tariff autonomy, with a view to incorporating it, together with other matters to be hereafter agreed upon, in a treaty which is to be signed at this Conference."

After the approval of the preamble and articles Colonel Peel again inquired as to the exact meaning of the word "likin" and the chairman replied that likin included all taxes of a transit nature, whether they came under that name or not and on inquiry of Mr. Teichmann, one of the British technical advisers, by Mr. Strawn, Mr. Teichmann replied that his definition would be that contained in Article VIII of the Mackay Treaty, which referred to likin and other dues on

⁹⁷ "The Contracting Powers, other than China, recognize the right of China as a sovereign state to enjoy tariff autonomy, requiring for its full enjoyment the removal of tariff restrictions contained in existing treaties between themselves respectively and China; and consent to the going into effect of the Chinese National Tariff Law, subject to the carrying out of the provisions hereinafter agreed upon, on January 1, 1929.

The Government of the Republic of China agrees that likin shall be abolished simultaneously with the enforcement of the Chinese National Tariff Law; and declares that the abolition of likin shall be completely carried out by the first day of the first month of the eighteenth year of the Republic of China, January 1, 1929." *The Special Conference on the Chinese Customs Tariff*, p. 250.

goods at the place of production, in transit and at destination. Mr. Strawn considered this the best definition he had heard and later he and Colonel Peel emphasized the necessity of having a clear definition of the word "likin" in order to guard against a misunderstanding of the meaning of the term. The chairman remarked that the Chinese Delegation had already defined likin as all duties of a transit nature, but their definition seemed too vague and Mr. Oudendijk, Mr. Strawn and Colonel Peel expressed the opinion that there should be a definition of "likin" in exact terms.

The following draft Resolution, or Declaration, was read and unanimously adopted for presentation to the full Committee:

"The Delegates of the Powers assembled at this Conference resolve to adopt the following proposed article relating to tariff autonomy with a view to incorporating it, together with other matters, to be hereafter agreed upon, in a treaty which is to be signed at this Conference:

"The Contracting Powers other than China hereby recognize China's right to enjoy tariff autonomy; agree to remove the tariff restrictions which are contained in existing treaties between themselves respectively and China; and consent to the going into effect of the Chinese National Tariff Law on January 1st, 1929.

"The Government of the Republic of China declares that likin shall be abolished simultaneously with the enforcement of the Chinese National Tariff Law; and further declares that the abolition of likin shall be effectively carried out by the First Day of the First Month of the Eighteenth Year of the Republic of China (January 1st, 1929)."

(See page 15 of Minutes of November 17 for American draft of preamble of treaty relating to Tariff Autonomy.)^{97a}

Committee on Provisional Measures, Fourth Meeting, November 19, 1925.

The Fourth Meeting of the Committee on Provisional Measures was held on November 19 and the first business before the Committee was the Resolution on Tariff Autonomy adopted on November 17 by the Subcommittee of the Committee on Provisional Measures, the text of which may be found in the resume of the proceedings of the Subcommittee meeting of November 17. Mr. Strawn formally moved the adoption of the Resolution, but Mr. de Warzée, Count de Martel, Mr. Cerruti and Mr. Ewerlöf, while all expressing their personal pleasure that the subcommittee had evolved so satisfactory a formula, announced that if it was intended that the Resolution should be incorporated into a treaty it would be necessary, under the Constitution of their respective governments, to refer the instrument to their home governments for approval. Mr. Bianchi, Mr. Garrido, Mr. Michelet

^{97a} See footnote 97.

and Mr. de Kauffmann expressed their satisfaction with the terms of the Resolution and the chairman expressed his thanks on behalf of the Chinese Delegation and said that he felt that the Delegates should congratulate themselves on having set a milestone for fair and just dealing between China and the participating Powers. Dr. Wang thereupon declared the Resolution unanimously adopted by the Committee on Provisional Measures, notwithstanding several Delegates had given notice that ratification would be required on the part of their Governments before it could become effective as a part of a treaty. Dr. Wang suggested that while they were sitting as Committee II they might consider the Resolution as having been passed by both Committees I and II since the personnel of the Committees was the same. Dr. Yen expressed his appreciation of the work of the subcommittee and proceeded to explain in detail the Purposes to which the proceeds would be put. Dr. Yen said that since some of the Delegates not present at the Washington Conference might unintentionally give the word "purposes" a significance not intended by those who introduced it, he thought it well to give a brief historical review of its origin and significance. After reviewing the discussion which took place at the Washington Conference on "purposes" (see pages 4, 5, and 6 of Minutes of November 19), Dr. Yen explained seriatim the four purposes outlined in the Chinese declaration. The first purpose was the abolition of likin, which would require about \$90,000,000, or possibly \$100,000,000. The second purpose was debts. Dr. Yen said that at the time of the Washington Conference the foreign debts of China amounted to only \$260,000,000 and the domestic debts about \$100,000,000, an amount not at all exorbitant, and which could have been financed from 10 per cent of the 2½ per cent surtax, according to Senator Underwood, leaving a surplus of approximately \$35,000,000 to \$40,000,000 for governmental purposes. Dr. Yen stated that the total amount of the debts now approximated \$800,000,000, an amount which seemed rather startling in view of the comparatively short time which had elapsed since the Washington Conference. He cited the several causes for this increase, one being the difference in the rate of exchange, as instanced by the increase in the value of the Pound Sterling by one third in the last four years. The second cause he attributed to accumulated interest and compound interest. The third was the general practice of increasing by one per cent the rate interest when a loan agreement was renewed after becoming due. He felt that it was very unfortunate for China that the Conference had been so long delayed thus causing the great increase in China's indebtedness.

Dr. Yen then gave an explanation of the view of the Chinese Delegation on Constructive Purposes. He said that while it was

true that the duty was paid in the first instance by the merchants, it was really the consumer that ultimately paid, and for that reason he considered it only just and right that the Chinese people should share the benefits to accrue from the increased revenues. He considered it a particularly opportune time to start a constructive program in China and put an end to the destructive forces and to avoid the criticism that China had no constructive program. From the standpoint of intelligent and patriotic Chinese he pointed out, the Conference could be said to be successful only should something be done for the social and economic welfare of the Chinese people. He would not go into details, but mentioned such enterprises as railway construction—the completion of certain trunk lines—national road building, conservancy works and industrial developments. He particularly favored setting aside some money to improve the culture of tea, silk and cotton.

Dr. Yen then referred to the question of administrative expenses. He reminded the Delegation, in summing up, that a certain amount of discretion should be left to the Chinese Government and that it would be well for the Delegates to endeavor, as much as possible, to avoid any semblance of the Purposes not having been adopted at the initiative of the Chinese Government. He suggested, in conclusion, a discussion of the question of Rates because he felt that it would be useless to spend all the time discussing Purposes without knowing exactly how much fresh revenue would be derived from the new taxes.

Mr. Hioki suggested the appointment of two subcommittees, one on Surtaxes and the other on Purposes, saying, at the same time, that it would be rather difficult to discuss the question of surtaxes until the Purposes had been fully determined. A discussion of the approximate revenues and needs ensued and it was finally decided that no real progress could be made until the serious questions under discussion had been considered by subcommittees of Delegates or Technical Advisers. Many of the questions that arose during the discussion were technical in character and involved classifications of commodities, luxury lists, money values, and related questions. Admiral Tsai said that, for the convenience of the Delegates and Technical Advisers, the Chinese Delegates would prepare and circulate an amplified and enlarged list of luxuries for consideration in the subcommittee meetings. Sir Ronald Macleay supported Mr. Hioki's view that it would be necessary to know how much money was needed before they could approach the question of the surtaxes and the question of luxuries and that they should also know the amount needed to fund the outstanding debts before taking up the question of the amount to be raised. Pursuant to this view, Sir

Ronald suggested that there should be two subcommittees; one to deal with likin and to make estimates of what would be required for its abolition, etc., and the other to deal with the consolidation of debts and the other Purposes, and also to form an estimate of the amount needed. A rather lengthy discussion ensued as to the number and functions of the subcommittees and whether they would be composed of Delegates or technical advisers and the method of appointing members and, further, whether the subcommittees would themselves be permitted to have subcommittees. This discussion finally ended in the committee agreeing that there should be two subcommittees, one on purposes and one on rates, each of which would be permitted, if it chose to do so, to divide into subcommittees of Technical Advisers or others and each Delegation having the right to signify whether it desired to participate in either one of the subcommittees or both of them. The Committee on Provisional Measures resolved itself into a subcommittee on Purposes and proceeded to its business.

Subcommittee on Purposes, First Meeting, November 19, 1925.

Committee II having resolved itself into a sub-committee on Purposes, that sub-committee began its work at 11:30 a. m., November 19, 1925.

After a brief discussion among the Delegates concerning the division of work of the sub-committee, Dr. Yen said that the Chinese Delegation had hoped that an agreement could be reached in regard to customs duties without going into the financial condition of the Chinese Government. He distinctly discouraged any plan which contemplated any exploring of this subject. His view was that the question of debts was outside the scope of the word "purposes". While professing to be willing to give all needful information, he wished the subcommittee to confine itself to defining principles to be followed under the heading of "purposes." Sir Ronald Macleay said that no Delegation, so far as he was aware, desired to impose anything on the Chinese Government, but unless they should go into the question of debts it would obviously not be possible to determine how much money was needed. Admiral Tsai agreed that the question of debts and likin were matters in which the foreign Powers could properly interest themselves, but administrative expenses was one which belonged solely to the Chinese. Colonel Peel remarked that there was no disposition on the part of the foreign Delegates to interfere in Chinese domestic affairs, but they did wish to know how China proposed to abolish likin and how the revenues would be applied to that purpose and how the question of the consolidation of debts would be solved. He suggested the appointment of two subcommittees, one to deal with likin and the other one the question of

consolidating the debt, both of which intimately concerned the Foreign Powers. As for constructive purposes and administrative expenses, the foreign Powers wished only to know what aggregate amount would be needed for these purposes. Dr. Yen said that he fully appreciated the spirit in which Colonel Peel spoke, but he did not wish the impression to go out that the Conference had resolved itself into a debt collecting agency. He said that it would be very unfortunate if such a false impression should prevail. He considered that it would be sufficient to have two sub-committees, one on likin and one on other Purposes. Mr. MacMurray supported Dr. Yen's suggestion, as did Count de Martel and Mr. Cerruti, with the understanding, however, that the debt question would be examined into. Mr. Hioki explained that it was far from the thought of the Japanese Delegation to impose anything that would be disagreeable to the Chinese Delegation, or that would appear to interfere with the sovereign rights of China. After further discussion the chairman summed up the results of the meeting by saying that the sub-committee on Purposes had agreed to have two sub-committees of technical advisers, or other members whom each Delegation would choose, one to sit as a sub-committee on Likin and the other as a sub-committee on Other Purposes. He pointed out that the sub-committee on Rates, authorized by the Committee on Provisional Measures, had not had a meeting, but that the first meeting of the sub-committee on Likin would be held Saturday morning, November 21, 1925.

Proceedings of the Technical Committee on Likin, November 21, 1925.

The First Meeting of the Technical Committee on Likin was held on Saturday, November 21, 1925, and on the suggestion of Mr. MacMurray, Mr. T. K. Tseng was elected chairman. Mr. Tyndall Wei of the Chinese Delegation read a paper on "Remarks on the Technical Side of the Question of Likin". This paper, together with a series of tables and annexes, may be found on page 2, *et seq.* of the Minutes of November 21, 1925 (morning session). These papers relate to the technical side of the likin question, likin collections in various provinces, revenue collected by native customs, goods tax collection on Tientsin-Pukow Railway, and compensation for discharged officers and employees of likin offices. Mr. Stewart of the British Delegation inquired whether it was a general principle in the Chinese scheme that the Central Government should pay the Provinces annuities in lieu of likin; whether the estimated sum needed for this purpose was \$80,000,000 with an additional \$10,000,000 for discharged officers and employees; whether these annuities would take precedence

over appropriations to be allotted for other purposes, such as, Debt Consolidation, Constructive and Administrative Purposes. He received affirmative answers to all these questions. A further discussion took place with reference to the amount required for the compensation of the provinces and a doubt was expressed whether China would be able actually to abolish likin. The chairman said, however, that the Chinese Government did not want to minimize the difficult undertaking but that it was the firm determination of China to abolish likin and that the public would be duly notified when that had been accomplished. Mr. MacMurray raised the question as to what would be the alternative if, for any reason, it should, at the end of three years, be found impossible to effectuate the abolition of likin. The chairman replied that such a possibility had not been considered by the Chinese, as they were really determined to abolish likin within the stated time.

Mr. Strawn then inquired whether there had been given any concrete definition of the word "likin" and to this the chairman replied that the Chinese Delegation had always understood likin to be a tax on goods in transit or a transit duty. Mr. Strawn inquired whether that covered all taxes at points of origin and destination as well as in transit and the reply was simply that it covered all taxes on goods in transit. Mr. Strawn thereupon referred to the provision in the treaty of 1903 between China and the United States⁹⁸ which authorized the collection of surtaxes on imported goods which would free such goods from all further taxation. He considered this to mean that this provision covered the abolition not only of likin but of all other taxes on foreign goods. To guarantee that such additional taxes would not be levied the American Plan contemplated that if such taxes were collected in violation of the new treaty, the taxpayer from whom the taxes had been collected would have recourse to the Customs for a refund. It was his thought therefore, that likin should be clearly defined and his idea of likin was that it should mean that any foreign articles imported into China upon which the authorized Chinese Maritime Customs Duty should have been paid should not be subject to any further taxation,—neither likin, or destination tax, or consumption tax, or protection fee or any tax of whatever nature, levied indirectly or directly upon the conveyance or handling of any such article. He had no complaint to make about just taxation because he felt that his nationals were perfectly willing to pay any taxes that they should pay, but he did not want to see the taxes so high that trade would be stifled. He asked therefore for a concrete definition of likin and Mr. Stewart supported the request, reading

⁹⁸ For text of the commercial treaty signed at Shanghai Oct. 8, 1903, see *Foreign Relations*, 1903, p. 91.

an extract from the treaty of 1902 between Great Britain and China, as follows:⁹⁹

“The Chinese Government recognizing that the system of levying likin and other goods taxes [*dues on goods*] at the place of production, in transit and at destination, impeded [*impedes*] the free circulation of commodities.”

He said that this recognized the fact that the whole system of multiple taxes on goods was one that was not considered proper in well-organized countries. He cited particularly the case of a province in China in which a 20 per cent consumption tax was being charged on cigarettes and inquired whether that would be regarded as a legal tax in the future. The chairman replied that China was not the only country that imposed a consumption tax. Mr. Stewart said that it was not customary and he feared that if the tax on cigarettes should be considered legal it might be assessed on other goods. The chairman replied that it was not their intention to do so. A discussion ensued concerning various kinds of taxes and the method of assessing and collecting them, and the question of discriminatory practices also arose. This discussion brought out the fact that discriminations, either in rates or otherwise, in favor of one commodity as against another, both foreign and domestic, would not be countenanced. A Chinese member (Mr. Wei) pointed out that the “destination taxes” were really outside the scope of the subcommittee to which view Sir Ronald Macleay dissented. Mr. Strawn stated that the Delegates did not wish to invade the province of China by discussing internal taxation matters, but in discussing likin they wanted to know what the term embraced and this might bring in other matters incidentally. Mr. Wei described in great detail the origin of the “lo-ti-shui” tax¹ and an extended debate took place on the question of defining “likin” every effort being made but without success, to obtain from the Chinese a concrete definition of the word. Various phases of the tariff system were discussed, Mr. MacMurray detailing his first experience with the “lo-ti-shui” tax, and observing that it seemed to him that a proper definition of “likin” should take into account the principle that no taxation should be levied in connection with the movement of goods, whether it be levied while the goods were still in transit or after they had surrendered the transit pass which was their protection, or after they had in one way or another ceased to be protected. The chairman said that this view would be taken into consideration in later offering a concrete defini-

⁹⁹ Extract from art. VIII, Preamble, corrected according to text printed in *Foreign Relations*, 1903, p. 553.

¹ A destination tax, levied on goods after arrival at destination. See *The Special Conference on the Chinese Customs Tariff*, p. 272.

tion of likin. After discussing the question of compensation, or bonus, for dismissed officers and employees of the likin offices which would be abolished the sub-committee adjourned.

Technical Committee on Other Purposes, First Meeting, November 21, 1925.

At the first meeting of the Technical Committee on Other Purposes held on November 21, Mr. Tseng, the Vice Minister for Foreign Affairs, was elected chairman. Mr. Tseng called upon Mr. Yih, who laid before the sub-committee Tables of Inadequately Secured Foreign Loans under the charge of the Ministry of Finance, compiled by the Commission for the Readjustment of Finance. A statement explaining the Tables was read by Mr. Yih and may be found on page 2, *et seq.* of the Minutes of the Technical Committee Meeting of November 21, 1925, and the Tables may be found on page 10, *et seq.* of the same Minutes. Discussion developed that it was expected that the Tables would be revised and added to before any attempt at consolidation should be undertaken. Mr. Yih mentioned particularly the inadequately secured foreign loans under the charge of the Ministry of Communications. He endeavored to make it plain that under his instructions he could give information only and that he was not in a position to propose any concrete plan of consolidation; that he would be glad to receive information from any of the foreign Delegations concerning items owing their nationals which were not included in the schedules submitted. Colonel Peel, on behalf of the British Delegation, expressed a willingness to submit his list of unsecured debts and said that he wished to arrive at an exact figure, not an estimate of the total indebtedness of the Chinese Government. Dr. Tsur, at this point, said that the Commission for the Readjustment of Finance had gone into the question of debts very thoroughly and that it was his understanding that it was the intention of the Chinese Government to appoint the Commission for the Readjustment of Finance to undertake the consolidation of debts and suggested that the foreign creditors communicate directly with the Commission, since it would not seem to be a question connected with the Conference. Colonel Peel dissented from that view, however, but Dr. Tsur reiterated the statement, saying that it was not the purpose of the Conference to consolidate the debts, much less the purpose of the Technical Committee, and that the plan of having the consolidation done by a special organ under the control of the Chinese Government had had the approval of the Cabinet. Mr. Tripier of the French Delegation, read a formal statement of the French Government's attitude on debt consolidation (see page 28 of Minutes of the Technical Committee Meeting of November 21, 1925). Mr. Evans endeavored to ascertain whether the material debts would be included

in the statement which had been promised from the Ministry of Communications but Dr. Tsur was not prepared to answer. In closing the meeting Dr. Tsur said that he had communicated informally the information concerning the plans of the Chinese Government to create a special organ to consolidate the debts and that he could not, under his instructions, give formal notice.

Sub-Committee on Rates of Surtaxes, First Meeting, November 23, 1925.

The Sub-Committee on Rates of Surtaxes held its first meeting on November 23, 1925, and, on motion of Mr. Hioki, Admiral Tsai was elected chairman. Admiral Tsai presented a revised list of "B" grade luxuries (see Annex I next after page 14 of Minutes of November 23, 1925). He also read a statement in explanation of the Estimated Revenue of Proposed Surtaxes from Foreign Imports (see page 3 of Minutes of November 23, 1925). Mr. Strawn remarked that it seemed to him that before they could come to an understanding on rates they must know to what purposes the revenues would be put and what amount would be required. Since there had been no report from the subcommittee on Purposes, he asked whether it would be appropriate to discuss the different rates before they knew the amount and purposes for which the money would be used. He expressed the view that under the Washington Treaty the Conference was required to consider what were the means of abolishing likin, how much money would be required for that purpose and how much money would be required to help China out of the present financial difficulty. He considered that the Delegates could interest themselves in these questions without any intention of interfering with China's internal affairs. Dr. Yen agreed with Mr. Strawn, but pointed out that the Conference was really going beyond the terms of the Washington Treaty and were negotiating a new treaty. For that reason Dr. Yen considered that it would be necessary for the subcommittee to agree upon certain principles before proceeding, the first being whether it was the sense of the subcommittee that the 2½ per cent surtax must be exceeded during the interim period and as to how much money would be required to meet China's needs. Mr. Strawn pointed out, as he had done several times before, that the American Delegation was prepared to give China the 2½ per cent and 5 per cent surtax at once and proceed to the negotiation of a new treaty for the so-called interim surtaxes. For his part, he felt that the subcommittee should take up each of the subjects within the scope of the subcommittee's work and dispose of them as they could agree and leave for later decision those upon which they could not agree. He considered that the uses to which the money would be put and the

rates, were necessarily related and it seemed to him that they ought to be discussed together. Mr. Hioki agreed with this view and particularly with the order of procedure suggested by the American Delegation, and the Delegates from Belgium, France and Denmark also endorsed Mr. Strawn's statement. A discussion ensued as to the classification of certain articles, the method followed in preparing the Luxury List, and the approximate revenues to be derived from the several plans. Mr. Strawn remarked that if the rates proposed were not high enough he favored considering higher rates or a readjustment which would bring in the necessary amount of revenue. He said also that the American Delegates would not insist on the adoption of their plan if some better plan could be evolved, the American proposal having been submitted merely as a basis of negotiation. Mr. Stewart announced that the British Delegation was not prepared to discuss even the main principles suggested by Dr. Yen because these principles depended, largely, upon what they had been discussing at other meetings. Briefly, the position of the British Delegates was that it was premature to discuss the principles in the mind of Dr. Yen until several other important questions connected with the Conference had either been thoroughly discussed or agreed upon. Mr. Stewart suggested that, before going further, they should postpone the meeting until some of the Delegates had expressed themselves as ready to discuss the proposals made by the Chinese, American and Japanese Delegations. He considered this to be most essential, but Admiral Tsai wished his "B" Grade Luxury list discussed either by the Delegates or Technical Advisers. Mr. Oudendijk suggested, however, that the "B" Grade Luxury List properly belonged to all three proposals that had been submitted and that it could be taken to their homes or offices and studied in preparation for another meeting of the subcommittee, at which time more definite figures might be available as to the amounts of money required to meet the purposes of the Chinese Government. It was agreed that this should be done.

Sub-Committee on Rates of Surtaxes, Second Meeting, November 30, 1925.

At the second meeting of the subcommittee on Rates of Surtaxes, November 30, the chairman submitted two documents, as follows, both of which may be found in the Minutes for November 30.

"Explanation of "B" Grade Luxuries"

"Detailed Explanations for the Estimated Revenue of Proposed Surtaxes from Foreign Imports."

The last named document contained tables showing the estimated revenues from proposed surtaxes on foreign imports based on Customs

returns of 1924, the estimated revenue from wine, beer, spirits, et cetera, estimated revenue from tobacco, estimated revenue from "B" Grade Luxuries, and estimated revenues from ordinary goods.

There was no discussion on the various documents submitted to the sub-committee.

Committee on Provisional Measures, Fifth Meeting, December 10, 1925.

At the fifth meeting of the Committee on Provisional Measures, held on December 10, 1925, Admiral Tsai read two documents, one "Remarks Regarding the Valuation of Commodities" and the other "Proposal of the Chinese Delegation Concerning the Revision of the Customs Tariff Schedule" (see pages 2 to 6 inclusive of the Minutes of December 10, 1925.) The first named paper recited that the Washington Treaty relating to the Customs Tariff provides that the Special Conference shall prescribe rules by which further tariff revisions are to be effectuated; that inasmuch as the Conference had unanimously recognized China's right to tariff autonomy and that it will be enforced from January 1, 1929, it would be conceded that from that date the valuation of commodities will be done according to the laws to be promulgated by the Chinese Government. With that end in view for the interim period, and in harmony with the spirit of the Washington Conference, draft regulations relating to the revision of Chinese tariff schedules were submitted. These regulations (page 3 *et seq* of Minutes of December 10) go into great detail as to how the interim revisions shall be made and in the preamble, as a basis for the regulations, is quoted Article IV of the Nine-Power Treaty relating to the Chinese Customs Tariff.

Colonel Peel proceeded to analyze the regulations and said that the only kind of rules the Delegates were authorized to make under their powers given them by the Washington Treaty were rules for the guidance of an International Commission. He did not consider that they were authorized to make any rules for a purely Chinese Revision Commission. He did say, however, that he would be very glad to recommend to his Government for its consideration the Chinese proposal and to name the reasons that prompted the Chinese to suggest the rules. He asked for information concerning the kind of Commission that the Chinese proposed to institute. Admiral Tsai said that the Chinese Government had both Chinese experts and experts from the foreign staff of the Chinese Customs and as a basis of valuation they also had the prices in Shanghai, Hankow, Canton, Tientsin and Dairen as representing the four geographical centers of the Country. A further explanation was made by Admiral Tsai as to plans for the revision, but it did not appear that the Delegates wished to discuss the question further, whereupon the chairman

submitted two documents, one a "Declaration of the Chinese Government Regarding the Levying of Duties and Taxes on Foreigners Residing in China" (see page 11 *et seq* of the Minutes of December 10, 1925), and the other a "Declaration of the Government of the Republic of China Regarding the Abolition of the Export Duty and Coast Trade Duty on Native Goods not Destined for Exportation to Foreign Countries" (see pages 15 and 16 of Minutes of December 10, 1925.)

Regarding the question of the taxation of foreigners, it was pointed out by the Chinese Delegates, in their statement, that in no treaty is there to be found any provision which concedes to foreigners living in or outside the settlements in China an exemption from taxation. However, the practice had grown up of foreigners declining to pay such taxes in the Settlements because they had not received instructions from their Governments. This practice had also extended to foreigners residing outside the Settlements and in the Railway Zones and even the Chinese had resorted to the practice of not paying their taxes in the Settlements and Railway Zones. This, according to the Chinese view, ran counter to the spirit of the Washington Conference which was designed to respect the territorial and administrative integrity of China. The statement submitted gave a brief historical and legal review of the question of the taxation of foreigners in the Settlements.

The Declaration Regarding the Abolition of the Export Duty and Coast Trade Duty, as its name implies, proposed to discontinue the collection of export duty on native goods not destined for exportation to foreign countries and on native commodities entering into the coast trade. This was announced to be an initial step in the direction of the ultimate abolition of likin. After Sir Ronald Macleay had expressed his appreciation of this practical demonstration of the intention of the Chinese Government to make early progress toward the abolition of likin, the Committee adjourned.

Sub-Committee on Rates of Surtaxes, Third Meeting, December 23, 1925.

Admiral Tsai opened the third meeting of the subcommittee on Rates of Surtaxes by presenting a condensed list of "B" Grade Luxuries. The old "B" Grade Luxury List containing 152 items, was reduced to 104 items. Mr. Fox, on behalf of the British Delegation, inquired whether the reclassification would increase the revenues, and if so, he would like some statement with regard to it. Other inquiries were made in this regard, but no reply was forthcoming. Mr. Hioki wished to know what was meant by Article 4 of the Rules which read as follows: "The final decision in any future case of dispute as to what is covered by each item in this List of Luxuries

is to be given solely by the 'Board of Review'." The chairman replied that it was intended to create a Board, consisting of the Shui-Wu-Chu,² the Ministry of Finance and the Ministry of Agriculture and Commerce, and also technical advisers, to pass on questions relating to goods and imports.

Committee on Provisional Measures, Sixth Meeting, February 18, 1925 [1926].

At the beginning of the Sixth meeting of the Committee on Provisional Measures, held on February 18, 1926, Dr. Yen presented, on behalf of the Chinese Delegation, two resolutions, one "Regarding the Estimated Amount of Customs Revenue Derivable from the Interim Surtaxes" (see page 3 of Minutes February 18, 1926) and the other "Relative to the Levying of the Surtaxes as Provided in Article III of the Treaty Relating to Chinese Customs Tariff signed at Washington February 6, 1922" (see page 4 of Minutes of February 18, 1926). In presenting the statements, Dr. Yen stated that the public might think that the Conference had had rather a long vacation, but that, as a matter of fact, there had been frequent and informal exchanges of views and the first resolution embodied a part of the result achieved in the interim. It was pointed out that the period since the last meeting had been devoted to a careful study of the requirements of the Chinese and it had not been an easy matter to reach an understanding, as there were a large number of correlated questions. While they had not reached a complete agreement, it seemed reasonably certain that the figure stated in the Resolution, namely, between ninety and one hundred million dollars, Chinese Currency, as the sum required to meet the needs of the Chinese Government, was really necessary and he felt that the passing of such a resolution would create a most excellent impression not only in China but elsewhere and would prove that the Conference had been progressing in a really friendly and sympathetic spirit.

Colonel Peel protested against so important a resolution being circulated so late. He voiced vigorous objection to that part of the Resolution reading: "do resolve and agree that the annual revenue derivable from the interim surtaxes on foreign imports shall amount to between ninety and one hundred million dollars," and said that it seemed quite impossible to assert in a resolution that the revenue from any particular tax would yield a definite sum. He thought all that could be done would be to agree to the levying of certain definite taxes and to express the hope that these would bring in certain sums. He particularly emphasized that all the discussions which their ex-

²The Customs Revenue Council, created by edict May 9, 1906, to take charge of the Maritime Customs.

perts had had on the subject of surtaxes and the views which they had expressed as being willing to agree to certain taxes, were entirely dependent on the other parts of the treaty being satisfactory. Colonel Peel discussed in a general way the abolition of likin, the purposes to which the new revenues would be put, compensation to the Provinces, transit passes and the consolidation of the unsecured debts as these questions relate to the general Chinese plan of raising more money from Customs duties. Colonel Peel wished particularly to know the aggregate amount of the debts to be consolidated, how the debts would be consolidated, what security there would be and whether any special treatment would be given for railways, and whether the debt of the Ministry of Communications would be taken care of in the general consolidation or in some other plan. He called attention to the fact that expenditure for constructive purposes would depend upon how these questions were solved. This was true he said also of administrative expenses. He discussed rather in detail various phases of the financial difficulties of the Chinese Government and said, in conclusion, that, in his opinion, it would be premature to pass the resolution until a clearer idea could be had of the Chinese program with reference to likin, debts, constructive plans and various other correlated subjects. Mr. MacMurray concurred in Colonel Peel's view and recalled that the work of the Conference was, after all, to authorize the levying of a surtax on dutiable imports as from such date, for such purposes and subject to such conditions as the Conference may determine. The amount of surtaxes to be levied and the conditions had been the subject of their whole deliberation which during the past month had been carried on with a surprising degree of success as seen in the very gratifying progress made in the informal conversations which had done much to clear up misunderstandings and harmonize divergent views. For the purpose of these conversations, it was necessary to adopt certain hypotheses, one of which related to the amount of money that it was expected would be raised from the surtaxes over and beyond those authorized by the Washington Treaty. The informal conversations had brought out fairly definitely that probably between ninety and one hundred millions of dollars would be necessary and could be raised, but Mr. MacMurray, in his discussion of the subject, made it plain that this was simply a tentative hypothesis on which to work out the terms and conditions upon which the surtaxes would be granted. It appeared to him that the effect of the passing of the resolution as proposed in Yin 70³ would be an acceptance of the hypothesis as a fact, which would vastly complicate matters and retard the work of the Conference. Mr. MacMurray said that, for his part, he was quite

³ Document No. Yin 70 was the first of the two resolutions presented by Dr. Yen Feb. 18. See *The Special Conference on the Chinese Customs Tariff*, p. 224.

unable to accept the proposal that they should, prior to the working out of the conditions, agree to a definite amount of money to be raised by the surtaxes. He spoke of the ambiguity of the wording of the Resolution, to which Colonel Peel had also referred, and which possibly left it to be assumed that the Powers would guarantee or subsidize the Chinese revenue in order to make up the amount specified. He felt that the adoption of the Resolution would be a very considerable departure from the purposes which they were endeavoring, with a gratifying degree of success, to work out through other means, and that the passage of the Resolution would be premature. He suggested that the matter be dropped until after they had made further progress with the purposes laid down by the terms of the Treaty.

Admiral Tsai said that he did not believe that the Chinese Delegation ever intended that the Delegations of foreign Governments should guarantee or subsidize the amount. He said, further, that he thought Dr. Wang had in mind naming the \$90,000,000 or \$100,000,000 merely as a hypothetical sum on which they could begin the discussion of the 2½ and 5 per cent surtax question. Admiral Tsai said that what he had in mind principally was the preparation of the way for beginning the collection of these taxes with as little delay as possible, as the Chinese Government was losing \$2,500,000 a month by not being able to collect these duties.

Mr. Strawn remarked that, at the very beginning of the Conference, the American Delegation offered to the Chinese Delegation the immediate implementing of the Washington Treaty surtaxes of 2½ and 5 per cent, and that he heard at that time no dissenting voice except that of China. He said that the American Delegation was still willing to allow it to go into effect immediately, or as soon as possible, and that if China was being deprived of the 2½ per cent it was not the fault of the foreigners, so far as he was able to discover. Admiral Tsai then said that Mr. Strawn was right and that the reason China did not accept the 2½ per cent surtax without condition or understanding was because of the state of public opinion last autumn which would have exposed the Chinese Delegation to the charge of accepting only the 2½ per cent in order to get something for government expenses and letting the rest go. However, as the public had become aware that the foreign Delegations had really approached the matter in a most generous spirit the fear of the Chinese Delegation had passed away and they were ready to begin the collection of the 2½ per cent surtax. Mr. Strawn suggested that other Delegations should be heard from on the subject and Mr. de Warzée and Count de Martel gave their consent to the imposition of the 2½ per cent surtax as early as possible, but they both voiced

disapproval of the plan to consider Yin 70 which named the specific sum of \$90,000,000 or \$100,000,000 as being the amount which it would be necessary to raise. Count de Martel then laid before the Conference a resolution designed to put into force the 2½ and 5 per cent surtaxes (see page 14 of Minutes of February 18, 1926). Mr. de Kauffmann expressed approval of the remarks made by members of the American and British Delegations with reference to the 2½ and 5 per cent surtaxes but objected to the consideration of the resolution concerning the sum of \$90,000,000, which resolution he considered premature. He said that, on the whole, the work of the Conference had been proceeding satisfactorily and that nothing should be done to interrupt this orderly procedure. He referred to the fact that when the American Delegation, near the beginning of the Conference, had expressed a desire to effectuate the Washington Treaty at once, the Danish Delegation had supported the suggestion and it now renewed that assurance. Mr. Oudendijk confirmed Mr. Strawn's statement that when an offer was made by the American Delegation to put in force the Washington Treaty surtaxes immediately the only dissenting voice was the Chinese. He reiterated the willingness of the Netherlands Delegation to proceed at once to the implementing of the Washington Treaty surtaxes and to that end it seemed to him that Count de Martel's proposal covered the same ground as the original American proposal. Like other foreign Delegates who had previously spoken, Mr. Oudendijk voiced objection to Yin 70 which named the \$90,000,000 or \$100,000,000 as the amount required to meet China's needs. Mr. Bianchi also objected to any action looking to the formal passing of Yin 70 but was quite prepared to approve the 2½ and 5 per cent surtax resolution, as he had been all along prepared to do. Mr. Garrido agreed with Mr. Oudendijk's views and Mr. Cerruti agreed with the views of the American and British Delegations and said that, like the American Delegation, the Italian Delegation had from the beginning been willing to give the 2½ per cent authorized by the Washington Treaty. Mr. Hioki acquiesced in the views expressed by the other foreign Delegates concerning Yin 70 and Yin 71,⁴ and suggested that, since there were some technical matters connected with Yin 71 it would be advisable to refer the matter to a small sub-committee for consideration. Mr. Michelet agreed with his colleagues concerning Yin 70, and especially with the views expressed by Mr. Oudendijk. He suggested, however, that the scheme of levying the taxes be simplified as much as possible and to that end suggested that it would be well to have the 2½ per cent on ordinary goods and 5 per cent on luxuries, enforced at the same time. Mr.

⁴ Document No. Yin 71 was the second resolution presented by Dr. Yen Feb. 18. See *The Special Conference on the Chinese Customs Tariff*, p. 224.

Ewerlöf opposed the proposal contained in Yin 70, but approved that contained in Yin 71 and supported Mr. Hioki's suggestion that the matter be referred to a small subcommittee.

Dr. Yen said that the Chinese Delegation had no desire to force anything on the foreign Delegations. He voiced the belief, however, that the various Delegations were really agreed on the content of the two resolutions, although they did not quite agree as to the form in which they had been put. To sustain his point, he said that the French Delegation had presented a resolution which seemed to combine both the resolutions he had introduced. Dr. Yen took occasion to explain that at the beginning of the Conference the Chinese Delegation had thought that the 2½ per cent surtax would not be sufficient for the various purposes and for that reason they had declined it. They were now, however, ready to proceed and he thought Mr. Hioki's suggestion that it be referred to a small subcommittee was a good one. Such a subcommittee, in his opinion, could consider the original American proposal, the Chinese proposal and the French proposal and he suggested that the subcommittee resolution be prefaced with a suitable introduction combining the three proposals. Mr. Strawn expressed doubt as to whether Yin 70 and Yin 71 could be combined and, on behalf of the American Delegation, said that they would not want any suggestion in Yin 70 as to the amount which it might be expected could be raised from these revenues. He again reiterated the willingness of the American Delegation to give the 2½ per cent and 5 per cent at the earliest possible moment, but he did not think it would be well to attempt to combine the two proposals.

Dr. Wang went into great detail in explaining the reasons prompting the Chinese to submit the two resolutions and he said that it seemed necessary to fix some sum as the approximate figure around which it would be necessary to work and that, since the general discussion had seemed to lead to a belief that the approximate amount required for the abolition of likin, the consolidation of debts and other needs would be in the neighborhood of ninety or one hundred million dollars that figure had been named in the Chinese resolution. He emphasized the need for completing the construction of certain railways and conservancy projects, for entering upon certain judicial reforms, for placing the diplomatic service on a sound financial basis and for disbursements for educational purposes. He suggested that Yin 70 and Yin 71 should be combined into one resolution and he took occasion to say that the reason the Chinese Delegation did not accept the American proposal to put immediately into force the 2½ per cent and 5 per cent surtaxes was because that at the time the proposal was first made there was a general

outcry by the Chinese people against the convening of the Special Conference for fear that it would do nothing further than to carry out the terms of the Washington Treaty which would be quite inadequate for the abolition of likin, or for the consolidation of the inadequately secured debts. This fear, however, had now been overcome as the foreign Delegations, by their sympathetic attitude, had won over the opinion of the Chinese people. He cited particularly letters which he had received from leaders of Chinese political thought, such as Mr. Tang Shao Yi, and persons holding responsible positions in the Canton Government, who had expressed satisfaction with the work of the Conference. After proposing an Amendment to Count de Martel's resolution by which, in the second paragraph he would insert the so-called ninety or one hundred million dollars provision, Dr. Wang endorsed Dr. Yen's suggestion that the matter be referred to a small subcommittee. After further discussion, participated in by Sir Ronald Macleay and Mr. Strawn, it was agreed to refer the matter to a special subcommittee of six to be appointed by the chairman on which the Chinese Delegation should be represented. The chairman thereupon appointed a subcommittee composed of members from the American, British, Japanese, French, Netherlands and Chinese Delegations, and it was agreed that the subcommittee should meet on Saturday morning, February 20.

Sub-Committee To Draft a Resolution on the Levying of the Interim Surtaxes, First Meeting, February 20, 1926.

The Subcommittee to Draft a Resolution on the Levying of the Interim Surtaxes met on February 20 and two resolutions, one by the Chinese Delegation and one by the American Delegation—designed to effectuate the Washington Treaty, were introduced (see pages 1 and 2 of the Minutes of February 20 for the text of these resolutions). A discussion ensued as to the differences between these two resolutions and between them and the resolution presented by Count de Martel at the meeting of the Committee on Provisional Measures on February 18. Various questions of a technical character were discussed and considerable attention was devoted to the question of whether ratification would be required on the part of any of the participating governments to make the treaty effective. The committee proceeded to a discussion of the paragraph containing the reference to the ninety million dollars which it was estimated would be required to meet the needs of the Chinese Government. The chairman (Dr. Yen) defended the language of the paragraph and said that instead of being a part of the Resolution it was not put in as a statement of fact or a supposition in the preamble and he considered that this would remove objections voiced at the last Committee meeting. Count de Martel, Colonel Peel, Mr. Hioki and Mr. Strawn voiced objection to the naming of a specific

sum and Mr. Strawn once more reminded the Chinese Delegation that the American Delegation had announced last November that they were willing to let China have the 2½ per cent authorized by the Washington Treaty and the Chinese Government declined to accept it because it feared that acceptance would result in the interim surtaxes not being provided. However, the present negotiation, Mr. Strawn pointed out, should plainly show that the foreign Delegations were both willing and anxious to allow surtaxes higher than those authorized by the Washington Treaty. These negotiations, he considered, had progressed satisfactorily, but had not reached the point where it could be said that \$90,000,000 was the sum required to meet China's needs. He thought it premature to name any specific sum and to obviate this difficulty Mr. Oudendijk proposed that after the words in the American resolution "whereas the representatives of the Powers assembled at this Conference are engaged in the negotiation of a treaty wherein provision is to be made for the levying of surtaxes at higher rates" there should be added the phrase "with a view to meeting the amounts required for the various purposes which are being considered at this Conference". Mr. Oudendijk thought that this might satisfy the Chinese Delegation and at the same time, not mention the amount to which most of the Delegations had objected. Dr. Yen replied that the Chinese Delegation laid great emphasis on the figure and Mr. Strawn supported Mr. Oudendijk's suggestion, saying that the Delegates were earnestly endeavoring to meet the wishes of the Chinese Government and that he could not see how it would be encouraging or discouraging to anybody to state the amount. The point was not decided and the subcommittee passed on to the question of impounding the funds, the Luxury List and other phases of the resolutions. Colonel Peel supported the American resolution and he suggested a committee of experts to consider the question of classification of luxuries and the simplifying of procedure in administering the Customs laws. In this connection Mr. Strawn suggested that a simple way of disposing of the matter would be to prepare a list of commodities paying 5 per cent and then to have all other commodities pay 2½ per cent. His idea was to make the luxuries definite so that there would be no difficulty for the Customs Administration to determine which were luxuries and which necessities. Dr. Yen remarked that the idea of the American Delegation that the levying of both surtaxes should commence at the same time was an excellent one and Mr. Strawn, in reply to a suggestion from Colonel Peel that there would be a further long period of waiting unless the Delegates were given a simple list of luxuries, said that the idea the American Delegation had in mind was that China was just as much entitled to the 5 per cent as to the 2½ per cent and the quicker this was granted the better it would be.

Mr. Hioki at this point raised a question as to the effective date of surtaxes, and Mr. Strawn said that it would be two months after the signing of the resolution, provided, however, that goods shipped into China before the expiration of two months should pay only the duties then in force. Mr. Hioki thought that it would be fair that the levy should begin on the arrival of the goods since if they should decide to make the new duties effective on the date of shipment the Japanese goods would arrive in China much earlier than goods shipped from Europe. Mr. Strawn remarked that if the case were otherwise Japan would have two months' advantage over the other countries. It seemed to Mr. Oudendijk, also, that if the case were otherwise it would give Japan a much longer period during which Japanese goods could still come in at the lower rate. Mr. Strawn said that the sole purpose was to place every country on a parity. As this question gave promise of prolonged debate without arriving at any definite decision, Mr. Strawn passed on to the next paragraph of the American proposal which provided that the increased revenue which would accrue from the Washington Treaty surtaxes should be held by the Customs Administration for the purpose of being applied to the carrying out of such plans as shall be agreed upon by the Conference and that the funds should not be pledged or hypothecated to secure any indebtedness. In explaining this provision Mr. Strawn said that it was not intended as a reflection on the gentlemen who were trying to negotiate the treaty, but had been put in as a protection to the Chinese Delegation in anticipation of the importunities of *Tuchuns* and warlords by putting it beyond the power of anybody to raise any money on that anticipated revenues. Dr. Yen objected to this provision and said that the Chinese Delegation could not consent to the imposing of such humiliating conditions, whereupon Mr. Strawn remarked that they were not humiliating, but protective, and that in view of the financial situation in China the problem might just as well be faced squarely and frankly. Count de Martel supported Mr. Strawn, remarking that the last loan floated was secured on funds available after two years, for which reason he considered that there should be some guarantee against such transactions. Count de Martel said that he was ready to adhere to practically all of the American proposal because it covered nearly all of the ground in the French proposal and was better worded. Mr. Hioki said that he considered the American draft better than the Chinese draft, but he could not commit himself until he had made a more thorough study.

At this point in the proceedings the third paragraph was reached and Mr. Strawn offered an amendment which would omit any reference to the "ninety million dollars" or to any other specific sum, merely "authorizing the levying of surtaxes at rates higher than

those provided in Article III" of the Washington Treaty. Dr. Yen again entered protest against omitting the ninety million dollars from the paragraph and finally said that the Chinese Delegation would make a reservation on the point. Other paragraphs more or less technical, were read and discussed in order, but no definite decision concerning any of them was reached, it being the sense of the meeting that the questions should be considered by the technical advisers.

On reading the last paragraph of the American proposal, Dr. Yen again entered vigorous protest against the provision prohibiting the pledging or hypothecating of any of the accumulated funds. He thought that this phase of the matter could be covered by the clause, "the proceeds of these surtaxes shall be employed for such purposes and subject to such conditions as this Conference may determine." Dr. Yen said that the Chinese Delegation could not go beyond the plain terms of the treaty. He contended that there was no occasion to provide a protective measure, but Colonel Peel and Mr. Strawn dissented from this view, the latter because he wanted to make certain that the militarists could not seize the funds. A prolonged discussion ensued covering this paragraph and numerous amendments were offered, but no definite decision was reached. The insistence of Dr. Yen that the wording of the Washington Treaty should be followed and that no reference to "custodian banks" should be made in the last paragraph made it impossible to agree upon a resolution (see pages 30, 31 and 32 for texts of Chinese and American resolutions relative to levying the Washington surtaxes).

Sub-Committee to Draft a Resolution on the Levying of Interim Surtaxes, Second Meeting, February 24, 1926.

At the second meeting of the Sub-Committee appointed by Committee II to draft a resolution on the levying of the interim surtaxes, Dr. Yen, the chairman, submitted an amended draft of a resolution designed to effectuate the Washington Treaty. (See page 34 of Minutes of February 24, 1926). Dr. Yen said that the amended draft was based largely on the one previously submitted by the American Delegation. The first and second paragraphs followed exactly the words of the American resolution, but the third paragraph was altered so as to bring in the sum of ninety million dollars in the preface. Mr. Strawn immediately protested this wording and said that he saw no necessity for inserting the figure and suggested that it be omitted. Mr. Hioki offered an amendment designed to obviate the necessity of inserting a specific amount in the resolution and Colonel Peel said that none of the foreign members of the subcommittee wished to commit themselves in the preamble to anything in the new treaty. Dr. Yen persisted in his effort to prevail

on the foreign Delegates to consent to the naming of \$90,000,000 as the sum which was to be raised and the foreign Delegates, in turn, as strongly opposed any such commitment. Mr. Oudendijk attempted to conciliate the differences and suggested that the words, "with a view to meeting the amounts required for the various purposes which are being considered at this Conference", be substituted for the so-called ninety million dollar clause. Mr. Oudendijk considered that this wording was substantially the same as the Japanese wording. Mr. Strawn agreed, on behalf of the American Delegation, to accept the Japanese draft, as did Count de Martel, who also said that he would be willing to accept the Chinese draft if the Chinese Delegation would be willing to omit the figure \$90,000,000. Mr. Oudendijk again attempted a compromise wording but Mr. Strawn said that the American Delegation considered it to be entirely out of place to make any mention of the \$90,000,000 because it was necessary first to know the purposes to which the money would be put and the rates which would be required; that the foreign Delegations were working to that end intelligently, faithfully and persistently. Once more Mr. Strawn emphasized the desire of the American Delegation to give the 2½ and 5 per cent surtaxes at once and also to negotiate a new treaty giving additional revenues to the amount required to meet the needs of the Chinese Government. Mr. Strawn expressed the fear that a great deal of misapprehension would arise in America, as well as in China, if the Delegates agreed to the raising of the 90 million dollars without the purposes having been defined. He did not wish a false impression to go out and he did not understand why, when they were approaching an agreement on the subject, the Chinese Delegation should insist upon naming in the resolution the sum of 90 million dollars as the amount required, particularly since the resolution dealt with the 2½ and 5 per cent treaty surtaxes and not the larger interim surtaxes. Mr. Strawn stated that he had no objection to an amalgamation of the Chinese and Japanese resolutions except that he would insist, persistently and continually, for the reasons he had already named, that there should be no insertion of a specific amount in the resolution. After a further unsuccessful effort was made to reconcile the differences in the resolution under discussion, Dr. Yen said that he would insist on his reservation regarding the 90 million dollars, whereupon Count de Martel observed that he thought the item was being inserted for the purpose of obtaining credit. Dr. Yen then suggested that the subcommittee make its recommendations to Committee II and let that Committee decide the point, but Mr. Strawn considered that plan futile because at the last meeting of Committee II not a single foreign Delegation had expressed a willingness to accept the item,

although, if it chose to do so, the Chinese Delegation could make a minority report and the full Committee could accept either the majority or minority report. Further efforts to conciliate the differences were made by Mr. Oudendijk and others, but a compromise could not be agreed upon because of the persistency of Dr. Yen in declining to accept any draft which did not contain the 90 million dollars item. A large number of amendments were offered designed to satisfy the Chinese viewpoint, but they were all promptly and emphatically rejected because they did not concede the 90 million dollars.

Dr. Yen considered that it would be better to permit the 2½ per cent surtax to go into effect at once and the 5 per cent tax on luxuries to go into force at a later date, not exceeding two months, in order to allow more time for preparing a list of luxuries. Mr. Strawn assented to this, although he felt that it would simplify matters if both rates went into force at the same time. A discussion ensued as to whether the 2½ and 5 per cent surtaxes should be based on actual rates then being paid which were slightly less than the rate of 5 per cent provided in the Customs treaty. It was brought out that one of the periodical revisions of the schedules of rates would probably be necessary within the next few months. It was agreed that the Inspector General of Customs should be consulted concerning this point. Colonel Peel said that in his opinion, it would be preferable to have the 2½ and 5 per cent surtaxes go into effect at the same time and that everything should be done to simplify administrative matters. He emphasized the need for a short luxury list and suggested that the advisers be instructed to prepare one at once, in which suggestion Mr. Strawn concurred. A rather prolonged discussion took place as to the effective date of the new rates and Mr. Hioki was pronounced in his view that the levying of the new duties, after due notice had been given, should, as is the universal practice, begin at the moment the goods have arrived at the port of entry. This, he considered, would be a simple method of procedure, and would place all goods on an equal basis at the customs houses. Mr. Strawn and Colonel Peel contended for the date of shipment rather than for the date of arrival for putting into force the new rates. The advantages and disadvantages of the two proposals were discussed at length, during the course of which Mr. Oudendijk suggested the deletion of the words "country of origin" and the substitution of the words "goods shipped to China", his point being that the country of shipment was not always the country of origin. Both Mr. Strawn and Colonel Peel agreed with Mr. Oudendijk's views on this point. As the discussion developed very divergent views and

technical phases of the question arose, it was deemed advisable to refer the matter to a committee of technical advisers.

Mr. Hioki proposed an amendment to the last paragraph of the Chinese proposal concerning the impounding of the revenues derived from the surtaxes and the custodian-ship of the funds (see page 27 of the Minutes of February 24, 1926). This amendment was a remodeling of the American proposal. The provision relating to custodian banks provoked considerable adverse criticism and in reply to Mr. Strawn's inquiry as to the purpose of the last line of his suggestion, "in such manner as shall have been agreed upon at this Conference", Mr. Hioki stated that that referred to the principle upon which the Customs revenue was to be apportioned to the different banks, whether it was to be according to the credit which each nation had, or to the trade, or to something else. A series of amendments were then submitted designed to simplify the language and to provide a guarantee against the dissipation of the funds. In discussing the amendments Dr. Yen again referred to the 90 million dollar clause and said that the Chinese Delegation would be prepared to go as far as possible to meet the wishes of the foreign Delegates in regard to the security of the funds. He referred to Count de Martel's statement that the foreign delegates did not want to name the figure because they feared that the Chinese Government might use the money, or that figure, as security for making a loan. Count de Martel replied that his objection was made because he happened to remember an instance in which the Chinese Government pledged the surtaxes contemplated in the Washington Treaty within a few months after the end of the Washington Conference, and that evidence to this effect was in the files of the French Delegation. Dr. Yen said that he had no knowledge of such a transaction but that there were certain instances when foreign creditors had insisted upon the proceeds of the 2½ per cent surtaxes being guaranteed to them. Count de Martel said that the case he had in mind was the Kiangnan Arsenal at Shanghai in connection with which the Minister of Finance offered the surtaxes as security. Count de Martel said that he would favor ruling out such a pledge and Colonel Peel expressed a similar view and said, too, that the surtaxes had also been pledged to secure payment of certain British creditors. The sub-committee returned to a discussion of Mr. Oudendijk's amendment designed to take the place of paragraphs 3 and 4 of the Chinese draft and reconcile the differences between the Delegates concerning the reference to the \$90,000,000, but it developed that no agreement could be reached and the sub-committee adjourned (see page 34 of Minutes of February 24, 1926, for Japanese draft resolution on effectuating the Washington Treaty).

Technical Committee to Draw up a List of Luxuries, First Meeting, February 25, 1926.

Pursuant to the desire of the subcommittee appointed by Committee II to draft a resolution to levy the Washington surtaxes, the Committee of Technical Advisers met on February 25, 1926, to draw up a list of luxuries for submission to the sub-committee above mentioned. The Chinese Technical Advisers submitted two tables, one giving the estimated revenues to be derived from surtaxes shown in Yin 67 and the other the estimated revenues on the basis of certain percentages (see pages 2 and 3 of Minutes of February 25, 1926). Mr. Stewart of the British Technical staff inquired what amount it would be expected the Washington surtaxes would produce. He surmised, by a method of calculation based on luxuries listed in "A", "B" and "C", that the amount would approximate \$3,200,000. Mr. Perkins read pertinent portions of the Washington Treaty and said that the matter of arriving at what constituted a luxury rested entirely in the discretion of the Conference. He suggested that the lists of "A", "B" and "C" grade articles should be taken as a tentative basis of discussion, with the understanding that any Delegation could make a reservation, for good and substantial reasons, on any particular item which they did not believe to be properly placed. Mr. Perkins made it plain that the lists were purely tentative and were not intended to have any bearing on or any connection with the interim rates of surtaxes which were to be incorporated in the proposed new treaty. The chairman remarked that according to Mr. Perkins' suggestion, "A", "B" and "C" grades would yield \$9,063,000, which answered Mr. Stewart's inquiry, and that grades "D", "E", "F" and "G" would yield \$23,456,000, making a total of \$32,519,000 which could reasonably be expected, if the figures submitted by the Chinese were correct. Mr. Hornbeck suggested that the purpose of the meeting was to discuss the division between the 2½ per cent and the 5 per cent and to draw up a schedule for the 5 per cent luxuries to be levied under the provisions of Article III of the Washington Treaty and not to discuss any amounts of money to be raised.

Mr. Stewart suggested that to begin the discussion, the Advisers should accept at once and without alteration "A" and "B" in the Chinese classification as coming within the 5 per cent basis.

Mr. Hornbeck objected to this because he feared that the acceptance of these two classes might ultimately lead to including in the luxury list only the commodities in those two grades. He said that the attitude of the American Advisers in regard to "A" and "B" depended somewhat on the attitude of the other Advisers in regard to articles in Class "C". The plan of procedure adopted was that the chairman should read out the list item by item, and ask if any

one had any objection to the inclusion of a particular item in the 5 per cent list.

Beginning with the Commodities in Class "A" the list was read item by item and various reservations were made.

There had been such a large number of reservations on the "A", "B" and "C" lists that at the suggestion of Mr. Stewart, concurred in by Mr. Perkins, it was deemed inadvisable to proceed to the reading of the "D" and "E" classes of commodities.

It was agreed to leave these two lists for consideration at a further meeting, at which the reservations made on the "A", "B" and "C" could be adjusted. For a table of estimated revenues derivable from the proposed surtaxes see Appendix 1, Minutes of February 25, 1926, and for a table showing the value of the import trade of China for 1924 on which duty was assessed see Table I in same Minutes. For value of "free goods" see Table II and for value of dutiable goods specially exempted from duty in 1924 see Table III in Minutes of February 25. In the same Minutes may be found the Tables, with explanatory notes, showing the items in Grades "A", "B", "C", "D", "E", "F" and "G".

Technical Committee to Draw up a List of Luxuries, Second Meeting, March 2, 1926.

At the second meeting on March 2 of the Technical Committee to Draw up a List of Luxuries, Admiral Tsai submitted a list of all the articles on which reservations had been made by the different members of the Technical Committee, together with a table showing the rates of import duties in foreign countries on the goods on which reservations had been made, and also a list of the revised terms in Classes "A", "B" and "C". These documents may be found on page 2 *et seq* of the Minutes of March 2, 1926.

Mr. Saburi read from the Minutes of the Washington Conference, in connection with the inquiry made by Mr. Stewart at the last meeting as to the amount of revenues expected from the Washington surtaxes, showing that Senator Underwood's estimate was \$46,167,000.⁵ Mr. Saburi pointed out that this figure differed greatly from the figure named at the last meeting. Admiral Tsai remarked that the situation in China was now quite different from what it was at the time of the Washington Conference. Mr. Stewart emphasized the need of disposing of the Washington surtax question with as little delay as possible as the American Delegation had originally proposed, so that the Conference would be free to deal with the new situation which had arisen since the Washington Conference. He expressed the hope that everyone would show the same liberal spirit and open-mindedness which would help matters along.

⁵ See *Conference on the Limitation of Armament*, p. 1166.

The chairman proceeded to read out the list of reservations item by item and in a considerable number of cases the reservations were maintained, but in others they were withdrawn. The few reservations made by the American Advisers at the previous meeting were withdrawn and Mr. Hornbeck announced that the American Advisers were willing to accept the "A", "B" and "C" lists in their entirety. As a possible means of speeding up the work, Mr. Hornbeck expressed the hope that other Delegations would also withdraw their reservations on at least some items. Following this suggestion several individual reservations were withdrawn and the Portuguese, Norwegian, Swedish and Danish representatives all, in turn, pursuant to the American suggestion, accepted *in toto*, the "A", "B" and "C" lists. The meeting developed that there still remained 14 reservations in the "C" class, but since 11 items had been transferred out of "D" and "E" there seemed to be substantially a balance and that it was therefore considered that it was in order to report the lists to the sub-committee to levy the Washington surtaxes.

Sub-Committee to Draft a Resolution on Levying Washington Surtaxes, Third Meeting, March 8, 1926.

At the third meeting of the Sub-committee to Draft a Resolution on Levying the Washington Surtaxes, the chairman stated that Mr. Strawn had been good enough to prepare a composite draft of the resolution embodying the various ideas which had been brought forth at the previous meetings and that with but few changes the Chinese had practically adopted the same wording in their draft, which he proceeded to read to the sub-committee. (See pages 1 and 2 of Minutes of March 8 for revised Chinese draft.) The first three paragraphs were approved without amendment, but the fourth paragraph brought on considerable discussion and several amendments were offered. Dr. Yen suggested that they revert to the original Chinese idea, but both Colonel Peel and Count de Martel warned that it would be useless to attempt again to bring in the 90 million dollar clause. The chairman, however, further along in the discussion stated that the Chinese Delegation thought it would be better to insert this figure in the fourth paragraph and that an oral reservation would be made regarding it. He proceeded to read the fifth paragraph of the preamble and thereafter the first paragraph of the resolution itself. He insisted that the principle of making the duties effective at date of landing instead of date of shipment should be maintained. He explained that it was not so much the amount of money involved as it was a desire to establish a principle that prevailed in practically all other countries. He expressed a desire that the procedure would be so arranged that no injustice or hardship would befall the merchants

of countries remote from China. The matter of the effective date brought on considerable discussion and Colonel Peel remarked that as contracts were all based on the date of shipment to enforce the principle of the date of landing would produce a great deal of confusion in the business world as the merchants would suddenly be confronted with a different rate. Various suggestions were made to conciliate this question but it was found impossible to arrive at a satisfactory solution. The Japanese insisted upon the date of landing, whereas Colonel Peel and others insisted upon the date of shipment. A considerable number of amendments designed to simplify administrative features of the paragraph were offered and practically all of them were rejected. Several of the Delegates thought it advisable to adhere to the usual practice in China of giving at least sixty days' notice. Colonel Peel announced that he would not, under any circumstances, accept less notice than sixty days. Mr. Strawn announced that he would not be disposed to change the practice with reference to notice so as to accelerate the effective date and thereby preclude his nationals from completing contracts which they might have with the Chinese for the delivery of goods. He anticipated that if such a change were made there would be protests and in any event he did not consider that the American Delegation had authority to give their assent to a change of this character. He emphasized the point that he wished to move along the line of least resistance otherwise it might delay the effectuating of the Washington Treaty. Mr. Hioki continued vigorously to oppose the adoption of the date of shipment, but notwithstanding the efforts of Mr. Oudendijk to reconcile the differences, the question remained unsettled.

Mr. Strawn emphasized the need of avoiding controversial subjects by pursuing the methods that hitherto obtained in China, so that nothing would arise to prevent the new tariff duties from becoming effective at the earliest possible moment.

The paragraph relating to the impounding of the increased Customs revenues, free from all encumbrances, by the Chinese Customs Administration was then read for discussion and the chairman explained that the Chinese Delegation had practically embodied the ideas of the other Delegations in this paragraph. He explained further that in order to avoid any prejudicial or controversial questions, the Chinese Delegation had used the exact wording of the Washington Treaty as concerns purposes and conditions. The last part of the Chinese Delegation's original resolution had therefore been changed to read "as for such purposes and subject to such conditions as the Special Conference may determine". Various amendments were offered to this paragraph, the most important one being that of Mr. Hioki who suggested that at the end of the paragraph a reference should be made to the question of custodian banks. He submitted a revised form (see

page 26, Minutes of March 8, 1926) and said that the "custodian banks" mentioned in his draft would be different from the so-called custodian banks at present, and that as to the manner of deposit of the money, it was intended to propose a different basis from that in effect at the present. The chairman objected to taking up the question of custodian banks on the ground that he did not wish to complicate the question under consideration. Mr. Hioki replied that the 2½ and 5 per cent surtaxes could not be levied unless the Conference fixed the purposes and the conditions and the date, and that in his opinion the fixing of the custodian banks was one of the conditions which was meant in the Treaty. Colonel Peel remarked that he was quite content to leave the matter of the deposit of the surplus funds to the Chinese Government and the Customs Administration. Mr. Strawn said that he thought the revenues ought to be divided among the different banks of the several countries. The chairman continued vigorously to oppose the inclusion in the agreement of any provision relating to custodian banks, preferring, as he said, to defer the matter until the question of levying the interim surtaxes should be taken up. Mr. Strawn said that his solicitude about deferring the proposition to a later date arose from the fact that he desired to safeguard these revenues in such a way as to put them beyond the power of anyone to put any lien on them. Since the sub-committee was unable to agree upon this point, Mr. Hioki made a reservation on the question and proceeded to read a proviso which he deemed prudent to add to the paragraph which had just been under discussion. (See page 30 of Minutes of March 8, 1926.) The purpose of this proviso was to guard against the contingency of an inability to agree upon the distribution of the money collected from the surtaxes in which event the money already accumulated was to be disposed of by the Conference. Mr. Strawn said that he did not believe that the situation justified Mr. Hioki's apprehension that the Conference might possibly not agree upon the purposes to which the funds would be applied. Since it was not possible for the sub-committee to agree on this paragraph, adjournment was taken with the understanding that at the next meeting the questions of shipping and landing and of custody of funds would be taken up.

(See Appendix I for Japanese [*Chinese*] draft of resolution relative to the levying of Washington surtaxes and Appendix II for the American draft on the same subject, Minutes of March 8, 1926)

Sub-committee to Draft a Resolution on the Levying of the Washington Surtaxes, Fourth Meeting, March 12, 1926.

At the Fourth Meeting of the subcommittee to draft a resolution on the levying of the Washington surtaxes, held on March 12, 1926, the chairman announced, at the beginning of the meeting, that there

were only two or three points on which agreement could not be obtained at the last meeting, on the resolution implementing the Washington Treaty. The question of the date of shipment arose and Colonel Peel remarked that at the previous meetings he had objected to the principle of the date of landing on the ground that it would be a handicap to British trade and he said that he was still of that opinion. However, he announced that he had been instructed by his Government to abandon, for the sake of harmony, the principle of the date of shipping if they were allowed three months' notice from the date of passage of the resolution. Count de Martel supported Colonel Peel in this position. The chairman emphasized the need of introducing the surtaxes with as little delay as possible and said that every day of delay would cause less money to be available to meet the purposes which might be agreed upon. He considered that the Chinese Delegation had been very liberal in consenting to give seventy days' notice, which was only a difference of about twenty days from the three months' period suggested by Colonel Peel. Mr. Strawn concurred in Colonel Peel's suggestion and Mr. Oudendijk expressed a desire to expedite the passage of the resolution with as little further discussion as possible. Mr. Hioki said that his proposal in connection with using the date of landing was based strictly upon a question of principle and that so long as that principle was admitted he had no objection to the ninety days' notice. The chairman, however, declined to agree to the three months, saying that the original idea was only one month, which had been changed to a month and a half, and ten days and again to two months and ten days, and now the Delegates had asked for ninety days. He felt compelled, therefore, to make a reservation on the point.

The sub-committee passed on to the paragraph relating to the custody of the funds and Mr. Hioki submitted a new draft on this point, prepared by the Japanese Delegation⁶ (see page 4 of Minutes of March 12, 1926). Dr. Yen said that the Japanese draft introduced an entirely new idea, that in his opinion the proviso defeated the very purpose for which the sub-committee was sitting, that is, the sub-

⁶"It is agreed that the increased Customs revenue which will accrue from the levying of these surtaxes shall be held, free from all encumbrances, by the Customs Administration, to be applied later for such purposes and subject to such conditions as shall have been agreed upon at this Conference, or provided for in the treaty or treaties negotiated at this Conference; with the proviso, however, that, in case the purposes and conditions for the expenditure of the increased revenue to be derived from these surtaxes shall not have been agreed upon at this Conference on a date earlier than the 31st day of May, 1926, the levying of these surtaxes shall take effect only on and from a date fifteen days after the day on which an agreement in regard thereto shall have been adopted.

"And it is further agreed that this increased Customs Revenue shall be deposited in custodian banks in the manner and the proportions which shall have been agreed upon at this Conference." *The Special Conference on the Chinese Customs Tariff*, p. 476.

committee was trying to agree upon the levying of surtaxes on a certain day and the proviso practically made it impossible for the surtaxes to become effective on that day. He disliked also to note what he called an implied want of confidence in the work of the Conference and that it seemed to be an admission that the Conference had done almost nothing and that there was little likelihood of anything being done by June 15. A further objection was that the Japanese proviso would be a weapon which could be used to upset the Conference entirely, since there might be disagreement as to the purposes and conditions, in which case it would be possible, in effect, to cancel the Washington Treaty. Mr. Hioki took issue with Dr. Yen and stated that if the Conference allowed the Chinese Government to begin the levying of surtaxes without fixing the conditions, then they were in position to violate the Washington Treaty. He considered that the proviso, instead of delaying matters indefinitely, would impel them to finish their work with greater energy than before because they would all be determined to come to an agreement just to avoid the difficulties to which they might be brought by force of circumstances. He said that he had offered the proviso with the best of intentions and in the hope of arriving at a conclusion at the earliest moment. Dr. Yen replied that the latter part of the first sentence of Mr. Hioki's draft, namely "to be applied later for such purposes and subject to such conditions as shall have been agreed upon at this Conference" practically covered all that was necessary or essential, so that he did not see the necessity of the negative side of the proviso. Dr. Yen remarked that the main purpose was to make provision for the safe-keeping of the revenues and to make it impossible for others to tamper with them. Mr. Strawn remarked that he could not share the chairman's solicitude in any of the respects he had voiced concerning Mr. Hioki's resolution. He said that he did not wish to be unpleasant by recurring to the fact that the American Delegation had offered last fall to put the Washington surtaxes into force, which offer had been rejected by the Chinese, and that had they availed themselves of the opportunity, the Conference could have proceeded immediately to consider the subject of conditions and purposes. He did not consider that the resolution manifested any lack of confidence on the part of the Powers, and he pointed out that if there were such a lack of confidence it would impel them not to do anything about the treaty until the purposes and conditions had been agreed upon. A lengthy discussion ensued particularly on the subject of purposes and Mr. Oudendijk pointed out that the purposes which the Conference should agree upon would be exactly the same for the 2½ per cent surtaxes as they would be for the surtaxes of the interim period. Mr. Oudendijk also said that he concurred with Mr. Hioki's view that the Japanese proposal would

accelerate the work of the Conference. Count de Martel also shared this view. However, the chairman remained obdurate. In the course of the discussion Mr. Strawn expressed the view that the purposes and conditions connected with the 2½ and 5 per cent surtaxes were likewise applicable to the interim surtaxes and that there was no difference in principle as between the two. Count de Martel then pointed out that if they proceeded to levy the surtaxes without having agreed upon the purposes, they were no longer within the scope of the Washington Treaty. Mr. Hioki continued to press his resolution and said that there was no better evidence of the bona fide intentions of the foreign Delegates than the discussions about the 90 million dollars; that this controversy showed the difficulties under which the foreign Delegates were attempting to do their work. Failing to arrive at an understanding on this point, the sub-committee passed on to a discussion of the provision relating to custodian banks. The chairman opposed the Japanese proposal on the grounds, as he had said before, that he did not wish to prejudice a future case by discussing a question then which ought only to be discussed later. He considered that this question belonged exclusively to Committee III, which Committee, Mr. Oudendijk pointed out, had not then been created. Mr. Oudendijk concurred in the suggestion that the question properly belonged to Committee III, if and when appointed, and he suggested to Mr. Hioki that the paragraph should not be insisted upon at that time. On the understanding that the question would be taken up and discussed in another Committee, therefore, Mr. Hioki said that he was willing to defer the question. In summing up the action taken by the sub-committee, the chairman said that they had practically agreed on everything except the proviso and the period of three months' notice.

Sub-Committee to Draft a Resolution on the Levying of the Washington Surtaxes, Fifth Meeting, March 18, 1926.

In calling to order the fifth meeting of the Sub-Committee to Draft a Resolution on the Levying of the Washington Surtaxes, the chairman announced that they were practically agreed on the preamble and the first part of the body of the resolution but that there was still a reservation on his part regarding the length of time as to notification and that the Japanese proviso submitted at the last meeting did not have the approval of the Chinese Delegation. After reading the Japanese proviso in an amended form, proposed by the Chinese Delegation (page 1 of Minutes of March 18, 1926), the chairman reviewed the course of the discussion at the last meeting and at some of the other meetings of the sub-committee. In concluding his review the chairman expressed the earnest hope that they could come to some sort of conclusion on that day. Mr. Hioki said that he saw no reason why the Japanese

proviso should be amended as he understood that it had been agreed upon by all of the members of the sub-committee except the Chinese at the last meeting. He said also that he must frankly confess that he then saw greater need of adopting the proviso than prevailed at the last meeting. He saw difficulties in fixing the percentage of the allocation of the sum and, if this question should be settled, it would then follow that the question of the custodian banks would have to be brought up again. For these reasons he thought it would be better to drop the amendment and agree to the original proviso which was almost approved by the sub-committee at its last meeting. Mr. Hioki and Count de Martel referred to certain loan negotiations which had created suspicion and which had made it more necessary than ever to guard against the dissipation of the funds. In the course of the discussion Colonel Peel said that he rather preferred the original American draft on this subject but Mr. Hioki said that he was not prepared to accept that draft, whereupon Mr. Strawn said that at the last meeting he had, on behalf of the American Delegation, agreed to accept the Japanese draft, and that he did not consider it prejudicial in any way to the rights of the Chinese Government. The chairman again expressed the willingness of the Chinese Delegation to accept the American draft with perhaps the change of a word or two but they could not accept the Japanese proviso. Count de Martel reiterated his support of the Japanese draft but the chairman was unwilling to give his assent and he suggested that the Chinese, Japanese and American drafts should be submitted to the full committee. Mr. Strawn, Colonel Peel and Count de Martel considered that this would not be a procedure which would expedite matters and Mr. Strawn suggested that the matter lie dormant until an agreement could be reached. Mr. Oudendijk, in an effort to have the committee arrive at a definite conclusion said that he thought the question should be further discussed with a view to overcoming the difficulties. He thought that a mere postponement would be of no use and he urged the subcommittee to accept the Japanese proposal as it stood. He could not see that it involved any danger to the Chinese Government, and as he had previously said, would expedite the work of the Conference. He strongly urged the Chinese Delegation to reconsider its position and to come to an agreement which he thought was also the position of the other five members of the subcommittee. Mr. Hioki said that the only alternative which the Japanese Delegation would accept was that the levying of the surtaxes should be allowed to begin only when the conditions and purposes should have been agreed upon. The chairman said that it seemed useless to discuss the matter further and that Mr. Strawn's suggestion to defer action would be followed. After considerable further debate it seemed reasonably

certain that the Chinese would yield no ground with reference to the Japanese proviso and with reference to the ninety days' notice. Count de Martel, at this point, reminded the Chinese Delegation that with reference to the landing they had won on principle and the chairman replied that China had won on principle so often that he hesitated to win much more on it. The reading of the resolution, so far as it had been agreed upon, then took place (see pages 14 and 16 of Minutes of March 18, 1926). With certain corrections noted it appeared that the resolution had the unanimous approval of the Delegations composing the sub-committee, with the exception of the Chinese Delegation who had made three reservations, one with respect to the 90 million dollar clause; another with respect to the three months' notice and a third with respect to the Japanese proviso. Adjournment was taken with the understanding that the chairman would consider the question whether the sub-committee would make a majority and a minority report, or whether they would allow the matter to stand *in statu quo* holding another meeting with a view to arriving at a definite understanding.

Technical Committee to Draw up a List of Luxuries for the Levying of the Washington Surtaxes, Third Meeting, April 9, 1926.

The third meeting of the Technical Committee to Draw up a List of Luxuries for the Levying of the Washington Surtaxes, was held April 9, 1926, and various items on the so-called Luxury List which had been discussed at previous meetings were taken up and disposed of. Considerable discussion took place as to whether the classification of an article by number would be the guide for the Customs authorities in determining the duty to be paid upon a given commodity. Since there had been some confusion in the numbers in making up the revised list considerable difficulty was encountered in fixing the exact classification of some of the commodities previously agreed upon. With a view to simplifying matters Mr. Hornbeck suggested that the practical thing to do was for the Chinese Delegation to withdraw from the list then under discussion such numbers as did not appear in the list which they had discussed and agreed upon at the last meeting. As Yin 77 was the list referred to, a checking up of the numbers of the two lists (Yin 77 and Yin 85) showed considerable change of numbers of commodities, and the sub-committee consumed considerable time in straightening out this tangle. Practically all of the time of this meeting was consumed in discussing articles which had by rearrangement been transferred from one list to another, or added to a list through the interchange of certain index numbers. The chief difficulty of the Advisers was in arriving at a definite idea as to what constituted the articles in Classes "A", "B" and "C", and also to determine whether they would use the index

numbers or the names of the articles in making up the final list. Mr. Fox suggested that there be but one list prepared, namely a list of articles paying 5 per cent, and that all other articles would be considered as paying 2½ per cent surtax. Mr. Saburi said that the Japanese Delegation was preparing a list according to tariff numbers only and that it would be submitted in due course. Mr. Van Haute of the Belgian Delegation said that he would also prepare a list giving the tariff numbers. It was finally agreed that the Chinese Delegation should prepare a complete new list giving the tariff number and the definition, and that the list would be circulated with the time allowance of one week within which any Delegation might make a recommendation or reservation as to a particular item. (See Appendix I, Minutes of April 9, 1926, for revised list of articles liable to a total surtax of 5 per cent; commodities being re-arranged so that all goods of the same kind are kept together; See Appendix II for list of articles liable to a surtax of 5 per cent as agreed upon at the meeting of March 2, 1926; See Appendix III for list of articles reserved by certain foreign Technical Advisers for further consideration at the meeting held on March 2; see Appendix IV for summary of replies from foreign Delegations in regard to articles liable to surtax of 5 per cent and articles reserved for consideration.)

SECTION II

The first section of this report having been confined to a review of the proceedings of the formal sittings of the Conference and its Committees and Sub-committees, it seems appropriate now to give a brief resumé of the proceedings of the informal meetings of the Delegates and the Technical Advisers which have been held at intervals since October, 1925, at the headquarters of the various foreign Delegations.

Much of the real work of the Conference has been accomplished at these informal sittings which have become more and more necessary as the local political situation became increasingly chaotic. Several of the Chinese principal Delegates and Advisers having fled from Peking in March and April, and the two remaining Chinese Delegates, Dr. Yen and Admiral Tsai Ting Kan, having been principally engaged in trying to find means of preserving order and re-establishing a Government, only a few formal meetings were held after the middle of March. Since the informal meetings were held at irregular intervals and no fixed program was arranged, it is deemed advisable, for purposes of convenience, briefly to summarize, by subjects, the activities of the Conference as they developed at these meetings.

The principal subjects under discussion at these informal meetings were as follows:

- Likin and Tariff Autonomy
- Rates of Surtaxes
- Consolidation of Debts
- Washington Treaty Surtaxes
- Compilation of Tables
- Miscellaneous Questions Incident to the Conference.

No attempt will be made to go into details as many of the discussions involved meticulous consideration of technical questions which had no important bearing on the general work of the Conference. It will be sufficient, therefore, to give only a brief summary of the more important developments at these meetings and to enclose, for the purpose of a more complete record, copies of memoranda covering the meetings and of pertinent documents submitted from time to time on the several subjects under discussion.

Likin and Tariff Autonomy.

The question of Likin and Tariff Autonomy did not occupy the attention of the Delegates and Technical Advisers outside of the formal meetings to any considerable extent, except as it indirectly related to the question of Rates, Purposes and Debts. The principle of Tariff Autonomy and the abolishment of likin was discussed at length at formal Committee and Sub-committee meetings, and these discussions are summarized in Section I of this report. The discussion of these questions at the informal meetings took on the character of their bearing on the general work of the Conference, the definition of the word "likin", the various taxes such as transit, consumption and destination taxes, the financing of likin abolition, likin revenues and general plans to enable the Chinese to effectuate the abolition of likin.

It seemed clear from the discussions that the British were more interested in likin than any other Delegation, and by common consent they took the lead in this question and evolved certain plans designed to make possible its gradual and ultimate abolition.

In general the British proposals contemplated leaving to the Chinese Government and the Provincial authorities, as far as possible, the actual abolition of likin, the foreign interest in the question being confined to agreeing to the imposition of a special likin compensation tax on foreign imports and articles manufactured by foreigners in China, the proceeds of which would be allocated to the Provinces in lieu of likin. In return for the acceptance by the foreign Powers of the likin compensation tax, it was proposed that the Chinese Government should, first, undertake to impose the said tax impartially on all for-

eign imports and on Chinese and foreign local manufactures and products paying excise; second, to allocate the proceeds of the tax to the Provinces in lieu of likin; and, third, to free all goods paying the likin compensation tax from likin and all other internal taxation. It was to be understood that the Chinese Government would obtain the cooperation of the Provincial authorities in enforcing any plan which might be adopted, and that the principle of uniform taxes for foreign and domestic goods would be recognized both by the Central and Provincial Governments; that the likin compensation tax would be collected by the Maritime Customs and the proceeds deposited in banks to be designated by the Chinese Government at Shanghai as a special Likin Compensation Fund to be disbursed by a Likin Compensation Committee composed of representatives of the Central Government, the Provincial Governments and the National Association of Chambers of Commerce.

With reference to the definition of the word "Likin", the British Delegation held that the abolition of likin meant the abolition of all dues on goods in transit and at destination, including taxes and fees levied on means of conveyance which fall directly on the goods themselves; that abolition should include the removal of all tax stations and barriers; that all foreign imports and local manufactures or products paying excise will be subjected to no taxation whatsoever except the regular import duties and excise, plus the likin compensation tax either merged therein or collected simultaneously therewith. While the American Delegation was disposed to leave to the British the details of working out a satisfactory plan for the abolition of likin, it did not entirely concur in the British plan.

The American Delegation, for example, was not disposed to favor the introduction of the idea of an excise on foreign and domestic goods because in agreeing to taxation of this kind the way might be opened up for the general taxation of all foreigners in China. The action of the foreign tobacco companies in agreeing, independently, to the payment of an excise on their products in China was cited and it was contended that the British plan, in this regard, simply meant the recognition of that system and its extension to other products. The American Delegation felt also that with an excise the question of rates of duty would be reopened, especially upon raw products, such as leaf tobacco, and that a lower rate might be required. The American Delegation was doubtful also of the advisability of accepting the suggestion that Provincial approval should be required in connection with any plan for the abolition of likin. Doubt was likewise expressed concerning the composition of the Likin Compensation Committee and it was the opinion of the American Delegation that there should be foreign representation on the Committee, that a Committee

composed entirely of Chinese might not make a judicious expenditure of the funds. The American Delegation also felt that some provision should be made for a system of rebates, or other assurance, for the protection of the foreign trader in the event that transit passes and exemption certificates were not honored and additional taxes collected.

The Japanese opposed the British plan in several particulars, notably the rate of the Likin Compensation Tax, the omission of a refund system for illegally collected taxes, and the abolition of the coast-trade duty and the inland export duty. The Chinese likewise voiced objection to various phases of the British plan, particularly the treatment to be accorded native goods and the allocation to the Provinces of the likin compensation tax.

Generally speaking, the Chinese, endeavoring to impress upon the Delegates that this was a matter largely of domestic concern, contended for as much freedom as possible in concluding arrangements for the complete abolition of likin. No Delegation other than the American, British, Japanese and Chinese seemed to have any considerable interest in the matter of working out the details of likin abolition.

While the British plan was not definitely accepted, it may form the basis of further discussion when the active work of the Conference is resumed. Various memoranda and documents relating to these several subjects are enclosed herewith and are enumerated in the list of enclosures under the heading of Likin and Tariff Autonomy.⁷

Rates of Surtaxes.

Unlike the questions of Likin and Tariff Autonomy, the question of Rates of Surtaxes occupied to a considerable extent the attention of the Delegates and Technical Advisers in informal conferences. Perhaps more time was devoted to this particular subject than to any other phase of the work, with the possible exception of debt consolidation. Many interests directly concerned with the question of rates of duty to be assessed against a given article had representatives in Peking from the very beginning of the Conference. The tobacco and oil interests were particularly concerned and kept highly paid representatives here throughout the time the question of Rates was under discussion. The California Raisin Growers, automobile and tire manufacturers, ginseng growers, and various other interests were directly concerned and took occasion to express their views either in oral or written form. Many informal conferences were held with the tobacco and oil representatives who were most anxious to keep the rates at the lowest possible figure.

⁷ Not printed.

While there was general interest in the whole question of rates by all the Delegations, as evidenced by the official proceedings of the Subcommittee on Rates, the American, Japanese and British Delegations evinced much more interest in this subject than did the others. The Japanese were perhaps more vitally concerned, as the rates affected a wider range of Japanese commodities than of any other country. From the beginning it was clear that they would contend for as low rates as could be obtained, especially on low-grade cotton goods and low-priced commodities of Japanese manufacture. It was a slow and tedious process to bring them to assent to a program which would yield approximately \$90,000,000, knowing, as they did, that such a program would require a substantial increase in rates over those they had at first expected to obtain. It was only by Mr. Saburi's special trip to Japan in January that the Japanese Delegates were enabled to revise their program in such way as to fall in with the general desire to accord rates high enough to yield \$90,000,000 per annum. The attitude of the American Delegation was one of liberality towards the Chinese as far as the American trade could consistently bear the burden. While tobacco was looked upon by the American Delegation as a luxury, care was taken not to allow the rate to be fixed so high that the trade in American raw tobacco would either disappear or be seriously affected. Oil took the grade of a necessity and revenue producer with a moderate rate. Great Britain's prime interest was in high grade piece goods, woollens and sugar.

Practically all of the work of fixing the rates of surtaxes may be said to have been done in informal conferences among the Delegates and Technical Advisers. To have attempted to thresh out these questions in formal sittings of the Delegates or Advisers would have been a prolonged, and perhaps futile, task and the expeditious and satisfactory manner in which it was handled does great credit to the Technical Advisers who bore the brunt of this work. Much of it was of a technical character and involved a knowledge of values and commodities which some of the Delegates could not be expected to possess. It was for this reason that it was deemed advisable to leave this work largely to the Japanese, British and American Advisers.

The position of the American Delegation regarding rates of interim surtaxes was that as a tentative basis of negotiation, it was prepared to go as high as 25 to 30 per cent on manufactures of tobacco, 20 to 25 per cent on tobacco not manufactured, 25 to 35 per cent on wines, beers and liquors, which it was made plain were not American products. The American Delegation objected to the placing of shoes and boots, leather and soles, cream and milk, evaporated, sterilized or con-

densed, electrical materials, indigo and India rubber manufactures and a few other articles in the list of "B" Grade luxuries. On the broad principle of a schedule of rates the American and British Delegations favored higher rates, on an average, than those proposed by the Japanese. Except for individual items in the schedules, the other foreign Delegations did not evince any considerable interest in the question of rates, with the exception of the French and Italian Delegations, who followed the negotiations rather closely and submitted carefully prepared proposals and estimates.

The British and Italian Delegations proposed a 10 per cent flat rate on all imports, with surtaxes of a flat 5 per cent on "B" Grade luxuries and a flat 15 per cent on "A" Grade luxuries. The Japanese proposed a minimum rate of flat $7\frac{1}{2}$ per cent on their low-priced imports into China and 10 per cent on some items admitted to be luxury goods. The American Delegation felt that a flat 15 per cent duty on all "B" Grade luxuries would bear very unevenly upon the commodities which had been listed as "B" Grade; that some commodities in the "B" Grade should bear less than 15 per cent and some more than 15 per cent. So many distinctions and apparent discriminations arose that the American Delegation proposed that there should be created, instead of the three classes already proposed, some six to eight grades of rates, ranging from low grade necessary goods at $7\frac{1}{2}$ per cent to highest grade luxuries at 25 per cent, keeping in mind what rate a given commodity might bear without substantial diminution of the trade in it. This suggestion was adopted by the Chinese in revising their classifications. The American, British, French and Italian Delegations were in substantial accord with regard to the amount of revenues to be raised by the increase of duties and following numerous informal discussions a schedule of rates and classifications was finally agreed upon by the foreign Technical Advisers but the schedule has not yet been approved by the full Committee having jurisdiction over rates.

As concerns the Washington Treaty surtaxes, the general plan involved the preparation of a list of luxuries which would bear the higher surtax rate of 5 per cent and all other commodities to bear the $2\frac{1}{2}$ per cent surtax. Many revisions were required and many schedules, estimates and tables were prepared, both as regards the interim surtaxes and the Washington surtaxes. A considerable number of these will be found as enclosures to this report, as also will memoranda showing the attitude of the various Delegations.⁸

⁸ Not printed.

Consolidation of Debts.

As in the case of Rates of Surtaxes, the question of the Consolidation of Debts required many informal conferences among the Delegates and Technical Advisers. In fact, except in an incidental way, this subject was discussed but little at any formal sittings of a committee or sub-committee. The interests, both foreign and domestic, were so divergent and the Chinese Delegates were so sensitive to a public airing of this question, that practically all discussion and negotiation in connection with this important phase of the Conference work took place in informal sessions of the Delegates and Technical Advisers. There was an evident desire on the part of all Delegations not to create the impression that the Conference was a debt-collecting agency. Again, the American, British and Japanese, having more at stake than the other participating governments, took the lead in this work and evolved most of the plans which were submitted for consideration looking to early settlement of this problem. The Nishihara loans, as might well have been expected, created difficulties from the beginning. Next to rates of surtaxes, the Japanese displayed most interest in the question of debts. The Nishihara loans constituted the bulk of the Japanese loans and the Japanese Delegation diligently pursued a policy of having all these loans included in any consolidation scheme which might be evolved.

In general the Japanese were disposed to favor a long period of time at a low rate of interest. The American Delegation, at the very outset of the Conference, was importuned by numerous American creditors of the Chinese Government, who had either themselves come to Peking or sent representatives to be present during the Conference, to make provision for the payment of the more than \$30,000,000 gold, due them for money loaned and materials furnished the Chinese Government. A sympathetic hearing was invariably given to these gentlemen and on many occasions they availed themselves of an opportunity to submit statements of their views. In all schemes proposed for the Consolidation of Debts, efforts were made by the American Delegation to safeguard the interests of the American creditors, and while no definite plan has yet been agreed upon and while it will be impossible to evolve a scheme which will be satisfactory to all, it is felt that the American creditors, except in one or two isolated cases, realize the obstacles that have faced the Delegates and the futility of hoping for a solution which will speedily and at the same time satisfactorily clear up the debt situation in China. This question proved more vexatious than any other, at least so far as the American Delegation was concerned, and it is a matter of great regret that the impossibility of negotiating the interim surtax treaty has thus far prevented the adoption of a plan

by which all of the debts of the Chinese Government, both foreign and domestic, would be liquidated in due course of time. This is a matter which must necessarily be deferred until the Conference renews its work. It should be remarked that some of the American creditors voiced great disappointment that any consolidation plan which gave promise of acceptance contemplated putting the domestic debts on a parity with the foreign debts. They considered this unfair, since many of the foreign debts antedated the domestic debts and many domestic loans had been made on security already pledged on foreign loans. However, since it was clear that no distinction could be made between domestic and foreign debts in any scheme designed completely to clear the slate and re-establish the credit of the Chinese Government both at home and abroad, which was one of the primary objects of the Debt Consolidation plan, the Delegates proceeded on the basis that all debts which are actually owed by the Central Government itself or which have been guaranteed by a Ministry of the Central Government, or which have been officially authorized or recognized by a Ministry or Bureau of the Central Government, should be included in any scheme which had for its purpose the complete rehabilitation of Chinese finance.

The British, Dutch, Belgian and Japanese Delegations evinced great interest in the debt question, the first three particularly as regards the railways, and the last named, as already stated, on the Nishihara loans. The other Delegations showed only a passive concern, with the exception of the French and Italian Delegations, who submitted concrete recommendations.

The British Delegation put forward views largely at variance with those of the American and Japanese Delegations with respect to the allocation of funds. The British plan, as already stated, contemplated that one-fourth of the Customs collections on imports should be set aside as a special likin abolition tax, not to form a part of the Customs revenues proper. After the payment of the existing charges on the Customs revenue, the British plan contemplated the disposition of the surplus by percentages: three-fourths to be used for the service of the new consolidated bonds and one-fourth to be used for constructive and administrative purposes. However, with regard to the percentages to be used for constructive and administrative purposes, there should be a first charge up to ten million dollars to be known as a "railway contingent fund". This fund was to be used, in so far as necessary, to meet interest charges on Chinese Government railway bonds which might be in default. Under this proposal the "likin abolition tax" and the "railway contingent fund" would, in effect, become absolutely guaranteed charges on the Customs revenue, whereas, the consolidated bonds would be in a much weaker position,

their service being limited to the amount that three-fourths of the surplus, as above described, would provide. The American and Japanese Delegations, whose views very largely coincided, felt that the British proposals did not adequately provide for the funding of the unsecured debt of China and that they favored unduly the service of the railway loans. The plan put forward by the American Delegates contemplated that the whole Customs revenue would be treated as a unit on which the first charge would be the loans and indemnities already secured thereon. The second charge should be whatever amount or percentage of the Customs collections on imports might be agreed upon as a fund for the abolition of likin. The third charge should be the full service of the interest upon the consolidated bonds, provided that, in any case, three-fourths of the remaining revenue should be reserved for the service of the consolidated bonds. The remaining one-fourth should be reserved for constructive and administrative purposes, subject to any amount that might be needed for the service of the interest upon the consolidated bonds. The American plan also accepted the British proposal for a railway contingent fund as a first charge upon the "one-fourth" for constructive and administrative purposes, subject to the reservation for interest upon the consolidated bonds. Details of the railway contingent fund were never definitely worked out.

The discussion of these provisions of the Consolidated Plan led to a sharp division of opinion with the result that no definite decision as concerns the whole plan, could be reached before the departure of Colonel Peel and Mr. Stewart for England early in May.

On May 3, at a meeting of the Technical Advisers, Mr. Stewart announced that he could no longer carry on the informal conversations that had been in progress on Debts because the British Delegation, as well as the British Government itself, believed it inadvisable to join in any definite program for presentation to the Chinese Government. He stated, further, that there was no Chinese Government to which a program could be presented and that, in any event, whatever the Conference might agree upon would become public and the foreign Powers would be held rigidly to that program in future negotiations. Mr. Stewart said that the British Government did not wish to be bound by any such restrictions in future negotiations with China. This attitude on the part of the British Delegation created a situation which made it impossible to continue the negotiations. The conciliatory attitude of the American Delegation towards the British proposals is evidenced by the fact that the following points were conceded to the British: (1) one-fourth of the import revenues for a likin compensation scheme; (2) the Hukuang and Tientsin-Pukow Railway charges should not be placed upon the likin com-

pensation fund; (3) that amortization of the bonds should be placed after other purposes; (4) that the Hukuang and Tientsin-Pukow charges should be placed on the railway contingent fund; (5) that the contingent fund be fixed at a sum which, during the first five years, would be greater than the sum which would be realized under the British proposal of a 75 per cent—25 per cent division of funds. The termination of these informal conferences by the British Delegation came as a distinct disappointment to the American Delegation who believed that no opening should be left for the Chinese to say that the foreign Delegations were not seriously attempting to help China and that they were not acting in good faith. The American Delegation believed that the Powers' representatives should continue to endeavor to get an agreement upon a concrete program to form the basis of a new treaty with China. Having come to such an agreement among themselves the Delegates could, if there were no Chinese Government competent to sign a treaty, conscientiously lay the program on the table to be taken up at an appropriate time. Since the American Delegation, however, could not bring itself to approve a program which would offer creditors new consolidation bonds for their old securities at lower rates of interest, a longer maturity and in some cases, a reduction in principal, to say nothing of new bonds with an arrangement for interest and principal payments based on the allocation of a percentage of an unknown sum of money, and since the British Delegation quite deliberately ended the negotiations, it seemed futile further to attempt a solution of this problem.

Notwithstanding the British Delegation had previously let it be known that they were only mildly interested in the question of debt consolidation, but greatly interested in trade, they seemed more persistent, as this resumé will indicate, in defending their principles in the question of debts than in any other. It was evident that they were taking every precaution especially to see that British investors in Chinese railway securities would not suffer, whatever the plan of consolidation might be. The situation in South China seemed also to influence the British attitude on this question, as well as on other questions before the Conference. The memoranda herewith enclosed covering the meetings of the Technical Advisers on the subject of debts will be of especial interest.⁹

Much remains to be done on this question, since the disappearance of a responsible government in Peking coupled with the uncompromising attitude of the British Delegation made it impossible to evolve the larger scheme of rehabilitating Chinese finances through the means of interim Customs surtaxes in excess of those authorized by

⁹ Not printed.

the Washington Treaty. The portion of the funds which will be allotted for the payment of debts from the Washington surtax revenues will afford but little relief when the whole debt question is taken into consideration. This gives promise of being more difficult to solve than any other problem within the scope of the Conference when negotiations are resumed in the autumn.

Numerous memoranda, statements, pamphlets and tables prepared in connection with this subject form enclosures under the heading of Consolidation of Debts.^{9a}

Washington Treaty Surtaxes.

The question of implementing the Washington Treaty arose more often during the Conference than did any other question. A reference to the first section of this report will reveal the oft-repeated efforts which were made to bring into force, with as little delay as possible, the Washington Treaty, a task which, at the beginning of the Conference, seemed comparatively simple. On each and every occasion the Chinese Delegation would find some reason, either real or fancied, to defer action. It was not until all hope was abandoned of being able to negotiate, before next autumn at least, the larger interim surtax treaty, that the necessity of agreeing upon a draft treaty for submission to the Chinese in fulfillment of the Washington Treaty arose in the informal meetings of the Delegates and Technical Advisers. The sub-committee of Six Delegates appointed for this purpose, who sat in formal session, had substantially agreed upon a draft, but the Chinese member was unwilling to accept it. (See official Minutes of meeting of March 18, 1926). At an informal meeting of the Delegates on May 6 it was agreed that, since no further formal meetings had been held of the Committee of Six, and none was in prospect, the American Delegation should produce a new draft. The American Delegates accordingly instructed their Advisers to produce a revised draft and with the co-operation of the British and Japanese Advisers, after a series of informal meetings, such a draft was submitted for approval to the Advisers of the other foreign Delegations. With minor amendments the draft was approved and submitted for consideration to the foreign Delegates at an informal meeting on May 15, at which time it was approved.¹⁹

There was a fundamental difference between the draft under discussion then and the one substantially agreed to by the Committee of Six at its last formal meeting on March 18, a report of which, as previously stated, may be found in the Official Minutes of that date.

^{9a} Not printed.

¹⁹ See telegrams No. 37, May 12, from the Minister in China, and No. 39, May 17, from the American delegation, pp. 750 and 753.

The draft of the Committee of Six was such, in terms, that, under it, the levying of the Washington surtaxes could not go into effect until after the terms for the distribution of the proceeds should have been elaborated and approved by the various Delegations in the form of the larger (new) treaty which was being negotiated. The revised draft submitted by the Technical Advisers was such, in terms, that the levying of the Washington surtaxes might become effective independently of and regardless whether the Conference should succeed in agreeing upon a new treaty. Another fundamental difference was that whereas the draft of the Committee of Six provided for the impounding of the whole of the collections from the surtaxes, the revised draft provided for the distribution of practically one-half of the collections and the impounding of the other half during such period as might intervene until the new treaty providing for the distribution should come into effect, within the limit of two years, with the proviso that if no treaty or agreement should become effective within two years, then some special agreement should be made with regard to the principle for distribution of the accumulated fund.

At the meeting on May 15 the Advisers were instructed to prepare recommendations for the Delegates upon the subject of Custodian Banks. At subsequent meetings of the Technical Advisers the American Advisers proposed that the subject should be dealt with in two parts; first, with reference to the custody of the Washington surtax revenues; and second, with reference to customs funds in general. The American, British and Japanese Advisers all prepared drafts and these were used as the basis of negotiations. On May 21 a tentative agreement based on the American draft was arrived at with regard to the resolution on this subject to be annexed to the Washington Treaty surtax agreement. On May 25 the British Advisers proposed several verbal changes which opened the way for new proposals on the part of the Japanese Advisers for change in substance. A draft, however, was agreed upon on that date, and meanwhile the American Advisers had circulated a revised copy of the draft on the subject of the custody of funds in general. At a meeting on May 26 the British Advisers introduced a draft and the Japanese made a reservation on the whole of it and the American Advisers on three articles. The central principle of this draft was that the existing customs revenues should be divided on the principle that since 70 per cent was required for the service of existing loans and indemnities, this portion should be deposited in custodian banks, including Chinese, and the remaining 30 per cent should be left at the free disposal of the Chinese Government. The American draft, on the contrary, provided that the entire net customs revenue should be deposited in custodian banks and of the portion required for the service of foreign obliga-

tions the distribution should be among foreign custodian banks. No agreement was reached and at subsequent informal meetings between the American and British Advisers the latter yielded with reference to the 30-70 per cent division and accepted the principle of requiring deposit of all net customs funds in custodian banks, and the American Advisers accepted the principle of requiring that percentages be fixed for the distribution among the banks, of the portion to be deposited for the service of the foreign loans and indemnities. The British also proposed an amendment which would require naming the banks and specifying the percentages, but the American Advisers could not accept this amendment. All differences were finally composed, however, and a complete agreement arrived at between the American, British and Japanese Advisers on the whole draft and at a meeting of the foreign Advisers on June 1 the composite draft was adopted. A meeting had been called for June 3 of the Delegates but at the request of the Japanese Minister, who was awaiting instructions from his Home Government, the meeting was postponed. On June 10 the postponed meeting was held and Sir Ronald Macleay, at the beginning of the meeting, suggested that, since the draft agreement implementing the Washington Treaty had been referred to the various Governments concerned, it would be in order to ask for the replies of the various Delegations. A poll was taken and the British Delegation said its Government agreed, with the understanding that the draft was merely to form the basis of discussion with the Chinese. The French and Belgian Delegations said their Governments assented and the Italian Delegation referred to a reservation made in a document circulated a few days previously. The Swedish Delegate said that, since his Government was undergoing a change he could give no definite reply, but that he hoped to give a favorable reply shortly. The American, the Danish, the Norwegian, the Spanish and the Netherlands Delegations announced that their Governments approved. The Japanese Delegation, through Mr. Hioki, went into a detailed explanation of what the Conference had been doing for some months past and, after saying that until definite instructions had been received from his Government no commitment could be made, evinced a desire to proceed with the general work of the Conference and emphasized the need of adjusting the debt question. After a lengthy discussion on the work of the Conference, Mr. Strawn urged that the proposal to implement the Washington Treaty be acted upon, since it was most important that this be done without further delay. Mr. Hioki inquired if it was still the sense of the Delegates that they would sign a Washington Surtax Agreement with any Chinese Government that might be present when the foreign Delegates had reached a point among themselves of readiness to negotiate with the Chinese.

Sir Ronald Macleay said that this question would have to be submitted to his Government when the moment for signing arrived. Mr. Strawn drew a distinction between signing with a given group an agreement concerning the Washington surtaxes and signing with that same group a larger and more important treaty concerning the interim surtaxes. In connection with the former he suggested that the Delegates could accompany their assent with specifications laid down in a separate document which would impose obligations and limitations. Mr. Strawn also said that the Diplomatic Body, by being present and remaining here, gives an implied recognition to such Government as exists; that they could not consistently stay here and yet affirm that there is no Chinese Government. Mr. Ceruti shared this view and Mr. Kauffmann said that he shared the view of the Japanese, i. e., that the implementing of the Washington surtaxes might be the concluding and final act of the Conference. After further discussion it was agreed that nothing further could be done until the Japanese had heard from their Government.

An important amendment was one offered by the British designed to require the acceptance of the agreement by the Provinces before it should come into force. This amendment, however, as in the case of the whole draft, was left unapproved, since it seemed futile to proceed until the Japanese Delegation had received further instructions. The American Delegation had not, at the time of the meeting on June 10, definitely determined its attitude toward the amendment.

At an informal meeting at the American Legation with the Japanese Delegation on June 18, Mr. Hioki stated that his Government was willing to go ahead with the implementing of the Washington Treaty surtaxes, provided certain alterations could be made in the draft which had been submitted at the last meeting of the Delegates. The Japanese wished to delete the first two sections of the draft, but advanced no reason for desiring this change. They offered no substitute, however, for the two sections and announced that no instruction had been received from the Japanese Government on the subject of custodian banks. It was agreed that the Japanese Delegates should confer with the British Delegation with regard to the changes desired by the Japanese Government in the text of the draft agreement. The American Delegation made no commitment, but expressed a desire for a conference of the American, British and Japanese Delegates after the latter had conferred with the British. Mr. MacMurray took occasion to say, in connection with a suggestion made by the Japanese that there should be a recess for the summer, with a definite understanding that the Conference should reconvene at the end of September, that the American Delegation felt that the foreign Delegations should make no move which

would give the Chinese opportunity, whether fairly or unfairly, to say that the foreign Powers had not performed their pledges and were not acting in good faith. He suggested that it would be well to avoid any adjournment or recess by formal action and that a recess simply by tacit consent would be preferable.

A final effort on the part of the foreign Delegates to come to an agreement on the question of implementing the Washington surtaxes was made on July 3. On that date a meeting was held at the Netherlands Legation and the draft protocol as adopted *ad referendum* on May 15 was discussed at length. Early in the course of the meeting the Japanese Delegation, under instructions from their Government, and through Mr. Hioki, presented the following statement:

"At the last meeting of June 10th I had occasion to state that it was the desire of the Japanese Government that we should continue our efforts for the solution of all the problems before the Conference, and further that in regard to the draft agreement for the levy of the Washington surtaxes we were awaiting instructions from Tokyo.

"We have subsequently received instructions according to which the position of the Japanese Government is as follows:

"The Japanese Government consider that the question of the Washington surtaxes and all other questions from the interim surtaxes and the consolidation of debts to the recovery of tariff autonomy by China constitute an inseparable entity. They believe that it is only by conceiving our task in this manner that we can deal successfully with the situation, which has developed since the Washington Conference, and which has been recognized by this Conference from the very outset. Accordingly, our Government deem it inadvisable to set aside the settlement of various questions relating to the so-called general treaty after the draft agreement for the levy of the Washington surtaxes shall have been adopted by the foreign delegations.

"However, in view of the desire expressed by other delegations of an early adoption of the draft agreement, the Japanese Government, animated by a spirit of mutual co-operation and concession, are prepared to accept it with an amendment that Clauses I and II concerning the coast trade duty and the transit pass dues shall be deleted therefrom. The Japanese Government believe that the disposal of the proceeds of the Washington surtaxes is a matter which can better be considered as part of the program relating to the general treaty to be taken up later except the allotment for administrative expenses [of] which the Chinese Government are in urgent need and which may properly be determined at this time.

"As the amendment of the draft agreement proposed by us concerns the points originally put forward by the British Delegation, we consider it proper to approach first our British colleagues for their favorable consideration of our proposal. These are the circumstances which have led us to hold conversation with our British friends before asking to have a meeting called at this Legation."

Following the reading of the Japanese statement, Sir Ronald Macleay, on behalf of the British Delegation, made the following statement:

"His Majesty's Government regret that in the recent informal discussions which have taken place between the foreign delegations in the absence of the Chinese in anticipation of the early resumption of the Conference and of the renewal of the request by the Chinese delegates for the immediate grant of the Washington surtaxes, it has not been found possible to reach complete agreement on the proposals to form a basis of discussion with the Chinese.

"In these circumstances His Majesty's Government are of the opinion that no useful purpose will be served by the foreign delegations continuing these informal negotiations with a view to reaching a closer degree of agreement at the present stage and that it would be preferable to await the resumption of the Conference and the formulation of the Chinese proposals.

"His Majesty's Government instruct me to state that it is their earnest desire and intention to implement the Washington Treaty with the least possible delay and to grant the surtaxes provided for therein, if this should be the wish of the Chinese Government, and that they are prepared to discuss any reasonable proposals put forward by the Chinese delegates to this end which are in harmony with the spirit and letter of the Washington Treaty.

"His Majesty's Government also wish it to be clearly understood that in the event of the Chinese delegation on the resumption of the Conference tabling a proposal for the immediate enforcement of the Washington surtaxes, they have no intention, after agreement on such proposal has been reached, to suspend the proceedings of the Conference or to break off negotiations for the conclusion of a Tariff Treaty, which have been interrupted by recent political developments in China."

Mr. MacMurray, at the conclusion of the British statement, said that, in view of the attitude taken by the Japanese and British Delegations, it appeared that a deadlock had been reached and that further progress at that time was impossible. Mr. MacMurray said that the situation was most disappointing to the American Delegates who had hoped that the draft protocol of May 15 might be adopted as a first step toward tariff autonomy. He voiced the opinion that under present circumstances no further progress could be made until a new Chinese Government should come into being and he particularly warned the Delegates that if a discontinuance should lend itself to further nationalistic and bolshevist propoganda in China serious consequences might ensue. Mr. MacMurray then inquired whether the instructions of the Japanese and British Delegates were so categorical as to permit of no compromise which would enable an agreement to be reached with respect to the Washington surtaxes and thus avoid the danger to which reference has just been made. After general discussion of the question, Mr. MacMurray suggested that the

chairman request the various Delegations to reply definitely to the following questions:

1. "Are the foreign Delegates prepared to agree among themselves to take the first opportunity to negotiate with the Chinese Government, when one is recognized, for the implementation of the Washington Conference Treaty on the basis of the draft protocol accepted *ad referendum* by the foreign Delegates on May 15?"

2. "Are the foreign Delegates prepared to agree to undertake such negotiations on the basis of May 15 draft, subject to the amendments proposed by the Japanese Delegation with respect to coast trade duties and transit pass arrangements?"

To the first question all the Delegates replied in the affirmative with the exception of the Japanese and an indefinite reply by Sir Ronald Macleay who stated that he had been ready to proceed with the May 15 draft, but that the case had now developed somewhat differently.

In answer to the second question the British Delegate stated that he was unable to bind himself since his instructions were that he was to abstain from further informal negotiations until the Chinese were able to participate. The majority of the other Delegates also stated that they were unable to bind themselves on this plan since, unlike the British Delegation, they had not had an opportunity to refer such a proposal to their Governments. In general, however, they concurred in the position of the American Delegation, which was that although it preferred the draft protocol as adopted on May 15, it would be willing, for the sake of progress, to accept amendments offered by the Japanese in order to obtain some common agreement upon a draft which might be used as a basis of discussion with the Chinese.

It being evident at this point that unanimity could not be had with respect to further action at the present time, the question arose whether the foreign Delegates should undertake to agree among themselves upon a recess or permit the Conference to remain *in statu quo* pending further developments. After considerable discussion it was deemed advisable to take no action which might be construed as indicating a desire on the part of the foreign Delegates to bring about any definite adjournment of the Conference. The following statement was ultimately agreed upon and given to the press:

"The Delegates of the foreign Powers to the Chinese Customs Tariff Conference met at the Netherlands Legation this morning. They expressed the unanimous and earnest desire to proceed with the work of the Conference at the earliest possible moment when the Delegates of the Chinese Government are in a position to resume discussion with the foreign Delegates of the problems before the Conference."

Thus one more effort to implement the Washington Treaty surtaxes failed and at the close of the meeting on July 3 it was generally under-

stood among the Delegates that no further progress could be made until the formation of a new Government and that recognition of such new Government would, in all probability, be a condition requisite to resuming negotiations.

The element of uncertainty which had so often threatened completely to wreck the Conference had gained such momentum and was so persistent that the foreign Delegates were quite prepared to believe that it would be several months before the Conference would again be in a position to function. The Delegates and their respective staffs, at this writing, entertain but little hope that it will be possible for the Conference to resume its functions before the autumn, unless in the meantime a Government worthy of recognition is established at Peking. The political conditions, however, are such that this is a remote possibility, since Wu Pei-fu and Chang Tso-lin, notwithstanding professed friendship for each other, and outward evidence of co-operation in military and civil affairs, are known to distrust each other and to be maneuvering for such advantage as might be gained by controlling the increased Customs funds so far as the program of the foreign Delegates may permit.

The confused state of this question, in so far as the foreign Powers were concerned, was brought about by the action of the Japanese in insisting on the elimination of two of the most important sections of the agreement and in otherwise employing tactics which prevented further action being taken. The British also had a large part in the steps which caused the prolonged consideration of this question and its postponement to an indefinite date.

Copies of drafts, memoranda and documents showing the development of this matter through informal negotiations are enclosed herewith under the appropriate heading.¹¹

Tables.

In the preparation of data on the subject of Rates of Surtaxes, Likin, Consolidation of Debts, and other subjects under consideration by the Conference, innumerable tables have been prepared, both by the Chinese Delegation and by other Delegations. Many of the Tables prepared by the Chinese Delegation have been incorporated in the Official Minutes of the Conference, but few, if any, of those prepared by other Delegations have been made a part of the official proceedings. A considerable number of these Tables contain valuable statistical information which has a direct bearing on the work of the Conference and which it would seem desirable to preserve as a permanent part of the record.

The American Technical Advisers compiled a number of valuable Tables and these, together with Tables prepared by other Delegations,

¹¹ Not printed.

are enclosed herewith and are more fully described under the heading of "Tables" in the List of Enclosures.¹² A separate section in this report has been especially devoted to this material because many of the Tables contain statistical data which had to do with the whole work of the Conference and could not well be classified separately under the several headings of this report without confusing subjects. The compilation of these Tables has been a tedious, but important, phase of the Conference work and without them a comprehensive understanding of the financial needs of the Chinese Government would have been impossible.

Miscellaneous.

In the course of the informal conferences many matters of general policy were discussed and subjects were considered which did not come within the scope of the several headings into which the report has been divided. It is deemed advisable, therefore, to include a section in which might be embraced miscellaneous matters which have occupied the attention of the Delegates and Advisers at informal conferences. Such questions as Export Duties, Relations with Indo-China, The Spring Festival Loan, Board of Audit for the Control of the Customs Surtaxes, and other matters relating to the Conference were under general discussion and memoranda and other documents in relation thereto are enclosed herewith and are more completely described in the List of Enclosures under the heading "Miscellaneous."¹²

It will be observed that some of the enclosures to this report are copies rather than originals. Some of the originals are being kept in the files of the Delegation pending the conclusion of the Conference and others are required for current use. It should be stated also that the files of the Delegation will be kept intact until the close of the Conference after which they will be forwarded to the Department pursuant to the Department's telegraphic instruction No. 297, October 19, 1925, 6 p. m.¹²

A further report summarizing the work of the Conference from this date will be forwarded when final adjournment shall have taken place, which probably will be some months hence.

The Delegation has endeavored, as occasion arose, to keep the Department informed of important developments of the Conference and it has, in general, exerted the utmost effort to reduce the administrative expense to a minimum. Considering the unusual conditions in Peking, and the length of the Conference, the Delegation feels that, in comparison with the amount expended by other Delegations, notably the Japanese, the cost has been small. Normally the purpose for which the Conference was called would have been fulfilled long before

¹² Not printed.

now, but not since the fall of the Manchu regime in 1911 have conditions in China been so unsettled. The obstacles which have confronted the Conference, so far as the political situation is concerned, have ranged from the mere disappearance of the Chief Chinese Delegate, C. T. Wang, in March, to a state of siege in April, for the control of Peking by the Kuominchun Army on one side and the Chang Tso-lin and Wu Pei-fu Armies on the other, followed by the complete disappearance of a Government.

The period from January 1 to the present has been one during which there have been many Cabinet changes, so numerous that no attempt will be made to enumerate them all. Dr. C. T. Wang took office as Minister for Foreign Affairs on January 11, and a little over a month later (February 18), Premier Hsu abandoned office and fled from Peking. It was about this time that Dr. Wang and other Cabinet members and leaders of the Kuominchun were finding themselves in an increasingly uncomfortable position as the offensive by the Allied armies of Chang Tso-lin and Wu Pei-fu had begun against the Kuominchun. The Allied troops had already made steady advances and had gained much territory in the region north, east, south and southwest of Peking.

On March 5 Chia Te-yao was appointed Premier and Dr. W. W. Yen, Minister for Foreign Affairs. Dr. Yen, however, declined to accept office and an effort was made, but without success, to induce Dr. Wang to continue to retain the portfolio of Minister of Foreign Affairs. Following a series of demonstrations, ostensibly in connection with the so-called Taku Bar incident, a climax was reached on March 18 when a score or more of students were killed or wounded by Tuan Chi-Jui's bodyguard when a large group of demonstrators attempted to enter the offices of the Chief Executive. This event created grave concern and both Chinese and foreigners entertained serious misgivings as to what the next turn of affairs would be. The military situation was daily growing more tense. At this time there was no Minister for Foreign Affairs and Hoo Wei-teh, to meet the emergency, was induced to take the office.

On the morning of April 10 a *coup d'état* brought about the sudden overthrow of the Tuan Government and Tuan, the Prime Minister and several members of the Cabinet fled to safety in the Legation Quarter. The siege for the capture of Peking had been in progress for some days at this time and a general retreat by the Kuominchun forces towards Nankow had already begun. Almost daily bombing of Peking by airplane was taking place and this added much to the anxiety of the populace. There were several killed and a number wounded from these attacks. Heavy cannonading to the east and south of Peking was heard on practically every night from April 11

to April 17. On the last named date a heavy attack by the Allied troops put the Kuominchun troops to flight and by the next day they had given up control of Peking and were rapidly withdrawing toward Nankow. Much looting by soldiers in the suburbs of Peking was a further factor contributing to an already deplorable situation.

After being in hiding for several days following the *coup d'état*, the Chief Executive returned on April 17 to his residence with the announced intention of continuing in office, but on April 19 he again took refuge in the Legation Quarter and on April 20 fled precipitately to Tientsin. Before his departure for Tientsin Tuan issued a Mandate resigning from office and accepting the resignation of the Cabinet en bloc. With the exception of such government as the military administered, there was no semblance of authority in Peking from this date until May 1. The military were aided by an unofficial Committee of Safety with Dr. W. W. Yen as Chairman. This committee functioned for some time after the advent of the Allied soldiers. On May 13 Dr. Yen assumed office as Premier and Acting Minister for Foreign Affairs in a so-called Regency Cabinet. In the meantime efforts had been made to restore Tsao Kun to the position of Chief Executive but he declined all overtures and elected to remain in semi-seclusion at Tientsin. In addition to the rapid and sudden changes of government and the constant activities of military rivals, there was an almost complete collapse of railway transportation in February, March and April. For several weeks in February and March, and in the early part of April, there were no trains in or out of Peking, except those operated by the military. This brief resumé of the events which constantly retarded and disorganized the work of the Conference will indicate to the Department the insuperable obstacles which have been constantly arising to make the Conference abortive.

Almost from the beginning of the Conference the political condition in Peking has been such that the Chinese Delegates could not exercise a free and untrammelled course on any question. They have been constantly harrassed by opposing political and military factions and their lot has been a most unpleasant one. It is a great tribute to the courage, the perseverance and the patriotism of Dr. W. W. Yen and Admiral Tsai Ting-kan, the only two remaining Chinese Delegates, that they have weathered the storm and remained steadfast in the purpose to achieve something for China.

The American Delegation shares the disappointment that all the other Delegations, both Chinese and foreign, must feel that so little has been accomplished thus far towards the fulfillment of the terms of the Washington Treaty.

The Delegation desires to express its appreciation of the services rendered by the Technical and secretarial staffs and to say that more detailed comment in this regard will be sent in a separate despatch.¹⁴

We have [etc.]

J. V. A. MACMURRAY

*Chairman, American Delegation,
Special Conference on the Chinese
Customs Tariff*

SILAS H. STRAWN

*American Delegate,
Special Conference on the Chinese
Customs Tariff*

893.00/7561

*The Consul General at Canton (Jenkins) to the Minister in China
(MacMurray)*¹⁵

No. 490

CANTON, July 16, 1926.

SIR: I have the honor to transmit a copy of an additional note of protest, dated July 14, 1926, from Eugene Chen, the so-called Acting Minister of Foreign Affairs of the Cantonese regime, respecting the resumption of the Special Tariff Conference at Peking. It will be observed that Mr. Chen declares that the so-called Nationalist Government is opposed to the Powers dealing with the representatives of the Peking government, who, according to Chen, are the mere servitors of Wu and Chang, a brace of mediæval militarists.

I frankly do not relish these newspaper tirades from Mr. Chen, so obviously written for publication and shall tell him so unofficially when I see him again. (This note was published in the *Canton Gazette* of Thursday, July 15, 1926.)

I should be pleased to have the Legation advise me whether or not this note should be acknowledged by the Consulate General and if so in just what form. It would seem to me that the occasion affords an opportunity for the Legation to express itself respecting the attitude of our Government in relation to the Tariff Conference and the Cantonese regime.

I have [etc.]

DOUGLAS JENKINS

[Enclosure]

*The Chinese Acting Minister of Foreign Affairs at Canton (Chen)
to the American Consul General (Jenkins)*

CANTON, July 14, 1926.

SIR: I have the honour to request you to communicate to the American Minister at Peking the protest of my Government against the

¹⁴ Not printed.

¹⁵ Copy transmitted to the Department by the consul general as an enclosure to his undated despatch No. 592; received Aug. 17, 1926.

resumption of the Special Tariff Conference which was lately suspended owing to the dispersal of the Chinese delegation. We are definitely and reliably informed that agents of Wu Pei-fu and Chang Tso-lin are now negotiating with the American and the other foreign delegates for the immediate re-opening of the Conference.

My Government opposes and has opposed the Conference because it involves the consideration of issues which only a Central Government, representative and competent to speak and act in the name of the Chinese Nation, can negotiate in conference with the official representatives of the American and other interested Governments. Tuan Chi-jui's administration, admittedly, was not such a government, nor do the present servitors of Wu and Chang constitute the type of governing body which America and the Powers (assuming that considerations of political realism and international morality and decency still rule high foreign policies) can meet and treat with as a modern government.

None is so blind as to fail to see that the present phantom government in Peking is a creation of a brace of mediæval militarists and a bunch of Mandarin statesboys and states-coolies whose obvious purpose is to grab the proceeds of whatever tariff doles and loans that America and the other Powers may be willing to grant in order to maintain a *status quo* that conflicts with every vital interest of Nationalist China.

Any payment of tariff moneys to Wu Pei-fu and Chang Tso-lin must necessarily mean that America and the other interested Powers—through the machinery of the unified, British-controlled Chinese Maritime Customs—will be (a) paying national revenues collected throughout the whole of China to two transient usurpers of detached pieces of Chinese territory, and (b) subsidising these two militarists to continue the prosecution of civil war against the Kuominchun and Canton who are the two modern arms of Nationalist China, and thus assist militarism to dominate and flourish in China. And specifically it will mean that America and the other Powers will be collecting the increased Customs revenues of Canton and hand over the same to the mediæval Wu and the ex-bandit Chang in order to enable them the better to fight and attempt to destroy the greatest centre of Chinese Nationalist thought and activity, which is Canton.

I have to add that any loan or loans to be contracted by the agents of Wu and Chang on the security of the promised surtaxes shall not be recognized by the Nationalist Government. And I have the honour deliberately to warn America and the other interested governments that Chinese repudiation of any such loan or loans may conceivably create a situation rendering it imperative for the principle of repudiation to be extended to other loans contracted in the inter-

ests of reaction and of militarist and mandarin exploitation and plunder.

I have [etc.]

CHEN YU-JEN

500.A4e/624 : Telegram

The American Delegation to the Secretary of State

PEKING [, July 23, 1926—11 p. m.]

[Received July 23—6:10 p. m.]

Conference 51. Our 47, July 3, 6 p. m.^{15a}

1. Admiral Tsai as plenipotentiary delegate recently invited foreign delegates to an informal meeting today for the purpose of exchange of views concerning future work of the Conference. Meeting was in fact conducted with customary formality and a record made by secretariat.

2. Tsai proposed resolution that the Conference should resume its work on or about September 1st. We adhered to the position taken by the foreign delegations at their meeting of July 3d that we would be glad to continue work of the Conference so soon as the delegates of the Chinese Government should be in a position to resume the discussions, which condition did not exist then or now and which we could not foresee would on any fixed date in the future, and that we could not therefore commit ourselves to any definite date. The result of the meeting was a tacit agreement that there would be no meetings called during the hot weather which lasts some weeks longer.

AM[ERICAN] TAR[IFF] DEL[EGATION]

500.A4e/625 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 24, 1926—3 a. m.

[Received July 23—11:59 p. m.]

298. I am sending the following telegram to consul general at Canton.

"July 24, 2 a. m. Your despatch No. 490, July 16, 1926.

"1. You should immediately address the following note textually to the so-called Acting Minister of Foreign Affairs at Canton and give the contents to the press, as I shall do at once:

"The American Minister has read with much interest your note of July 14th, addressed to me, respecting the resumption of Special Tariff Conference at Peking, which I brought to his attention as requested by you. In this relation Mr. MacMurray stated that your strong opposition to the resumption of the Conference on behalf of the Canton regime, as well as similar protests from

^{15a} Not printed.

representatives of other regions in China, both before and since the inauguration of the Conference, evidence a disheartening lack of unanimity among the Chinese people in respect to the efforts of the Government of the United States jointly with the other friendly Powers concerned to carry out its purpose of bringing into effect certain readjustments of its treaty relations with China, a lack of unanimity which gives him very serious concern particularly at a moment when there exists no Central Government supported by all sections of China and recognized by the interested powers with which to deal on a basis of mutuality of responsibilities, such as my Government so earnestly desires to see reestablished.

"The American Minister believed it scarcely necessary to observe that in any fiscal or other readjustment of treaty relationships with China, the object which his Government has in view is the benefit of China as a whole and not of any individual military or political faction.

"In conclusion Mr. MacMurray expressed his appreciation of the value of receiving information from the various sections of China such as that afforded by your note to me of July 14th in regard to questions of mutual concern to the country as a whole and to the United States."

2. [Paraphrase.] Chen's note interested me very much. Quite possibly it might serve a useful purpose. This usefulness, however, would be lost in case Chen were so unwise as to reply at this time with more notes and to attempt for propaganda purposes to capitalize upon my present statement. When you deliver your note to him in person please find opportunity for making an explanation of this point of view to him." [End paraphrase.]

Further telegram following.

MACMURRAY

500.A4e/627 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 24, 1926—6 p. m.

[Received July 24, 1926—2: 55 p. m.]

301. My telegram number 298, July 24, 3 p. m. [a. m.]

1. Cabinet, whose formation was reported in my number 277, July 7, 5 p. m.,¹⁶ was organized upon the insistence of Wu Pei-fu that steps be taken on the Chinese side to compel foreign delegations to continue work of Conference. He was reported at the time (and the report now seems to be adequately confirmed) to have said that announcements made by the foreign delegations as reported in Conference telegram number 47, July 3, 6 p. m.,^{16a} was tantamount to abandonment of the Conference and to have threatened that if foreign delegations should refuse to proceed upon an invitation from new Chinese administration the Chinese should assume tariff autonomy independently. Admiral Tsai thereupon made indirect inquiries through intermediaries as to the position of the several delegations and found them all unwilling to commit themselves to negotiations with representatives of the present exceedingly precarious regime.

¹⁶ Not printed.

^{16a} Not printed; it contained a report of the meeting held July 3. For details of that meeting, see pp. 837-840.

He therefore issued invitations to informal conference reported in Conference telegram number 51, July 23, 11 p. m. This supposedly informal discussion with Admiral Tsai and his newly appointed colleagues was in fact so conducted as to be palpably an attempt to commit the powers to a recognition of the present regime and compel them to accept it as competent to deal in behalf of China for the purposes of the Conference. Despite the fact that no agreement was reached by the meeting there was a general feeling among the foreign delegations that the Wu faction would exploit as evidence of the recognition of this regime by the foreign powers the mere fact that their delegates had met with the Chinese for a discussion of Conference matters. This apprehension is confirmed by statements in this morning's press evidently emanating from Chinese delegation.

2. There has meanwhile been apparent a revulsion of Chinese feeling against the continuance of the Conference under present circumstances from which expected financial advantages would accrue to sole benefit of allied Wu and Chang factions. Violent protests have been made to me by Eugene Chen in behalf of the Canton regime and by a spokesman of the Kuominchun. Although previously published in local press, texts of both these protests were in fact received only yesterday afternoon. The following are extracts from Chen's letter addressed to the consul general at Canton, July 14, for communication to me.

[The extracts have been omitted. For full text of the letter, see page 844.]

3. There seemed to me so great a danger that the present unrecognized Peking regime would misrepresent us as committed to support Wu and the allied factions as against claims of other factions in China, that I felt it was a matter of urgency to offset any such impression of partiality by replying to Chen's protest, and making public that reply, in terms which would make clear our freedom from commitment to any particular group and emphasize our desire in this and related matters to act for the benefit of China as a whole. After consultation with Strawn, I accordingly telegraphed Jenkins as reported in my July 24, 3 a. m.

4. I regret that, under the necessity of taking immediate action to avert our being placed in false light of partisanship towards the military coalition now occupying capital, I was compelled to take a positive position in this delicate matter without the opportunity of obtaining your instructions; and my having done so may indeed result in diminishing chances that this Cabinet might obtain recognition either of our own or of other governments; and it must be realized that there is at the present time no reasonable prospect nor any expectation among representative China [*Chinese*] of the formation in the immediately foreseeable future of a government com-

manding the general support of the country. I felt no hesitancy in taking the responsibility of this decision, however, in view not only of known internal dissensions within the coalition and of its apparently hopeless military situation but because I feel that we could not escape popular judgment that we were playing favorites with Wu and Chang if we were to commit ourselves to recognizing and dealing with a regime so adventitiously established, so precarious, and as is generally felt, so cynically regarded even by those who have consented to hold office under it. I trust my action in this matter meets with your approval.

MACMURRAY

500.A4e/625: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 26, 1926—5 p. m.

148. Your 298, July 24, 3 p. m. [*a. m.*], 301, July 24, 6 p. m. Department approves action taken by you, as stated therein.

KELLOGG

500.A4e/647

*The Consul General at Canton (Jenkins) to the Minister in China (MacMurray)*¹⁷

No. 495

CANTON, July 29, 1926.

SIR: I have the honor to report that your telegram of July 24, 2:00 a. m., was received in this Consulate General on the morning of July 26. It was immediately decoded and embodied in a note which was delivered to Mr. Chen by special messenger about 4:00 o'clock that afternoon. As it was not convenient for me to call at the same time, I sent a personal note to Mr. Chen to inform him that I would call to see him the following morning in respect to your communication.

When I saw Mr. Chen at 11:00 a. m. the next day, I endeavored to let him understand as you instructed that his original note might serve a useful purpose but that this value would probably be lost if he indulged in further communications for propaganda purposes. Mr. Chen frankly said that he would have to reply to the American Minister's message because "it furnished too good an opportunity to be missed". Mr. Chen added, however, that he would take the precaution to couch his views in more restrained language than in the past, and he hoped the Consulate General and the Legation would appreciate the attitude of the Nationalist Government.

¹⁷ Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 612, July 29; received Sept. 2.

Mr. Chen drew my attention to the fact that the Legation had evidently given publicity to the Minister's instructions to the Consulate General on July 24, whereas he (Chen) had not received the Consulate General's note until the afternoon of July 26. I explained to Mr. Chen that this was undoubtedly due to the Legation's failure to realize how slow telegraphic communication was in these times and that the Minister was evidently under the impression that the message would reach me much sooner than it actually did. In this connection, the Legation will doubtless be interested to know that Reuter's telegram conveying the verbatim text of the Legation's message was published in the Hongkong *Morning Post* of July 26 (before the telegram had been delivered to this Consulate General) and actually reached Canton an hour or two earlier than the Consulate General could deliver its note to the Canton Foreign Office.

The Consulate General is just this moment in receipt of Mr. Chen's reply dated July 28, which has doubtless been published in the Cantonese newspapers this morning. Copy of Mr. Chen's note is enclosed and the Legation's particular attention is invited to the final paragraph which contains a threat against the United States and other Powers concerned in the event of a resumption of the Tariff Conference and the perfection of arrangements for a loan to the Peking régime based on customs receipts.

There has been considerable talk in the local newspapers of late in advocacy of a declaration of tariff autonomy by China. Mr. Chen has not alluded specifically to this in his conversations so far as I can ascertain, but he has intimated on more than one occasion, as he does in this note, that the so-called Nationalist Government will take drastic measures of some sort should the Powers arrange for a loan to the Wu Pei-fu-Chang Tso-lin group.

As previously reported in despatches from this Consulate General, the Cantonese regime seems to be confident of the success of its military expedition against the North and Mr. Chen has assured the writer of this despatch that not only would the Cantonese armies soon reach the Yangtze River, but that there would be a real government in Peking in the near future with which the United States and the other Powers could deal. Political leaders down here seem to anticipate important changes in the affiliations of military leaders in the Yangtze Valley although they have mentioned no names and given out no details. It is felt, however, that the situation is full of grave possibilities and that the Legation should be prepared for far-reaching changes in the North in the near future. The Southerners may possibly meet with an overwhelming defeat but if they should be successful in attracting other powerful leaders to their cause, the predictions of the Cantonese may materialize more speedily than now seems possible.

In conclusion may I express my hearty approval of the intimation contained in the Minister's telegram to the effect that further discussion with Mr. Chen is not desired . . . I am still of the opinion, however, that if our Government could permit the Legation to publish a statement more clearly defining the attitude of the United States in relation to China, the results might be beneficial.

I have [etc.]

DOUGLAS JENKINS

[Enclosure]

*The Chinese Acting Minister of Foreign Affairs at Canton (Chen)
to the American Consul General (Jenkins)*

CANTON, July 28, 1926.

SIR: I have the honour to acknowledge the receipt of your letter, dated July 26, in reply to my note of protest against the resumption of the Special Tariff Conference at Peking. In no querulous sense do I draw your attention to the fact that the text of your reply was handed to Reuter's Agency in time for publication in Peking and elsewhere on July 24—48 hours before it was delivered at this Ministry. While I do not wish to stress this lapse in procedure, you will, I do not doubt, agree that its repetition should be avoided in the future.

I note that Mr. MacMurray views my Government's strong opposition to the resumption of the Conference as evidence of "a disheartening lack of unanimity amongst the Chinese people in respect to the efforts of the Government of the United States jointly with the other friendly Powers concerned to carry out its purpose of bringing into effect certain re-adjustments in its treaty relations with China." But what seems to Mr. MacMurray to be a "disheartening lack of unanimity" in understanding and appreciating the policy of the United States is, in truth, a convincing proof that that policy is wrong at once in conception and in application.

The policy is wrong because it is an expression of American failure to realise that the Chinese situation is fundamentally a Revolutionary situation and that, therefore, a Revolutionary i. e. a fundamental solution is necessary as opposed to a solution involving a series of so-called "evolutionary" re-adjustments. And the situation is Revolutionary because the principle of change implicit in the Revolution of 1911-12 has not yet been worked out in the life of the Nation, particularly in its politico-economic aspect, owing to the constant interference and intervention, direct and indirect, of certain Foreign Powers who (to cite some signal instances) first supported Yuan Shih-kai in his attempt to destroy the Chinese Republic and financed him with the Re-organisation Loan of 1913, next supported Tuan Chi-jui in his Anfu days and financed him with the Nishihara and other

loans, then supported Wu Pei-fu and financed him with Customs and Salt surpluses, and are now contemplating the support of a composite strong man in the diversified persons of Wu Pei-fu and Chang Tso-lin and the financing of this brace of militarists with the proceeds of a loan to be secured on the promised Tariff surtaxes.

Persistence in such a policy makes not only for Chinese disorder and what is called "chaos" in this country but for the intellectual confusion and moral bankruptcy of the diplomacy of the Powers. And naught but a "disheartening lack of unanimity" will manifest itself whenever the Government of the United States is moved to apply its "evolutionary" policy to the Revolutionary facts of the Chinese situation.

Nationalist China insists on a fundamental solution of the group of issues known as the Chinese question. Internally, this means that the new military and political technique which has enabled the Nationalist Government to unify the Liang-kuang militarily, fiscally and politically must be applied on a national scale in order that the Chinese people may work out their own salvation in the interests of themselves as a whole and not to subordinate the same to such alien interests as foreign high finance and foreign trade. And externally, the dominating feature of a fundamental solution of the Chinese question is that America should revise its present policy of "bringing into effect certain re-adjustments of its treaty relations with China" and, recognising the necessity of a General Re-adjustment of such treaty relations instead of readjustments on the instalment plan, satisfy the demand of Nationalist China for the substitution of the unequal treaties by other treaties consistent with the real independence and sovereignty of China. This is a policy that has been definitely brought within the range of practical politics and proved to be both practicable and expedient by the bold statesmanship of Soviet Russia.

In view of the fact that "at the moment there exists no central government supported by all sections of China and recognized by the interested Powers with which to deal on a basis of mutuality of responsibilities", it would be proper and pertinent for Mr. MacMurray to ask with whom is America, either alone or in conjunction with other Powers, to negotiate regarding a general re-adjustment of China's treaty relations with Foreign Powers. The Foreign Powers can only negotiate, in the interests of all concerned, with a National Government of China whose authority and power is a reality.

As there is not such a government at the moment, I have the honour to repeat the warning that the Nationalist Government, whose authority is now extending to Central China, will repudiate all and every loan to be concluded with the agents of Wu Pei-fu and Chang Tso-lin in Peking, and to add that the resumption of the Special Tariff Conference will be viewed by my Government as a deliberate attempt on the

part of the United States and the other interested Powers to convert the Chinese Maritime Customs from a politico-fiscal organ into an engine of war-finance and foreign intervention in China's civil or rather Revolutionary wars. In this event the Nationalist Government will be compelled to take certain defensive measures.

I have [etc.]

CHEN YU-JEN

500.A4e/645

The Minister in China (MacMurray) to the Secretary of State

No. 687

PEKING, July 30, 1926.

[Received September 1.]

SIR: I have the honor to enclose herewith, for the Department's information, a copy in translation of a note of July 17, 1926, from the Ministry of Foreign Affairs,¹⁸ informing the Legation of the appointment by Presidential Mandate of

Ts'ai T'ing-kan,
Ku Wei-chün,
Yen Hui-ch'ing,
Wang Chung-hui
Chang Ying-hua, and
Wang Yin-t'ai

as plenipotentiary representatives to the Special Customs Conference.

I have [etc.]

J. V. A. MACMURRAY

500.A4e/646

*The Consul General at Canton (Jenkins) to the Minister in China (MacMurray)*¹⁹

No. 499

CANTON, July 31, 1926.

SIR: I have the honor to transmit the enclosed declaration by the Kuomintang against the resumption of the Tariff Conference¹⁸ which it is believed will be of interest to the Legation. It will be observed that the Kuomintang openly charges Great Britain and Japan with giving assistance to certain so-called militaristic factions. Reference is also made to "the participation of the American Democracy". On page 5 (near the top), the declaration goes on to express the hope that the nations involved do not know what their representatives in Peking are planning to do "and that particularly the people of the United States of America are ignorant of it."

¹⁸ Not printed.

¹⁹ Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 615, July 31; received Sept. 3.

There is now considerable agitation in Canton against the resumption of the Tariff Conference, including processions and mass meetings with speeches by political leaders. It is evident that the Government is doing what it can to stir up popular resentment against the Conference with a view to strengthening as far as possible its formal protests.

I have [etc.]

DOUGLAS JENKINS

500.A4e/652

The British Embassy to the Department of State

AIDE-MEMOIRE

His Majesty's Government have noted with great interest the correspondence that has passed recently between the Minister for Foreign Affairs of the Canton Government on the one part, and the United States Consul-General at Canton and the United States Minister at Peking on the other in regard to the proceedings of the Chinese Customs Tariff Conference and other matters relating to the status of the Canton Government.

Copies of this correspondence were published in the *Peking and Tientsin Times* of the 21st July and in the *Hong Kong Daily Press* of the 5th July last, and consist in a telegram sent apparently on July 20th by Mr. Eugene Chen to the American Minister at Peking²¹ and in Mr. MacMurray's reply thereto,²² as also in a letter addressed on 30th June last by the American Consul General at Canton to Mr. Eugene Chen and the latter's reply dated July 2nd.²³

His Majesty's Government are interested in this exchange of views not only because they were participators with the United States Government in the tariff negotiations at Peking, which have now been suspended until an undetermined date in the autumn, but because they are themselves at present in negotiation with the Canton authorities for the settlement of the boycott of British goods which, for the past year, has caused very grave injury to the colony of Hong Kong and British trade in general.

It seems to them that this correspondence may indicate that the United States Government may be considering such important questions as the position of the Canton administration in regard to the central authority at Peking, the mutual relations of the two bodies as affecting the work of the Tariff Conference, and the prospects of that work in the future; and in view of the attitude of the Canton Govern-

²¹ Apparently refers to note of July 14 from the Chinese Acting Minister for Foreign Affairs at Canton to the American consul general, p. 844.

²² See despatch No. 298, July 24, from the Minister in China, p. 846.

²³ See article from the *Canton Gazette*, July 5, 1926, *ante*, p. 669.

ment as revealed in Mr. Eugene Chen's communications, they would be glad to know what course the United States Government intend to pursue as regards both the liquidation of the promises made in the Washington Customs Tariff Treaty and the resumption of general tariff negotiations, and on what footing they propose to treat with the Canton Government in the future.

His Majesty's Ambassador would be grateful for any information that the Secretary of State may be able to give in reply to this enquiry on the part of His Majesty's Government.

MANCHESTER, MASS., *September 17, 1926.*

[Received September 20.]

500.A4e/654

The Department of State to the British Embassy

The United States Government has given careful consideration to the *Aide-Memoire*, dated September 17, 1926, in regard to the situation in China, which was left at the Department of State on September 20, 1926, by His Excellency the British Ambassador. The Government of the United States has followed with close attention the recent developments in China. It is of the opinion, however, that the situation has not so far altered as to necessitate any change in the policy which it has adopted in the past, namely, to hold itself in readiness to enter into relations and to negotiate with any Government representing China which appears to be capable of fulfilling the obligations which it may undertake. On the other hand this Government is not prepared to enter into negotiations with a view to concluding a general tariff agreement with individual provinces or groups of provinces.

WASHINGTON, *Oct. 5, 1926.*

500.A4e/686 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, *November 20, 1926—noon.*

[Received 12: 53 p. m.]

566. 1. In informal conversation recently Koo stated to me that he planned shortly to circularize a proposal to the interested Legations that the Tariff Conference be resumed. He requested me to give my opinion regarding the prospects. I recalled that foreign delegations had made their conviction clear at the "informal meeting" held July 23 (for which refer to conference number 51 of July 23, 11 p. m.) that no Chinese governmental entity with which such negotiations could be

carried on was in existence. I pointed out quite frankly that the Peking administration has since that time become not only more definitely an agency of faction but by denunciation of the Belgian treaty²⁴ has aroused doubt of its sense of responsibility in regard to foreign obligations. It was urged by Koo that his administration was amply able, except as he said, in certain provinces in the south, to discharge its obligations. Instancing the illegal export and import duties, the imposition of which is being attempted by the Military Governor of Shantung, I asked Koo where in fact his administration could control its own nominal adherents. He replied that levies of these taxes and similar ones on foreign trade were being made by various provinces in the place of the Washington surtaxes. They felt that the latter were being unjustly withheld from them by the powers. He made this remarkable statement: the Foreign Office could not expect to turn the provincial leaders away from so obviously a just action and it was, in fact, not so much as forwarding to them any of the protests which were made against taxes on foreign trade which were levied in contravention of treaties. In reply to my question of what position he took regarding taxes levied in Peking itself on tobacco, he outspokenly upheld such taxes as fully justified so long as the obligations the powers had under the Washington Customs Treaty were not fulfilled. He maintained this even though admitting that more than a year before the Chinese delegation had rebuffed the offer of the surtaxes. However he stated that when the surtaxes had once been put into force by the Special Conference, faithful observance of all conditions which might be stipulated could be and would be secured by the Peking Administration. As I knew, the argument could be carried no further, and undoubtedly he was aware that I knew these statements did not represent anything real.

2. Koo was most insistent concerning the matter which he termed the universal demand by the public that the Conference be resumed. Discussion of this pretension was similarly difficult. The situation is this: no one unconnected with the present regime in Peking has the least desire to have the Conference continued for the creation of a new source of revenue for the benefit of Chang Tso-lin and his associates in the warfare going on.

3. Nevertheless, the fact is that such public opinion as exists in China regards as evidence of bad faith by the foreign powers that they do not carry out the provisions of the Washington Treaty, although the great part of the people, I feel convinced, would feel bitter resentment if we made an agreement with the Peking regime implementing the recent obligations. If we bar the highly im-

²⁴ See pp. 984 ff.

probable contingency of a stable, responsible central government being established at an early date, we are confronted with a dilemma. The sole means of escape from it that I have thought of are the following: (1) To take [garbled group] action through the making of several regional agreements—as to this, the disapproval of the Department is to be inferred, in view of its telegram No. 226 of October 13;²⁵ (2) to indicate in outline form the general conditions upon which basis the powers would be prepared to put into effect the Washington surtaxes, the powers to make a statement of willingness to negotiate with any Chinese delegation for this purpose if the delegation were constituted so as to represent the whole Chinese people and to be competent to offer effective assurances in regard to any agreements arrived at being generally respected; (3) the powers to take action independently of China to enforce the surtaxes upon their own nationals, waiving all such conditions as were contemplated by the Customs treaty and by the Tariff Conference; (4) to take the radical action of conceding unanimous tariff autonomy immediately, with the single condition that most-favored-nation treatment be provided for. Only the second and third of these alternatives appeal to me as offering possibly a hope of such a solution as will avoid entailing new, grave developments. Unquestionably the second if it were feasible would be the best, but I consider it a very long shot. Whether other powers, Japan and Great Britain particularly, would be willing to continue the Conference under conditions involving the great practical difficulties obviously to be encountered in negotiations with a representation which is so heterogeneous and doubtless fluctuating as that of the Chinese, is doubtful. And whether the administration at Peking would have any enthusiasm is rather more doubtful, since of necessity it would be given by this plan only part of whatever free money resulted from the surtaxes. And whether the Southern group would consent to send representatives to negotiate for what they have a disposition to claim as of right is extremely doubtful, for they are elated now by their having conquered at least half of China and are now confirmed in the rather arrogant attitude they have taken toward treaty powers and their rights. Therefore the feasibility of this project is in question. Yet it offers some chance for us to be able, in a manner fair to China as a whole, to set ourselves free of our obligations. Even were it to fail we would be left in the position that we went more than half way in endeavoring to discharge the obligations we have and to satisfy the reasonable demands made by Chinese national feeling.

²⁵ Not printed; it transmitted the Department's memorandum of Oct. 5 to the British Embassy, p. 855.

Certain theoretical attractions inhere in the fourth project, but I am not able to believe that, considering the temper of the Chinese at present, it would be effective in alleviating that sense of grievance against the treaty powers which the Chinese are nursing. Especially since it would follow the success of the Canton regime in ignoring treaties by imposing illegal surtaxes and the riposte of Peking in tearing up the Belgian treaty, I am afraid that it would only intoxicate the Chinese further with a sense of triumph, with the result that their zeal for the ousting of foreigners out of China altogether would be diverted merely to other questions. For the Department's consideration I suggest the question whether action by us on this project might also not affect our relations with the Japanese most seriously and, in a lesser degree, possibly our relations with the British, in view of the creation by it of embarrassments of a kind more vital by far to their commercial interests than they would be to ours.

4. In submitting these comments, it is my hope that some indication of the lines along which the foreign policy of the Department is proceeding may be given to me if the Department is able to do so. I know that the Department feels an anxiety in this matter to avoid failure in fulfilling our obligations under the Washington Conference (according to telegram 171 from the Department, August 24, 2 p.m.,²⁶) and that it concurs in the conviction I hold that to do this is impossible through negotiations with the unrepresentative, irresponsible regime at Peking (according to telegraphic instructions from the Department, No. 148 of July 26, 5 p.m. and No. 267 of November 15, 6 p. m.²⁷). But beyond these facts I have no idea as to what course it is the desire of the Department that I should follow nor as to what attitude it is the wish of the Department that I should take in the imminent event that a request is made from the Chinese side that the Tariff Conference be resumed. The few, rather unpromising alternatives that through months of thought and discussion have been developed here I have presented above. Perhaps the Department has in mind other possibilities. I venture to make a request, in view of the probability that I shall find myself in the very near future under the necessity of taking in behalf of our Government some position on the practical and urgent question concerning the course to be taken toward the Tariff Conference, for such instructions in this regard as the Department may have to give me.

MACMURRAY

²⁶ *Ante*, p. 682.

²⁷ Latter printed *post*, p. 998.

500.A4e/686 : Telegram

The Secretary of State to the American Delegation

[Paraphrase]

WASHINGTON, *November 23, 1926—6 p.m.*

278. Referring to third paragraph of your number 566, November 20, noon. Concerning your second proposition, the Department does not have any objection to holding a conference for implementing the Washington Treaty surtaxes and specifying the conditions, provided any prospect exists that compliance with the conditions would obtain throughout China and if a willingness to participate in a conference such as this were shown by the treaty powers and if such a course is recommended by you. However, if the resumption of the Conference with the purpose of having a discussion generally of the subject of China's tariff is insisted upon by the present Peking Government, the Department still is of the opinion that probably the existing Peking Government would not have the power to bind any considerable part of China and that the so-called Canton authorities would probably repudiate such a conference. However, it has been the attitude of the United States to do everything it can do to make clear that it is willing to meet the aspirations of China in regard to the tariff question. If such a demand is made, your recommendations would be desired as to what ought to be done. The cooperation of the other treaty powers would certainly be necessary for any such general conference.

As you suggest, your fourth proposition would mean probably a break with the other powers. To the Department, it seems that at present this is inadvisable. If, however, control of most of China is secured by the Canton authorities, perhaps we may have to give consideration to entering into a treaty by which our tariff control will be given up but in which most-favored-nation tariff treatment will be insisted upon. Probably the best course to pursue at present in order to show that we are willing to comply with the Treaty of Washington is the adoption of your proposition number three, which to the Department seems to be feasible and worth considering. See in this connection telegram No. 273 from the Department, November 19, 4 p.m.,²⁸ which communicated the telegram received from London²⁸ in which is contained Wellesley's opinion that the better course for the treaty powers would be to grant the additional surtax of 2½ percent at once and without reservations, the surtax to be collected if possible by the Customs Administration. You should consult your

²⁸ Not printed.

British and French colleagues for the purpose of getting, if possible, agreement upon joint action. It should be possible, it seems to the Department, for the Powers simply to give notification to the Chinese Government that an authorization is given for the surtaxes to be collected through the Chinese Maritime Customs.

KELLOGG

500.A4e/657 : Telegram

The Secretary of State to the American Delegation

WASHINGTON, November 24, 1926—2 p. m.

279. Department's telegram No. 237, October 20, 3 p. m.³⁰ What is present status of Russo-Asiatic Bank matter and question of reallocation of customs funds among banks in China?

KELLOGG

500.A4e/689 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 27, 1926—1 p. m.

[Received 3 p. m.]

583. Department's 279, November 24, 2 p. m.

1. Russo-Asiatic Bank is in process of liquidation, as reported in Legation's despatch number 784, October 15th.³⁰

2. Customs revenues are being deposited in accordance with the agreement of January 30th, 1912.³¹ The German and Russian banks having been eliminated, Hongkong and Shanghai Banking Corporation remains the sole custodian bank, receiving all deposits. It is reported that Chinese banks recently petitioned the Chinese delegation to the Customs Conference, asking that funds hitherto deposited in the Russo-Asiatic Bank be apportioned among Chinese banks. As yet no proposals to this effect have been received from the delegation or the Ministry of Foreign Affairs.

3. The whole question of the reallocation of customs deposits was examined in detail last summer by the technical advisers of the Special Conference who worked out a scheme whereby the revenues from the Washington surtaxes were to be allocated according to the terms of a special agreement of the Conference and revenues from existing tariff were to be allocated through revision of the 1912 agreement. The Conference being in abeyance no further progress has been made.

³⁰ Not printed.

³¹ John V. A. MacMurray (ed.), *Treaties and Agreements With and Concerning China, 1912-1919*, vol. II, p. 946.

4. Although it is inequitable and unsound in principle that one bank should be sole custodian of the customs revenues, there are very practical difficulties and dangers in attempting to bring about a change at the present time. Revision of the 1912 agreement between the Chinese Government and the diplomatic body might well be considered tantamount to recognition of the present Peking regime. A proposal for revision would at once be met with a demand, on the part of the Chinese banks, for a large part of the revenues, at least all that portion above an amount necessary to meet foreign obligations secured on the customs; and under present conditions it would hardly seem advisable to precipitate a demand which will at the most not be long in forthcoming. Such a proposal would also involve demand for participation by foreign banks, not of the best standing, and of nationalities not having large interest in foreign obligations secured on the customs.

5. In view of these various considerations the Legation, while appreciating inequity of present arrangement, regards with some apprehension, any immediate move to alter the *status quo*.

MACMURRAY

500.A4e/690: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 3, 1926—11 a. m.

[Received December 3—10:30 a. m.]

595. Department's 273, November 19, 4 p. m.³² With reference to London's 283 [253], November 17th,³² it may be recalled that in the instructions of the British Government to the British delegation made public September 18th, 1925, there appeared the following:

"His Majesty's Government recognize that consolidation of the unsecured debts is one of the tasks which will confront the Conference."

The British, in association with the other delegations, were engaged on and off throughout the Conference in discussions relating to debt consolidation until May 3rd when Stewart of the British delegation announced that he was under instructions to discontinue all further discussions looking toward the negotiation of general agreement providing for interim tariff rates and the disposition of revenues accruing therefrom. Up to that time when the discussions were thus abruptly terminated, Stewart had been engaged with the Japanese and American technical advisers in the discussion of such a general agreement, and negotiations were proceeding with excellent prospects

³² Not printed.

of reaching an amicable arrangement. From that date until July 3rd, when the work of the Conference was discontinued, negotiations among the foreign delegations were directed solely toward reaching an agreement for the implementing of the Washington surtaxes and did not embrace a discussion of debt consolidation; and the latter question was not under consideration by the foreign delegations on July 3rd when action was taken in effect discontinuing the work of the Conference. In this connection see delegation's despatch of September 9th³³ enclosing a record of the conference studies numbers 1 and 2, in particular page 17 of the latter. If debt consolidation was the fundamental cause of the unwillingness of the British delegation to proceed with the work of the Conference, then Wellesley's statement that this question wrecked the Conference would appear to be explicable only on the theory that the British Government preferred to see the Conference wrecked rather than meet in a spirit of compromise the views of the other delegations, or that on or about May 3rd the British Government reversed itself as to its willingness to discuss any plan of debt consolidation whatsoever.

The text of the telegram shown by Wellesley to MacMurray in 1923 should be in the files of the Department as an enclosure to a personal note dated February 10, 1923, from Craigie to MacMurray.³⁴ It will be noted the Department was in agreement with Wellesley upon the principle of policy "of [eliminating] if possible from Special Conference discussion of unsecured debts." The understanding reached between Wellesley and MacMurray contemplated eliminating the discussion of debts from the Conference provided that this problem could be taken care of by the debts being secured upon other than customs revenues prior to the Conference and the contingent understanding reported by Wellesley in 1923 is by no means the equivalent of the categorical statement reported by the Embassy³⁵ that "he and MacMurray were in accord that debt consolidation should not be discussed at the Tariff Conference."³⁶ Whatever degree of misunderstanding may have existed on this point in January 1923, however, was wholly dispelled by the Department's number 67 to London, March 26, 1923;³³ see conference 38, May 12, 5 p. m.

With reference to the advisability of granting the Washington surtaxes without reservations, see Legation's 594, December 2, 5 p. m.³⁷

MACMURRAY

³³ Not printed.

³⁴ Neither printed. R. Leslie Craigie was Secretary of the British Embassy at Washington.

³⁵ i. e., the American Embassy at London.

³⁶ The statement was reported to the Department in telegram No. 253, Nov. 17, which was repeated to the Minister in China in telegram No. 273, Nov. 19.

³⁷ *Post*, p. 902.

500.A4e/691 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *December 8, 1926—2 p. m.*

[Received December 8—2:05 p. m.]

267. Referring to my number 253, November 17, 1 p. m.³⁸ Yesterday afternoon Sterling³⁹ was called to the Foreign Office by Tyrrell.⁴⁰ The situation in China was again reviewed by Tyrrell, and he reviewed the suggestion that the additional surtax of 2½ percent should be granted by the powers with no reservations and with no conditions regarding likin or debt consolidation.

His insistence that it was necessary to make this concession immediately constituted the importance of the interview.

HOUGHTON

EFFORTS OF THE UNITED STATES AND OTHER POWERS TO MEET SITUATION CREATED BY IMPOSITION IN CHINA OF TAXES IN CONFLICT WITH TREATY PROVISIONS

893.512/438

*The Consul General at Canton (Jenkins) to the Chargé in China (Mayer)*⁴¹

No. 535

CANTON, *September 29, 1926.*

SIR: I have the honor to refer to my telegrams of September 27, 10 a. m.,⁴² September 28, 9 a. m., and September 28, 12 a. m.⁴³ concerning the declared intention of the Canton régime to levy so-called consumption and production taxes on all merchandise passing through the maritime customs at this port, the proceeds therefrom to be used in compensating the strikers connected with the anti-British boycott.

It will be recalled as already reported telegraphically by this Consulate General, that the Canton régime has informed the British Consul General officially that arrangements have been made to end the anti-British boycott before October 10, and that properly constituted Chinese authorities would levy special taxes on imports and

³⁸ Not printed.

³⁹ Frederick A. Sterling, counselor of the American Embassy.

⁴⁰ Sir William G. Tyrrell, British Permanent Under Secretary of State for Foreign Affairs.

⁴¹ Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 669, Sept. 29; received Nov. 2.

⁴² See telegram No. 440, Sept. 30, from the Chargé in China, p. 866.

⁴³ Neither printed.

exports. The tax on ordinary imports will be two and a half per centum, ad valorem, according to the notice, and five per centum on luxuries. Exports are also to be taxed according to the new plan, but the amount has not yet been definitely stated, although it is understood it will be at the rate of two and a half per centum.

These taxes are to be known as consumption and production taxes and to this extent should not be confused with import and export duties. Although it is understood the new taxes are to apply to all commodities regardless of nationality, no consular representative other than the British has yet received any official intimation from the local authorities and the Consular Body as such has not considered the matter.

It is understood that the Cantonese contemplate using the so-called Customs Memo for valuation purposes, although the Customs authorities are not to take any part in the actual collection of the new taxes.

It is evident that the Cantonese authorities intend to levy these taxes regardless of protests from the Powers concerned. It is also equally clear that once these taxes are applied they will be continued indefinitely. In a conversation with Mr. Eugene Chen, so-called Acting Minister of Foreign Affairs, the writer of this despatch was informed that the Cantonese régime expected to raise \$500,000, Canton currency, monthly through the new taxes, the money to be paid over as collected to the strikers, who would then be expected to find other employment. When questioned as to what would be done about the tax after the strikers had been paid, Mr. Chen said this question had not yet been decided, but the taxes would probably be continued indefinitely if the Government found it expedient and necessary to do so.

The Acting British Consul General, Mr. Brenan, is frankly in favor of allowing the Cantonese régime to institute the new system of taxation without objection on the part of the Powers. Mr. Brenan believes that the Powers are not in a position to do more than file the usual protests and since these would have no effect, he thinks an effort should be made to regularize and control the collection of the taxes through the existing machinery of the maritime customs.

Colonel Hayley Bell, the Commissioner of Customs, is of the same opinion, and a copy of a private letter just received from him by the writer of this despatch is enclosed herewith for the information of the Legation.⁴⁸ Colonel Bell draws attention to the fact that the local government probably intends to use the existing picket ma-

⁴⁸ Not printed.

chinery for the collection of the new taxes. He points out that if this is not done the present system of extortion, intimidation and illegal interference with foreign trade may be expected to continue indefinitely. For these reasons, Colonel Bell believes that the Powers should endeavor to induce the Cantonese régime to consent to the collection of the taxes through the customs with the understanding that the money will be paid over at stated intervals to the Cantonese régime, instead of being sent on to Peking.

The writer of this despatch is strongly inclined to agree with the views of Colonel Bell and Mr. Brenan. It scarcely seems likely that the Powers will agree to do more than protest against the proposed taxes and if this should prove to be the case, the Cantonese authorities will disregard the protests and proceed as though nothing had happened. They have done this repeatedly during the past year or two and say quite frankly in private conversation that mere protests from the Powers will not influence them in any way whatever.

The scheme hinted at with respect to the collection of the new taxes although quite indefinite as yet, appears to follow the general plan suggested by the Washington Conference, and there should be no objection apparently to the taxes as such, but merely to the fact that they are being put on by an unrecognized government and without the concurrence of the Powers concerned.

It seems highly desirable, in view of the existing circumstances, to endeavor to arrive at some plan by which these proposed new taxes may be collected through the maritime customs and paid over to the Cantonese régime. At the same time, however, it is recognized that when this is done, the rights of the Powers generally to supervise the customs' tariff and the administration of the maritime customs should be preserved as far as possible. It is not certain that the Cantonese régime would consent readily to the collection of the taxes through the customs, but if the Powers are firm, the writer of this despatch is inclined to believe some arrangement as outlined above could be effected.

It would be a fatal mistake in the opinion of the writer merely to protest against the institution of the taxes and then permit the Canton régime to proceed as though the Powers took no further interest in the matter. The so-called Nationalist Government is now far stronger than it has ever been in the past and the Powers must find some means either to prevent its growing interference in our trade rights or to control and regularize its activities in the interests of all concerned.

I have [etc.]

DOUGLAS JENKINS

893.512/401 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 30, 1926—11 a. m.

[Received September 30—5:55 a. m.]

440. My 419, September 20, 5 p. m.⁴⁹

1. Following from American consul general at Canton:

“September 27, 10 a. m. Your September 22, 5 p. m., received the 25th. New tax is to apply to all imports and exports. Collections will be made by Chinese officials appointed by this Government. Funds will be deposited in the Central Bank of Canton and used for paying off strikers. [Paraphrase.] Cantonese authorities do not contemplate that Maritime Customs will have anything to do with the tax collection other than furnish memoranda for purposes of valuation, but Hayley Bell urges that the powers, if they cannot prevent the tax, should insist that the collection and distribution of the tax be through the Customs. In this I concur fully in spite of fact that the funds would be turned over to Canton Government. A despatch follows. [End paraphrase.]”

2. I am waiting further information from Canton and from MacMurray⁵⁰ before commenting on this telegram and in general on the tax situation at Canton.

MAYER

893.512/402 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, October 3, 1926—7 p. m.

[Received October 3—7:19 p. m.]

449. My telegram 440, September 30.

1. Following from me to MacMurray:

“September 28, 1 p. m. For MacMurray.

(2) From what information I have been able to gather from British, Japanese, and Customs sources the new situation at Canton would appear to force us either to take decisive international action backed up by threat of naval force in the event that the Customs becomes directly involved and refuses to participate or on the other hand to negotiate at once with the Cantonese regime toward putting into effect a regional arrangement policy and to obtain satisfactory guarantees from that regime before we are confronted with a complete *fait accompli* and thus deprived of bargaining power.⁵¹

⁴⁹ *Ante*, p. 730.⁵⁰ Minister in China.⁵¹ This paragraph has not been paraphrased.

(3) I have been given to understand clearly by the Acting Inspector General of Customs ⁵² that the Customs authorities, as is quite natural, cannot decide whether compliance with any instruction from the Cantonese to collect the new taxes should be refused unless adequate support is guaranteed to the Customs by the interested powers. Seemingly, he felt convinced that should a decision be made by the United States, Great Britain, and Japan to oppose the new prorata, and should they be ready to use force if necessary prior to the Customs being forced to obey any demand from the Cantonese for direct participation in the taxes, almost certainly the so-called Central Government would give an order to the Inspector General of Customs to refuse to obey the command of the Cantonese, which at least would add to the strength of the position of the powers before the world. In view of present circumstances I concur in the above regard with Edwardes, although I remember the Central Government's attitude in 1923 toward the Canton customs conflict, when the Peking authorities, in effect, as you will recall, gave their support to the Cantonese against the foreigner, even though this was illogical in the light of the attitude they held toward Canton in regard to the matter of distributing customs funds.

Following from MacMurray:

"September 30, 2 p. m. Referring to your September 28, 1 p. m.

(1) I was informed by the British consul general at Canton that while the Cantonese are naturally insistent that the new taxes should be imposed in connection with ending the boycott, each of these is completely distinct from the other. The British have made no commitment as to taxes, and remain free to make resistance to them. The Hongkong Governor who also holds this opinion has informed me that as yet he has not had an indication of the attitude of the British Government in regard to these taxes, but that he is personally strongly disposed not to accept them, considering that to do so would be tantamount to unconditionally granting tariff autonomy, also involving the breakdown of the Administration of the Customs. It was his expressed hope that in regard to the new taxes Great Britain, the United States, and Japan, and perhaps France, might possibly act together in refusing to accept them. But he acknowledged having doubt whether cooperation could be expected from those nations to the point, if necessary, of supporting a refusal to allow the taxes to be levied by means of a naval demonstration. Further he informs me that Aglen,⁵³ in consulting the Foreign Office, has stated that unless the powers principally interested in resisting the demand of the Cantonese for their cooperation in collecting taxes gave support to the Customs Administration, the latter must yield to *force majeure*.

(2) It is my view that in fact the proposed taxes, although levied under other names, are substantially import and export taxes and doubtless are purposely designed to anticipate the levies of the Washington surtaxes, and that their enforcement would have the result of

⁵² A. H. F. Edwardes.

⁵³ Sir Francis Aglen, Inspector General of Chinese Maritime Customs.

putting those surtaxes into force independently of the powers in all sections of China, in disregard of the conditions which were contemplated by the Washington Treaty.⁵⁴ Moreover, once a break had been made away from treaty obligations by any Chinese group, nothing would be left to prevent the forces in control of any given region from making at will an indefinite increase of such taxes. Thus there would be a new situation in which in effect both the previous treaty provisions as to customs and the Washington Customs Treaty itself would be repudiated. Neither a possibility of securing relief in behalf of our unsecured creditors would then be left to us nor of doing what has for us in the long run far more importance, maintaining the safeguards against arbitrary exactions upon foreign trade.

(3) I believe that resolute action by the powers chiefly interested should be taken against this method of indirect piecemeal repudiation of treaties, even so far as to give naval protection to the Canton Customs and to take any action which may prove to be feasible in preventing the levy of the proposed taxes by Cantonese authorities.

(4) No drastic action would be necessary I believe if the fact that the powers were in earnest were realized by the Cantonese. When in Canton I gathered an extremely strong impression that the Kuomintang has a real desire to adopt towards the powers a policy of conciliation, in part owing to its present aspiration to receive recognition and treatment as the Government of China, but in the main because it has a dread of any such complication arising at the rear as might embarrass its present military and political endeavors in the North. Particular effort was made by Eugene Chen⁵⁵ and Sung⁵⁶ to impress me with the idea that treaty obligations had not been repudiated by them and that they were ready to accept those obligations as the point for beginning negotiations for eliminating by mutual consent the features they erroneously describe as "unequal." Further, Chen insisted upon Cantonese political "realism" and admitted that they knew that successful defiance of the powers could not be made by them. I was very definitely impressed with the belief that, whatever degree of sincerity attached to his professions, the authorities at Canton feel a need now that their relations should be friendly with the powers, not excluding Great Britain.

(5) Chen stated quite frankly in adverting to his earlier championship of a regional agreement that they had been led by the improvement in their political prospects recently to hope that they could achieve more than regional recognition and to oppose any such arrangement with other regions. In any case this altered viewpoint apparently precludes the possibility of the special arrangement suggested as an alternative in your paragraph number (2). To me it seems that if we are not to stand by and see the treaties torn up, we must make a determined resistance to the proposed taxes. However, the attempt might be worth while—and politic even if it were unsuccessful—to persuade the Cantonese and other factions to lay their differences aside to the extent that they appoint representatives for the purpose of discussing with representatives of foreign powers

⁵⁴ *Foreign Relations*, 1922, vol. I, p. 282 ff.

⁵⁵ Minister of Foreign Affairs of the so-called Canton Government.

⁵⁶ Sung Tsu-wen, also known as T. V. Soong, Minister of Finance of the so-called Canton Government.

at Peking whether it is possible to find a foundation for such an agreement on tariff problems as would meet with the approval of the various political groups in China. A suggestion to this purpose might be made informally and publicly simultaneously with the refusal of the powers to accept the taxes proposed by the Cantonese."

Received September 30, at 6 p. m.

2. Before I received the Minister's telegram of September 30 I had reached exactly the conclusion at which he arrived. To me this appears as a final test whether we shall stand by while treaties and all obligations and rights due to the American Government and American citizens, if not in fact their personal safety and their commercial interests, are disregarded and jeopardized, according as the case may be, or whether we shall take action preventing this, producing a change in the atmosphere and ceasing to be longer in the defensive position into which the Chinese have cleverly maneuvered us. The Canton situation presents, in my opinion, the best opportunity for this promulgation that we have had or may hope to get. I am completely in agreement with the Minister in believing that the Cantonese are anxious to avoid contending with the foreign powers in a group and that they are not in a military position to do so. Their campaign is now at a stage that is critical. Should it become more successful, there will be an increase in their political aspirations, with the result that probably they will look forward more immediately to the powers' recognition. On the other hand, they will prove to be easier to treat with at Canton if they do not win in the North.

4. In view of the facts, I cannot recommend too strongly that everything possible be done by the Department to gain an agreement between the United States and Great Britain and Japan to prevent, even by means of a naval blockade or of some feasible measure of force similar to that, the imposition of the new taxes. It is respectfully suggested to this end that since the time is limited an exchange of views take place at once between Washington and Tokyo and London with the object of giving instructions to the respective missions at Peking to compose immediately a practical plan for achieving the end desired. Seemingly, a way to do this is open to the Department either in a reply to the note from the British Ambassador, September 20, 1926,⁸⁷ or alternatively, to use the opportunity afforded by the fact that the only foreign consular representative at Canton to be officially advised of the proposed taxes by the Cantonese is the British consul general. Thus it would appear to be entirely

⁸⁷ Apparently refers to British note of September 17, which was received September 20, p. 854.

appropriate to interrogate the British Foreign Office on what attitude in this regard it plans to take, offering at the same time a suggestion that common action by Great Britain, the United States, and Japan is extremely advisable. If the Department were so minded, in informing the British of our opinion that it is expedient to oppose the new taxes, etc., it would appear to be desirable to suggest that any communication sent to the Cantonese on this matter should, in addition to making our decisive demand that treaty rights be complied with and the taxes withdrawn, advert to the fact that for some time the powers concerned have considered plans for placing in operation the Washington Conference surtaxes or other increases in Chinese customs duties that may be desirable—temporarily and provisionally in view of the absence of a central government—in a manner advantageous to the people of China and not disadvantageous to the ultimate political stability of China, while safeguarding our treaty relations at the same time; in effect, that we shall gladly undertake an informal discussion of this subject, with the regime at Canton and with other Chinese regional authorities also, when the Canton situation has been regularized again by means of the withdrawal of the proposed new taxes which contravene the treaties.

5. In case the Japanese fail to act in accord with this plan for forcible, if necessary, prevention of the taxes, I strongly advocate that we proceed on the plan with the British alone. I have a feeling that the Italians and French would cooperate on the project.

6. Telegram repeated to Tokyo by mail.

MAYER

893.512/403 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, October 4, 1926—5 p. m.

[Received October 4—12:16 p. m.]

451. My telegram 449, October 2 [3], 7 p. m.

1. A telegram has been received by the Japanese Legation from its Government to the general effect that it is in opposition to the new taxes being imposed and believes that a conference of the Washington Conference powers is advisable. How far the Japanese desire to go in opposing the new taxes is not indicated.

2. The British Minister gave me a promise to apprise me of his Government's attitude when he was informed of it, but so far no word has come from him. The cause of this may be . . . that he has not received instructions.

3. Although in a forceful opposition to the new taxes proposed it would be desirable to have France and Italy eventually participate

in any action at Canton, yet I greatly favor from a practical standpoint a preliminary agreement among Japan, Great Britain, and ourselves.

MAYER

893.512/402 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 5, 1926—7 p. m.

217. Your 449, October 3, 7 p. m., and 451, October 4, 5 p. m. Proposed taxes on imports and exports at Canton appear to have been mentioned only to the British Consul General at Canton in connection with a proposal of the Cantonese authorities for settlement of questions pending between Canton and Hongkong (see your telegram No. 419, September 20, 5 p. m.⁵⁸). Unless proposal is broader than thus far made known the Department fails to perceive necessity for Chinese Customs Administration collecting proposed taxes or otherwise becoming involved except in connection with memoranda to enable Cantonese tax collectors to use Customs valuations as basis for tax (see Jenkins' telegram of September 28, Noon to you⁵⁹). Department believes adoption of proposal that Customs Administration collect taxes would only result in involving Administration, now collecting treaty tariff, in a dispute between the Powers and China and in making of the Chinese National Customs Administration a regional collecting agency for taxes not covered by tariff treaties. With regard to suggestion of MacMurray in Paragraph 3 of his telegram to you, September 30, 2 p. m.,⁶⁰ and your suggestions contained in Paragraph 4 of your 449, Department does not perceive the urgency of initiating discussions with Great Britain and Japan looking to naval demonstrations or other forceful means of preventing collection of taxes which have not yet been put into effect. You should, however, authorize Jenkins in his discretion to bring to the attention of the authorities at Canton the grave concern felt by this Government over the report that new taxes are to be imposed on American goods in violation of existing treaties between the United States and China. When and if the new taxes are imposed on American trade Jenkins should protest to the Canton authorities in accordance with the procedure which has been followed in the past in connection with other taxes which have been imposed from time to time in different parts of the country contrary to American treaties with China. A similar protest should of course be made by you at Peking.

KELLOGG

⁵⁸ *Ante*, p. 730.

⁵⁹ Not printed.

⁶⁰ See telegram No. 449, Oct. 3, from the Chargé in China, p. 866.

893.512/404 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 6, 1926—noon.

[Received October 6—12:18 p. m.]

456. My 449, October 2 [3], 7 p. m.

1. Following telegram dated October 5th has just been received by Acting Inspector General of Customs from Commissioner of Customs, Canton:

“Urgent. Mandate will be issued tomorrow as follows: Temporary internal tax on consumption or production of articles of trade between Liang-Kwang Provinces^{a1} and other provinces in China and foreign countries to come into effect 11th October or as near that date as possible. Half usual Maritime Customs and native customs tariff duties on general articles and full tariff duty on articles of luxury, i. e., silk, toilet articles, fur and leather, articles of decoration, gems and precious stones, et cetera. Cigars, cigarettes, imported wine, kerosene, gasoline, being already subject to special taxes, are exempt from this tax. Minister of Finance will collect ‘at or near respective Maritime Customs and native customs barriers’. Minister for Foreign Affairs writes me Minister of Finance would prefer if possible to borrow rooms customhouse for use of a small staff to carry on collection. I solicit instructions or any early indication of policy and probable action.”

2. Acting Inspector General of Customs gave me a copy of this in confidence preliminary to his reporting the matter to the Senior Minister and the Peking Government for its information and action. He asked me whether our Government would support the Customs in the event that the Canton regime attempt to force it to collect the taxes. I stated that I could not give him an answer but would report the matter immediately to the Department.

3. Edwardes stated that he will probably direct Commissioner of Customs at Canton not to associate himself with the new taxes in any manner whatsoever. Whether this attitude is maintained depends of course upon the decision of the powers concerned either to oppose the new taxes by force if necessary or to acquiesce in them.

4. It is obvious that these taxes whether collected through the agency of the Customs or otherwise will constitute a direct imposition on American traders of additional customs levies by the unilateral act of the Cantonese authorities, being in effect the nullification of fundamental treaty rights. This will be all the more flagrant, in appearance at least, in the event that Customs refuses to participate, since then the application of force by the Cantonese directly against American firms seems necessarily implied.

5. There will doubtless be a meeting of the Heads of Legations in

^{a1} Kwangtung and Kwangsi Provinces.

the immediate future. If possible I should greatly appreciate an early indication of the line the Department would wish me to follow.

MAYER

893.512/440

The Consul General at Canton (Jenkins) to the Chargé in China (Mayer) ⁶²

No. 545

CANTON, October 8, 1926.

SIR: I have the honor to confirm my telegram of October 7, 10 a. m.,⁶³ concerning the determination of the so-called Nationalist Government to begin collection on October 11 of the new consumption and production taxes and to enclose a copy of a note dated October 6 from the Acting Minister of Foreign Affairs. It will be observed that the mandate quoted by Mr. Eugene Chen refers to these taxes as temporary and provides that they shall be applicable on such articles as are subject to trade between the Liang-Kwang Provinces and other provinces in China and foreign countries.

According to Mr. Chen, these taxes are to be collected by officers appointed by the Ministry of Finance and are not to be considered in any sense as Customs duties. Mr. Chen intimates, however, that if the maritime customs service would lend its assistance possible friction and misunderstandings might be avoided. It is understood that the Ministry of Finance contemplates using so-called customs memos as a basis for levying these taxes and if the Commissioner of Customs declines to permit the carrying out of this plan, the Treasury Department's appointees will probably experience considerable difficulty in fixing values on merchandise coming in and going out.

As already explained in reports from this Consulate General, Colonel Hayley Bell, the Commissioner of Customs, is afraid that if the collection of these new taxes is permitted to go unchallenged, other provinces will soon follow suit and in the course of time, there will be no limit on these so-called production and consumption imposts levied on merchandise passing through the Customs. Colonel Bell fears also that the very existence of the maritime customs service will be endangered. He is still hopeful that the Powers concerned will either decide to prevent the Cantonese from levying the taxes or will insist that the entire matter shall be administered through the customs service.

According to the *Canton Gazette*, the cooperation of the maritime customs desired is indicated in a letter addressed to the Commissioner of Customs by the Chinese Superintendent of Customs who states that

⁶² Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 685, Oct. 8; received Nov. 9.

⁶³ Not found in Department files.

“further with reference to the collection of the new consumption and production tax, I wish to reply to your specific questions as follows :

“1. A tax will be levied basing on the Customs Tariff, unless for any technical reason such would prove unsatisfactory in which case an effective two and a half per centum and five per centum will be charged for general articles and luxuries respectively.

“2. The Ministry of Finance would prefer, if possible, to borrow a room or rooms in the Customs Building for the use of a small staff to carry on the collection of the new taxes, which would facilitate the work of both the Ministry and the Customs Administration.

“3. The tax will come into operation commencing October 11th, 1926, or as near that date as possible.”

I have [etc.]

DOUGLAS JENKINS

[Enclosure]

*The Chinese Acting Minister of Foreign Affairs at Canton (Chen)
to the American Consul General (Jenkins)*

CANTON, October 6, 1926.

SIR: I have the honour to communicate to you the following translation of a Mandate issued by my Government on October 4 :

“1. The Ministry of Finance is hereby instructed to levy a temporary internal tax on the consumption or the production of such articles as are subject to trade between the Liang-Kwang provinces and the other Provinces in China and foreign countries.

“2. The rate of taxation shall be equivalent to half the usual Maritime or Native Customs Tariff (as the case may be) on general articles and to a full tariff on articles of luxury, such as silk, silk stuff, toilet articles, fur and leather, articles of decoration, gems and precious stones and similar goods. Cigars, cigarettes, imported wines, kerosene and gasoline which are the subject of other special taxes are exempt from this tax.

“3. The Ministry of Finance, for purposes of convenience, may collect such taxes at or near the various Maritime and Native Customs barriers, and is instructed to make detailed regulations governing the collection of the said tax.

“4. Any person selling or buying or otherwise dealing with articles on which the said tax has not been paid, shall be liable to a term of imprisonment not exceeding three years and/or a fine equivalent to ten times the value of the article or articles, which shall also be confiscated.

“5. This Mandate shall come into effect on the 11th October, 1926.”

It seems desirable to emphasize the fact that the new tax is, in principle, an internal tax to be distinguished from the imposts levied as Customs duties under the Chinese Maritime Customs system. There is of course no intention to interfere with the latter as at present administered, though possible misunderstanding and friction would

be avoided if Maritime Customs cooperation should be available in the collection of the new tax by the fiscal authorities to be appointed by my Government.

I have [etc.]

CHEN YU JEN

893.512/407 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 8, 1926—8 p. m.

[Received 9:30 p. m.]

462. Department's 217, October 5, 7 p. m., my 456, October 6, noon, and 449, October 2 [3], 7 p. m.

1. At diplomatic body meeting[s] yesterday and today tax situation at Canton was discussed from a point of view, first, of what if any action the powers concerned should decide to take in reference thereto, and, second, what reply could be made to the Acting Inspector General of Customs' inquiry of the Senior Minister as to support the Customs could expect from the powers should the Canton regime endeavor to force it to collect the new taxes. The 2 days' discussion revealed complete unanimity except for the British Minister, whose position will be later discussed, in opposition to the new taxes; but efforts to arrive at unanimous concurrence in method of opposing them could not be achieved. It was realized finally that the two questions were too vital and broad to be determined by the diplomatic representatives at Peking and therefore it was agreed that each should place them immediately before his Government with the request that a reply be made to reach Peking on October 11th, if possible, when a further meeting it was hoped could take place. In order to furnish respective Governments with something concrete, a formula for joint protest was drafted as given below:

2. In placing this matter before our Governments, each agree[s] to inform his respective Foreign Office that it was our considered and unanimous opinion that the powers had arrived at a parting of the ways; that they should clearly realize that if Canton taxes were allowed to be carried into effect it meant beginning of the end of our treaty rights in China since undoubtedly the new taxation would be increased as to Canton and its action followed by the other semi-autonomous regimes. We all believed that we could not warn our Governments too solemnly in this regard and that we should earnestly solicit them to decide upon a means of preventing the success of the effort of the Canton authorities to tear up the treaties with the alternative that foreign persons and interests in China would be increasingly and inevitably imperilled. It was further consensus of opinion among all the diplomatic representatives, except for the

Japanese Chargé d'Affaires, that the only practical method of procedure in the above respect was to bring the Canton regime up sharply with a determined protest to be backed by force if necessary; that once the Cantonese realized the powers were in earnest there would be the very least likelihood of the necessity of a resort to force. In this connection I repeat a statement which the Senior Minister informed us Wellington Koo made to him on October 6th, to wit, that if the powers agreed to the new taxes at Canton he foresaw the early breakup of the Customs Administration.

3. Herewith the draft formula mentioned above:

"In view of the intention of the Canton authorities to levy certain taxes on foreign trade the diplomatic representatives in Peking of the powers concerned declare that they cannot recognize the legality of this proposed measure which is a direct violation of the treaties and against which they protest most emphatically.

"The Powers concerned have repeatedly shown their willingness to negotiate with China for an increase in her customs tariff. Unfortunately their efforts to assist the Chinese Nation as a whole in the spirit of the Washington Treaties and resolution[s] have been frustrated by the present unhappy internal strife in China and by the opposition of certain regional authorities to the Special Tariff Conference."

I see no particular advantage or disadvantage in the second paragraph of this draft since it is simply a repetition *ad nauseam* of the expressions of good will and kindly intentions which have accompanied practically every statement the powers have made [concerning?] China within the past years, having had no other effect if any than to give the Chinese reason to believe that the powers are not prepared to defend their rights. If anything is joined to a formal protest it seems to me preferable to add something of a constructive character such as set forth in last sentence, paragraph 4, of my 449, October 2 [3], 7 p. m., and in paragraph 5 of MacMurray's September 30, 2 p. m., repeated in my telegram just mentioned. However, I continue in the belief that this should only be done if the powers are in earnest in a protest and are prepared to follow it up to a logical conclusion. Any show of weakness at this time, either through acquiescence to the Canton taxes or in the wording of a protest they accept, will, in my opinion, be fatal to its success as well as contributory to the unfortunate result which must follow a failure to present [*prevent*] imposition of the new taxes at Canton.

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6. I have today received a despatch from the American consul general at Canton, dated September 29th, from which I make the following pertinent quotations: "It is evident that the Cantonese authorities intend to levy these taxes regardless of protests from the powers concerned. It is also equally clear that once these taxes are

applied they will be continued indefinitely," and "when questioned as to what would be done about the tax after the strikers had been paid, Mr. Chen said that question had not yet been decided but the taxes would probably be continued indefinitely if the Government found it expedient and necessary to do so," and "it would be a fatal mistake in the opinion of the writer (Jenkins) merely to protest against the institution of the taxes and then permit the Canton regime to proceed as though the powers took no further interest in the matter. The so-called Nationalist Government is now far stronger than it has ever been in the past and the powers must find some means either to prevent Government[']s growing interference in our trade rights or to control and regularize its activities in the interests of all concerned." I entirely concur in this sound presentation of the matter.

7. The Department's instructions are solicited at the earliest moment practicable.

8. American group representative Peking requests Department to inform American group, New York, of full details of proposed taxation in regard to which he is commenting by telegraph.

9. Commercial attaché requests his Department be informed.

10. Repeated to Tokyo by mail.

MAYER

893.512/407 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 13, 1926—noon.

225. Your 462, October 8, 8 p. m. did not reach the Department in time to get a reply to you before meeting of Legations in Peking. Please wire me result of the meeting and attitude of different governments as to the collection of Canton taxes.

KELLOGG

893.512/411 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 14, 1926—noon.

[Received October 14—6 a. m.]

477. Your 225, October 13, noon, just received.

1. Meeting did not take place on October 11th.

2. Senior Minister informs me that all diplomatic representatives except those of Great Britain, Italy and the United States, have received replies from their Governments assenting to the draft protest set forth in paragraph 3 of my telegram aforementioned with a minor amendment in phraseology of second paragraph of protest proposed by the Japanese Government which makes the last sentence

read after "resolutions" as follows: "Have so far failed to succeed on account of the unhappy internal situation existing in China which has been complicated by the opposition of certain regional authorities to the Special Tariff Conference."

MAYER

893.512/412 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 14, 1926—2 p. m.

[Received October 14—5:50 a. m.]

478. My 469, October 12, 11 a. m.⁶⁴ Following from American consul general, Canton:

"October 13, 3 p. m. Referring to my telegram of October 11, noon.⁶⁴ New taxes are now being collected on imports and exports. All China [*Chinese*] and some foreigners are paying, but other foreigners are asking their consuls for instructions.

"Canton foreign Chambers [of] Commerce have written consular corps recommending that new taxes be collected through the Maritime Customs or on values fixed by Customs."

MAYER

893.512/410 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 14, 1926—3 p. m.

[Received October 14—6:05 a. m.]

479. 1. In connection with first sentence, paragraph 2, of Legation's 462, October 8, 8 p. m., I report that Shantung provincial government has instituted a so-called "goods tax" of 2 percent ad valorem on all merchandise, foreign and Chinese, arriving or shipped into Shantung Province. The American consuls at Tsingtau and Tsinan have protested locally, and I have taken similar action with the Ministry of Foreign Affairs. The Standard Oil Company has just lodged a protest against this new tax with the Legation.

2. Japanese and British consuls at Tsingtau have also protested locally against tax.

MAYER

893.512/416 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 15, 1926—1 p. m.

[Received October 15—6:38 a. m.]

483. My 479, October 14, 3 p. m.

1. The Senior Minister has received and is circulating among the diplomatic representatives concerned a letter dated October 11th from

⁶⁴ Not printed.

the Senior Consul at Tsingtau (Japanese consul) stating that the consular body there has protested against the 2 percent so-called "goods tax" in Shantung including the area of Tsingtau and asking that the diplomatic representatives concerned take immediate effective steps to bring an end to these illegal practices of the Chinese authorities. The Senior Minister's circular concludes with the statement that before taking any steps in this matter he purposes to await decision of Heads of Legation with regard to illegal taxation at Canton.

2. An English translation of the regulations governing the goods tax which accompanied Senior Consul's communication to Senior Minister defines extent of tax as follows: "All goods exported from or destined for this Province will be required to pay goods tax as provided by these regulations."

MAYER

893.512/411 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 15, 1926—3 p. m.

231. Your telegrams 462, October 8, 8 p. m. and 477, October 14, Noon. Department considered that its instructions No. 217, October 5, 7 p. m. sufficiently covered the matter to enable you to join your colleagues in protest outlined in paragraph 3 of your urgent telegram 462, October 8, 8 p. m. No objection to wording of protest as amended is perceived by Department.

KELLOGG

893.512/417 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 16, 1926—1 p. m.

[Received October 16—9 a. m.]

485. Department's 231, October 15, 3 p. m.

1. Following from American consul general at Canton :

"October 14, 4 p. m. Referring to my telegrams of October 10, 10 a. m.⁶⁵ and October 13, 3 p. m.⁶⁶ [Paraphrase.] I am told by the French and British consuls that no action will be taken by them in regard to the new taxes until they are instructed further by their respective Governments. They inform me also that a joint protest is now being considered by the diplomatic body. If this is correct, I am hesitant about filing the protest. I shall wait, therefore, for further instructions before I act. In my opinion we ought to use care to avoid letting ourselves be maneuvered into such a position as

⁶⁵ Not printed.

⁶⁶ See telegram No. 478, Oct. 14, from the Chargé in China, p. 878.

will make us appear to lead the opposition to the taxation policies of the Kuomintang while France and England are acquiescing to them." [End paraphrase.]

2. I am notifying Senior Minister of assent to the draft protest outlined in paragraph 3 of my 462, October 8, 8 p. m., as amended by Japanese Government (see my 477, October 14, noon, paragraph 9 [2]). Should unanimous consent not having [*have*] been obtained by October 20, I shall direct American consul general, Canton, unless instructed to the contrary, to file protest as authorized in Department's 217, October 5, 7 p. m.

MAYER

893.512/416 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 16, 1926—2 p. m.

233. Your 479, October 14, 3 p. m., 483 October 15, 1 p. m. Department approves action taken as stated in your 479, paragraph 1.

KELLOGG

893.512/417 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 16, 1926—4 p. m.

234. Your 485, October 16, 1 p. m. Action proposed by you has approval of Department which is of the opinion that the record should be clear on the subject of taxes such as those proposed at Canton and in Shantung.

KELLOGG

893.512/449

*The Consul General at Canton (Jenkins) to the Chargé in China (Mayer)*⁶⁷

No. 552

CANTON, October 16, 1926.

SIR: I have the honor to refer to this Consulate General's despatch No. 545 of October 8, 1926, concerning the imposition of certain so-called production and consumption taxes, and to enclose a translation of an additional despatch on the same subject dated October 11, 1926.

This despatch refers to the previous communication of October 6, but goes somewhat further in that it purports to quote a communication from the Ministry of Finance in which it is requested

⁶⁷ Copy transmitted to the Department by the consul general in his despatch No. 695, Oct. 16; received Nov. 22.

that the consuls of the various Powers be notified in order that foreign merchants should be directed to comply with the new regulations. This seems to settle any doubt that might have been entertained as to whether or not these taxes would be applicable to foreigners.

The regulations referred to in the second despatch are identical with those already forwarded to the Legation with the exception that they contain an additional article providing for amendments in future if necessary.

I have [etc.]

DOUGLAS JENKINS

[Enclosure]

*The Chinese Acting Minister of Foreign Affairs at Canton (Chen)
to the American Consul General (Jenkins)*

[CANTON,] *October 11, 1926.*

SIR: I have the honor to inform you that I have received a communication from the Ministry of Finance reading as follows:

“An instruction has been received from the Nationalist Government to the effect that inasmuch as regulations governing the levy of internal taxes on the production and consumption of goods have been prescribed and publicly announced as on record, the Minister of Finance, to whom a copy of such regulations is sent, is hereby directed to have them carried out accordingly.

Acting upon the above instruction, in addition to instructing the Customs Administration to immediately establish offices to collect such taxes, and to notify the business community to obey, I have the honor to transmit a copy of these regulations with the request that the Consuls of the various Powers be promptly notified in order that foreign merchants be directed to comply therewith.”

It appears that a communication relative to the levy of these new taxes has already been forwarded to you as on record. Since the receipt of the above, in addition to writing separately to the Consuls of the other Powers, I have the honor to send this for your information and to request that you will be good enough to direct all American merchants to comply therewith.

I have [etc.]

CHEN YU JEN

893.512/418 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, *October 18, 1926—6 p. m.*

[Received October 18—9:05 a. m.]

490. Your 234, October 16, 4 p. m.

1. Following from American consul general, Canton:

“October 17, 10 a. m. Chen tells me Canton regime wishes to follow as near as possible Tariff Conference in fixing schedules of

new taxes and has asked me unofficially to obtain list of luxuries tentatively agreed upon by the [omission] also minutes of the Conference, if and when available. Please reply by telegraph."

2. Consonant with the Department's desire to keep the record clear by protesting either independently or jointly with the other powers concerned as the case may be against the new taxation at Canton, I request authorization to instruct Jenkins to refuse Chen's request.

MAYER

893.512/418 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 19, 1926—3 p. m.

235. Your 490, October 18, 6 p. m. Paragraph 2. Your recommendation approved.

KELLOGG

893.512/420 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 20, 1926—9 a. m.

[Received October 20—6:16 a. m.]

494. My 490, October 18, 6 p. m.

1. Following is résumé of telegrams recently received by the Acting Inspector General of Customs from Commissioner of Customs at Canton.

2. Tax collection not yet in full swing, 100 men being trained at the tax office for service at other ports. Superintendent of Customs (a Chinese) is appointing men to Customs Bank and others to attend daily to collect information at harbor department in connection with collection of tax. Increased intrusion into Customs must be looked for with inevitable weakening of its position. As time goes by and confidence gained, likelihood of Customs being required to collect will lessen. Valuable opportunity appears to be passing. No prospect of serious foreign protest against taxes. Shipping firms now to send import manifests to collecting office.

MAYER

893.512/421 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 20, 1926—11 a. m.

[Received October 20—4:25 a. m.]

495. Your 234, October 16, 4 p. m. I am deferring action contemplated in third paragraph my 485, October 16, 1 p. m., in view of

diplomatic body meeting called for this morning further to discuss Canton tax situation in particular relation to certain instructions from his Government which the British Minister, I understand, intends then to bring to our attention.

MAYER

893.512/422 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 20, 1926—7 p. m.

[Received October 21—9 a. m.]

497. [Paraphrase.] My 495, October 20, and other pertinent telegrams.

1. The British Minister stated at the diplomatic body's meeting this morning that his Government has instructed him to have further discussion of the tax situation with his colleagues. He inquired if he might for this purpose ask in a preliminary way certain questions bearing upon the proposal of a joint protest.

First, was it the belief of his colleagues that the Cantonese would comply with this protest? The unanimous opinion of the meeting was that unless the Cantonese believed that there was a determination on the part of the powers concerned to follow it up if necessary with force, the protest would be disregarded. The next inquiry of the British Minister was whether it was our opinion that our Governments were prepared to use force to follow up the protest. The general belief was that they were not. Then the British Minister affirmed that he questioned whether in these circumstances it was expedient or advisable to protest at all, for the reasons that such action would not be likely to be effective or dignified, and that probably it would result only in weakening the position held by the Customs, who would not be willing in the face of a protest by the powers, even a technical protest, to assume the collection of the new taxes. Meanwhile the Cantonese would be forming, in complete disregard of the Customs, their own bureaus for tax collection.

2. There was then considerable discussion as to some way to strike a balance as between the question of the principle of recording a protest against the illegal action of the regime at Canton and the question of fact: the preservation of the Customs. At last Macleay brought up the possible feasibility of a *démarche* which would simultaneously meet the requirement of recording a protest and be constructive in hinting to the Cantonese that if they gave suitable guarantees that there would be no further increase of illegal taxation and if the collection of the new taxes were placed in the hands of the Customs, etc., there would be a willingness on the part of the

powers to make an agreement in some form with the regime in Canton in order to regularize the situation. Much discussion of this ensued. It seemed to be the general opinion that the implications of such action would be very far reaching but that nevertheless it was constructive, at least theoretically, and took account of the real movement of events in China in the direction of regional arrangements. Recognition was given to the fact that at this time whatever we could do could be only a device for "saving face", inasmuch as the powers concerned were unwilling to undertake the adoption of a resolute policy: the only practical means to check treaty violation. The belief was rather generally held that in these circumstances perhaps some such suggestion as was offered by Macleay was the best course to take. Accordingly, it was agreed that a draft formula should be sent to the respective Governments for approval or rejection. The first two paragraphs follow: [End paraphrase.]

"In view of the levying by the Canton and other authorities in China of certain taxes on foreign trade,⁶⁸ the diplomatic representatives in Peking of the powers concerned declare that they cannot recognize the legality of these measures which are in direct violation of the treaties.

In any case they cannot acquiesce in the collection of taxes on foreign trade which is not effectuated by the Chinese Maritime Customs and not regularized by agreement."

The third and last paragraph being the same as the second in the original draft. (See paragraph 3 of my 462, October 8, 8 p. m.)

5. [Paraphrase.] As to whether it is advisable for us to agree to the British proposal, I frankly believe that it makes no particular difference what action we take regarding the new taxation or in China in general by way of trying to safeguard our citizens' rights under the treaties, unless a realization is brought home to the Chinese that there is a purpose to employ force to protect these rights if necessary. I consider that without this any regional or other arrangements we may make or any protest we may present will only be respected so far as is desired by the Chinese who are the particular authorities at the time.

7. I am rather inclined, in the premises and in view especially of the opinion I hold and the consul general at Canton holds that

⁶⁸The files of the Department contain correspondence concerning representations and protests against the imposition of illegal taxes during previous months of 1926 presented to Chinese authorities, with the approval of the Minister in China, by American consular officers at Kalgan, Tsingtao, Tsinan, Harbin, Chungking, Hankow, Foochow, and Changsha.

it would be most inadvisable to make an empty protest, to favor the British proposal as being the alternative least undesirable. [End paraphrase.]

8. The *modus operandi* proposed to put the new draft protest into effect is to send separate protests to Peking, Canton, and Tsinan (to cover the Shantung tax situation, for which see my 483 October 15, 1 p. m.). In the two last-mentioned instances through the senior consul which would mean deleting "and other" and "in China" from the first paragraph of the draft in the case of Canton and similarly in the case of Shantung substituting likewise in the last instance "Shantung" for "Canton".

9. As early instructions as possible are respectfully requested.

10. To Tokyo by mail.

MAYER

893.512/422 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, *October 22, 1926—4 p. m.*

240. Your number 497, October 20, 7 p. m. Department believes that whatever the attitude of the Cantonese authorities the record on the matter of irregularly established taxes should be kept clear by filing with the proper authorities a protest against the imposition of taxes on American goods in contravention of arrangements provided by treaties between the United States and China. Filing such a protest does not necessarily carry an implication that it is the intention of the Government of the United States to seek by means of force to obtain its treaty rights. Failure to file a protest may be interpreted as being an acquiescence in a situation patently contrary to treaty rights. The feeling of the Department is that it is necessary that the record of this Government should be clear on this question when the time arrives to negotiate with the Government of China for revision of its treaty provisions relating to tariffs. A protest of this kind cannot be considered to be undignified, and the Department fails to understand how the position of the Customs Administration would be undermined by it. The Customs Administration should not necessarily become involved in any case in the question of collecting these taxes. As to the form of protest, the Department is willing to accept the form suggested in your 462 of October 8th, 8 p. m., and your 477 of October 14th, noon. The Department prefers that draft formula rather than the one given in your 497, paragraph 2.

For the policy of the Department as to suggested regional arrangements you are directed to the Department's 226 of October 13, 2 p. m.⁷⁰

In case the diplomatic body cannot agree as to the method of protest, you are instructed to make the protest alone on behalf of this Government. From your 479, October 14, 3 p. m., it is the understanding of the Department that you have already filed a protest against taxes in Shantung with the Chinese Foreign Office. No need for additional action in this connection is perceived.

KELLOGG

893.512/423 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 23, 1926—7 p. m.

[Received October 23—9:45 a. m.]

507. Department's 240, October 22nd. In expressing preference for draft formula set forth in my 462, October 8th and 477, October 14th, am I to understand that Department is unwilling to join in draft formula presented in paragraph 2 of my 497, October 20th?

MAYER

893.512/423 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 23, 1926—5 p. m.

243. Your 507, October 23, 7 p. m. You will be correct in assuming that Department is unwilling to join in draft formula presented in paragraph 2 of your 497, October 20.

KELLOGG

893.512/424 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 25, 1926—9 a. m.

[Received October 25—8 a. m.]

510. My 497, October 20, 7 p. m.

1. Following from American consul, Swatow.

"October 22, noon. My telegram of October 21, noon.⁷¹ Local authorities now propose to extend the surtax on all imports and exports amounting to one-half the customs duties already being applied in Canton to Swatow. Regulations are apparently identical with those in force in Canton. The Legation's instructions as to what action, if any, should be taken are requested."

⁷⁰ Not printed; it transmitted the Department's memorandum of Oct. 5 to the British Embassy, p. 855.

⁷¹ Not found in Department files.

2. In event of institution of proposed new taxes at Swatow I assume Department desires action there similar to that it will instruct me to take respecting Canton, that is, to endeavor to have Swatow situation covered by any joint protest in regard to Canton taxes which may be decided upon by the powers concerned or otherwise by independent protest to Canton and Peking regimes, Swatow being under Canton authorities.

MAYER

893.512/425 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 25, 1926—10 a. m.

[Received October 25—2:45 a. m.]

511. My 497, October 20, 7 p. m.

1. Following from American consul general at Canton:

“October 21, 1 p. m. Referring to my telegram of October 13, 3 p. m.⁷² In connection with the collection of new taxes Canton regime has promulgated regulations for the examination of passengers on incoming and outgoing steamers and trains including passports and effects. This work is to be done by so-called Bureau for Detection of Smuggling, the personnel of which will consist of many former strike pickets who will have the right to make arrests including foreigners.

[Paraphrase.] This is what I feared. It shows a necessity for the powers to determine very quickly whether to insist that the new taxes be collected through the Customs or whether to oppose by force. My opinion is that the consuls should immediately be given authorization to make vigorous protest against any interference with the documents, effects and persons of foreigners. Despatch will follow.” [End paraphrase.]

2. Instructions respectfully requested.

MAYER

893.512/424 : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 25, 1926—6 p. m.

245. Your 510, October 25, 9 a. m. Department assumes that protest against taxes instituted by Canton authorities at Peking and at Canton will of course cover situation at Swatow which it is understood is within the zone mentioned in the mandate of the Canton authorities instituting the tax.

KELLOGG

⁷² See telegram No. 478, Oct. 14, from the Chargé in China, p. 878.

893.512/426 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 26, 1926—3 p. m.

[Received October 26—11:58 a. m.]

513. My 511, October 25, 10 a. m.

1. Following telegram has just been received by the Acting Inspector General of Customs from the Commissioner of Customs, Canton:

“The Finance Minister has notified me through superintendent that specially organized ‘inspection companies’ have been appointed to examine incoming and outgoing steamers, trains, passengers, luggage and cargo. Stations are established on city bund, at Honam, river mouth forts, Taishan and Shunchuanan [*Shumchun*]. Inspection companies are under control of Smuggling Suppression and Merchant Protection Bureau, aim of [which?] is to maintain revenue and prevent illegal actions. I regard occasion as calling for positive and uncompromising reply and action, and I am warning Government that such intrusion into Customs field of responsibility will not be tolerated until full instructions received from Peking. I am requesting superintendent to refrain from any overt act in the boarding of steamers, Chinese or foreign, or interference with cargo, any case of which I will deal with as circumstances require. Submit that very existence of Maritime Customs is threatened by this and like calculated methods of infiltration. I am meeting consular body today.”

[Paraphrase]

2. The British Minister, Sir Ronald Macleay, has just conferred with me. He feels sharply the increase of danger to the integrity of the Administration of the Customs through this further action on the part of the Cantonese, and wished to telegraph immediately to his consul at Canton to inform the Cantonese authorities that the British Government would give its acquiescence to the new taxation, provided it was completely placed under the supervision of the Customs Administration. He inquired whether I was prepared to take similar measures. I replied to him in the negative, explaining that my Government’s policy was to protest for purposes [of record?], and was apparently not favorable to having the new taxes collected by the Customs, which it was believed were not involved in this matter in any way. The Minister then asked whether I believed my Government would be inclined, considering the Washington Conference agreements, etc., toward taking exception if he acted independently in the way he desired. My reply was that his question was somewhat difficult to answer but that I rather was of the opinion that such a feeling would be held by my Government. Sir Ronald declared he would not act independently in these circumstances, at least before presenting the whole matter to his Government. He

said he would at once do the latter by telegraph and suggest in a most urgent manner to the Foreign Office that there be an exchange of views immediately among the British, American, and Japanese Governments. In his opinion, and I consider rightly, this latest Cantonese move to inspect personal outgoing and incoming luggage, cargo, etc., makes even harder the collection of the customs and brings the whole Canton situation before us in such a way that at the earliest possible time it must be effectively dealt with. In accordance with the earnest recommendation made in paragraph 4 of my number 449 of October 2 [3], I support the British Minister's suggestion that there be an immediate exchange of views among the three aforesaid powers for the purpose of reaching some common decision upon what action should be taken in the premises.

3. Parenthetically, I ought to add with reference to Department's telegrams 240 of October 22 and 243 of October 23 and to my number 507 of October 23, that although the Government of Japan agreed quite unexpectedly to the new draft of the protest, agreement was not given by the British Government which, I understand, preferred to make no categorical protest against the new taxation out of fear that such protest would work against their desire to safeguard the Customs by every possible means. It was the belief of the British Government that acquiescence in the new taxes and effort to persuade the regime in Canton to have them collected by the Customs were rendered necessary by that desire.

4. Most respectfully I record my judgment that if the powers concerned should not oppose the disregard of and encroachment upon the functions of the Customs through the imposition of the new taxes, and the extension of those taxes (shown in the new regulations, which are defined above and which were described in my 511 of October 25), the integrity of the Customs is undermined most seriously if not conclusively.

5. Although we do not have in the maintenance of the Customs the same intrinsic interest the British have, it seems to me that we have a very real reason for standing against the collection of the Customs by unlawful action on the part of the Cantonese and on the part of other authorities in China. My view is that by the fall of the Customs a further and most spectacular signal would be given for an even more comprehensive and vigorous drive against the rights and interests of foreigners in China, which inevitably and directly must tend to produce increased loss of respect for foreigners, thereby putting in greater jeopardy their lives as well as their property.

893.512/425 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, October 27, 1926—3 p. m.

249. Your number 511 of October 25, 10 a. m. When filing protest regarding the new taxes authorized in Department's telegram 240 of October 22, 4 p. m., protest may be included against the new regulations for examination of passengers to the extent that they are related to collecting the new taxes. In opinion of the Department, no objection can be raised against those parts of the regulations which relate to passport examination, provided they are reasonable.

KELLOGG

893.512/427 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, October 28, 1926—3 p. m.

[Received October 28—8:50 a. m.]

516. Referring to last sentence of Department's 249 of October 27.

1. I venture to invite renewed attention to Mr. Jenkins' telegram October 21, 1 p. m., paragraph 1, repeated to you in my number 511 of October 25. This clearly shows that passport examination by so-called Bureau for Detection of Smuggling has been directly and simultaneously instituted in connection with collecting the new taxes. A difference should be noted between this examination and the normal and substantial case of inspection of passports by Chinese officials in the interior or by the Maritime Customs. Examination of passports by this bureau and other acts to take place by virtue alone of the imposing of the new taxes are, it would seem, not susceptible of discrimination, all being concerned, jointly and immediately, with the success of their collection. Thus, while passport examination is merely nominal here, in this instance it is like any other act to be performed regarding the new taxes by the Cantonese. Therefore it would appear that an attempt to except the regulations for passport examination from a protest against the regulations would be both technically incorrect and practically unwise, because in the former regard not the slightest attention will be paid to so fine a distinction by any foreigner or Chinese, especially the strike pickets to whom is entrusted the enforcement of the regulations. In that situation I apprehend that we will be considered substantially to have acquiesced in the examination regulations in case any part of them is omitted from our protest.

2. I request respectfully that Department's 249 be reconsidered in the sense of the above comment.

MAYER

893.512/428 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, *October 28, 1926—8 p. m.*

[Received October 28—2:15 p. m.]

518. My 516 of October 28.

1. Following received from American consul, Canton, Stevens in charge, Jenkins having left for Hongkong October 22 on 7 days' leave:

"October 26, 10 a. m. Jenkins' telegram October 21, 1 p. m.⁷³ The newly organized corps for the prevention and detection of smuggling is not functioning yet. I am informed by Chen that this corps will begin soon to board foreign vessels entering Canton for inspection of all passengers and baggage, foreigners to be subject to detention if they are suspected and do not have proper passports. This is considered by Commissioner of Customs as a flagrant disregard of the functions of the Maritime Customs. Am informed by British, Japanese, and French consuls that they are prepared to make resistance to boarding or interference with passengers and goods by Chinese on their respective vessels. While British consul general declares he will protest, he admits that keeping British docks at Canton clear of searchers may prove embarrassing.

Regulations have been published by the Finance Department for collection of a military surtax of 20 percent on all steamship passenger tickets, the levy to be on the basis of the regulations which govern the collecting of likin and other taxes. Registration with and obtaining of permits from the collector's office are required from firms and persons offering steamship tickets for sale. I am informed by Chen that the tax on steamship tickets will not apply to American steamers.

Chen gives assurances of order at huge demonstration planned for today to protest the Wanhsien incident."

2. Please instruct as to attitude our consular and naval authorities in Canton are to adopt concerning boarding of any vessels entering Canton and interference with passengers and goods.

3. Please refer in this connection to Legation's number 69 of February 10,⁷⁴ and correspondence pertinent thereto. In the present instance our right to trade in China would seem as in the case discussed in that telegram to be equally [at issue?], since the Canton regulations concerning visit and search would clearly appear to envisage direct pre-

⁷³ See telegram No. 511, Oct. 25, from the Chargé in China, p. 887.

⁷⁴ *Ante*, p. 714.

vention of the landing of American goods and passengers—an interference more dangerous and flagrant even than that in last February—by force where compliance with the illegal tax regulations is not given.

MAYER

893.512/429 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 29, 1926—11 a. m.

[Received October 29—1:03 a. m.]

519. Following from American consul general, Canton:

“October 28, 1 p. m. Guise of preventing traffic in opium, Chen announces the establishment by the Ministry of Finance of inspection stations at Dosing and Hotow, West River, at which all passing steamers of every nationality are required to stop and undergo inspection. Portuguese consul favors joint protest immediately, but the other interested consuls prefer first consulting their respective Legations. Despatch will be forwarded.”

MAYER

893.512/430 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, October 29, 1926—4 p. m.

[Received October 29—9:45 a. m.]

520. Department's telegram number 243, October 23, 5 p. m.

1. All representatives at meeting of diplomatic body this morning agreed to recommend a third formula to their respective Governments. This would amend the second formula, which was transmitted in second paragraph of my telegram to Department, number 497, October 20, 7 p. m., by leaving out middle paragraph. If agreeable, this statement is to be sent to Chen by senior consul at Canton acting in behalf of his colleagues as being their joint action. It is to be sent similarly here to the Ministry of Foreign Affairs by the Senior Minister. It is understood an individual protest might be lodged by each Government concerned, at Canton through its consul there, and at Peking as well, if desired.

2. The objection of the Department to any action tending toward regional arrangements is obviated by this amendment. It is thought that the British Government may find this third formula satisfactory since the specific word “protest” is not employed, though the formula is a protest in substance. This seems the best chance for unity of action in protesting against the treaty violation, and the last chance.

3. The British Minister, in conformity with his proposal to me as described in my 513, October 26, second paragraph, suggested at the meeting this morning that his colleagues agree to try as a body, or as individuals, to persuade the regime at Canton to put under the Customs all of the collection of the new taxes, which should then be followed by the issuance of a statement safeguarding our treaty rights. This was rejected unanimously, though the proposal was presented as representing the action the British Government desired.

4. I respectfully request instructions as soon as possible.

MAYER

893.512/432 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 30, 1926—2 p. m.

[Received October 30—10:12 a. m.]

520 bis. [Paraphrase.] Legation's 518, October 28.

1. I transmit following from American consul at Canton:

"October 28th, noon. At a meeting of consular body held yesterday the consuls of Great Britain, Japan, France and other powers were in favor of making a vigorous joint protest immediately against regulations providing for organization of the new examining corps. I made a suggestion that such an emphatic protest be deferred until the corps had begun to function and infringements of treaty stipulations had taken place. The draft suggested by the British demands cancelation at once of the order organizing the corps and it contains additional particulars which the Chinese are not likely to yield or the Legation to accede to. Is the Legation willing that I immediately protest jointly or alone against the functioning of any Cantonese-sanctioned examining corps likely to function in defiance of rights embodied in treaties?"

I repeat in this regard my communication to Canton, October 29th, 11 a. m.: [End paraphrase.]

"My October 28, 5 p. m.⁷⁵ Pending receipt of instructions from the Department you may join with your colleagues concerned in any joint protest they may desire to make to the Cantonese authorities against the visit and search regulations."

2. Following telegram, dated October 29, sent by Commissioner of Customs at Canton to Inspectorate General here:

"Your telegram of 26th October. Impracticable gain time as instructed because boarding of shipping already begun. Superintendent denied that he has any control over inspection companies and states that preventative bureau comes under Finance but not under

⁷⁵ Not printed.

Shuiwuchu.⁷⁶ Consular body likely to do nothing some days owing to absence American consul general. I have now informed Government, informally, that if present proposal persisted in I am issuing following notification to the public: Agents and masters of all merchant vessels, Chinese or foreign, arriving at or leaving port of Canton are given notice that information regarding ship or cargo and facilities for examination of cargo can be extended only to the properly authorized officials of Chinese Maritime Customs. Any person making such inquiry on board vessels, Chinese or foreign, is to be directed to the Commissioner of Customs.”

MAYER

893.512/433 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, October 30, 1926—11 a.m.

[Received October 31—2:15 a. m.]

521. My 520, October 30, 2 p. m., paragraph 1.

[1.] Following from American consul general, Canton :

“October 30, 1 p. m. Your October 29, 11 a. m.” I have concurred in the protest against the inspection regulations which the senior [apparent omission] will now hand to Chen.”

2. Jenkins resumed charge on the 30th.

MAYER

893.512/434 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 1, 1926—1 p. m.

[Received November 1—9:10 a.m.]

523. [Paraphrase.] I transmit telegram from American consul general, Canton, received after much delay. It appears to antedate October 29 telegram⁷⁷ (my 519 of same date) sent to Inspectorate General by Commissioner of Customs, Canton, reporting regulations for visit and search to be in effect.

“October 29, 1 p. m. Your October 28, 4 p. m.

1. Verbal definition of word ‘suspected’ given by Chen is that it means persons under suspicion of smuggling prohibited articles, of being enemies of his Government (for illustration, persons employed by their Northern enemies and certain White Russians), or of committing all manner of actions that are unlawful. He gives verbal confirmation that the corps is not organized or in operation as yet. He says that the corps’ organization is intended to meet pressing

⁷⁶ Customs Revenue Council.

⁷⁷ See telegram No. 520 bis., Oct. 30, from the Chargé, p. 893.

military necessity and that its functioning will last only through the period of war and in no event will interfere with the Maritime Customs. [End paraphrase.]

[2.] Referring to paragraph 5 of the regulations sent with Jenkins' despatch number 557, October 21.⁷⁸ Chen now states that this paragraph will not be enforced against foreigners enjoying extraterritoriality further than to arrest and turn them over to their respective consuls for examination and punishment as charged. Chen is preparing a circular letter in explanation of the orders to the corps which will be telegraphed to the Legation when received."

MAYER

893.512/428 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, November 1, 1926—1 p. m.

255. Your telegrams numbers 516 of October 28, 3 p. m., and 518 of October 28, 8 p. m., and your numbers 519 of October 29, 11 a. m., and 520 of October 29, 4 p. m.

Wording of proposed joint protest as given in your number 520, October 29, 4 p. m., is approved. If this formula is not accepted by other Legations you should file the protest alone at Peking and at Canton (through consulate general) without more delay, as the Department authorized in its 217 of October 5, 7 p. m., so that we may be free to give consideration to what steps may further be necessary.

A statement should be included by the consulate general at Canton in its protest that this Government cannot consent to have vessels of United States registry entering Chinese waters visited and searched by any officers except those who are acting in fulfillment of the provisions set forth in treaties made between China and the United States. Consult treaty of 1858, articles 18 and 20.⁷⁹

In connection with this the Department requests you to report the names of the American vessels, with owners and frequency of trips made each quarter or year, calling at Canton and Whampoa and also inform commander in chief of the Asiatic Fleet of the United States. Consult with latter for purpose of making any arrangements which bona fide American-owned shipping desires in order to give them protection against promiscuous visit and search except by representatives of the Chinese Maritime Customs who are duly accredited.

⁷⁸ Not printed.

⁷⁹ Malloy, *Treaties*, 1776-1909, vol. I, pp. 211, 217, 218.

Referring to your number 516, October 28, 3 p. m., the protest which the Department in its number 249 of October 27, 3 p. m., authorized to be made against the regulations for passenger examination need not refer to the specific question of passports. But citizens of the United States who travel in China should not be allowed to lose sight of the fact that while they are in China, they are required under treaties between China and the Powers to possess valid passports which should be presented by them upon demand of local authorities.

KELLOGG

898.512/437 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 3, 1926—4 p. m.

[Received November 3—11:25 a. m.]

527. Department's 255, November 1, 1 p. m.

1. At the meeting Heads of Legation this morning British Minister stated his Government could agree to the third formula (see my 519 [520], October 29, 4 p. m.) omitting the last paragraph which in effect left only the first paragraph of the original formula as set forth in paragraph 3 of my 462, October 8, 8 p. m. The British Minister was unable to offer any explanation of his Government's attitude in this regard. As all other diplomatic representatives agreed to this amendment, the paragraph in question being in no way vital since the matter of first importance appeared to be to lodge some form of joint protest against the new taxes as soon as possible, I concurred in the unanimous decision. The Senior Minister is now communicating the protest both to the Canton authorities through the senior consul there and to the Wai Chiao Pu at Peking.

2. Despite my suggestion in conformity with the last sentence of the Department's 240, October 22, 4 p. m., that we had already in effect protested against the Shantung taxes through the consular body at Tsingtau, all the other representatives were desirous of sending this same paragraph to the Shantung authorities through the senior consul at Tsinanfu and through the Senior Minister and to the Wai Chiao Pu in respect of Shantung. As such action could do no harm I concurred therein in order to prevent further delay in the Canton protest which my colleagues desired should be transmitted simultaneously with that regarding Shantung. I trust the Department approves my action.

3. In accordance with procedure outlined in paragraph 1 of my 519 [520], October 29, 4 p. m., I am instructing American consul general at Canton to make individual protest in the sense of the ante-

penultimate and penultimate sentences of Department's 217, October 5, 7 p. m., and second paragraph Department's 255, November 1, 1 p. m. All diplomatic representatives I believe, even including British, are making individual protest in one form or another.

4. The same slight alteration in phraseology to provide for the particular circumstances will be employed in the Peking, Canton, and Tsinanfu joint protests as described in paragraph 8 of my 497, October 20, 7 p. m.

5. Texts will be given to the press tomorrow noon, November 4th.

MAYER

893.512/447 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 16, 1926—2 p. m.

[Received 6:35 p. m.]

555. 1. In reference to paragraph number 3 Department's 255, November 1, 1 p. m. American consul general at Canton reported as follows:

"November 6, noon. Your November 3, 4 p. m., paragraph 4.⁸⁰ Dollar Steamship Company has an average of one ship monthly including *Grace Dollar*, *Stanley Dollar*, *Hanover* and *Eelbeck*. Steamship *Elkridge* of the Shipping Board also calls at irregular intervals. In addition Standard Oil Company tugs and lighters under Form 35 certificates frequently call here.

[Paraphrase.] With the possible exception of the Shipping Board, the agents of all these concerns have such fear of giving offense to local labor and political unions that, in my opinion, any protective interference from the Navy or the consulate general in this connection would not be desired by them." [End paraphrase.]

2. Replying to my inquiry as to present status of visit and search regulations, Mr. Jenkins telegraphed as follows:

"November 13, noon. Your November 9, 3 p. m.⁸⁰ On November 6th I protested against new taxes in the sense of the Department's instructions, forwarding a copy to the Legation on November 8th.

(2) I filed protest of visit and search of American vessels using exact wording of your telegram November 3, 4 p. m.

(3) [Paraphrase.] So far search of river steamers flying British flag has been prevented by British Navy but in retaliation these ships are being boycotted by the Chinese. I am told by Brennan that situation is threatening to become very dangerous. [End paraphrase.]

(4) Several Americans 2 days on Chinese vessels on the West River have had their cabins and effects searched by the new inspection officials. In one instance no objection was offered by the American concerned but in another case it is reported Americans

⁸⁰ Not found in Department files.

objected and showed their passports without avail. This latter case is not yet confirmed however.

(5) [Paraphrase.] The French are prepared, I am informed by French consul general, to prevent visit and search by use of naval forces. [End paraphrase.]

(6) Cantonese have evidently abandoned for the present the intention to search foreign vessels in the harbor at Canton but are doing all they can to enforce new regulations on the West River and elsewhere.

(7) May I respectfully suggest that the Department's attention be drawn to the fact that Americans are in danger of being searched while travelling on Chinese and other ships and also on railroads."

[Paraphrase]

3. As to acquiescing in such regulations, I venture to express my dissent from any possible implication that a decision on the matter rests with shipowners. Apart from their particular interests, they are the agents of the mercantile marine in which inheres an essential responsibility as the carrier, above all, of American passengers and goods. To go further than the protests already made by way of attempting to prevent cargoes conveyed under other flags from being illegally inspected may not be advisable or feasible, but in regard to commerce carried on under the American flag it seems to be clear that we cannot well decline to give protection.

4. This does not merely involve the plain treaty rights under which all the foreign commerce with China has been established on the basis that the vessel is controlled by its national authorities, and without which there would be a break-up of the Customs system, which would place foreign commerce wholly in the power of the local authorities' arbitrary and uncontrolled exactions. The matter involves also those dangerous realities, rooted in sentimental considerations, that make appeal to popular feeling. Except for persons interested financially and those who have official responsibility, no one is likely to be excited about confiscation of mere merchandise, even when it is glaringly illegal. A ship, however, is another matter. Not only is a ship assimilated in many respects to the territory of its flag, in the contemplation of international usages which are generally accepted, but in the minds of Americans there is a feeling, and in the minds of Chinese there is a clear recognition, that an American ship is more than an instrumentality of commerce, that it is a symbol or an embodiment of American interests and jurisdiction and as such, cannot, without giving affront to our flag, be mistreated.

5. Despite the fact that the Cantonese are emboldened about the possibility of ignoring the treaty rights of foreigners, they are evidently (see telegram from Canton, November 13, noon) hesitating to confront this test of criticism from foreign powers. No doubt

they would force the issue were they to attempt the test and discover a disposition on our part to yield. "Flag incidents" would be certain to occur sooner or later, leading inevitably to embitterment and at last to armed clashes. The only opportunity we have to prevent such incidents from occurring is, from the outset, to take an unmistakably resolute attitude of opposition to the course of action which would inevitably produce them.

6. I am certain from my contacts recently with the Cantonese group that we are dealing with men experimenting quite intelligently but unscrupulously with the object of determining how far we foreigners, particularly American citizens and nationals, can be driven by the apprehensions we have at present to disregard greater possible dangers in the future. Primarily they devote their very [considerable?] ingenuity to creating situations [causing conflict among?] the various foreigners who are protagonists of capitalism and tempted to yield a principle ordinarily in preference to risking an incident. In case one power yields, the same will have to be done by the others, and in time an end will come to those rights making commerce with China possible. The Cantonese do not see that when once back to conditions prevalent a century past, and complicated and worsened by China's present internal strife, there will come again a time when Western pressure will force new conflicts and once more begin the old cycle: hostilities over a long period, subjugation, and special conditions for intercourse imposed. The United States may not become in our day—and may not at all, though it is more likely now than in the century past—the active agent to counteract the attitude of exclusiveness and arrogance towards the West which today the Chinese are reviving (dating from the taking of the [factories?] at Canton). But I for one feel we have a responsibility for effort directed toward saving the Chinese from their own folly. Their folly is of a historically characteristic form, whose results [threaten?] more or less directly to involve us in the disaster of indefinitely retarding in China the development of a rational, ordered political and economic entity and of relationships between the Western powers and China that are normal.

7. I hope therefore that regardless of any disposition on the part of shipowners to acquiesce, by way of serving their immediate interests, in regulations which are destructive of our treaty position, the Department will decide to take a further policy of giving to American shipping naval protection from illegal visit and search in China's territorial waters adjacent to Canton.

8. A reply to this telegram is being awaited before I consult with the commander in chief on this general problem.

MACMURRAY

893.512/484

*The Consul General at Canton (Jenkins) to the Minister in China (MacMurray)*⁸¹

No. 566

CANTON, November 17, 1926.

SIR: I have the honor to refer to this Consulate General's telegrams of November 11, 1 p. m.⁸² and November 14, 4 p. m.⁸³ concerning the attitude of the Canton regime with relation to the Diplomatic Body, and an enclosing herewith a confirmation copy of Mr. Chen's note of November 8, 1926, to the Portuguese Consul General. Reference is also had to this Consulate General's telegram of November 17, 12, noon, respecting Mr. Chen's note to me of November 13, 1926, a copy of which is enclosed herewith.

It will be observed that in this connection Mr. Chen invites the attention of this Consulate General to his reply of November 8 to the Portuguese Consul General wherein it is set forth that the status and relations of the Powers (including the United States) vis a vis the Cantonese régime are not regulated on a basis which can properly entitle them to raise questions of treaty violation.

Needless to say, this Consulate General has not made any reply to this audacious communication from Mr. Chen and shall await instructions from the Legation before taking any further action. In the meantime, however, I am discussing the matter with my colleagues and shall probably take the liberty of telegraphing the Legation our views and asking for instructions as to how to proceed.

I have [etc.]

DOUGLAS JENKINS

[Enclosure 1]

The Chinese Acting Minister of Foreign Affairs at Canton (Chen) to the Portuguese Consul General at Canton (Da Horta)

CANTON, November 8, 1926.

SIR: In order to avoid misunderstanding and to assist to a right perception of the new realities of the national situation resulting from the extension of Nationalist authority over the greater part of China, I have the honour to return the enclosed letter, dated November 5⁸⁴ and transmitted through the post, which purports to be a protest communicated by the "Senior Consul at Canton" by direction of the "Senior Minister of the interested Powers represented at Peking"

⁸¹ Copy transmitted to the Department by the consul general as an enclosure to his despatch No. 723, Nov. 17; received Dec. 27.

⁸² Not printed.

⁸³ See telegram No. 556, Nov. 17, from the Minister in China, p. 684.

⁸⁴ No copy attached to file.

who declare that they cannot recognize the legality of the internal taxes authorized by "the Canton authorities" on consumption and production of goods within the Liang-Kwang on the ground that the same are "in direct violation of treaties".

My Government does not recognize the existence of the "Senior Minister of the interested Powers represented at Peking" (who lacks juridical sanction), nor are the status and the relations of the same Powers vis-a-vis my Government regulated on a basis which can properly entitle them to raise the question of a "direct violation of treaties".

I have the honour to add that my Government is ready to discuss this and other questions as and when all or any of the Powers represented at Peking realise that national power and authority has long since ceased to be exercised in Peking and that the revolutionary and constructive forces of Nationalist China have now transferred this national power and authority to my Government.

I have [etc.]

CHEN YU-JEN

[Enclosure 2]

The Chinese Acting Minister of Foreign Affairs at Canton (Chen) to the American Consul General (Jenkins)

CANTON, November 13, 1926.

SIR: In answer to your dispatch of November 6, 1926,⁸⁵ wherein you state that the Government of the United States considers the levying of the taxes recently proposed by my Government on products and goods of consumption in violation of the Treaty provisions, and instructs you to bring forth a protest, I have the honour to inform you that on November 5, 1926, the Portuguese Consul General at Canton had already registered at this Ministry a protest of similar nature under the instructions of the diplomatic representatives at Peking, to which a reply was duly given by this Ministry to properly deal with the case.

As it is now necessary for me to deal with yours by holding the same proposition set forth in my reply to the Portuguese Consul, I have the honor to enclose herewith a copy of the reply for your information.⁸⁶

With compliments.

CHEN YU-JEN

⁸⁵ Not printed; see telegram No. 555, Nov. 16, from the Minister in China (par. 2), p. 897.

⁸⁶ *Supra.*

893.512/447 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, November 19, 1926—3 p. m.

272. Referring to third paragraph, your telegram 555 of November 16, 2 p. m. The Department has no intention of declining to give protection to commerce borne under the flag of the United States. It is the view of the Department that consultation as to the form and scope of protection should be had with commercial interests for the reason presented in its telegram 255, November 1, 1 p. m. The commander in chief of our naval forces should be consulted upon arrangements for the extension of protection, when protection is sought, to bona fide, American-owned shipping. The nature and the extent of the protection to be extended must be determined by naval authorities there, taking into consideration the local conditions and particular circumstances which are involved when protection is applied for.

KELLOGG

893.512/467 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 2, 1926—5 p. m.

[Received 8:05 p. m.]

594. 1. I was informed last night by the British Chargé d'Affaires that his consul general at Hankow had learned that in the near future the Southern Nationalist authorities in control at Hankow intend to levy the same illegal taxes upon imports and exports as have been imposed at Canton (consult 419 from Legation, September 20, 5 p. m.⁸⁷) and to make an offer that if the powers consent, the Maritime Customs collect these surtaxes. If assent is not given, they intend to establish as at Canton their own representative agency and apparently to use a boycott—although there was doubt left upon this point—directed against those nationalities which oppose the new surtaxes.

2. Such action by the Nationalists would bring us face to face with two obvious alternatives, the British Chargé explained. The first is to make our clearly futile and merely irritating protests again and then to permit matters to take a course in which not only would further promiscuous, unlimited exactions upon foreign trade be involved, but also a fatal blow given to the system of the Maritime Customs by the construction of a rival organization which would

⁸⁷ *Ante*, p. 730.

serve a particular party and be animated by such personal vested interests as soon would be acquired. The second is to compound with the Nationalists in the matter of their surtaxes by receiving them as being a fair equivalent to the Washington surtaxes, for which we have so far not found ourselves in a position to make arrangements, the only stipulation being that the Maritime Customs collect them. He considered that they may accept the latter alternative as averting the early destruction of the system of the Maritime Customs, the keystone of all orderly and normal relations with China as to commerce.

3. Even in view of your 286 of November 29th, 1 p. m.,⁸⁸ I believed that I was warranted in conceding the preservation of the Customs to be a primary consideration of expediency. But I raised the question whether the second alternative course would prove to be a permanent and substantial protection against the Nationalists' determined intention to sabotage the whole system. While I admitted the practically hopeless outlook of either horn of the dilemma, I tended to believe that the less hopeless course was to make an obvious formal insistence upon our rights rather than to acquiesce in the violation of our rights, because, despite our having shown that we did not actually mean the protests we made at Canton and at Hankow, the Nationalists still may believe that if we really were backed up to the wall, for instance at Shanghai, we might make our protests good. Acquiescence on the other hand would do even more than authorize all further encroachments in regard to Customs matters; it would give the Cantonese courage to presume also in other matters upon our weakness.

4. Furthermore I urged that a third alternative was possible, which, if time permitted, would be productive of better result than the dilemma of the first two. It is this: that the interested powers by some means put in operation the Washington surtaxes as a fulfillment of the treaty obligations we have, rather than as a yielding to the Cantonese exactions. However, even if all the foreign powers had all possible good will—and that we would be joined by Japan without infinite argument and enlargement of details there is every cause for doubt—action of any kind towards implementing the Treaty of Washington is scarcely possible in time to forestall the issue being forced by the Nationalists when once they present that issue. Unless we are prepared to undertake a last-ditch stand to prevent our being bullied into unconditionally surrendering vastly more than we took upon ourselves to give up under reasonable safeguards, the Washington Customs Treaty and the Special Conference would seem to be dead historical topics.

⁸⁸ Not printed.

5. The British Chargé then expressed his opinion that the resolute determination of the British Government was not to repeat the mistake at Canton in lodging at Hankow a protest merely for purpose of record. Instead, they probably would take an independent course if necessary, concurrently acceding to these levies and attempting to make an arrangement whereby the Maritime Customs would be entrusted with their collection. I remarked my inability to indicate our position upon a new situation such as this and that I would have to refer it to you. Instructions from the Department are urgently requested.

MACMURRAY

893.512/468 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 4, 1926—4 p. m.

[Received December 5—10:40 a. m.⁸⁹]

598. Referring to my number 594 of December 2.

1. On December 2nd the Inspector General of Customs, the Japanese Minister, and I were invited by the British Chargé to discuss with him the introduction of illegal taxes proposed at Hankow. The latter indicated that there is a determination on the part of the British Government to avoid antagonizing the Cantonese regime by a protest, and that if possible the British Government will make its acquiescence the means of having the collection of the taxes entrusted to the Maritime Customs.

2. Aglen acknowledged that he would welcome the opportunity—to the end that the Customs Service be preserved—of having the collection entrusted to it. However, he reached the conclusion after careful consideration that, without the unanimous consent of the treaty powers, collection could not be undertaken by the Customs.

3. The Japanese Minister had already referred to his Government, after consulting the British Chargé, the alternatives presented in my telegram, paragraph 2, cited above. He now declared that, until he received new instructions, it must be his position that protests against the levy of illegal surtaxes must be continued by his Government despite the fact that such protests may remain futile until the time when it may be possible and expedient by forcible measures or otherwise to make the protests good. He insisted particularly on his Government's view that the levy of the surtaxes the Washington Customs Treaty has in view was to be only upon conditions which

⁸⁹ Telegram in two sections.

were to be determined by the Special Conference and therefore that to accede to those surtaxes or similar ones would be impossible except upon the fulfillment of such conditions.

4. The contemplated action of the Canton Nationalists, the British Chargé d'Affaires pointed out, and Aglen and I agreed, would create a situation in which there would actually be levies of the Washington surtaxes in every port controlled by Nationalists and inevitably elsewhere in China within a short time, without the remotest possibility that the Chinese could be brought by the other signatories even to discuss any of the considerations or the conditions the treaty contemplated. Realizing we are not prepared to insist that our treaty rights be respected, the Nationalists have maneuvered us around to where talk about the Washington treaty obligations being mutual is academic. We have a choice only of allowing the Nationalists to destroy the Customs organization and the treaty system of trade, or of giving the benefits of the Washington surtaxes to the Chinese without conditions.

5. I suggested that the best exit from the dilemma was the third alternative I mentioned in paragraph 4 of my telegram cited above. I urged that it differed intrinsically very little from the British proposal, and that we should consent to the surtaxes, explaining as well as we could that after all these surtaxes were an equivalent of the Washington surtaxes. Our taking the position of carrying out our Washington obligations is vastly different from yielding to a violation of our treaty rights and afterward referring to the treaty by way of excusing our weakness. This suggestion was very earnestly supported by Aglen, who agreed it would make an appeal to the Chinese as being a course of action which was much more worthy of the powers and consonant with their dignity. The British Chargé, O'Malley, said he himself was able to see little practical difference between this method and the other but that he would be ready on the strength of the opinions of Aglen and myself to recommend it to his Government. Yoshizawa, the Japanese Minister, was not persuaded to commit himself beyond stating that he would consult with his Government.

6. We were all in agreement in thinking that a definite crisis regarding the whole system of trade with China will be brought about by the Cantonese attempt to levy these surtaxes at the port of Hankow. Excepting Yoshizawa, who did not commit himself, we also agreed that to anticipate this action by the Nationalists through a declaration by the powers—which in effect would allow the Washington surtaxes to be levied throughout China for the benefit of whatever authorities happened to have control at the various ports, without a *quid pro quo* and without conditions except that the levy of such surtaxes

would rest with the Maritime Customs—offered the sole possible way to make a substantial salvage out of the wreck.

7. I undertook a further discussion of this matter yesterday afternoon with O'Malley. We were both wholly convinced that in the possibility of action by the powers practically at once along these suggested lines lay our best hope of avoiding a disaster to the trading interests of foreigners. We feel that as a practical means to this end we should continue to discuss the matter with Yoshizawa, during which we might phrase some concrete, simple formula, the adoption of which might be requested of the remaining foreign delegations to the Special Tariff Conference. In our opinion most, if not all, of the powers less interested would likely follow our lead comparatively readily, particularly were the Japanese Government to give approval to the proposal. However, we feel that the position which Japan may take presents the greatest danger to the project, though their position is not hopeless. In view of this we agreed that in asking his Government for authority to proceed upon the indicated lines, each of us would request his Government also to have its Tokyo Embassy press upon the Foreign Office there the fact that the crisis is imminent and that, confronted by the practical and immediate dilemma facing us, it is futile to try to impose conditions or bargain or argue the interpretation of the customs treaty.

8. I have said on the basis of your 278 of November 23d,⁹⁰ that I had hopes of your giving approval to unconditional implementation of the Washington Treaty by unilateral action on the part of the powers, excepting China. It is my earnest hope that the Department will give me authorization, in anticipation of the extraordinary crisis likely soon to confront us, to proceed without delay in this matter according to the indicated course, and that it will authorize that support of this plan be given at the Japanese Foreign Office by the Embassy at Tokyo cooperating there with the British Embassy.

9. Inasmuch as startlingly rapid developments have taken place in the situation since my telegram 566, November 20,⁹¹ seeming to rule out every alternative from consideration with the exception of the powers granting the Washington surtaxes of their own volition immediately and unconditionally, I am not making any other reply to your 278, November 23.

10. This telegram and my 594 repeated to Tokyo, December 4, 9 p. m.

MACMURRAY

⁹⁰ *Ante*, p. 859.

⁹¹ *Ante*, p. 855.

893.512/467 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 4, 1926—6 p. m.

287. Paragraph 5 of your 594, December 2, 5 p. m. In case the Chinese Maritime Customs were to become the agent for the collection of surtaxes which are imposed in contravention of existing treaty rights by factions which are in revolt against the so-called Chinese National Government, it seems to the Department that the question must arise at once as to how to dispose of the funds so collected, which inevitably must turn the Customs Service into an agency of the local factions. This would destroy the status it has of being a national institution. It is believed by the Department the proper attitude for us should be that taxes so imposed contravene the treaty existing between China and the United States, and that upon that ground they should be protested in order to have the record of this Government perfectly clear on the question of all such taxes when the time comes for a discussion with a Chinese Government on the question of tariffs. In the event that the British authorities are successful in making the Customs the agency for collecting said taxes, such a proposal should neither be supported nor objected to by this Government. No matter who collects the taxes, the usual protest should be filed. It should be understood that if American merchants pay the taxes, they do so subject to such protests.

KELLOGG

893.512/456 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 6, 1926—4 p. m.

[Received December 6—9:50 a. m.]

600. Your telegram number 255, November 1, 1 p. m.

1. Commander in chief reports receipt of following from Southern Patrol commander :

“Service of the Navy in South China waters may be divided into two classes: first, pirate interference; second, illegal governmental interference in every effort by naval forces to recover any seized vessels or cargo immediately and complete transit. Interference by Government officials is not expected, but should there be any in connection with American steamers, it will be referred to American consul general at Canton for action in the usual diplomatic way. If diplomacy fails to secure the desired results, the American consul general will request naval force present to prevent interference with our ships and to insure safe delivery of American cargoes by conveying American steamers or place armed guard on them.”

2. Commander in chief states that he approves this procedure and inquires if I approve. I purpose to reply in the affirmative unless the Department perceives some objection to the policy outlined.

MACMURRAY

893.512/469 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 7, 1926—4 p. m.

[Received December 7—10:30 a. m.]

602. Your telegram 287 of December 4, 6 p. m.

1. Your telegram 287 apparently crossed my telegram 598 of December 4, 4 p. m. I trust the proposals outlined in my telegram will be regarded by the Department as quite compatible with the position it takes as outlined in its telegram respecting the national character of the Customs.

2. I regard it as absolutely impossible—whatever mutual agreement may be proved possible of being made in the future in regard to increases of the tariff or in regard to surtaxes—that there can ever be a diversion of the taxes now imposed by the Nationalists at Canton and other places as the substantial equivalent of the Washington surtaxes and certain to be imposed elsewhere similarly by the Northern Group, to national purposes instead of provincial purposes. It is upon that assumption, in my opinion, that any consideration of matters relating to the Customs must be predicated.

MACMURRAY

893.512/456 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 8, 1926—6 p. m.

290. Your 600 December 6, 4 P. M. Department approves arrangement outlined by Admiral.

KELLOGG

893.512/468 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 8, 1926—7 p. m.

291. 1. Your number 598 of December 4, 4 p. m. and your 602 of December 7, 4 p. m. The Department's attitude toward British suggestions to accept the Cantonese imposition of taxes with the provision that their collection may be made by the Customs Administration, is outlined in Department's telegram 287, of December 4, 6 p. m.

2. You were given authority by Department's 278, November 23, 6 p. m.,⁹² to concur in proposal granting Washington surtaxes at once without reservations, on the condition that their collection be made by the Maritime Customs.

3. It is desired by the Department that before the matter is discussed with the Government of Japan you further consider the feasibility of this question. The Department has some doubt of the usefulness of discussing the matter with the Government of Japan in order to persuade that Government to adopt a policy it would not otherwise adopt on this question.

4. The question of authorizing the Washington surtaxes to be collected with no other reservation than that the National Chinese Maritime Customs collect them becomes of more doubtful feasibility, it has seemed to the Department, as time passes and as the possibility increases that the Southern regime may extend its control in China over larger areas. The only remaining feature of a national Chinese government, which now has departed, is the Maritime Customs Service, and to the Department it seems that inevitably the adding of the task of making a collection of these new taxes must involve the Customs Service in the question of how to dispose of the revenues so derived and collected and must, since the different factions will begin struggling to gain possession of those revenues, involve the entire Customs Service therefore in the varying fortunes of the factions.

5. It occurs also to the Department that if consent is given at this time to the collection of the surtaxes provided for by the Washington Treaty, without reservation or accompanying negotiation or understanding with any Chinese authority who is responsible, there is danger that such consent may be so interpreted by the several warring factions in China as to indicate a willingness to concede the right to them to impose on foreign trade other, and even more onerous, taxes, and to use for their collection the machinery of the Maritime Customs.

6. Yet another possibility is suggested in this connection in your 602, December 7, 4 p. m., second paragraph; namely, that no guarantee can be expected by us that at the same time as the surtaxes of Washington Conference are being assessed upon our trade by the Maritime Customs we may not find collections of other and similar taxes being made by other agencies than the Customs, with the result that on our trade in the areas in which the regime at Canton has established its control we shall discover that we have doubled the tax.

⁹² *Ante*, p. 859.

7. The Department is inclined by the foregoing considerations to believe that the safest and most dignified way to deal at the present time with the difficult and complicated question of the surtaxes is the policy which was outlined in its 287 of December 4, 6 p. m., for, pursuing this policy, this Government would be left free to deal clearly on the whole matter of the taxes and tariffs of China with any new Chinese government that may arise.

8. To the Department it seems to be inevitable that the taxation situation in China must as time goes on become more complicated and that in view of the lack of any authority at present, with which this Government could deal, the only method to follow is to file the usual protests, based upon existing rights under treaty, and to leave the final settlement of the question to the time when a government will show itself able in an orderly way to deal with the situation throughout a substantial part of the territory of China. The difficulty of the situation facing you is appreciated by the Department and your frank comment is desired on the considerations outlined above.

KELLOGG

893.512/459 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 9, 1926—1 a. m.

[Received 7:22 a. m.]

607. 1. Senior Minister informs me he has been approached by Admiral Tsai with an inquiry whether the powers would consent to the levy of a surtax to replace the present famine-relief surtax, for the purpose of enabling the Government to pay approximately gold dollars one million of arrears in the Chinese contribution to the League of Nations and to pay salaries of representatives abroad which are now approximately 19 months in arrears.

2. I am disposed to recommend that I be authorized to accede to such a surtax for the reason that China's membership in the League of Nations constitutes one of the few ties which bind her to normal relationships with the other nations; and loss of such membership would tend to force her into the Russian Soviet camp. While less sympathetic about her failure to maintain her foreign representation, I believe that that question cannot as a practical matter be dealt with separately from the other.

MACMURRAY

893.512/460 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 9, 1926—noon.

[Received December 9—7:54 a. m.]

606. My 598 of December 4th, 4 p. m.

1. I am informed by the British Chargé that the British Government has authorized action toward immediate implementing of Washington Treaty and instructed him that it considers that action as suggested in my 598 is an obvious and necessary next step.

2. He further gave me to understand that his Government while gladly approving this way out of the dilemma is resolved nevertheless in case that that course of action should prove unsuccessful, to compound with the Cantonese in the matter of the illegal surtaxes.

MACMURRAY

893.512/459 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 9, 1926—5 p. m.

293. Your telegram 607, December 9, 1 A. M. This Government would make no objection to levy of surtax for purposes mentioned.

KELLOGG

893.512/470 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 11, 1926—3 p. m.

[Received December 11—10:40 a. m.]

611. 1. The sympathetic understanding of the perplexities confronting us expressed in your number 291 of December 8th, 7 p. m., was exceedingly gratifying. However, I am led to doubt whether I have made sufficiently clear in my telegrams that our treaty position is nearly at the point of collapse and that to forestall the catastrophe the time element is vital. This statement is literally what, in giving practical consideration to our position, we must anticipate.

2. I recommended a particular action in my 598 of December 4th, 4 p. m. I also requested authorization to proceed with it as an extremely urgent matter. Shall I or shall I not go on in the hope of reaching an agreement with the British, and then with the Japanese Minister, and in the end with my other colleagues, for the interested powers to declare that the Washington surtaxes are ap-

pliable to their nationals immediately without a *quid pro quo* or any conditions with the exceptions that the Maritime Customs should collect the taxes and that the revenues which are obtained are to be turned over at each port to those authorities who exercise actual control? I believe this course offers quite clearly the best hope of escaping the two horns of the dilemma, either of which would injure our trading interests fatally. But your authorization must be received before I can act.

The Department must make a decision, and to delay in doing so would be equivalent in fact to making its decision to stand aside while events take the course which soon would lead to the undermining of our position.

MACMURRAY

893.512/470 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 13, 1926—7 p. m.

297. Your telegram 611 of December 11th, 3 p. m. The authorization to proceed on course suggested in your 598, December 4th, 4 p. m., is granted. It would be the preference of this Government to avoid being involved in the matter of directions to the Customs as to which of the parties at each port in China the collected revenue should be paid. Department does not believe that in the authorization to impose the surtaxes this should be made one of the conditions. The entire settlement of this question should be left to the Maritime Customs. However, in view of the fact that on the requirements of the situation you have a more intimate knowledge than the Department, this question is left to your discretion.

KELLOGG

893.512/471 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 14, 1926—4 p. m.

[Received December 14—9 a. m.]

613. 1. I beg to express my appreciation of your telegram number 297, December 13, 7 p. m.

2. Has the Department authorized Embassy at Tokyo to support our proposed plan of action as suggested in paragraph 8 of my number 598, December 4, 4 p. m.? With a view to that, I am repeating to Tokyo your number 297.

MACMURRAY

893.512/471 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *December 14, 1926—8 p. m.*

298. Your telegram No. 613, December 14, 4 p. m.

1. The Embassy at Tokyo has not been authorized by the Department to support the plan.

2. The Japanese Ambassador called some days ago. When the question of surtaxes was mentioned during the conversation, I stated that the Department was not informed as to the attitude of the Japanese Government toward the question of surtaxes.

3. The Japanese Ambassador came to see me today. He stated that he had been informed by his Government, in reply to this question, that the Japanese Government understood that the British Government proposed to accept the Cantonese imposition of surtaxes on condition that their collection be made by the Maritime Customs; and it understood that at Peking the American Government favored a proposal authorizing the Chinese Government to levy Washington surtaxes without other reservation than that these taxes be collected by the Chinese Maritime Customs.

4. The Ambassador declared that the Japanese Government was opposed to these proposals since the Government felt that its assent at the present time to the surtaxes would mean that by such consent the powers would encourage the Chinese leaders to believe that the powers were interested no longer in their treaty rights and that they could attempt in disregard of treaty rights to levy any taxes they might please upon foreigners and foreign trade without fear of being called to account. The Ambassador went on to say as his informal opinion that the Japanese Government believed that encouragement would be given to the Chinese by such a step to cease respecting any of the provisions of China's treaties with foreign countries.

5. The Ambassador declared that the suggestion to have the surtaxes made generally applicable throughout the territory of China was opposed by his Government because a situation such as that would require that the powers authorize the payment of the revenues collected by the Customs to one or another of the warring factional leaders. In regard to leaving this question for decision by the Customs, he believed there would be an unfortunate effect upon the leaders of the Cantonese if the collected monies were all placed in one fund by the Customs and paid over to such government at Peking as might have control there.

6. He further stated that the feeling of the Japanese Government was that a decision as to how the situation in China was going to

develop could not yet be made. Therefore it preferred to wait, meanwhile lodging protests against the levies of taxes contrary to the provisions of existing treaties, with whatever factions might levy such taxes. He declared that there was no intention on the part of his Government to use force to make such protests good, but that Japanese merchants would be directed to pay, subject to protest, if such taxes against themselves or their goods were levied and if it were necessary to pay the taxes.

7. I stated that this Government was informed that the Cantonese taxes would be accepted by the British Government without protest provided their collection was made by the Maritime Customs; that this Government believed that on a question of this kind, to enter into arrangements with one or another Chinese faction was unwise because of the danger that a policy such as that would result merely in dividing China more or less permanently into separate parts; and that this Government, rather than to pursue that policy, had been in favor of giving you, its Minister in China, authorization to consider with your colleagues a proposal by which the Chinese Government would be authorized to make a levy, uniformly upon foreign trade throughout China, of the surtaxes provided by the treaty at Washington, the only reservation to be that the Chinese Maritime Customs should collect the taxes. I said that we wished to avoid being involved in any questions as to disposing of the funds so derived among the warring factions.

8. The Japanese Ambassador reiterated that there was not a disposition on the part of the Government of Japan to favor at this time a granting of the surtaxes provided by the Washington Treaty without reservation and before having the formal negotiations which the treaty implied should occur at the time the taxes were granted.

9. He remarked that it was his belief that an instruction had been given to the Japanese Minister to inform you respecting these matters.

10. You will perceive from the foregoing that it appears that the Japanese Government is unwilling to accept the proposal. It is not desired by the Department that proposals should be advanced unless the interested Governments all agree.

KELLOGG

893.512/472 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 17, 1926—4 p. m.

[Received December 17—3: 50 p. m.]

621. 1. Immediately before receiving your 297 of December 13, 7 p. m., I was informed by O'Malley, British Chargé d'Affaires, that he had received information from the Japanese Minister that the Gov-

ernment of Japan was unwilling to accept the British suggestion that the assent of the powers be given to the levy of illegal taxes by the Southerners. When your instructions were received, I called upon the Japanese Minister. He confirmed the information that his instructions were opposed to the plan of the British, but his instruction, he pointed out, indicated opposition only casually to the modification I originally suggested by which the Washington surtaxes would be accepted by the powers unilaterally and unconditionally.

2. On December 15th the British Chargé and I made a strong effort to persuade our Japanese colleague that the proposed acceptance of the Washington surtaxes is, for Japanese interests as well as other foreign interests, the least harmful course of action among the various unsatisfactory courses available. He created the impression upon both of us that he agreed personally with our views but that categorical instructions, of which an informal abstract had been furnished to us in the meantime, bound him. The fact that his Government considers it to be essential that the surtaxes only be granted upon conditions which involve, quoting him, "pecuniary considerations", was brought out in the discussion. These considerations, we understood, referred to funding unsecured debts and to establishing in the treaty now under negotiation between Japan and China, satisfactory rates upon Japanese imports. He said that the Japanese Foreign Office could scarcely look forward hopefully to securing the necessary approval of the Privy Council unless a satisfactory showing as to these considerations were made. He promised us that he would telegraph to his Government the arguments we urged upon him; namely, in effect, that if our treaty situation is to be saved, no bargaining is possible. However, he did not give us much hope of reconsideration.

3. I was convinced, as was O'Malley, that these are the objects which the Japanese have in view: (1) to postpone the imposition of the Washington surtaxes as long as possible, and (2) to keep their assent to such surtaxes in reserve as the price they will pay to secure a treaty which will establish upon Japanese products satisfactorily low rates. We considered it to be certain, therefore, that unless the Japanese Government is forced by the unanimous concurrence of the remaining powers interested in granting the surtaxes to come into the open, it will not reconsider its position. With this in view, the fact that the British Government is determined upon the policy of proceeding along this line was put forward to Yoshizawa very explicitly by O'Malley. The British Chargé stated that he would consult with all other interested colleagues to secure their concurrence; and that he would ask after waiting a reasonable time for instructions to be received that a meeting of representatives be held, and there he would call for a show of hands. With that done, O'Malley continued,

his Government would consider that its duty to consult under the Washington treaties with the other parties to them had been fulfilled, and it would regard itself as free to undertake whatever course of action it then chose, singly or by cooperating with the other powers who might adopt a position the same as the British adopted. Since I did not believe my instructions warranted my going so far as to declare that I would, even in the face of Japanese dissent, join with the British, I for my part declared that in the eventuality contemplated by the British Chargé I would be obliged to secure further instructions from my Government, but that I inclined to the belief that in regard to the Washington surtaxes the United States would be anxious to fulfill its obligations as best it might under existing circumstances.

4. During the morning of the next day, the 16th, O'Malley and I went together to the Dutch Minister and then went to the Italian Minister. We found that they were prepared to give their Governments a strong recommendation of the proposal. O'Malley had already been informed by the Dutch Minister, who later also informed me, that he favored the plan enthusiastically and was seeking authorization that he might proceed with it. O'Malley also obtained a promise from our Belgian colleague similarly to make such a representation to the Belgian Government.

5. I received a call on the afternoon of the 16th from a representative of Chang Tso-lin. He represented courteously, but positively for all that, that funds were being obtained by the Southerners in disregard of the treaties; but that the Northerners frowned upon such acts violating treaties and they proposed to make an appeal to the powers asking to be placed in a practical position no less favorably, by being enabled through agreement of the powers to raise funds by means that were legitimate. He urged the taking of steps to put into force the surtaxes provided by the Washington Treaty. I inquired whether as a practical matter the Northern authorities would expect that they would receive the revenues collected from such surtaxes in ports under Nationalist control. His reply was that such diversion of funds to their enemies naturally would not be formally assented to, but as practical men they realized that this might be done. They would be content to have the revenues collected from the surtaxes in ports located within the territory they themselves controlled. He hinted unmistakably that in case the Northerners were not thus granted the surtaxes, the Northern military coalition will find itself, regardless of treaty obligations, obliged to act upon its own initiative, and that perhaps it might become more red than the Reds in the South.

6. After the above conversation I received a circular, dated December 15, from the Senior Minister. Enclosed in it was a memorandum

which had been received from the Ministry of Foreign Affairs, regarding tariff revision at Shanghai at present. It stated that:⁹³

"This Ministry has received a communication from Ho, the Japanese Minister, to the effect that he has been instructed by his Government that the newly revised tariff must be approved and made effective by the Special Customs Conference.

"The Chinese Government is of the opinion that in this way the newly revised tariff can become effective at an early date and that this is also in accordance with the resolution of the Washington Conference which speaks of the rates becoming effective as soon as possible. Therefore the Chinese Government of course fully approves the early reopening of the Customs Conference engagement."

7. I received practically at the same moment the code room's reading of section 2 of your 298, December 14, 8 p. m.⁹⁴ I felt obliged then to call O'Malley in and say that I was precluded by your latest instruction from further cooperation with him along the lines we had been following, your desire being that unless all interested Governments agreed, the proposal we had been advocating jointly should not be put forward. Regret was expressed by the British Chargé that I was prevented by instructions from going along further with him, but he reminded me that the fact of my efforts in the matter being discontinued could not prevent his Government from proceeding upon its determination in the matter to bring it to an issue and have a public showing as to which of the powers are willing and not willing to have the Washington surtaxes implemented without conditions. The furtherance or the quashing of this proposal does not rest with us. The British Government is going on with it. We will have to elect within a few days whether to side with them, and it is probable, with all other powers participating in fulfilling our obligations under the Washington Treaty, under the terms which are the least disadvantageous possible in the circumstances now existing, or to side with the Japanese in obstructing such carrying out of our promises until considerations satisfactory to themselves have been obtained by the Japanese. To choose the latter would be humiliating for us as having been the authors of the Washington Conference and also would be disastrous in regard to the moral and material interests we have in China. In the light of this contingency I await your further instructions . . . [garbled groups]. Repeated to Tokyo by mail.

MACMURRAY

⁹³ Memorandum not paraphrased.

⁹⁴ Not printed.

893.512/472: Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 18, 1926—5 p. m.

300. Paragraph 7 of your number 621, December 17, 4 p. m. The preference of this Government would be that the interested Governments should all give consent to the proposal prior to putting it into effect. If this cannot be done, however, and if the proposal is brought before the diplomatic body for a vote, the Department authorizes you to vote with your British colleague for it.

KELLOGG

893.512/475: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 19, 1926—3 p. m.

[Received December 19—11:20 a. m.]

628. 1. British Chargé d'Affaires yesterday under instructions of his Government had Senior Minister urgently summon a meeting of the interested Chiefs of Mission to whom he read and gave copies of a statement in behalf of the British Government, of which the general purport is that the powers should grant the Washington surtaxes immediately and unconditionally and recognize China's "right to enjoy tariff autonomy as soon as she herself has settled and promulgated a new national tariff," act at once upon such recommendations of the Extraterritoriality Commission report as may be capable of being carried into immediate effect, and "while calling upon China to maintain that respect for the sanctity of treaties which is the primary obligation common to all civilized states," yet "recognize both the essential justice of China's claim for treaty revision, and the difficulty in present conditions of negotiating new treaties in place of the old" and therefore "modify their traditional attitude of a rigid insistence on the strict letter of treaty rights."

2. It is understood that full texts of this statement are being communicated by the British Government to the interested Governments.

3. I shall shortly submit my own comments upon the British proposals.

MACMURRAY

893.512/472 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 20, 1926—3 p. m.

301. Your 621, December 17, 4 p. m. *New York Times* of today prints a news despatch from Peking dated December 19 referring to contents of a note alleged to have been addressed to the Diplomatic Corps at Peking by the British Chargé. News item states British Legation refused information as to contents of note but intimates that "note outlines what Great Britain feels should be the policy of the powers toward China and was put forward with the object of ascertaining whether the other powers signatory to the Washington Treaty would support it or suggest a better one." *Times* article goes on to say "this program, according to some, is said to be liberal, among other things suggesting granting the Washington surtaxes and their collection by the Maritime Customs."

Inference might naturally be drawn from this news item that Great Britain desired to be more liberal with regard to putting into effect of Washington Treaty than other powers, including ourselves. You may consider it wise to destroy such an impression if such an impression had been created publicly in Peking by making public our own attitude in favor of putting into effect surtaxes of the Washington Treaty without reservation.

GREW

893.512/479 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 22, 1926—4 p. m.

[Received December 22—2:55 p. m.]

632. Supplementing my 628, December 19, 3 p. m.

1. As my telegram 628, December 19, 3 p. m. will have made clear the British memorandum communicated to the diplomatic body on the 18th was not restricted to the matter of immediate unconditional grant of the Washington surtaxes as was to be inferred from the press report upon which was based your telegram number 301, December 20, 3 p. m. Memorandum goes so much farther that it relegates to subsequently incidental discussion previously clear out [-cut?] issue as to these surtaxes. I assume it also removes any occasion for such action on my part as your telegram suggested.

2. Larger proposal which the British Government has not [now?] referred to the powers appears to be the result of determination on the

part of the British Foreign Office to abandon the policy of assailer [*assailant*] and take the initiative in formulating a definite and positive policy of conciliation towards China. It contains in essence only two new points—first, and most important, the ambiguously expressed willingness to accept immediately and unconditionally what is referred to as “tariff autonomy” and, second, the proposal that the powers adopt the policy of condoning all but graver contraventions of treaty rights on the part of the Chinese.

3. There is already in effect what purports to be a national tariff (see Conference summary number 2, October 27 [28], 1925⁹⁵); and unless, in offering to recognize China’s tariff autonomy “as soon as she herself has settled and promulgated a new national tariff,” the British Government intended to hedge its offer by a condition which implies indefinite postponement, it would appear that it contemplates recognizing any schedules of tariffs which may be put into force by the competent authorities in the various regions of China. The latter appears to be the more probable interpretation, especially since the settlement itself presupposes that there will be no competent central government of China in the near future. Whether or not this is the intention of the British Government, it will be construed by the Chinese as a profession of willingness to pay any import duties that may be assessed anywhere in China.

4. While it is justifiable and perhaps advisable for the powers in their relations with China to adopt a mighty querulous and petty attitude in the matter of protests against insignificant infractions of the treaties, broad formula now proposed by the British with regard to condoning disregard of their obligations by the Chinese in all matters which the powers may not unanimously consider vital, is, in effect, an invitation to the Chinese to carry the principle of repudiation to whatever may prove to be the limit of tolerance on the part of the powers.

5. It seems to me a matter of grave doubt whether these two fundamental points of the British program are well advised. With regard to obviously necessary modification of existing treaty rights there are in general three possible courses to pursue: First, renunciation by the powers with a view to placating China[’s] nationalistic feeling; second, acquiescence by the powers (whether willingly or grudgingly) in a policy of repudiation by the Chinese; third, orderly negotiation with a view to readjustment of unsatisfactory or illiberal treaty provisions by mutual consent, simultaneously with insistence upon full respect for existing obligations until thus modified. The last-named seems to me to offer the only possibility of making the necessary readjustments reasonably and with fairness to the interests of both

⁹⁵ *Foreign Relations*, 1925, vol. I, p. 867.

parties. The British program appears to ignore that possibility and to be directed towards placating Chinese feeling by concessions which I fear will scarcely at all appease nationalistic aspirations but will on the other hand encourage them to force other issues which are not contemplated by the British—such as the integrity of the Maritime Customs organization, the existence of Shanghai International Settlement, and of the various concessions, extraterritorial, special privileges of missionaries with regard to residence and ownership of land in the interior, and (what may prove of particular importance to us) the question of restrictions upon Chinese immigration into foreign countries.

6. The fact remains however that once the British program is made public (as it seems likely it will be within a brief time) the mere fact that such radical concessions have been made by the nation which is still predominant in the trade of China will compel us whether we like it or not to offer the same concessions on our part. The British will have forced our hands in view of the impossibility of our maintaining consistently or with any hope of success an attitude ostensibly less liberal than theirs. And, if we are to be compelled to fall in with this policy, it seems to me advisable that we should do so with a good grace and in spirit of loyal cooperation towards making it a success in the interest of all foreign powers, recognizing that though not ideal it offers possibility of uniting the treaty powers in what the statement itself terms “a constructive policy in harmony with the spirit of the Washington Conference but developed and adopted to meet the altered circumstances of the present time.”

7. These are some indications that the Japanese will vigorously oppose the British program. It would nevertheless seem that if the British force the issue the Japanese cannot any more than ourselves afford to be put in the wrong in the eyes of the Chinese, especially in view of the great sacrifices they have for the past two years been making in the interests of a “friendship policy.” It would seem that they must either join the British or attempt the dangerous expedient of trying to outbid them by the relinquishment, for example, of the rights of extraterritoriality. This latter desperate alternative would quickly prove fatal to foreign rights and interests. It seems to me that we may best contribute to averting this possibility by adopting for our part the British program as the least destructive of the courses now open to us even though it offers us no definite assurance of obtaining a satisfactory adjustment for such claims as we have against China.

893.512/479 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, December 23, 1926—1 p. m.

308. Your telegrams number 628, December 19, 3 p. m., and number 632, December 22, 4 p. m. It is my desire that you fully support the British program in the conferences of the diplomatic body. As you well know, since the Washington Conference this Government has been anxious to place those surtaxes into effect that were agreed upon in the Washington Treaty, and it is now willing that they be put unconditionally into force throughout China. It has been and is willing to negotiate with China concerning relinquishment of its treaty control over duties which the Chinese Government levies on imports of products of American origin into China. In this connection we desire most-favored-nation treatment. Our urging the powers to broaden the scope of the Special Conference on the Chinese Tariff which last winter met at Peking was done with a view to making certain that that Conference would take up, as between the several powers and China, the question of granting tariff autonomy to China.

With reference to the extraterritoriality, you are instructed to give support to the British program favoring international agreement for immediate action upon those of the recommendations made in the Extraterritoriality Commission's report⁹⁶ which may be susceptible of having immediate effect given to them. It is the Department's belief that, to the extent that this Government's policy is concerned in regard to these matters, it has made already effective certain of that Commission's recommendations as they have to do with interference by American citizens in China's control over her own citizens. In this connection it is certain that every effort to prevent any abuse of the United States flag has been made.

. . . There is no reason that I can see why you should not publicly make known at Peking that the British recommendations have formed part of the United States Government's policy for a long time. And I wish you to know that I contemplate making an address soon on the subject of our relations with China. In this I expect to make a statement of the readiness of this Government to negotiate with a Government representing China for the purpose of revising the existing American treaties in the directions of relinquishing the extraterritorial privileges of Americans in China and of granting China the right to establish her own tariff rates on products of American origin.

. . . I would appreciate having an opinion from you as soon as possible.

KELLOGG

⁹⁶ For summary of the report, see telegram No. 412, Sept. 17, from the Chargé in China, p. 979.

893.512/497

The British Ambassador (Howard) to the Secretary of State^{96a}

No. 816

WASHINGTON, December 23, 1926.

SIR: I have the honour, on instructions from His Majesty's Government, to transmit herewith the text of a telegram addressed by His Majesty's Principal Secretary of State for Foreign Affairs on December 2nd last to His Majesty's Minister at Peking, copies of which were communicated by His Majesty's Charge d'Affaires at that capital on December 18th last to his eleven colleagues representing the Washington Treaty Powers other than China.

This telegram contains a statement of the principles which it is the considered opinion of His Majesty's Government should in future guide the policy in China of the Washington Treaty Powers.

The annex, to which reference is made in paragraph 12 of the enclosed statement consists of the memorandum communicated to the United States Embassy on May 28th last explaining the attitude of His Majesty's Government towards the Chinese Tariff Conference. Copies of this document are also transmitted herewith for convenience of reference.^{96b}

I have [etc.]

ESME HOWARD

[Enclosure—Telegram]

The British Secretary of State for Foreign Affairs (Chamberlain) to the British Minister in China (Lampson)

For some time past His Majesty's Government have watched with growing anxiety the situation in China, and they believe that this anxiety will be shared by the Governments of the interested Powers. Five years ago the Powers assembled at Washington and, taking into consideration the circumstances then existing in China, they agreed among themselves, in conjunction with the representatives of the Chinese Government, that their future policy should be guided by certain general principles designed to safeguard the integrity and independence of China, to promote her political and economic development and the rehabilitation of her finances. It was agreed to grant her certain increases on her treaty tariff in order to provide the revenue required for these purposes. It was further agreed that a commission should examine the question of extra-territoriality with a view to amending the system now in force by the elimination of abuses and accretions and by the removal of unnecessary limitations on China's sovereignty.

^{96a} This paper bears the annotation: "Handed to Secretary of State by British Ambassador this 24th day of December, 1926."

^{96b} *Ante*, p. 755.

Unfortunately the Tariff Conference did not meet for four years, and during that period the situation had greatly deteriorated. During a succession of civil wars the authority of the Peking Government had diminished almost to vanishing point, while in the south a powerful Nationalist Government at Canton definitely disputed the right of the Government at Peking to speak on behalf of China or enter into binding engagements in her name. This process of disintegration, civil war and waning central authority continued with increased acceleration after the Tariff Conference had met until eventually the conference negotiations came to an end because there was no longer a Government with whom to negotiate.

The Commission on Extra-territoriality^{96c} has meanwhile completed its labours and presented its report, but here, again, we are faced with a similar difficulty due to the disintegration of China. The recommendations contained in the report, while suggesting certain reforms capable of being carried into immediate effect, presuppose for their full execution the existence of a Government possessing authority to enter into engagements on behalf of the whole of China.

During all these civil wars it has been the consistent policy of His Majesty's Government to abstain from any interference between the warring factions or Rival Governments. Despite the disorders which civil war engenders and the grievous losses inflicted on the vast commercial interests, both Chinese and foreign, His Majesty's Government have declined to associate themselves with any particular faction or to interfere in any way with the civil commotions. His Majesty's Government believe that the Powers have adopted a similar attitude and that this is and will continue to be the only right attitude to maintain.

The situation which exists in China today is thus entirely different from that which faced the Powers at the time they framed the Washington treaties. In the present state of confusion, though some progress has been made by means of local negotiation and agreements with regional Governments, it has not been possible for the powers to proceed with the larger programme of treaty revision which was foreshadowed at Washington or to arrive at a settlement of any of the outstanding questions relating to the position of foreigners in China. The political disintegration in China has, however, been accompanied by the growth of a powerful nationalist movement which aimed at gaining for China an equal place among the nations, and any failure to meet this movement with sympathy and understanding would not respond to the real intentions of the Powers towards China.

^{96c} See pp. 966 ff.

His Majesty's Government, after carefully reviewing the position, desire to submit their considered opinion as to the course which the Washington Treaty Powers should now adopt. His Majesty's Government propose that these Governments shall issue a statement setting forth the essential facts of the situation; declaring their readiness to negotiate on treaty revision and all other outstanding questions as soon as the Chinese themselves have constituted a Government with authority to negotiate; and stating their intentions pending the establishment of such a Government to pursue a constructive policy in harmony with the spirit of the Washington Conference but developed and adapted to meet the altered circumstances of the present time.

His Majesty's Government propose that in this joint declaration the Powers should make it clear that in their constructive policy they desire to go as far as possible towards meeting the legitimate aspirations of the Chinese nation. They should abandon the idea that the economic and political development of China can only be secured under foreign tutelage, and should declare their readiness to recognise her right to the enjoyment of tariff autonomy as soon as she herself has settled and promulgated a new national tariff. They should expressly disclaim any intention of forcing foreign control upon an unwilling China. While calling upon China to maintain that respect for sanctity of treaties which is primary obligation common to all civilised states, Powers should yet recognise both essential justice of Chinese claim for treaty revision and difficulty under present conditions of negotiating new treaties in place of old, and they should therefore modify their traditional attitude of rigid insistence on strict letter of treaty rights. During this possibly very prolonged period of uncertainty the Powers can only, in the view of His Majesty's Government, adopt an expectant attitude and endeavour to shape developments so far as possible in conformity with the realities of the situation so that ultimately when treaty revision becomes possible, it will be found that part at least of the revision has already been effected on satisfactory lines. It would therefore be wise to abandon the policy of ineffective protest over minor matters, reserving protest—which should then be made effective by united action—only for cases where vital interests are at stake. Every case should be considered on its merits and the declaration should show that the Powers are prepared to consider in a sympathetic spirit any reasonable proposals that the Chinese authorities, wherever situated, may make, even if contrary to strict interpretation of treaty rights, in return for fair and considerate treatment of foreign interests by them. The declaration should show that it is the policy of the Powers to endeavor to maintain harmo-

nious relations with China without waiting for or insisting on the prior establishment of a strong Central Government.

It is the earnest hope of His Majesty's Government that the Powers will agree to adopt the principles of the policy outlined above and apply them to the realities of the present situation. Certain recommendations in the reports of the Commission on Extra-territoriality referred to in paragraph 3 above and certain other reforms not covered by that commission's report but falling under the general heading of extra-territoriality can be carried into effect even in present conditions without great delay. There is, however, one step of more immediate importance which in the opinion of His Majesty's Government the Powers should agree to take at once. His Majesty's Government believe that an endeavour should be made to undo the evil results which have flowed from the failure of the Tariff Conference to implement the promises as to tariff increases made by the Powers to China nearly five years ago, and they propose, therefore, that the Powers should agree to the immediate unconditional grant of the Washington surtaxes.

By the China Customs Treaty signed at Washington on the 6th February, 1922,^{96d} the Powers promised to grant China certain tariff increases (commonly known as the Washington surtaxes) "for such purposes and subject to such conditions" as the special conference might determine. That special conference is the Tariff Conference which, after a delay of nearly four years, met in Peking on the 26th October, 1925, and has now to all intents and purposes definitely failed. The promised surtaxes have not been granted. The foreign delegations were not satisfied with the assurances which the Chinese delegation offered at the session of the 18th March as to the purposes to which the Chinese Government would themselves devote the proceeds of the surtaxes. They were prepared to grant them only upon conditions which ensured that the proceeds would be placed under foreign control and applied—in great part—to the liquidation of the unsecured debt.

From the very outset His Majesty's Government were opposed to the question of the unsecured debt being dealt with by the Tariff Conference at all, and they frankly expressed this view in a confidential memorandum communicated to the Consortium Powers early in 1923.^{96e} They foresaw that it might defeat the intentions of the Washington Conference, which were to assist the economic and political development of China and to relax—not to tighten—foreign control. They held that, the object of the concessions proposed at the Washington Conference being to benefit China, the principal purposes to which the customs surtax should be devoted ought to be

^{96d} *Foreign Relations*, 1922, vol. I, p. 282.

^{96e} Not printed.

productive objects, such as railway construction, and social or economic reforms which would be a permanent benefit to China as a whole. The most promising of these reforms was in their opinion the abolition of li-kin, which moreover, was expressly contemplated in the treaty itself.

It has been argued that debt consolidation would also be a permanent benefit to China because it would restore China's credit. This argument would doubtless be valid if there were a Government in effective control of the whole country, but in China to-day debt consolidation could only enable the faction which happened to be in power in Peking to resort to fresh ruinous and unproductive borrowing. His Majesty's Government were therefore opposed to making the consolidation of the unsecured debt one of the purposes to be attained by the Tariff Conference, although their own nationals were directly interested in the funding of some of these debts.

A further objection to the inclusion of the unsecured debt among the subjects to be dealt with at the Tariff Conference was brought into relief by the grant in principle of tariff autonomy. That raised at once in acute form the question of control over customs revenues. His Majesty's Government viewed with grave misgiving the proposal that foreign control should be extended over additional revenues which might be increased by tariff autonomy. In 1921 it was natural that the Powers should demand guarantees for the due fulfilment of the benevolent purposes which the Washington Conference aimed at achieving. But what might have been practicable in 1921 was no longer possible in 1926. It was obvious that China would not now submit to any extension of foreign control either for debt consolidation or for the abolition of li-kin, and it seemed to His Majesty's Government that for the Powers to unite in an attempt to impose control upon an unwilling China would be entirely opposed to the spirit of the Washington treaties, and to the policy which His Majesty's Government had consistently advocated. At the same time His Majesty's Government felt that it was essential that the Washington promises, so long overdue, should be implemented. Accordingly, on the 28th May last, in reply to an enquiry from the United States Government as to the attitude of His Majesty's Government towards the Tariff Conference, they proposed in a memorandum, copy of which is annexed hereto,^{98f} that the Powers should abstain from any attempt to exact guarantees or conditions, but should forthwith authorise the levy of the surtaxes.

Owing to the collapse of the conference no action on this proposal was possible. The situation, however, suddenly developed in the

^{98f} *Ante*, p. 755.

very direction which was anticipated when the proposal was made. The Cantonese did, in fact, seize the Washington surtaxes by levying, in defiance of the treaties, certain additional taxes on the foreign trade of the port. His Majesty's Government have with much reluctance joined in the protest against the new taxes for the sake of maintaining solidarity with the Powers, but they are not satisfied that this is the right policy for the present situation. They regret that they did not more insistently press their views at an earlier stage of the conference, but they think that it is still not too late, despite the protest already made, to return to the alternative course proposed in the memorandum of 28th May. His Majesty's Government therefore strongly urge that the Powers should now authorise the immediate levy of the Washington surtaxes unconditionally throughout China. They hope that this may provide a basis for regularising the position at Canton.

The principle [*sic*] objection that will probably be made to this proposal is that in strict logic it would amount to condoning a breach of treaty. This argument, however, does not sufficiently take into account the realities of the situation. The basic facts of the present situation are that the treaties are now admittedly in many respects out of date, and that in any attempt to secure a revision the Chinese are confronted on the one hand with the internal difficulty of their own disunion and on the other with the external difficulty of obtaining the unanimous concurrence of the Powers. The latest instance of this is the failure of the attempt to alter the tariff of 1858.^{96c} His Majesty's Government attach the greatest importance to the sanctity of treaties, but they believe that this principle may best be maintained by a sympathetic adjustment of treaty rights to the equitable claims of the Chinese. Protests should be reserved for cases where there is an attempt at wholesale repudiation of treaty obligations or an attack upon the legitimate and vital interests of foreigners in China, and in these cases the protests should be made effective by the united action of the powers.

His Majesty's Government have consistently carried out the obligation of full and frank consultation imposed upon all the Powers alike by article 7 of the Nine-Powers Pact ^{96h} and it has been their constant aim—sometimes even when this involved a sacrifice of their opinion—to maintain the solidarity of the Powers. It is in pursuance of this aim that His Majesty's Government are now communicating to the Powers this statement of the principles by which they believe that policy should be guided in future. They feel assured that the Powers will share the anxiety of His Majesty's Gov-

^{96c} Malloy, *Treaties, 1776-1909*, vol. I, p. 222.

^{96h} *Foreign Relations, 1922*, vol. I, p. 276.

ernment to act towards China in the spirit which inspired the Washington Treaties, and it is their earnest hope that the Powers will agree that that spirit cannot better be fulfilled than by adopting the policy which is now presented for their consideration.

It seems to His Majesty's Government that the first step towards the carrying of this new policy into effect should be the immediate unconditional grant of the Washington surtaxes. Lest it be supposed that the grant of the surtaxes might favour one faction at the expense of the others and so provide a further incentive to civil war, His Majesty's Government deem it important to point out that, as no conditions would be attached to the grant the proceeds of the surtaxes would not necessarily be remitted by the Commissioners of Customs to the custodian banks at Shanghai. It would in each case be for the competent Chinese authorities to decide all questions as to the disposition and banking of these additional revenues. His Majesty's Government will be glad to learn at the earliest possible moment whether the Powers agree to the unconditional grant of the Washington surtaxes.

893.512/485 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, December 28, 1926—6 p. m.

[Received December 28—1:40 p. m.]

644. Department's 308, last paragraph. My earnest advice is not to offer or to commit ourselves to make concessions, at present, beyond those in contemplation in the decisions of the Washington Conference as enlarged later in the Special Customs Conference. It would gain us no consideration or respect on the part of the [Chinese] to do so. Indeed it would give them courage to deprive us and other foreigners of all special privileges, and ordinary rights as well, and to open up again the issue of Chinese immigration. Furthermore, to do so would enable the charge to be made by the Japanese and the British that we had, to use the terms which would be used, betrayed the collective interests common to the powers . . .

MACMURRAY

893.512/489 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, December 29, 1926—3 p. m.

[Received 7:37 p. m.]

Eugene Chen, Minister for Foreign Affairs, stated to me today that he has been advised from an absolutely reliable source that the

Secretary of State is preparing a statement to be made public on the subject of the two and a half percent surtaxes. Chen stated that in view of the fact that he will telegraph an important announcement to Washington within the next 48 hours it is his view that the American Government should await this announcement of the new government before making public the statement. Although making no direct request, Chen is extremely anxious that the Department's statement be held in abeyance until his announcement is received at Washington and made public there.

The British statement on the two and a half percent surtaxes has made a distinctly unfavorable impression on the new government, the main objection apparently being that the surtaxes will supply millions of dollars to the Northern military forces, especially through the Shanghai and Tientsin customs collections. Chen stated that it merely means prolonging of the struggle and much further bloodshed.

LOCKHART

893.512/485 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, December 29, 1926—4 p. m.

311. Your 644, December 28, 6 P. M. Following is text of reply to British memorandum left with me December 24 by British Ambassador, now under consideration and subject to changes. I desire your comment.

"On June 24, 1925, the Chinese Government addressed identic notes to the Powers asking for revision of existing treaties.⁹⁷ On September 4, 1925, the American Legation at Peking, acting under the instructions of this Government, informed the Chinese Foreign Office⁹⁸ that it was prepared to consider the Chinese Government's proposal for the modification of existing treaties in measure as the Chinese authorities demonstrated their willingness and ability to fulfill their obligations and to assume the protection of foreign rights and interests safeguarded by the exceptional provisions of those treaties. In that note the Government of the United States stated that it sympathized with the feeling of the Chinese Government that the tariff schedules attached to the various treaties between China and the other Powers had become a severe handicap upon the ability of China to adjust its import tariffs to meet the domestic economic needs of the country. It stated that this matter had received consideration at the Washington Conference and that it was the belief of the Government of the United States that the most feasible method for dealing with the question was by the constant and scrupulous observance of the obligations undertaken at that Conference. The Chinese Foreign Office was informed that the Government of the United States was then ready to appoint its delegates to the Special

⁹⁷ See telegram No. 247, June 24, 1925, from the Chargé in China, *Foreign Relations*, 1925, vol. I, p. 763.

⁹⁸ *Ibid.*, p. 831.

Conference on China's tariff matters provided for in the treaty of February 6, 1922, and was furthermore willing, either at that Conference or at a subsequent time, to consider and discuss any reasonable proposal that might be made by the Chinese Government for a revision of the treaties on the subject of the tariff.

The Government of the United States duly appointed its delegates to attend this Special Conference which was called by the Chinese Government to meet in Peking on October 26, 1925.⁹⁹ Its delegates were instructed not only to carry out the letter and spirit of the Washington Treaty respecting China's customs tariff but, as indicated in the above note, to discuss any reasonable proposal that might be made by the Chinese Government for a general revision of the treaties on the subject of the tariff.

Shortly after the opening of the Conference and on November 3, 1925, the American delegation proposed¹ that the Conference at once authorize the levying of a surtax of two and one-half percent on necessities, and, as soon as the requisite schedules could be prepared, authorize the levying of a surtax of up to five percent on luxuries. Our delegates furthermore announced that the Government of the United States was prepared to proceed at once with the negotiation of such an agreement or agreements as might be necessary for making effective other provisions of the Washington treaties of February 6, 1922. They affirmed the principle of respect for China's tariff autonomy and announced that they were prepared then to negotiate a new treaty that would give effect to that principle and which should make provision for the abolition of likin, for the removal of tariff restrictions contained in existing treaties and for putting into effect of the Chinese National Tariff Law.

On November 19, 1925, the Committee on Provisional Measures of the Conference adopted the following resolution:²

"The Delegates of the Powers assembled at this Conference resolve to adopt the following proposed article relating to tariff autonomy with a view to incorporating it, together with other matters, to be hereafter agreed upon, in a treaty which is to be signed at this Conference.

The Contracting Powers other than China hereby recognize China's right to enjoy tariff autonomy; agree to remove the tariff restrictions which are contained in existing treaties between themselves respectively and China; and consent to the going into effect of the Chinese National Tariff Law on January 1st, 1929.

The Government of the Republic of China declares that likin shall be abolished simultaneously with the enforcement of the Chinese National Tariff Law; and further declares that the abolition of likin shall be effectively carried out by the First Day of the First Month of the Eighteenth Year of the Republic of China (January 1st, 1929).³

Continuously from the beginning of the Conference our delegates and technical advisers collaborated with the delegates and technical advisers of the other Powers, including China, in an effort to agree upon a tariff schedule which it was estimated would yield to China all the additional revenues she would require to begin the abolition of

⁹⁹ See note of Aug. 19, 1925, from the Chinese Minister, *ibid.*, p. 839.

¹ See telegram No. 4, Nov. 4, 1925, from the Minister in China, *ibid.*, p. 875.

² See telegram No. 6, Nov. 19, 1925, from the American delegation, *ibid.*, p. 881.

likin, to pay interest and ultimately to retire her unsecured and inadequately secured debts, foreign and domestic, and for her administrative expenses.

The Chinese delegation declared that China would endeavor, with the means at her disposal, to see to it that definite arrangements would be made for the unsecured and inadequately secured debts of the Central Government, foreign and domestic, so that all payments of principal and interest on them might be duly and promptly met. It was recognized that a condition precedent to the reestablishment of China's credit and the necessary rehabilitation of her railroads must be the funding of her unsecured and inadequately secured debts.

Shortly after the substance of a tariff schedule had been agreed upon, the then existing Government disappeared. The delegates representing the foreign Powers, however, continued their efforts to reach an agreement among themselves on the subjects under discussion at the Conference. Ultimately, there being no Central Government of China, the delegates of the foreign Powers met on July 3, 1926, and issued the following statement:

'The Delegates of the foreign Powers to the Chinese Customs Tariff Conference met at the Netherlands Legation this morning. They expressed the unanimous and earnest desire to proceed with the work of the Conference at the earliest possible moment when the Delegates of the Chinese Government are in a position to resume discussion with the foreign Delegates of the problems before the Conference.'

The Government of the United States was ready then and is ready now to proceed with the program of the Special Conference as indicated in the identic note of September 4, 1925, and in the statement of its delegates at the Conference on November 3, 1925, and as reiterated in common with the delegates of the other Powers in the statement of July 3, 1926, just quoted. The Government of the United States is nevertheless prepared to consent to the immediate imposition of the surtaxes provided in the Washington Treaty of February 6, 1922, as a preliminary step even before the resumption of negotiations.

Resolution No. 5, adopted at the Washington Conference on December 10, 1921,³ provided for the constitution of a Commission, composed of one representative from each of the Powers having extraterritorial treaties with China. This Commission was to inquire into the present practice of extraterritorial jurisdiction in China and into the laws and judicial system and the methods of judicial administration in China with a view to reporting to the Governments of the several Powers its findings of fact in regard to these matters and its recommendations as to such means as it might find suitable to improve the existing conditions of the administration of justice in China and to assist and further the efforts of the Chinese Government to effect such legislation and judicial reforms as would warrant the other Powers in relinquishing, either progressively or otherwise, their respective rights of extraterritoriality. An additional resolution provided that China should have a representative under the Commission, and that China was prepared to cooperate with the work of the Commission and afford every possible facility for the successful accomplishment of its tasks.

³ *Foreign Relations, 1922*, vol. I, p. 289.

In the identic note of September 4, 1925, above referred to, the Government of the United States expressed the hope that the Commission might be able to begin at an early date its investigation of the existing conditions of the administration of justice in China and to make a report which would serve as a basis for recommendations to be made in pursuance of the resolution, for the purpose of enabling the Governments concerned to consider what, if any, steps might be taken with a view to the relinquishment of the extraterritorial rights.

The Commission convened in Peking on January 12, 1926, and concluded its labors by a report signed by all of the Powers, including China, on September 16, 1926.⁴ The report was divided into four parts: Part 1—the present practice of extraterritoriality in China; Part 2—the laws and judicial system; Part 3—administration of justice, and Part 4—recommendations. The Chinese Commissioner stated, 'By signing this report my approval of all of the statements contained in parts 1, 2 and 3 is not to be implied.' He made no reservation as to part 4, which contained the recommendations.

The United States has always regarded the system of extraterritoriality in China as a *modus vivendi*, necessary for harmonious relations between China and the Powers until the evolution of the laws and legal conceptions of China should render it unnecessary.

In the treaty between the United States and China dated October 8, 1903,⁵ the Government of the United States agreed to give every assistance toward the attainment by the Chinese Government of its expressed desire to reform its judicial system and to bring it into accord with that of Western nations, and declared that the United States was prepared to relinquish its extraterritorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration and other considerations warranted it in so doing.

One of the recommendations of the Commission is that the administration of justice with respect to the civilian population in China must be entrusted to a judiciary which shall be effectively protected against any unwarranted interference by the executive or other branches of the Government, whether civil or military. Another of the recommendations is that prior to the reasonable compliance with all of the recommendations of the Commission, but after the principal items thereof have been carried out, the Powers concerned, if so desired by the Chinese Government, may consider the abolition of extraterritoriality according to such progressive scheme (whether geographical, partial or otherwise) as may be agreed upon.

Many of the recommendations of the Commission are in accord with the fixed policy of the Government of the United States. As soon as a Government of China is established which demonstrates its ability to insure peace and security to its people in the legitimate pursuit of their affairs, the Government of the United States will be prepared immediately to enter into negotiations for the relinquishment of its extraterritorial control over its citizens in China.

The Government of the United States has watched with sympathetic interest the nationalistic awakening of China and welcomes

⁴ See pp. 966 ff.

⁵ Malloy, *Treaties, 1776-1909*, vol. I, p. 269.

every advance made by the Chinese people toward reorganizing their system of Government.

During the difficult years since the establishment of the new regime in 1912, the Government of the United States has endeavored in every way to maintain an attitude of the most careful and strict neutrality as among the several factions that have disputed with one another for control in China. Continuing its policy of non-interference in the internal affairs of the Chinese people, the Government of the United States awaits anxiously the day when a Government will appear in China which will be prepared to negotiate in China's behalf concerning the many questions outstanding. This Government wishes to deal with such a Government and the people of China in a most liberal spirit. It holds no concessions in China, enjoys no special privileges, and has never manifested any imperialistic attitude toward China. All that the United States desires is that its citizens be given equal opportunity with the citizens of the other Powers to reside in China and to pursue their legitimate occupations without special privileges, monopolies or spheres of special interest or influence.["]

KELLOGG

893.512/490 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 30, 1926—5 p. m.

[Received December 30—2:20 p. m.]

647. My 633, December 22, 5 p. m.^o Following from American consul general at Hankow:

"December 28, 2 p. m. My December 18, noon. I have today been officially informed that 'the statutes for the collection of the inland tax on the production and consumption of commodities' now being collected at Canton will be enforced here and at 'the remaining places where there are customs houses and native customs houses' from January 1, 1927. With the note from Commissioner of Foreign Affairs transmitting the notice, is enclosed statute authorizing imposition of the two and one-half percent surtax at Canton and since it is assumed that you are fully informed of the terms of this so-called statute I am not repeating it by telegram. Article 3 of the statute, however, reads as follows: 'In order to facilitate the merchants, this temporary inland tax may be paid to the various custom-houses, the native customhouses or barriers, or the tax collection offices in their vicinity. The detailed regulations governing the collection of this tax shall be separately made and promulgated by the Ministry of Finance.' Exact plan of collection is not defined.

Statute states that luxuries, which will be separately classified, shall pay five percent and that tobacco, wine, kerosene, gasoline, et cetera, shall be exempt from the payment of the tax but will be subjected to a special tax.

Please telegraph if diplomatic body has come to a decision or if you have any separate instructions apropos these taxes."

^o Not printed.

I have replied as follows:

"December 30, 5 p.m. Your December 28, 2 p.m.

1. The Department has instructed me to give complete support in diplomatic body meetings to British program as expressed in British declaration recently made [*made*] public. (Telegraph if you have not an authorized copy thereof.) Department is now willing to put Washington surtaxes into effect unconditionally.

2. Thus far no unanimity has been arrived at in diplomatic body conference regarding British declaration, since the Japanese Government is opposed thereto, and several diplomatic representatives are as yet without instructions. I construe the Department's instructions to mean that it would not wish to make known its agreement with the British program pending complete agreement by the powers concerned or some decision if unanimity is not achieved.

3. In this circumstance you should refrain from protesting against or in any way objecting to the imposition of the new taxes subject to further instructions. Replies to queries by American citizens as to payment of taxes should be of this tenor."

MACMURRAY

893.512/491 : Telegram

The Chinese Acting Minister of Foreign Affairs at Hankow (Chen)
to the Secretary of State

HANKOW, December 31, 1926.

[Received December 31—8:15 p.m.]

My Government learn that [it] is the intention United States Government to agree to British proposal regarding immediate enforcement so-called Washington surtaxes and payment proceeds to local authorities at ports collection.

In spite elaborately worded sentiments in British declaration, real meaning this proposal is that two-thirds new revenues will go to our political enemies who, with war chests replenished, will be able continue civil war that bleeds nation, delays liberation China from present international control known as foreign imperialism.

Specifically, British proposal means: (a) not only that Chang Tso-lin will receive new and substantial revenues but gilt-edge security will be created enabling him float loan, save his inflated currency from collapse, inseparable from reckless prosecution wars of revenge and feudal ambition; (b) not alone Peking (whose receipt of customs surpluses has made it hitherto object of loot) but every treaty port will become fresh object militarist plunder and added incentive to perpetuation feudalism civil war in China; and (c) Shanghai, which has been passing to Nationalist control without much fighting, must now become theatre bloody struggle (involving maybe permanent injury foreign trade), since the millions to be

collected there is [*sic*] 40 percent of the surtaxes—are to San Chuan-fang⁸ and Chang Tsung-ch'ang⁹ raw meat to beasts of prey.

If views, sentiments expressed in British declaration leave Nationalist mind unmoved it's because they cloak policy objectively a menace, danger speedy advancement cause Chinese nationalism. But those who support that cause are strong enough to meet this danger.

CHEN YU-YEN

893.512/504

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

[WASHINGTON,] December 31, 1926.

The Japanese Ambassador came to see me at 3:45 this afternoon. He stated that his Government was somewhat surprised at the action taken by the British in their memorandum which was left with the Diplomatic Body at Peking on December 18 and published on December 25.¹⁰ He stated that the Japanese Government felt that the surtaxes of the Washington Conference should not be implemented without condition as stipulated by the Washington Treaty; that his Government had made a proposal to the Diplomatic Body at Peking suggesting that an informal resumption of the Special Tariff Conference be called at Peking to sit with representatives of North and South China for the purpose of completing the program of that Conference. I told him that we had no information with regard to this new plan of the Japanese.

He stated that the method which the British Government has used in this matter made it very difficult for coöperation among the Japanese, British and American Governments on these matters, a thing which the Japanese Government had hoped very much could be brought about; his Government felt that the British memorandum had precipitated a very difficult situation in the Far East as regards China, and that it was almost impossible to know how to deal with it. He said that the Japanese Government desired very much to prevent any separation of China into several parts, a thing which he felt the British memorandum rather encouraged than discouraged.

I told the Ambassador that the British memorandum was still receiving consideration by the Secretary and that it was our expectation that when a reply was prepared a copy would be given to the diplomatic missions at Washington of the Powers party to the Washington Conference.

N[ELSON] T. J[OHNSON]

⁸ Military overlord of the Provinces of Kiangsu, Kiangsi, Chekiang, Fukien, and Anhwei.

⁹ Military Governor of Shantung.

¹⁰ See note No. 816, Dec. 23, from the British Ambassador and its enclosure, p. 923.

893.512/492 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *January 3, 1927*—6 p. m.

1. Your telegram number 1, January 2, 9 a. m.¹¹ The British memorandum which was handed to me is the same as the one telegraphed by you. Please feel free to take what time is necessary to make your suggestions and to reframe the draft reply given in my 311, December 29, to cover your views. In our statement I wished not to completely disregard and scrap either the treaties of Washington or the work of the Conference at Washington. But I wish to show that we are willing to make ample concessions to China and that we are willing to have discussions about them with any Chinese Government. In my opinion it seemed inadvisable to recognize at this time the different Chinese factions, but instead to use at least our moral influence for a united China. However, I shall be glad to consider your suggestions most carefully.

KELLOGG

893.512/501 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, *January 5, 1926* [1927]—9 a. m.[Received 11:18 a. m.¹²]

10. Your number 311 of December 29, 1926.

1. Viewing the draft reply to the British memorandum from the standpoints of our concern over the necessity to cooperate in matters of mutual interest in China with other powers and the more important factor of the effect which may be anticipated with regard to the Chinese people and the political elements of China, my feeling is frankly that the draft seems inadvisable for the reason that a misconstruction of your purposes would certainly be conveyed by it to both the foreigners in China and the Chinese.

2. As my telegram 632 of December 22 indicated, I do not wholly like the substance of the British memorandum nor the time and manner of its presentation. But I feel nevertheless that we perforce must go as far as they; on the other hand, it would be dangerous for us to appear to try to outbid them, and if we ourselves were to present a program which was less adapted to the circumstances of the situation as they actually exist, it would react upon us unfavorably. Frankly, the impression is made upon my mind by a reading of the

¹¹ Not printed.¹² Telegram in two sections.

draft reply that it does not constitute a reply at all. Instead it is a declaration of which the interpretation would be made that it was a competitive protestation of American sympathy for China and that it offers actually less than the proposal of the British offers; everything in it, beyond granting the Washington surtaxes, is linked to the conditioning fact that we are awaiting the establishment in China of an effective government. Therefore, it would appear to the Chinese that the proposals embodied in the draft reply were completely illusory, if, indeed, they did not appear to the Chinese to be, particularly in the last paragraph, unscrupulous. Apparently the intention of the draft reply is, by offering a program of negotiations that would be acceptable, to conciliate Chinese nationalistic feeling. My conviction is that any question whether one or another program is acceptable to the Chinese must be discounted. No considerable element of the Chinese will accept any one of them. . . . It is my hope that wide publicity will be given by the Department to the protest from Eugene Chen, in accord with the lines of a later telegram which will give a suggested reply, which reduces to absurdity the claims his faction and other Chinese factions have advanced and which also have been put forward by certain Americans who have been propagating the idea that by a wholesale renunciation of our rights we would win over the Chinese.

4. It seems to me, assuming as granted that we are sincere in our declarations of sympathy in regard to what is genuine in the aspirations of the Chinese people internationally, that it is not our immediately essential problem to declare in the face of Chinese importunities how much we will or must concede of our rights; it is to decide how we can arrange as a practical matter to grant what is necessary to the fulfillment of our own obligations and to avoid appearing to fail in carrying out the promises we made at the Washington and the Tariff Conferences. . . .

5. I assume your intention is to make the proposed draft reply public. If this were done, it would be considered by those few officials who read it as an academic recital of details not in themselves of any interest. It would seem to the very primitive native press, and to Chinese opinion in the large, merely to indicate that our Government felt lukewarm toward the proposals made by the British; that our Government was unable or unwilling to suggest of its own accord any alternative except generalities which are rendered meaningless by the "joker" they contain; and that our Government, in disavowing imperialist motives and avowing readiness to accept for its nationals the same treatment which is acceptable to the other nations, is abandoning the leadership accruing to it out of the Conference at Washington and is reverting to the policy by which other nationalities are allowed

to do the fighting for the United States. I admit regretfully that among the Chinese there is rather generally a disposition to believe that we may be expected always to make concessions up to the utmost limit and then to calculate upon profiting from what may be obtained by other powers through individual action.

6. Most respectfully I say that I cannot but counsel you that without any question the publication of the draft reply would leave on Chinese minds the fundamental impression that in the new situation created by the fact that a central government in China has disappeared virtually completely and irretrievably, we have failed to confront the situation and adapt ourselves to it. Political thought in China is quite incapable of understanding the difficulties we find in meeting the problems which their own lack of national organization have created. If we Americans are to avoid giving the Chinese reason to be disappointed and disillusioned with our sincerity and ability we must find some way by which we can deal with the realities of China's condition of not having a real government and not likely to have one during an uncertain number of years in the future, except in the event, which is rather improbable, that the Kuomintang succeeds in extending its effective control over the whole country. In regard to this practical problem, which the political disorganization of China presents, my own thinking has considerably advanced over that which I discussed earlier, in my number 325, August 14, 1926.¹³ I anticipate now the opportunity of conferring on this subject with you within about five weeks.

7. Meanwhile, in my opinion, it seems that the very best service which could be rendered to our own people by our Government as the trustee of the interests of America in China would be to acquiesce as a matter of course in the British proposal, without demur or more than a minimum of publicity. As to the general tenor of our reply, I venture the suggestion which follows:¹⁴

The American Government is happy to find on perusal of the British memorandum that the British Government continues to be actuated by the purposes which governed the Washington Conference, and that it desires to cooperate with the other interested powers in evolving a policy based upon those purposes as adapted to the wholly altered situation which has since come to prevail in China. As the British Government is already aware, the American Government is no less anxious than it to acquit itself of the obligations assumed at Washington with respect to the two and one-half and five percent surtaxes, and with that in view to join forthwith in a declaration by which the interested powers would consent that these surtaxes should at the earliest practicable moment be made applicable by the Maritime Customs Administration to the trade of their respective nationals. The Ameri-

¹³ *Ante*, p. 671.

¹⁴ Suggested reply not paraphrased.

can Government is also elaborating such legislative and administrative proposals as are necessary to enable it to put into effect as early as possible with respect to its nationals those recommendations of the report of the Extraterritoriality Commission which deal with matters that are within the individual competency of the several participating Governments; and it shares the hope that the other interested nations may similarly find it feasible to take such steps as they find suitable with a view to bringing about a general adoption of those recommendations upon which it is now possible to take action.

The American Government is hopeful that taking of these steps will assist in bringing about a situation in which a renewed sense of confidence may make it possible for China and the treaty powers to undertake a reconsideration of their relationships, with a view [to] such modification of the treaty status as may meet the aspirations of Chinese national feeling to the fullest extent that, under actual conditions, is compatible with the just rights and interests of the several nations concerned. The American Government would be happy to cooperate to that end with the other interested Governments and welcomes the British proposals as containing suggestions which under the actual conditions of the present may well prove helpful towards the object in view.

8. Referring to third sentence of the reply suggested above, I venture to point out that it is very necessary that there be drawn up an explanatory memorandum and drafts of the required legislation for enabling us to carry out the recommendations of the Extraterritoriality Commission. In the event that the Department has itself not yet met this need, I recommend most urgently that telegraphic instructions be given to Jacobs¹⁵ to communicate to you through the Legation by telegraph a summary of his suggestions and opinions, and to prepare the drafts for what documents he considers to be necessary so that our Government can comply with the Commission's recommendations.

MACMURRAY

**PROTESTS BY THE UNITED STATES AND OTHER POWERS AGAINST
CHINESE FINANCIAL MEASURES DIVERTING REVENUES FROM
PAYMENT OF FOREIGN LOANS IN DEFAULT**

893.51/4907

The Minister in China (MacMurray) to the Secretary of State

No. 508

PEKING, *March 11, 1926.*

[Received April 23.]

SIR: With reference to my telegram No. 523 of December 11, 1925, 12 noon,¹⁶ in which I reported that the Hukuang bond payment was again in default, I have the honor to transmit herewith enclosed, for

¹⁵ Joseph E. Jacobs, on duty at Peking as technical adviser to the American member of the Commission on Extraterritoriality in China.

¹⁶ Not printed.

the Department's information, a copy of a joint note dated December 12, 1925, signed by the British and French Ministers, as well as by myself, to the Wai Chiao Pu, protesting against the default. There is also transmitted herewith enclosed a copy, in translation, of note No. 120, dated December 31, 1925, from the Foreign Office in reply.

The Department's attention is invited to the quotations therein from the Ministry of Communications to the effect that "this debt has already been placed in the category of those to be consolidated by the new Customs surtax," and "we have also already written the Ministry of Finance, requesting that an appropriation be made to meet the principal and interest due this time."

In view of this unsatisfactory reply the interested Ministers, after agreement with their respective Group representatives, transmitted, on February 10, 1926, an identic memorandum to the Wai Chiao Pu in which inquiry was made as to the nature of the means which were being contrived by the Ministry of Finance for the payment of the loan service, and requesting that, failing the provision of funds from other sources, the necessary funds should immediately be furnished from Customs revenues.

I am now in receipt of a memorandum from the Ministry of Foreign Affairs, dated March 5th, in reply. This memorandum quotes a statement from the Ministry of Communications to the effect that the Hukuang Loan has already been placed by the Ministry of Communications before the Commission for the Readjustment of Finance, with a request that, together with others, the loan be placed upon the list for consolidation.

Copies of the enclosures accompanying this despatch have been transmitted to the American Group Representative for his information. The Department will be informed of any further action in this case.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure 1]

The American, French, and British Ministers to the Chinese Ministry of Foreign Affairs

The Undersigned, the British, French and American Representatives, present their compliments to His Excellency the Minister for Foreign Affairs, and have the honour to state that they have been informed by the Agents of the Banks concerned that the amount of £261,046. 5s. 5d., including the unpaid service of the German issued portion due in June last, namely £73,245: 8s. 10d., payable on December 3rd on account of the Hukuang Railways Loan is in default, and that the Banks have been informed by the Ministries concerned that the Chinese Government is unable to meet payment.

The Undersigned have the honour to point out that payment to the bondholders is due on December 15th and that there are still some days in which it is possible by prompt measures to avoid the grave consequences of public default. They would in this connection, referring to their Joint Memorandum of October 12th, 1923,¹⁸ remind His Excellency that according to Article 8 of the Loan Agreement¹⁹ the Chinese Government undertook if payment of the Loan Service could not be made from the funds originally designated for the purpose:—

“to make arrangements to ensure that the amount of deficiency be met from other sources and handed over to the Banks on the dates upon which funds were required to complete full payment of interest and repayment of principal.”

From this provision it is clear that the Hukuang Loan Service is entitled to an automatic priority of charge on the available revenues of the Chinese Government over loans contracted at a later date, such as the internal loans, the services of which are now being met out of Customs revenues, and the Undersigned have therefore the honour to request that the necessary funds shall immediately be furnished from the Maritime Customs revenues.

J. V. A. MACMURRAY
D. DEMARTEL
RONALD MACLEAY

PEKING, 12 December, 1925.

[Enclosure 2]

*The Chinese Ministry of Foreign Affairs to the American Minister
(MacMurray)*

No. 120

[PEKING,] December 31, 1925.

SIR: We have the honor to acknowledge the receipt of a joint memorandum from you, the British, and the French Ministers, stating:

(The Undersigned . . . Representatives) “ . . . have the honour to state that they have been informed by the Agents of the Banks concerned that the amount of £261,046-5s-5d, including the unpaid service of the German issued portion due in June last, namely £73,245-8s-10d, payable on December 3rd on account of the Hukuang Railways Loan is in default, and that the Banks have been informed by the Ministries concerned that the Chinese Government is unable to make payment.

¹⁸ Not printed; see telegram No. 350, Oct. 15, 1923, from the Minister in China, *Foreign Relations*, 1923, vol. I, p. 550.

¹⁹ Of May 20, 1911; MacMurray, *Treaties*, 1894-1911, vol. I, p. 866.

“ . . . According to Article 8 of the Loan Agreement . . . the Hukuang Loan service is entitled to . . . priority . . . over loans contracted at a later date”

This Ministry at once communicated a request for consideration and action to the Ministries of Finance and Communications, respectively. We have now received a note in reply from the Ministry of Communications, stating:

“Because the supplementary loan of this railway could not be floated, work on the road was suspended and the receipts have thus been small, and the railway has been unable to pay the principal and interest of the Hukuang Railway Loan when due, so that the Government has had the heavy expense of meeting the payment each time. Further, recent conditions have been much upset, and the Government has found it difficult to prepare the funds, and this debt has already been placed in the category of those to be consolidated by the new Customs surtax.

On the other hand, we have also already written the Ministry of Finance, requesting that an appropriation be made to meet the principal and interest due this time.”

This Ministry having received the foregoing communication, we have the honor, Mr. Minister, to indite this note for your information.

With compliments.

SEAL OF THE MINISTRY OF FOREIGN AFFAIRS

[Enclosure 3]

The American, French, and British Ministers to the Chinese Ministry of Foreign Affairs

[PEKING, February 10, 1926.]

The Undersigned, the British, French, and American Representatives, have the honour to acknowledge the receipt of the letter from the Wai Chiao Pu of the 31st ultimo²⁰ on the subject of the default in the Hukuang loan coupon, and they note that the Ministry of Finance have been requested to contrive means for the payment of the instalment of the loan service now overdue. More than a month has, however, since elapsed without the default in this important railway loan having been made good, and they have therefore the honour to enquire the nature of the means which are being contrived by the Ministry of Finance for the payment of the loan service, and to renew their request that, failing the provision of funds from other sources, the necessary funds shall immediately be furnished from Customs revenues.

[File copy not signed]

²⁰ Dec. 31, 1925; *supra*.

[Enclosure 4]

*The Chinese Ministry of Foreign Affairs to the American Minister
(MacMurray)*

MEMORANDUM

The Ministry of Foreign Affairs has the honor to acknowledge the receipt of the American Minister's memorandum of February 10th, regarding the sums which should be paid on principal and interest of the Hukuang Loan, which was at once communicated for consideration and action to the Ministry of Communications.

The Ministry of Foreign Affairs has now received a reply from the Ministry of Communications, stating:

"We have the honor to recall that the Hukuang Loan, principal and interest, has already been placed by this Ministry before the Commission for the Readjustment of Finance, with a request that the loan be consolidated with others and handled from the new Customs surtax. As to the payment of principal and interest now due, as conditions are now much disturbed, no payment can be made.

"Aside from addressing despatches to the Ministry of Finance and to the Commission for the Readjustment of Finance, we have the honor to indite this note for the information of your Ministry and to request that you will in turn inform those concerned."

The Ministry of Foreign Affairs has the honor to make this reply to the American Minister.

[PEKING,] *March 5, 1926.*

893.51/4909

The Minister in China (MacMurray) to the Secretary of State

No. 512

PEKING, *March 18, 1926.*

[Received April 23.]

SIR: I have the honor to refer to my telegram No. 97, of February 27, 4 p. m.,²¹ with reference to the fact that the Chinese banks had advanced funds to the Chinese Government for New Year's settlement. I reported therein that the Ministry of Finance had issued Treasury Bills for \$8,000,000. I now beg leave to transmit, herewith enclosed, a statement giving the details of the loan.²¹ These Treasury Notes, to the amount of \$8,000,000, are secured upon that portion of the Customs surplus which is now being used to serve the Ninth Year Currency Loan, the financial redemption of which loan is scheduled for 1927. There is also transmitted, for the Department's information,

²¹ Not printed.

a copy, dated February 15, 1926, of the Regulations governing the issuance of the Treasury Notes referred to.^{21a}

I beg leave to invite the Department's attention to the fact that the actual amount received from the proceeds of the \$8,000,000 amounts to \$3,880,000 only. Approximately half this amount has been turned over to the militarists for the prosecution of their respective campaigns. The other half has been used in the payment of arrears in salary of employees in the various government ministries.

A glance at the statement of the details of the loan will convince the Department of the ruinous terms upon which it was made.

On February 6th, after consultation with my British, French and Japanese colleagues, I transmitted an identic note to the Ministry of Foreign Affairs protesting against this issue. A copy of this note is transmitted herewith enclosed. There is also transmitted a note in translation, dated February 11th, from the Ministry of Foreign Affairs in reply to my protest stating that "the Customs surplus which is being set aside as security for this issue of Treasury Notes by the Chinese Government has, from the beginning, been used as security for the service of internal loans and does not concern or hinder foreign creditors."

This attitude on the part of the Chinese Government appears not only to constitute a breach of faith to its creditors, but it would seem amounts to a public dishonoring of the unpaid foreign and domestic debts.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure 1]

The American Minister (MacMurray) to the Chinese Minister of Foreign Affairs (Wang)

No. 162

PEKING, February 6, 1926.

EXCELLENCY: Reports have recently appeared in the press to the effect that Your Excellency's Government are negotiating with Chinese banks for the flotation of an issue of Treasury Notes to the amount of \$8,000,000, to be secured upon that portion of the surplus Customs revenues which is now being used for the service of the Ninth Year Currency Loan, due for final redemption in 1927.

In previous communications I have pointed out that foreign loans, the service of which the Chinese Government had engaged, in the event of default or of the specific security pledged proving insufficient, to meet from other sources, are entitled to an automatic priority over later internal loans. I have accordingly on several occasions protested against the action of the Chinese Government in hypothe-

^{21a} Not printed.

cating surplus Customs revenues for the service of internal loans while foreign debts and obligations, anterior in date to the internal loans in question, remained in default or in danger of default.

The situation regarding foreign loans bearing the general guarantee of the Chinese Government has since become aggravated, several such loans having recently fallen definitely into default.

By continuing to monopolise all available security to cover fresh domestic obligations the Chinese Government are ignoring their guarantee given in respect of previous foreign obligations, and it is evident that were this process to continue the fulfilment of that guarantee would be indefinitely postponed, and the guarantee would eventually come to be regarded as a dead letter.

I have accordingly the honor to protest against the proposed utilization of surplus Customs revenues as security for an issue of Treasury notes, while no concrete steps have been taken to provide for meeting long outstanding foreign obligations bearing the Chinese Government's guarantee of payment from general sources of revenue, and I trust that the proposal will be abandoned as an earnest of the Chinese Government's regard for justice and for its own reputation for fairness and good faith.

I avail myself [etc.]

J. V. A. MACMURRAY

[Enclosure 2]

The Chinese Minister of Foreign Affairs (Wang) to the American Minister (MacMurray)

No. 152

[PEKING,] February 11, 1926.

SIR: I have the honor to acknowledge the receipt of your formal note (No. 162, of February 6, 1926), stating that it is rumored that the Chinese Government is planning to use the Customs surplus for 1928 and subsequent years to secure an issue of Treasury Notes to the amount of \$8,000,000, the flotation of which is now under negotiation with Chinese banks, and that you desire to protest against this action.

I have the honor to observe that the Customs surplus which is being set aside as security for this issue of Treasury Notes by the Chinese Government has been from the beginning used as security for the service of internal loans, and does not concern or hinder foreign creditors.

I have the honor, Mr. Minister, to make this formal reply for your information.

SEAL OF THE MINISTRY OF FOREIGN AFFAIRS

893.51/4908

*The American, British, French, and Japanese Ministers to the Chinese Ministry of Foreign Affairs*²²

[PEKING, March 18, 1926.]

From statements which have appeared in the press, confirmed by information from other sources, it appears that the Chinese Government are contemplating the issue of a further internal loan secured upon that portion of the Customs revenues formerly required for the service of the German Indemnity and of recent years earmarked for the service of one of the earlier internal loan issues.

As lately as February 6 last the Undersigned Representatives of France, Great Britain, Japan and the United States had occasion to address His Excellency the Minister for Foreign Affairs in regard to the similar flotation of an issue of Treasury Notes and to protest against the continued monopolising of all available security for fresh domestic loans in disregard of the guarantees attached to prior foreign obligations now in default. The reply returned to these communications, to the effect that the interests of foreign creditors were not adversely affected, cannot be accepted as satisfactory, since it is self-evident that when there is only one source of revenue from which the creditors as a whole can hope for payment, every new lien created thereon for the benefit of new internal loan issues postpones *pro tanto* the expectation of such payment.

The undersigned Representatives are obliged once again to lodge the strongest possible protest against the issue of any new loan on the security of Customs revenues in the manner now alleged to be in contemplation, and they feel impelled to point out that the action of the Chinese Government in denying payment of any funds on their foreign obligations now in default while at the same time raising new loans for other purposes not only constitutes a breach of faith to their creditors but falls little short of a public dishonouring of the unpaid foreign and domestic debts of the nation, and is the more indefensible at the very moment when the consolidation of the unsecured and inadequately secured debt upon the Customs revenues is under discussion in connection with the proceedings of the Tariff Conference. The Undersigned Representatives cannot believe that the Government of the Chinese Republic are willing to appear in such a light, and they therefore request that they may receive immediate assurances that the loan issue in question will not be proceeded with.

[File copy not signed]

²² Copy transmitted to the Department by the Minister in China as an enclosure to his despatch No. 509, Mar. 25; received Apr. 23.

893.51/4945

*The American, British, and French Ministers to the Chinese Ministry of Foreign Affairs*²³

[PEKING, April 19, 1926.]

The Undersigned, the British, French and American Representatives, have the honour to acknowledge receipt of the memorandum from the Wai Chiao Pu of March 5th on the subject of the default in the Hukuang Loan service, and to point out that this matter appears to be insufficiently dealt with by a mere repetition of the statement by the Ministry of Communications that they are unable to provide the necessary funds and have referred the matter to the Financial Readjustment Commission in connection with the utilisation of the increased Customs revenues resulting from the raising of the import tariff. While the undersigned Representatives trust that security for the loan service will in due course become available in accordance with the relevant provisions of the Loan Agreement from the Customs revenues after the raising of the import tariff, they do not consider that the prospect of this eventual solution warrants any abatement of effort on the part of the Chinese Government, in the interests of their credit and good faith towards the bondholders, to meet the service of this important international railway loan contracted fifteen years ago from existing sources of revenue. The Undersigned Representatives therefore request that, failing the provision of funds from other sources including those specifically indicated in the Loan Agreement, and failing the enforcement of the provision in the Loan Agreement for the administration by the Maritime Customs in the interests of the bondholders of the provincial revenues charged with the service of the loan, the Ministry of Finance will immediately make the necessary funds available from the existing Customs revenues.

[File copy not signed]

898.51/4923 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 4, 1926—8 p. m.

114. American Group inform Department that they have received telegram from their representative in Peking as follows:

"Foreign Office recently requested Diplomatic Body release to them customs funds to meet various pressing needs as the result of civil war. The Diplomatic Body replied as follows under date May 12th:

"The interested heads of Legation have the honor to inform the Ministry that so long as they are assured a sufficient sum has been set aside from the revenue

²³ Copy transmitted to the Department by the Minister in China as an enclosure to his despatch No. 633, June 11; received July 14.

collected by the Chinese Maritime Customs Administration and lodged in the custodian banks to safeguard the service of the foreign loan concluded before 1900, and of the indemnity of 1901, and the Reorganization Loan of 1913, secured on the customs revenue, they are not concerned with the use to which the surplus of these customs revenues may be put after the aforesaid loan and indemnity service have been fully met and, further, that, apart from the expectation which they naturally entertain that the Chinese Government will in equity meet their other outstanding foreign obligations no less than their domestic obligations out of any available assets, they do not desire to interfere with any arrangements arrived at between the Chinese Government and the Inspector General of Customs with regard to the disposal of this surplus revenue.'"

American Group refer to recent protests of Legations to Chinese Government, including your note No. 162 of February 6 to Chinese Minister of Foreign Affairs, regarding use of customs funds in meeting internal obligations at a time when previously outstanding foreign obligations are in default. They consider attitude of Ministers as evinced in despatch above quoted to be a radical reversal of position taken in connection with protests above referred to. They recall that prior to 1921 no customs funds were available to Chinese Government except with consent of Diplomatic Body pursuant to 1912 agreement. They refer in that connection to Chinese Secretary's memorandum of December 2, 1921, copy of which was forwarded by Bennett.²⁴ They suggest that Ministers should have taken opportunity afforded by request of Foreign Office to protect interests of nationals holding foreign loans which have been made subject of protests above referred to.

Please telegraph brief comment in regard to above for communication to Group.

KELLOGG

893.51/4925 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 8, 1926—9 a. m.

[Received June 8—9:25 a. m.]

242. Your telegram 114, June 4, 8 p. m.

1. Although it be conceded that holders of foreign obligations antedating consolidation of internal loans in 1921 are morally entitled to priority of payment out of customs revenues, and although legations of nationalities so concerned have been fully warranted in continuously urging upon Chinese Government equities of such claims, it is nevertheless the fact that the obligation is one of good faith rather than of law and that creditors in question have in fact no lien whatsoever upon customs funds. An appreciation this situation seems implicit in personal letters which Lamont and Cochran have addressed to Strawn in connection with their interests and which he had felt at liberty to show me.

²⁴ Memorandum not printed.

2. The principle laid down in the Department's telegram number 3, January 5, 5 p. m., 1921²⁵ (see also enclosures 1 and 3, Legation's despatch 832, February 15, 1921²⁶) is that 1912 agreement merely enables diplomatic body (now the interested Ministers) to assure service of specified loans and indemnities and (since the cancelation of clause 6 on April 7, 1913; see MacMurray's *Treaties*, page 947) rests in them no discretion to withhold or otherwise to deal with any balance of customs funds accruing to the Chinese Government; the agreement does not even require the Chinese Government to make application to diplomatic body for releases of such balances, although that practice has doubtless properly been followed with a view to enabling a [*the*] diplomatic body to verify the existence of funds adequate to meet the specified services while certain nationalities have till recently taken a contrary view and caused the diplomatic body to withhold assent to various requests for releases. The contention of our Government has been that it was solely with a view to meeting this limited purpose that the diplomatic body is entrusted with a degree of supervision over the funds which is obviously of a purely fiduciary character and on the principle originally laid down by the Department's instruction above quoted and now accepted by all other nationalities. Neither my colleagues nor I consider that the recent request of the Chinese Government for a release of customs funds could have been declined or made conditional upon the satisfaction of unrelated claims without abuse of their fiduciary relationship to these funds.

MACMURRAY

893.51/4932 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 13, 1926—9 a. m.

[Received June 14—3:46 a. m.]

245. 1. British Minister has informed me of recent developments in a serious situation involving practical disappearance of salt revenues of Central Government. In the various salt-production areas the local militarists have insisted on subsidies in return for permitting Salt Administration to continue its operations, with the practical result that Government's revenues were cut off from all salt areas except Changlu district, near Tientsin, which until recently continued to pay approximately \$13,000,000 per annum which sufficed to serve foreign

²⁵ *Foreign Relations*, 1921, vol. I, p. 494.

²⁶ Not printed.

loans charged upon the salt. Quite recently General Ch'u, who had been put into office as Military Governor of Chihli by associates of General Chang Tso-lin, without reference to the Peking Government, demanded half of the salt revenues from this area. Salt Administration endeavored to compromise with him by a payment of some \$450,000 and a monthly subsidy of \$120,000, which was the utmost that could be spared without endangering foreign loan services. Ch'u refused and has established his own collecting agency on whose order salt is being removed from Administration's yards.

2. British, French and Japanese Ministers, representing nationalities interested in reorganization loan, conferred June 11th and agreed to recommend to their respective Governments that for protection of the Salt Administration and the loans secured upon its revenues, they should be authorized to inform Ch'u that if within a week he had not accepted Administration's offer of subsidy that offer would be withdrawn and the interested powers would assemble at salt fields near Tangku sufficient military and naval forces to prevent further interference with functioning of the Salt Administration.

3. British Minister asked me to inform you of this and to inquire whether our Government would be disposed to join in such action even though American interests are concerned with the salt revenues only to the extent of partial security for their share of Hukuang loan. I consented to do so, although informing him that I did not anticipate my Government would be prepared to use its forces at Tientsin for any purposes other than those incidental to its mission of keeping open the railroad or in case of emergency for the protection of life and property.

MACMURRAY

893.51/4932 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 15, 1926—4 p. m.

120. Your 245, June 13, 9 a. m. You should inform British Minister that this Government cannot participate in suggested joint military action for purpose of protection of salt revenues. You should be guided in this matter by Department's telegram No. 61, March 13, 1922, 7 p. m., and Department's written instruction No. 708, dated July 31, 1924.²⁷

KELLOGG

²⁷ Neither printed.

893.51/4937

*The American Group to the Secretary of State*NEW YORK, *June 22, 1926.*

[Received June 23.]

HUKUANG RAILWAYS LOAN

SIR: Referring to our letter of June 15th²⁸ transmitting texts of various cables relating to the receipt of funds from China to apply on the service of this loan, we hand you herewith for the information of the Department copy of a further cablegram (No. 4759) received by us on June 18th from London.²⁸ In accordance therewith we have announced that beginning Thursday, June 24th, we will pay coupons from bonds of the German issue of this loan which matured June 15, 1920 and June 15, 1925. We also enclose copy of a letter dated June 2nd from Messrs. Morgan Grenfell & Co., London, transmitting to us text of a legal opinion obtained by the Hongkong & Shanghai Banking Corporation regarding the liability of the Chinese Government to pay interest on drawn bonds until such bonds are finally redeemed.²⁸ We deem this opinion of considerable importance.

Respectfully,

J. P. MORGAN & Co.,
For the American Group

893.51/4955

The Minister in China (MacMurray) to the Secretary of State

No. 681

PEKING, *July 27, 1926.*

[Received September 1.]

SIR: I have the honor to refer to my telegram No. 245, of June 13, 1926, 9 a. m., in regard to the seizure of the salt revenues from the Changlu salt production district, near Tientsin, by the Military Governor of Chihli, General Chu Yü-p'u. In this telegram I stated that the British, French and Japanese Ministers, representing the nationalities interested in the Reorganization Loan, had agreed to recommend to their respective governments that, for the protection of the salt administration and the loans secured upon its revenue, if this interference did not cease, the interested nations would assemble at the salt field near Tangku sufficient military and naval forces to prevent further interference with the functioning of the salt administration. I further stated that the British Minister had inquired whether the American Government would be disposed to join in

²⁸ Not printed.

such action. The Department replied on June 15th (telegram No. 120, June 15, 1926, 4 p. m.) to the effect that the American Government could not participate in the suggested joint military action.

I now have the honor to state that the suggested military action did not take place, and I have been informed by the Acting Associate Chief Inspector of the Salt Gabelle, a British subject, that an agreement has been practically concluded between General Chu Yü-p'u, on the one hand, and the Ministry of Finance and Salt Administration, on the other, whereby the former obtains a subsidy of \$300,000 per month, local currency, from the Changlu salt revenue. This agreement has not yet been formally ratified by the Ministry of Finance and by General Chu himself, but the Acting Chief Inspector was confident that it would be so ratified. In return for this subsidy, General Chu guarantees not to interfere with the collection of revenue by the salt administration in the Changlu district. The Central Government will thus obtain about \$9,000,000 per annum, local currency, instead of \$13,000,000, which is the normal total revenue collected in this district.

I have [etc.]

J. V. A. MACMURRAY

893.51/4954

The Minister in China (MacMurray) to the Secretary of State

No. 686

PEKING, July 30, 1926.

[Received September 1.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 232, of May 28, 1926,²⁹ transmitting a copy of a letter dated May 21, 1926, from the American Group of the Chinese Consortium in regard to the use of revenues of the Chinese Maritime Customs.²⁹ The Department requested that I submit my comments by telegraph. Although the Department in its telegraphic instruction No. 132, of July 1, 5 p. m.,²⁹ indicated that no comments were desired by telegraph in addition to those contained in my telegram No. 242, of June 8, 1926, sent before the receipt of the present despatch, I think it advisable to submit these additional observations by mail.

Referring to the memorandum of December 2, 1921, compiled by the Chinese Secretary of the Legation,²⁹ on the subject of the practice followed in effecting releases of surplus customs revenue, I desire to state that Mr. Peck regrets that in this memorandum he neglected to state that Article 6 of the Bankers Arrangement of 1912 was cancelled by action taken at the Diplomatic Body meeting of April 7,

²⁹ Not printed.

1913. In writing the memorandum he consulted only the correspondence files of the Legation, which curiously enough, contain no reference to this action. My own compilation of treaties was not available to him and he neglected to search the files of Dean's circulars, which in the year 1913, were not routed through the Chinese Secretariat.

The memorandum was correct in stating that the Chinese Government and the interested Powers all have appeared at least to act on the assumption that the Chinese Government was not privileged to utilize surplus customs revenues until "released" by the Powers. Requests from the Government for such releases have been made repeatedly, the last one as recently as July 14, 1926. (See Diplomatic Circular No. 174, of July 20, 1926, a copy of which is attached hereto.³⁰) On occasion these requests have been refused, and sometimes on grounds not connected with the service of the specified obligations secured on the customs revenue—e. g., the identic note to the Chinese Foreign Office of November 5, 1918, in which the reason given for refusing the release was the continuance of civil war. (See the Legation's despatch D. No. 2318, November 6 [8], 1918.³⁰ It was this irregularity of procedure, of course, which caused the Department to observe in its telegraphic instruction No. 3, January 5, 1921,³¹ that it welcomed "the opportunity to revert to a more regular procedure".

I do not understand that the Chinese Government itself has interposed any sustained or strong objection to the manner in which, in practice, the Powers have thus extended their quasi-control of the customs revenue under the 1912 arrangement. This control, or trusteeship, has necessarily been exercised through Sir Francis Aglen, Inspector-General of Customs, since in the 1912 arrangement the Powers secured the consent of the Chinese Government that all Maritime Customs revenues should be deposited to his credit. This arrangement has given the Inspector-General an almost despotic power over this revenue—a power which he wields solely by virtue of the support he receives from the interested foreign Legations. The Chinese Government feels itself powerless to dispense with Sir Francis so long as the British Legation and the other Legations support him. As a general thing, I am convinced, the Government appreciates to the full the unimpeachable integrity and devotion to Chinese interests of the present Inspector-General, but there have been times when a harassed Minister of Finance has been highly incensed at the point blank refusal of the foreign Inspector-General to release funds to his order.

³⁰ Not printed.

³¹ *Foreign Relations*, 1921, vol. I, p. 494.

Until 1921 Sir Francis always met demands from the Government for customs funds with the statement that the Government must first secure the consent of the interested Legations. After the mandates of March, 1921, establishing the consolidated internal loan service (devised by Sir Francis in consultation with the late Mr. Chow Tzu-chi) he recognized the authority of those mandates, although, in doing so, he did not consult the foreign Legations. In devoting to the consolidated internal loan service the millions of customs revenue required therefor, Sir Francis not only did not ask the consent of the Powers, but he flatly denied any weight to their arguments as to the superior rights of senior foreign loans. Yet, when it has been a question, since 1921, of petty allocations for the support of plague-prevention work, etc., the Chinese Government, apparently at his insistence, has still asked the consent of the Powers, just as it did before 1921. In this connection the Department's attention is invited to the Note of the Chinese Foreign Office dated July 14th, enclosed herewith,²² which states quite frankly that the officiating Inspector-General replied to the request for funds that "the consent must be obtained of the Foreign Ministers concerned."

Sir Francis Aglen has undoubtedly met with great difficulty in conserving the Customs revenue for the purpose of meeting the legal obligations of the Chinese Government and for uses calculated to promote the Government's own real welfare. On a number of occasions the Chinese Government has attempted to secure immediate use of funds allocated to the service of internal loans under the terms of the Mandates of 1921. In these circumstances Sir Francis has insisted that those terms be carried out and that the Government keep faith with the bondholders. I understand that in defence of the internal loan service he is guided by the belief that popular support of the Government will be increased by widespread investment in Government bonds. There can be no doubt that his announced support of these bonds has been the essential factor inducing the Chinese public to purchase them, and that he feels keenly his moral duty toward the purchasers. In furtherance of his policy, he wishes to add more issues to the bonds thus secured. This leads him to reject the claims of previously concluded foreign loans, as presented by the Legations. He is thus brought into conflict with the very Governments upon whose support he is entirely dependent for his control over Customs funds, as given to him by the 1912 Bankers' Agreement. (MacMurray's *China Treaties*, page 946.)

Adverting once more to the Foreign Office Note of July 14, 1926, I have the honor to state that I pointed out to my colleagues in an observation placed on the circular what appeared to me to be an important principle involved in the continuing nature of the allocation

²² Not printed.

to which assent was requested. The same principle is raised in the hypothecation of the customs revenues for the service of bonds. I venture to quote below the observation to which I have referred:

"The note of July 14 from the Wai Chiao Pu introduces an innovation which appears to me to be fundamental, in that it requests not merely the release of an ascertainable balance but a commitment to assent to releases³³ month by month for an indefinite period, without the possibility of foreseeing whether the balance requested will be available in any given month in the future. In my understanding of the matter, so long as the 1912 agreement remains in effect, the body of interested Ministers have a fiduciary obligation to assure that the indemnities and specified loan services are duly met; and although they have no discretion as to the uses to which the Chinese Government may put any balances in excess of the funds necessary for the indemnity and loan services, it is their function to assure that no releases are made until satisfied of the existence of such surplus at the time. I cannot escape a feeling that by consenting to the present request they would vitiate this principle and forego what is both a right and a duty to protect the security of the indemnities and foreign loans specifically charged upon the customs revenue."

It is an unlooked for situation that has now arisen out of the international action taken in 1912. The Powers acquired, and still exercise, a trusteeship over the whole customs revenue, but in respect to obligations that require only a portion of the whole. In regard to the disposition of the remainder, they have informed the Chinese Government most emphatically that they exercise no control whatsoever. They have, in fact, latterly refused even to express an opinion as to the way that it should be used. But at the same time they continue to insist upon an arrangement that places the control of this surplus in the hands of a particular officer of the Government of foreign nationality.

The Department will have noted in the Senior Minister's memorandum to the Chinese Foreign Office of May 12, 1926³⁴ (see Diplomatic Circular No. 118, of the same date³⁵) a statement that the interested Heads of Legation "do not desire to interfere with any arrangement arrived at between the Chinese Government and the Inspector-General of Customs with regard to the disposal of this surplus revenue". The original draft of this communication was presented by the British Minister in accordance with suggestions given him, as I understand, by Sir Francis Aglen. At any rate my British Colleague observed at the meeting of the interested Ministers that he thought it would strengthen the hands of the Inspector-General. In deference to the unanimous judgment of my colleagues, I concurred in the draft; but when the Senior Minister proposed inserting the same

³³ \$50,000 monthly, beginning from July 1926.

³⁴ See telegram No. 114, June 4, to the Minister in China, p. 948.

³⁵ Not printed.

phraseology in a similar memorandum to the Foreign Office in the following month, I suggested that its inclusion was unnecessary, and my suggestion was adopted. (See Diplomatic Circular No. 142, of June 11th, and copies of observations placed thereon.^{35a})

It may be questioned whether, if the Protocol Powers were to follow to its logical conclusion their present announced policy of leaving the Chinese Government free to dispose of the surplus customs revenue at its will, they should not announce to the Government their willingness to limit the applicability of the 1912 Bankers' Agreement to that portion of the customs revenue required for the service of foreign obligations specifically secured thereon. That done, there would remain no means of foreign pressure to prevent the Chinese Government from restoring, to a large extent, if it so desired, the conditions existing before 1911, when the Inspector-General of Customs had no control over customs revenue, but was merely the head of the collecting agency. I do not suggest that it would be advisable to withdraw international support from the Inspector-General in this way; on the other hand, in view of arrangements now in contemplation for debt consolidation and purposes similarly requiring definite security upon customs revenues, I am definitely of the opinion that it would be preferable to insist that the control of those revenues should remain in the hands of such a foreign official. I have invited the Department's attention to this point principally because it seems to supply the only discernible basis for the impression that prevails with many Chinese, and some foreigners, that the foreign Legations control the Maritime Customs revenue.

Incidentally I may remark that some inconsistency is to be found in the fact that in China it is the British Minister who wishes to "strengthen the hands of the Inspector-General" (British), while among the foreign governments it is the British Government that has expressed most anxiety not to overload the customs revenue with foreign obligations, and not to appear to increase foreign control over that revenue.

I have [etc.]

J. V. A. MACMURRAY

893.51/4951 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 24, 1926—4 p. m.

[Received 9:10 p. m.]

346. My 324, August 12, 11 a. m., paragraph number 4.³⁶

1. Following note has been transmitted to the Ministry for Foreign Affairs:

^{35a} Not printed.

³⁶ *Ante*, p. 670.

"The American Legation presents its compliments to the Ministry of Foreign Affairs and has the honor to state that it has received information indicating an intention on the part of the Chinese authorities concerned to issue now [*new?*] domestic loan bonds to a par value of silver dollars 25,000,000 for the purpose of meeting administrative expenses and for the redemption of certain short-term domestic debts. It is understood that the security for this loan is to be approximately silver dollars 11,000,000 per year at present paid from the Maritime Customs revenues for the service of the 9th-year domestic loan which, allowing for the postponement of amortization dates, is due to become extinguished in 1927.

In these circumstances the Legation finds it necessary to remind the Chinese authorities once again of the unfulfilled liabilities in respect of the arrears of service of the Chinese governmental obligations due to American citizens and companies. The list is long and should be well known. It includes the American share in the Hukuang Railway loan; also loans made by the Continental and Commercial Trust and Savings Bank, the Pacific Development Corporation, the Riggs National Bank and the Munsey Trust Company. Other accounts which are entirely in arrears are also due to the following American creditors: American International Corporation; American Locomotive Company; American Metals Company; American Trading Company; Anderson, Mayer and Company, Limited; Ault and Wiborg China Company; Baldwin Locomotive Works; China American Trading Company; China Electric Company; Fearon Daniel and Company; Fowler and Company, W. W.; Frazer and Company, E. W.; General American Car Company; Robert Dollar Company; United States Steel Products Company; Wilkinson and Company, T. M. These creditors whose claims are long past due have all either supplied materials to various departments of the Chinese Government or made advances to them. In addition to the above list there are also a large number of American firms and individuals to whom are owed various sums in compensation for looting outrages committed by military and bandits for damages to property and for loss of life.

The Legation would also remind the Chinese authorities that under the terms of the agreements for many of the American obligations the Chinese Government engaged, in the event of a default or of the specific security pledged becoming ineffective, to provide from other sources the sums necessary for payment of principal and interest. The Legation must therefore point out to the Chinese authorities that these debts to American citizens and organizations are thus entitled to an automatic priority over debts subsequently contracted respecting the use of any customs surplus funds which may become available as a result of the retirement of loans hitherto secured on customs revenues. The Chinese authorities, having failed to make effective the guarantees provided in various loan agreements and contracts for the purchase of materials, now rest under the manifest duty to make provision for the defaulted payments from any available excess of customs surplus resulting from the extinction of a consolidated loan charge such as the 9th-year domestic loan.

The Legation specifically denies the justice of the position adopted by the Chinese Government to the effect that the consolidated domes-

tic loans enjoy a preferential right to the use of customs surplus funds after services of the pre-Boxer loans, the Boxer indemnities and the reorganization loan of 1913 have been met.

The American Legation therefore insists that the Chinese authorities concerned have no right to utilize as the security for new domestic financing the amount of approximately eleven million dollars per annum to become available upon the extinction of the 9th-year domestic loan and could only regard any such action taken by the Chinese authorities as a further failure to observe good faith towards the American creditors of China. The American Legation therefore emphatically protests against the issuance of the reported \$25,000,000 domestic loan bonds."

2. Copies of note have been sent to British, French and Japanese Legations for identic action if they feel so inclined. Copies will be given to press tomorrow.

3. Repeated by telegraph to Tokyo.

MACMURRAY

893.51/4957 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, September 9, 1926—9 a. m.

[Received 1:25 p. m.]

382. A personal letter written by the Commissioner of Customs at Shanghai, shown to me by the Acting Inspector of Customs, states that a demand is being made by Sun Ch'uan-fang that the Commissioner pay over some \$900,000 from Customs revenues to the Chinese General Chamber of Commerce to be used to repay to the native guilds a forced loan for military purposes made by Sun at the time the Shanghai area was being occupied.

This threat is considered by the Commissioner to be so serious as to warrant the Inspector General's attempting to make an arrangement with the Peking authorities providing authorization of the payment. However, the Acting Inspector General of Customs doubts whether Sun may not be bluffing. He is trying to temporize and is taking as his position that the matter has too much importance to be decided by him in the absence of the Inspector General. He thinks, and I entirely concur, that the enforcement of Sun's demand would mean putting an end to the Maritime Customs Administration and producing among local leaders a scramble to control the revenues of the various customhouses.

MACMURRAY

893.51/4970

The Minister in China (MacMurray) to the Secretary of State

No. 743

PEKING, *September 3, 1926.*

[Received October 20.]

SIR: I have the honor to refer to my despatch No. 508, of March 11, 1926, and to previous correspondence, regarding the default on the Hukuang bond payment, and to my telegram No. 346, of August 24th, 4 p. m., in which I quoted my note to the Ministry of Foreign Affairs protesting against the issuance of the reported Silver \$25,000,000 domestic loan bonds. In this connection, I have the honor to transmit herewith enclosed, for the Department's information, a copy of a joint note, dated September 1, 1926, signed by the Counselors of the French and British Legations, in the absence of their respective ministers, as well as by myself, to the Wai Chiao Pu, formally demanding that after meeting the foreign and domestic charges now being served by the Customs, that the just claims of the bondholders of the Hukuang Railway Loan shall be met out of such Customs revenue, before any new capital charge is placed upon that revenue.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure]

The American, British, and French Representatives to the Chinese Ministry of Foreign Affairs

The Undersigned Representatives of France, Great Britain and United States have the honour to remind the Wai Chiao Pu of the frequent communications they have had occasion to address to the Ministry on the subject of the default in the payment of the Hukuang Railway Loan, and in view of reports that have been received to the effect that the Ministry of Finance have been endeavouring to raise a new internal loan secured on a certain portion of the Customs revenue now being utilised for the service of one of the existing internal loans due for final redemption by the end of the year 1927, formally to demand that, if and when Customs revenue becomes available after meeting the foreign and domestic charges now being served thereby, the just claims of the bondholders of the Hukuang Railway loan shall be met out of such Customs revenue before any new capital charge is placed upon that revenue.

A request in the same sense has already been addressed to the Ministry of Communications direct by the Banking interests concerned in a joint letter dated August 19.

En l'absence de M. le Ministre de France,
TRUPIER

30 août 1926

(in the absence of H. M. Minister)

OWEN O'MALLEY

Aug. 30, 1926

J. V. A. MACMURRAY

[PEKING,] *September 1, 1926.*

893.51/4987

*The Chinese Ministry of Foreign Affairs to the American Legation*³⁷

[Translation]

MEMORANDUM

The Ministry of Foreign Affairs presents its compliments to the Legation, and has the honor to acknowledge the receipt of the Legation's memorandum (No. 285, of August 24, 1926),³⁸ stating that it has been rumored that the Chinese Government will float a new domestic loan to be secured by Customs surplus funds, and filing a protest.

The matter was referred by this Ministry to the Ministry of Finance, from whom a reply has been received, stating:

"We have the honor to recall that the various friendly Powers at the Washington Conference in 1921, observing that our Central Government was in financial straits, drew up the Customs Treaty, providing for an increase in the Customs Receipts to afford relief. However, more than four years passed before the Special Customs Conference could finally be convoked; moreover, up to the present time we have not obtained any actual benefit from the Customs increase allowed us by the Washington Conference. Hence, we were without resource.

"With a view to getting together several months' administrative expenses for the Central Government it was proposed to float a loan, using the security for the consolidated domestic loans. This plan designated as security the funds hitherto set aside from the Customs surplus as security for internal obligations, and did not contemplate making additional appropriations from the Customs funds. The matter fundamentally does not affect creditors of the various nationalities.

³⁷ Copy transmitted to the Department by the Chargé in China as an enclosure in his despatch No. 790, Oct. 20; received Nov. 26.

³⁸ See telegram No. 346, Aug. 24, from the Minister in China, p. 957.

"As to the consolidation of China's various foreign obligations which are without security or whose security is inadequate, the Government earlier stated with sincerity that it is only necessary for the Customs Conference speedily to resume its sessions and conclude its deliberations, when there will naturally be means of meeting this category of foreign obligations. The various Powers should not be over-anxious."

PEKING, *October 13, 1926.*

893.51/4974 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, *October 30, 1926—11 p. m.*

254. John Jay Abbott³⁹ telegraphs Department that Chinese Minister for Finance plans new domestic loan 30,000,000 Mex. secured on Customs to be released from service 9th year internal loan 1927. If this report is correct you are authorized to make protest similar to that reported in your 346, August 24, 4 p. m.

KELLOGG

893.51/4976 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, *November 4, 1926—10 a. m.*

[Received November 4—1:10 a. m.]

528. Your 254, October 30, 11 p. m. There would appear to be good ground for believing that such plans are under way with probability that P'an Fu⁴⁰ has gained support of Chang Tso-lin⁴¹ and Chang Tsung-chang⁴² by promise of 3,000,000 to each. I am keeping close watch on the matter and shall avail myself of Department's authorization to protest if the occasion warrants.

MAYER

893.51/5010

The Minister in China (MacMurray) to the Secretary of State

No. 870

PEKING, *December 21, 1926.*

[Received February 5, 1927.]

SIR: I have the honor to refer to my despatch No. 509 of March 25, 1926,⁴³ with which I transmitted copy of a joint memorandum dated March 18th signed by the representatives of France, Great Britain, Japan and the United States, protesting against the issue of a \$20,000,000 bond issue, to be known as the "Fifteenth Year Public

³⁹ Vice President, Continental & Commercial Trust & Savings Bank of Chicago.

⁴⁰ Ex-Minister of Finance.

⁴¹ Military ruler of Manchuria.

⁴² Military Governor of Shantung.

⁴³ Not printed; for joint memorandum which it transmitted, see p. 947.

Loan Bonds", to be secured on that portion of the Customs revenues formerly required for the service of the German indemnity; also to my telegram No. 346, of August 24, 4 p. m., in which I quoted a note I addressed to the Ministry of Foreign Affairs on the same date protesting against the report that the Chinese authorities were about to issue new Domestic Loan Bonds to a par value of silver \$25,000,000; as well as to my despatch No. 790, of October 20, 1926,⁴⁴ with which I transmitted a translation of the reply from the Ministry of Foreign Affairs to my note of August 24th in which I protested against the issuance of the \$25,000,000 bond issue.

In connection with the foregoing I have the honor to transmit herewith enclosed, for the Department's information, copy of a joint memorandum dated November 20th, signed by the French, British, and Japanese Ministers, and myself, in which opposition is reaffirmed to any further hypothecation of the Customs revenues for the purpose of floating new internal loans as long as no steps have been taken by the Chinese Government to make good the existing unsecured and inadequately secured foreign obligations of the Chinese Government.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure]

The American, British, French, and Japanese Ministers to the Chinese Ministry of Foreign Affairs

MEMORANDUM

The Undersigned Representatives of France, Great Britain, Japan and the United States have the honour to acknowledge receipt of a memorandum from the Wai Chiao Pu dated 13th October, in reply to their joint memorandum of 18th March protesting against the issue of any new internal loan on the security of surplus Customs revenue while longstanding foreign obligations remain in default.

The Undersigned note that the Ministry of Finance maintain that the interests of China's foreign creditors are in no way affected by the assignment, as security for a new loan, of surplus Customs revenues hitherto set aside for the service of the consolidated internal loans. Such a contention is obviously untenable, and has already been answered in the memorandum of 10th [18th] March in which it was pointed out that, when there is only one source of revenue from which China's creditors can hope for payment, every new lien created thereon must necessarily postpone *pro tanto* the expectation of such payment. And it is, indeed, self-evident that the interests of China's

⁴⁴ Not printed; for reply from the Ministry of Foreign Affairs which it transmitted, see p. 961.

foreign creditors must suffer by every fresh hypothecation of that revenue.

At the present time the Chinese Government are reserving the surplus Customs revenue for the service of the internal loans consolidated in accordance with the Presidential Mandates of 1921, thereby disregarding the claims of their foreign creditors. Their protestations of good faith towards the latter clearly require that surplus Customs revenue should be utilized for meeting prior foreign claims before any new charges are placed thereon.

The Undersigned Representatives are, therefore, under the necessity of reaffirming their opposition to any further hypothecation of the Customs revenue for the purpose of floating new internal loans as long as no steps have been taken to make good the defaults in the existing unsecured and inadequately secured foreign obligations of the Chinese Government.

[File copy not signed]

PEKING, *November 20, 1926.*

DISINCLINATION OF THE UNITED STATES TO INTERVENE TO PREVENT PARALYZING OF CHINESE CUSTOMS SERVICE AT HANKOW BY STRIKE

893.51/4989 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *November 27, 1926—9 a. m.*

[Received 2:04 p. m.]

579. 1. Following is text of urgent telegram from Commissioner of Customs at Hankow to Inspector General of Customs at Peking:

2. Following is text of telegram sent November 23rd by senior consul, Hankow, to Senior Minister:

“Union of lower-grade Customs employees formed November 21st at a meeting at which superintendent was present and said he looked to union to assist in China’s recovering control of Customs. Commissioner of Customs regards the pronouncement as very serious and fears presentation of impossible demands followed by picketing, leading to complete cessation of business. He desires to know in this event what support he may look for from the Powers and whether they would go so far as to take forcible steps to ensure free access to customhouse, which is outside Concession. Speedy reply desirable.”

3. These telegrams were considered November 25th at a meeting of the interested Ministers, with the Inspector General present, who explained that those forming union, in spite of recent considerable

increase in pay and in defiance of standing orders of Customs service, number approximately 130 out of some 350 Chinese employees at Hankow. He considers it is likely that in spite of such recent utterances against the Customs by Chiang Kai-shek as were reported in Associated Press interview, referred to in my telegram number 575, November 23, 5 p. m.,⁴⁵ this movement has not approval and will not be supported by higher Cantonese authorities in view of their thus far having refrained from taking similar action against customs in Canton. He expects that strike will be brought on by presentation of impossible demands immediately following monthly pay day.

4. As a result of meeting, Senior Minister telegraphed as follows to the senior consul, Hankow:

"Customs will try to maintain service even in case of strike. Inspector General hopes that strike alone without picketing will not succeed.

As entrance of customhouse abuts on British concession can concession police keep this entrance free?

If not, police authorities should consult with those of the other concessions for united action.

As to the greater question of protecting customhouse by naval landing parties, the Ministers concerned are asking for home instructions."

5. Protection of customhouse involves two aspects: First, keeping open access to it from the British Concession, which is primarily function of the concession authorities but which might prove impossible without assistance and, second, eventual necessity of protecting in the customhouse itself 30-odd foreigners and such Chinese employees as might remain faithful. If, as I assume, we continue to strongly urge regular functioning of the Customs as an indispensable condition to the carrying on of normal commercial relations with China, I consider that this attempt of destructive elements to paralyze its workings should be averted by the landing, if necessary, of naval forces sufficient to forestall acts of violence by the strikers against those seeking to do business with the Customs and against loyal members of staff. French Minister intimated at the meeting willingness to participate in such measures. British Chargé d'Affaires has privately said to me he is inclined to believe his Government would be glad to participate but would almost surely be unwilling even for so important a purpose as the preservation of the Customs system to assume risks and responsibilities not shared by the other powers principally interested.

6. I beg to request instructions with a view to authorization of our cooperation on even terms with other principally interested powers

⁴⁵ Not printed.

in landing party, in the event that such action should become necessary for the purpose indicated.

MACMURRAY

893.51/4989 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, November 29, 1926—1 p. m.

286. Your number 579 of November 27th, 9 a. m. The Chinese Maritime Customs was brought into existence by the Government of China. It is a Chinese national service; it functions under the orders and protection of the Government of China, and the foreigners employed in it are servants of that Government. If that Government should desire the destruction of the Customs Administration, or if the desire of the Chinese people is to destroy the Government of China and the Customs Administration it has created, the basis of right upon which this Government may intervene in order to prevent either purpose from being accomplished is difficult to see. In consequence I am unable to see my way clear, in regard to preventing the operation of the customhouse at Hankow from being paralyzed, to authorize landing an armed naval force in cooperation with other powers.

If for any reason the customhouse at Hankow should cease functioning, the proposition that the requirements of existing treaties with China be met by American merchants by temporarily depositing tariff duties with American banks and held for the Chinese Government in trust until functioning of the Customs Administration is resumed, might be considered.

KELLOGG

THE COMMISSION ON EXTRATERRITORIALITY IN CHINA, PROVIDED FOR BY RESOLUTION V OF THE WASHINGTON CONFERENCE⁴⁶

793.003 C 73/239 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 5, 1926—9 p. m.

6. Department's No. 299, October 20, 4 p. m.⁴⁷ Chinese Minister informed Department orally that he had been instructed by his Gov-

⁴⁶ For previous correspondence regarding the convening of the Commission, see *Foreign Relations*, 1925, vol. 1, pp. 886 ff. The countries participating in the work of the Commission were the United States, Belgium, the British Empire, China, Denmark, France, Italy, Japan, the Netherlands, Norway, Portugal, Spain, and Sweden. The American Commissioner was Silas H. Strawn; the American technical advisers were Joseph E. Jacobs and Mahlon F. Perkins.

⁴⁷ *Foreign Relations*, 1925, vol. 1, p. 888.

ernment to obtain text of invitation sent by this Government to the Powers to attend Commission on Extraterritoriality. Minister was informed that no invitation to attend Commission on Extraterritoriality was sent by this Government; that after the delivery of the identic notes at Peking on September 4⁴⁸ this Government circularized the Powers party to Washington Conference or who had adhered to Resolution V⁴⁹ inviting their attention to the terms of Resolution V and to the statement made in the identic notes of September 4. This Government stated that it desired to have the report of that Commission before it and had named Mr. Strawn as its Commissioner and suggested that December 18, 1925, be accepted by the interested Powers as the date upon which the Commission would commence its functions at Peking. As regards the manner in which the Commission was to perform its work the Government of the United States stated that it believed this should be left to the Commission which should be guided as [to?] its duties and the intentions of the several Governments by the letter and spirit of Resolution V and the Powers' notes to China of September 4. It is suggested that you take occasion to present this information informally to the Chinese Foreign Office.

KELLOGG

793.003 C 73/241 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 11, 1926—6 p. m.

[Received January 11—10:38 a. m.]

16. Your telegram number 13, January 9, 11 p. m.⁵⁰

1. Commission meets tomorrow. Delay has been caused by the insistence of the Chinese upon at least nominal chairmanship and by disturbed political conditions which have made them not actually eager to begin.

2. All Commissioners have now agreed upon program by which Wang Chung-hui will act as chairman of the first meeting. Chinese Minister of Justice will give an address of welcome; Hioki⁵¹ will reply; French Commission will nominate Minister of Justice as Honorary President with no powers; Hioki will nominate Strawn as chairman; and Portuguese Commissioner will propose a Chinese and a member of the British Legation as secretaries.

⁴⁸ *Ibid.*, p. 831.

⁴⁹ *Ibid.*, 1922, vol. I, p. 289.

⁵⁰ Not printed.

⁵¹ Eki Hioki, Japanese Commissioner

3. In view of the full discussions which have already taken place, Strawn and I have not considered it necessary to present to the Foreign Office the information contained in your number 6, January 5, 9 p. m.

MACMURRAY

793.003 C 73/261 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, February 27, 1926—2 p. m.

[Received February 27—9:52 a. m.]

96. 1. The representative of the Government of China on the Extraterritoriality Commission, Wang Chung-hui, yesterday declared to me that, while he was aware that in the Washington resolution which established the Commission provision is made only for it to make reports and offer recommendations, the decision had been made in a consultation among the Ministers of Justice and for Foreign Affairs and himself that before the Commission's labors were terminated it was highly desirable for the Commission to make some definite agreement about the procedure which should be followed regarding abolition of extraterritoriality. In addition he stated that instructions had been given to the Chinese Minister at Washington to approach you in regard to the subject. He inquired as to the attitude I took respecting the suggestion. I replied that I could not comment until I knew what was actually proposed. I asked whether a formulation of any concrete proposals had been made by him. His answer was that he had not as yet had the time to do so.

2. Strawn and I recommend strongly that the powers of the Commission be not enlarged without any opinion formally expressed by the Commissioners now sitting. It is our belief that there is unanimous sentiment against modification of treaties at present, in view of the revolutionary conditions obtaining here and the absence here of a Government which is capable of enforcing law. The Chinese demand is preposterous. The Commission's report will present facts for Governments to consider seriously before they should take any action.

MACMURRAY

793.003 C 73/261 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 2, 1926—6 p. m.

52. Your telegram No. 96 of February 27, 2:00 P. M. On February 27th the Chinese Minister left with the Department the follow-

ing paraphrase of a telegram dated February 26, which he had received from the Chinese Foreign Office:

“Referring to the subject of full powers for the Delegates to the Extraterritoriality Commission, the Chinese Government and people deeply appreciate the sympathetic and friendly attitude of the United States, and eagerly desire that definite arrangements should be concluded before the termination of the Commission’s work. For this purpose plenipotentiary powers might be conferred on members of the Commission or Delegates Plenipotentiary might be appointed. The Chinese Government understands that under the terms of the Washington Resolution, consular jurisdiction is only one phase of the extraterritoriality question. Other matters, for example, which present extraterritoriality practices, abuse of extraterritoriality privileges and special status of foreigners apart from consular jurisdiction, fall within the scope of the Commission.”

In reply to the request of the Chinese Government contained in that telegram, the Secretary informed the Chinese Minister by a third person note dated March 1, as follows:

“The Secretary of State has given careful consideration to the request of the Chinese Government and has the honor to state that when he takes up for consideration the question of empowering someone on behalf of the Government of the United States to negotiate with a duly authorized representative of the Chinese Government for a change in the provisions of existing treaties between the United States and China under which citizens of the United States reside and carry on their enterprises in China, he desires to have before him the report and recommendations of the Commission now sitting at Peking for the purpose of making an investigation into extraterritorial practices. Therefore he deems it necessary that that Commission be allowed to complete its investigations in accordance with the provisions of Resolution V of the Washington Conference and the identic notes of the Powers to the Chinese Foreign Office of September 4, 1925.”

I am at a loss to understand statements made in last two sentences of Chinese Government’s telegram to Chinese Minister and therefore desire Strawn’s comments thereon. I have expected that Commission would cover all phases of extraterritorial practices in the course of its investigations and that it would find it possible to make recommendations of a constructive nature upon which some definite policy regarding this Government’s future attitude on the subject of the extraterritorial provisions of its treaties with China might be laid.

KELLOGG

793.003 C 73/263 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 4, 1926—1 p. m.

[Received March 4—10:28 a. m.]

110. Your telegram number 51 [52], March 2, 6 p. m. Strawn and I are in entire accord with your note to the Chinese Minister dated March 1st. Strongly recommend position there taken be adhered to until report of Commission is received and considered by you. Our policy is that inquiry should be conducted under broadest aspects of Washington Resolution Number 5 and the Chinese Government be given every opportunity to present any evidence it may have respecting extraterritorial practices or abuse of extraterritorial privileges. Some of the other Commissioners may insist that the investigation be limited to strict construction of Washington resolution and that the authority of that resolution is not so broad as to cover the subjects mentioned in the last paragraph of the Chinese Minister's note to you, especially the suggestion that the inquiry embrace "the special status of foreigners apart from consular jurisdiction." Thus far the Commission has dealt only with Chinese laws and no question has arisen with regard to the scope of the Commission's work. It is suggested that it would be advisable to refrain from any commitment on the phases of extraterritoriality apart from consular jurisdiction (such as the question of the liability of foreigners to taxation, which private conversations indicate they have in mind) until we know what matters the Chinese Commissioner proposes to include under this heading, feeling that a decision as to exact scope of Commission's work is one that must be arrived at in conjunction with all Commissioners concerned.

MACMURRAY

793.003 C 73/277 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 25, 1926—4 p. m.

[Received March 25—7:57 a. m.]

150. My telegram number 110, March 4, 1 p. m. Following from Strawn:

Chinese Commissioner on Extraterritoriality has submitted the following matters for the consideration of the Commission: (1) Consular jurisdiction; (2) trial of mixed cases between Chinese and foreigners having extraterritorial rights; (3) trial of cases between foreigners having extraterritorial rights and (a) foreigners having no extraterritorial rights, (b) foreigners of countries having treaty relations with China; (4) mixed courts; (5) quasi right of asylum in premises occupied by foreigners and on foreign ships; (6) issue

of foreign nationality certificates to Chinese citizens; (7) claim of foreigners to exemption from taxation; and (8) special areas (a) foreign settlements, (b) leased territory, (c) Legation Quarter, Peking, (d) railway zones.

At conference this morning French and Netherlands Commissioners objected to (7) and (8). Consensus of opinion was that items listed under (8) are not properly within the scope of resolution, although British Commissioner took the position that (8) (a) foreign settlements, closely associated with extraterritoriality and should be included in investigation."

MACMURRAY

793.003 C 73/277 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, March 25, 1926—3 p. m.

74. For Strawn: Although you should refrain from committing yourself in regard to the attitude which this Government might possibly take toward any of the matters which the Chinese Commissioner brought up, it is desired that no obstacle be placed by you in the way of the Chinese Commissioner in submitting any views or data to the Commission which there may be a desire on the part of the Chinese Government to submit for consideration.

KELLOGG

793.003 C 73/297

The American Commissioner on Extraterritorial Jurisdiction in China (Strawn) to the Secretary of State

No. 10

PEKING, April 16, 1926.

[Received May 29.]

SIR: I have the honor to report the activities of the Commission on Extraterritoriality in China during the period April 5, 1926 to April 16, 1926.

Since my report of April 5, No. 9,⁵² the Commission has been waiting for the Chinese Government to provide means of communication for the proposed tour of investigation. As reported in my letter (No. 7) of March 12,⁵² the trips to Taiyuanfu and Kalgan, planned for the last two weeks of March, were abandoned because of inability to reach those points.

It was then planned to leave Peking on April 9, conduct an investigation at Tientsin and sail for Shanghai, via Chefoo, on April 13. At Shanghai the party was to be divided into two groups, one

⁵² Not printed.

going up the Yangtze as far as Hankow, visiting Soochow, Wushih, Nanking, Anking, Nanchang, Kiukiang and Changsha. The other party was to go from Shanghai to Canton, returning via Swatow, Amoy and Foochow. There has been no train service between Peking and Tientsin for the last three weeks. A part of the time motors have been employed but those are not now permitted to run. Therefore, the trip by sea was abandoned. Later Dr. Wang (the Chinese member of the Commission) suggested he might arrange for a train trip from Peking to Hankow. However, by reason of military activities this has become impossible. I have called a meeting of the Commission for this morning to consider whether we should not give up all idea of traveling and proceed to the preparation of our report. It would seem that the patience of the Commissioners is exhausted in waiting for the Chinese Commissioner to arrange transportation, which in the present circumstances, cannot be done.

Speaking for myself, I believe that the very full reports we have from our Consuls in all parts of China give as accurate information about conditions as we would have were we to visit the several places, and that we can proceed just as understandingly to the preparation of our report. Of course, if before the report is completed it is possible to make any trips that will be a subject for consideration by the Commission.

Notwithstanding the disaffection of the Canton Provinces and the fact that there is now no Government in China and conditions are generally chaotic, I can see nothing else for us to do but proceed with the preparation of the report as directed by the Washington Resolution. Some of the Commissioners have taken the position that the action of the Canton Government, above referred to, constitutes a violation by China of the letter and spirit of the Washington Resolution. You will recall that in the "Additional Resolution" adopted at Washington⁵⁴ it was stated that China was prepared to co-operate in the work of the Commission and to afford it every possible facility for the successful accomplishment of its tasks. This she has not done by failing to afford transportation and also in the positive action taken by the Canton Government.

However, I do not believe that the majority of the Commission will refuse to go on with the report.

The contents of the report have not yet been discussed, but nevertheless, from such informal conferences as I have had with some of the Commissioners, I shall attempt to make the following forecast of the general purport of the report:

⁵⁴ Second additional resolution, *Foreign Relations*, 1922, vol. I, p. 291.

The following admitted facts preclude the possibility of the surrender by the several Powers of their extraterritorial rights guaranteed them by their several treaties with China :

1. The absence of a Central Government in China, recognized as such by the several Provinces ;
2. Complete and arbitrary control of every department of governmental activity by the militarists who are constantly warring among themselves ;
3. Absence of laws enacted by a duly constituted authority subject to repeal only by that authority ;
4. Absence of competent and trained judges, free from all outside influences, political and military ;
5. Chaotic condition of the finances of China, with no provision for the payment of adequate compensation to the judiciary.

In view of these fundamental facts, the surrender by the several Powers of their extraterritorial rights at this time not only would put in jeopardy the lives and property of their nationals residing in China, but also would be prejudicial to the Chinese themselves and would postpone the time when the Chinese people may realize their ambition to have complete autonomy in juridical matters.

Some of the Powers have repeatedly expressed a desire to surrender their extraterritorial rights in China when the state of Chinese laws, the arrangements for their administration and other considerations warrant them in so doing. Therefore, as an evidence of good faith, and as an expression by the Powers of sympathy with the ambition of the Chinese people to enjoy complete autonomy in the administration of justice, the Powers might make the following recommendations looking toward the eventual abolition of their extraterritorial rights. These recommendations are divided into two sections, the first section should be put into effect as soon as possible and the second, as soon as the conditions named therein have been fulfilled.

FIRST SECTION OF RECOMMENDATIONS

I. That the Powers take all necessary steps to make applicable to their nationals in China, and cause to be administered in their extraterritorial and/or consular courts, such drafts of laws and ordinances as have been exhibited to and approved by the Commission

(Enumerating laws that have been so approved)

provided, however, that the provisions of such laws and ordinances as have been adversely criticized by the Commission shall not be applied in the extraterritorial or consular courts. And further provided that where the laws and ordinances fail to provide for questions of law that may arise, then in such cases the law of the nationality of the defendant shall be applicable.

II. That each of the extraterritorial Powers immediately (if such condition does not now exist in its judicial system in China) establish a court of final appeal in China in order that there may be no appeal beyond the territorial limits of China.

III. That after the Chinese Government has established model prisons or detention houses, managed and supervised in accordance with the rules and regulations concerning prisons and prisoners, in the following places—Shanghai, Canton, Hankow, Tientsin, Harbin and Peking, or other treaty ports, all foreigners sentenced to terms of imprisonment by the extraterritorial or consular courts, either in accordance with Chinese or foreign law, shall serve their sentences in these prisons or detention houses, provided, however, that persons sentenced to terms of imprisonment of one year or more shall be sent, at the expense of the Chinese Government, to the First Model Prison at Peking, to serve such sentence, and provided further, that the Consular or Diplomatic Officers of the nationals concerned shall at all times be free to visit such prison, upon due notice being given the Commissioner for Foreign Affairs where the prison or detention house is situated, or to the Wai Chiao Pu in Peking. The Chinese authorities shall at all times permit such visitation.

IV. That foreigners sentenced to death by the extraterritorial or consular courts be executed by strangulation, in accordance with the Chinese law, or by hanging, in the presence of a representative of the Power concerned.

V. That the extraterritorial Powers refuse protection of every nature to persons of Chinese race who by reason of birth or naturalization are citizens or subjects of such Powers and who return to China to live, unless such person, after a residence of six months in China, have obtained from the Chinese Ministry of the Interior, a denaturalization certificate in accordance with the provisions of the Law of Nationality (Chinese). Article XII, paragraph 1, number 4, and paragraph 3 and Articles XIV, XV and XVI.

VI. That the practice of granting asylum to political or other offenders, in the foreign concessions or settlements and on foreign-owned property, except the general right of asylum which is recognized under International Law, be abandoned, and that such persons who seek asylum in the foreign concessions and settlements, or on foreign-owned properties, be surrendered upon a warrant of the proper Chinese authorities, countersigned by the local Commissioner of Foreign Affairs.

VII. That all extraterritorial practices which have no basis in the treaties or special grant of the Chinese Government, be abandoned.

VIII. That in the case of civil claims and criminal complaints of extraterritorial nationals against Chinese and non-extraterritorial nationals, it is recommended that all such cases be tried in the so-called New courts of China, viz., District Courts, High Courts and the Supreme Court, and their corresponding procuratorates, instead of being tried in the Magistrates' Court, in the presence of, or jointly with consular representatives as is now the practice, provided, however, that a foreign consular representative of the Power concerned may be present in the court room as a visitor.

SECOND SECTION OF RECOMMENDATIONS

I. That the conditions created in the First Section of Recommendations continue in force until the extraterritorial Powers, jointly or severally, decide the conditions precedent to the institution of the system outlined in the Second Section of Recommendations have been fulfilled.

II. That China, during the period the conditions created by the First Section of Recommendations are in force, undertake to remedy the defects enumerated at the outset under the heading "Admitted Facts".

III. That China, during the period the conditions created by the First Section of Recommendations are in force, undertake to establish a system of special sections of the District Courts and High Courts, together with special sections of the procuratorates attached to those Courts, at the places and in the manner described in a detailed description to be attached to the report as Appendix A.

IV. That China agree to extend the special system of courts mentioned in No. III above to all foreigners in China, provided the foreign non-extraterritorial Powers consent.

V. That China secure, at an early date, the services of the necessary number of foreign counsellors required under the special system of courts mentioned in No. III above, to assist in the institution of that system.

VI. That China establish at Peking a National Law School for the training of men for judicial service, especially for the trial of foreigners.

VII. That China, in respect to matters of taxation, control of corporations, military service, military levies, and requisitions, land holdings, and a few other special matters, undertake to carry out the recommendations contained in Appendix B to be attached to the report.

VIII. That when China has put into effect the recommendations aforesaid, she will so inform the extraterritorial Powers who shall, jointly or severally, proceed to abolish their extraterritorial and consular courts so that all foreigners in China may be made amenable to the jurisdiction of the Chinese law.

Of course, the recommendations will be precluded by a succinct statement of facts justifying the conclusion at which the Commission arrives.

The foregoing is a brief outline of what seems to us might be the basis of a report. We have not submitted our suggestions to any of the other Commissioners. They may not agree with us. You will, therefore, regard what I have attempted to outline as purely tentative. If you have any criticism to offer I shall be pleased to hear from you at your early convenience.

At a meeting of the Commissioners held this morning it was decided to abandon efforts to travel because the Chinese can afford us no facilities. We are to meet again on April 28th, at which

time the evidence is to be concluded and we are then to proceed immediately with the preparation of the report in the expectation that we can conclude it on or before May 15th. Meanwhile, if there is a possibility of travel the final draft of the report may be correspondingly deferred.

I enclose herewith copies of the Minutes of the meetings held on April 1, 1926 and April 10, 1926, together with correction sheets for previous meetings.⁵⁶

I have [etc.]

SILAS H. STRAWN

793.003 C 73/298

The American Commissioner on Extraterritorial Jurisdiction in China (Strawn) to the Secretary of State

No. 11

PEKING, April 30, 1926.

[Received May 29.]

SIR: I have the honor to report the activities of the Commission on Extraterritoriality in China during the period from April 16 to April 30, 1926.

As stated in my report No. 10 of April 16, 1926, there was a meeting in my office on that date to discuss the matter of travel. At this meeting it was decided to postpone indefinitely the matter of travel on account of the impossibility of leaving Peking due to military activities in north and central China.

On April 22, 1926 another meeting was called in my office to discuss arrangements which the Chinese Commissioner had made for the Commission to leave Peking via the Peking-Hankow Railway on the evening of the following day, April 23, 1926. Due, however, to the short notice and also to the unsettled conditions existing in Peking itself and along the line of that Railway, it was decided to further postpone the matter of travel. On this subject the Commission is divided into two groups: One group is of the opinion that no travel should be undertaken until there is some Central Government in Peking recognized by the Powers which can make the necessary arrangements with the provincial authorities for the investigation which the Commission desires to make; the other group is of the opinion that travel should be undertaken as soon as the means of communication are available, regardless of the political situation in Peking. The matter again came up for discussion at a meeting on April 28, 1926, but was again postponed indefinitely because of the fact that no satisfactory or comfortable means of communication for travel are available. The views of the individual Commissioners may be ascertained by reference to the Minutes enclosed.⁵⁶

⁵⁶ None printed.

At the meeting on April 28, 1926, the Chinese Commissioner presented another memorandum on the subject of extraterritorial practices in China, supplementary to the memorandum which he presented on March 23, 1926.⁵⁷ There was considerable argument as to the relevancy of the subjects mentioned in this supplementary memorandum as regards the general question of extraterritorial jurisdiction in China. It was unanimously decided, however, to receive the memorandum and transmit it to the various Governments concerned. A number of the Commissioners, including myself, are prepared to hear what the Chinese have to say with regard to any of the subjects mentioned therein, although I feel that the matter of railway zones, leased territories, and the Legation Quarter at Peking, are not within the scope of the work of the Commission.

While the matter of travel is in abeyance, the Commission is proceeding with a discussion of the draft report, and a meeting for this purpose will be held on May 5, 1926.

I inclose herewith copies of the Minutes of the meetings held on April 16, April 22 and April 28, together with a copy of the memorandum of the Chinese Commissioner mentioned above, which is attached to the Minutes of the meeting of April 28, 1926.⁵⁸

I have [etc.]

SILAS H. STRAWN

793.003 C 73/301

The American Commissioner on Extraterritorial Jurisdiction in China (Strawn) to the Secretary of State

No. 12

PEKING, May 11, 1926.

[Received June 9.]

SIR: I have the honor to report the activities of the Commission on Extraterritoriality in China during the period from May 1, 1926 to May 11, 1926.

On May 5, 1926 a meeting of the Commission was held at the Chü Jen T'ang,⁵⁹ a copy of the Minutes of which is enclosed herewith.⁶⁰ At this meeting there was a discussion of the outline of the report and the recommendations of the Commission. In the main there was a concurrence of opinion among the Commissioners as to what the outline should be. After the return of the Commission from its tour of inspection, a drafting committee will be appointed to prepare a draft report. In the interim the various Commissioners are to prepare a statement of their views for this committee, which will use these

⁵⁷ For list of subjects presented for the consideration of the Commission by the Chinese Commissioner in his memorandum of Mar. 23, see telegram No. 150, Mar. 25, from the Minister in China, p. 970.

⁵⁸ None printed.

⁵⁹ At the Winter Palace in Peking.

⁶⁰ Not printed.

statements as a basis for its draft report. I have already prepared my draft report and recommendations subject to such amendments as may be necessary as a result of the findings of the Commission on its tour of investigation.

At this meeting the Chinese Commissioner presented a memorandum on taxation, a copy of which is enclosed herewith,⁶¹ but it was not discussed because the Commissioners had no time to study its contents.

Travel conditions having ameliorated, it was decided at the meeting on May 5 that the Commission would begin its tour of inspection leaving Peking on May 10, 1926 for Hankow via the Peking-Hankow Railway, thence proceeding to Changsha, if possible, then to Nanking, Shanghai, Tsingtao, Dairen, Mukden, Harbin, Tientsin, and back to Peking. South China has been eliminated from the itinerary because of the hostile attitude of the Canton Government. The Commission accordingly left Peking last night for Hankow and is expected to return by June 10. I was unable to go on account of the Tariff Conference and sent Mr. Jacobs in my place.

I do not anticipate that there will be any great delay in the preparation of the report and recommendations and believe that the Commission will complete its labors and adjourn before July 1.

I have [etc.]

SILAS H. STRAWN

793.003 C 73/297 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, June 11, 1926—7 p. m.

117. Personal for Strawn: Your number 10 sent April 16, delayed in transmission, and your communication May 12, received June 9,⁶² have been read and considered with care.

1. It is realized that your return home is necessary and that you are unable to go back to China. I appreciate deeply all that has been done by you.

2. Regarding the tentative recommendations you have made, my feeling is that you ought to be permitted to use your personal judgment unhampered with respect to details by instructions from the Department, the reason being that the Department should remain free as to the making of any treaty regarding extraterritoriality after your report is received. Since I am unfamiliar with the local conditions in China, I can give you on this subject only the most general instructions. It has been my desire to renounce extraterritoriality in regard

⁶¹ Not printed.

⁶² Not found in Department files.

to China and everywhere else as soon as such action is compatible with the requirements of protecting American lives and interests. Therefore I should wish that you make your report without being confined by definite instructions on details and make it without considering the desires of other countries except for those of their suggestions which commend themselves to your judgment. I do not desire that you should recommend as a prerequisite to extraterritoriality being relinquished, any requirements from China which you do not believe are absolutely necessary to protect American interests before extraterritoriality is relinquished. Ideal conditions are not expected by us, but we must have assurance of course that American citizens will be fairly protected by the Government. It has been my hope that we could give up extraterritoriality in China within a reasonable time. Possibly we may be forced into such a position that we will feel compelled to do that without delay, but I wish first to have your honest judgment on the situation.

KELLOGG

793.003 C 73/314 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, September 17, 1926—10 a. m.

[Received September 18—9:50 a. m.]

412. With reference to 411, September 16, 3 p. m.⁶³ Following from Strawn:

"The following is a summary of the report of the Commission on Extraterritoriality in China, signed September 16 by all of the Commissioners of the participating powers, China included.

The report consists of the following sections: Introductory remarks; part 1, present practice of extraterritoriality; part 2, laws and judicial and prison system of China; part 3, administration of justice in China; part 4, recommendations.

Part 1 is an historical outline of the system of extraterritoriality followed by a detailed exposition of the working of that system in the foreign courts, then a description of the procedure in mixed cases in Chinese courts. Reference is made to the multiplicity of courts and diversity of laws, to the inaccessibility of consular courts, to the inadequate training of the personnel of consular courts, to the difficulties connected with appeals, to the immunity of foreigners from Chinese municipal regulations, to the conflict of laws relating to the nationality of persons of Chinese origin, to the irregular protection sometimes extended to Chinese persons and interests, to the absence of extradition arrangements, to the difficulties arising from asylum for Chinese on foreign premises and also to the restrictions upon foreign travel, trade and residence in the interior. Part 1 also contains 12 memoranda prepared by the foreign Commissioners individually, giving full details of their respective judicial systems in China.

⁶³ Not printed.

Part 2 consists of a detailed exposition of the subject with the comments of the Commission with respect to what it considers are the shortcomings in the laws and in the judicial and prison systems. The laws are dealt with under the following main headings: those relating to (1) criminal matters; (2) civil matters; (3) commercial matters; (4) miscellaneous laws. The description of the judicial system comprises an exposition of the outline of the courts, administrative jurisdiction in juridical matters, the mixed courts, the transition courts, magistrate courts, special courts, military courts, the administrative court, police tribunals, appointment of judicial officials, rank and salaries of judicial officials, disciplinary punishment of judicial officials, lawyers, costs and general observations. The prison system is discussed under the headings of: (1) administration and officials; (2) regulations concerning prisons; (3) general observations.

Part 3 deals with the general administration of the laws and judicial system as distinguished from the theoretic treatment of their content in part 2. This section opens with certain general remarks on the Government in which it is pointed out that in the past decade there has been increasing disorder in China with a corresponding decrease in the authority of the Central Government, that there has been continual civil warfare for the past 3 years, that since the Commission has been sitting Peking has been assailed and the Commission's tour of investigation delayed 6 weeks, that the Legislative branch of the Government has also suffered disorganization, that the parliaments and other representative bodies have been ephemeral and contributed little to the legislation of China, that therefore the making of laws has necessarily largely fallen into the hands of executive officials who have been more or less under the influence of the military. As a result of this disorganization, the lines between the executive, legislative, and judicial branches tend to become obliterated. The Government treasury has been depleted so that funds are at times lacking to pay police and judicial officials. The uniformity of the legal and judicial systems is being impaired because of the independent laws and courts established in areas not recognizing the Central Government and the extension and perfection of the new legal and judicial systems are being retarded. Attention is then drawn to the interference by the military authorities with the administration of justice.

Several cases of military interference are then cited, among them being the following: The execution of the Chief Justice of the High Court of Shantung, the execution of "Little" Hsü,⁶⁴ the execution of the Chinese editor Shao Piao-ping in April, the issuance of orders in June for the beheading of the speculators in military notes, the execution in August of the Chinese editor, Lin Pai-shui, the execution at Mukden of the speculators in the Fengtien paper notes, the Ostroumoff⁶⁵ case and certain other cases. This section then deals with such matters as interference by the civil authorities, lack of universal application of the laws of China, illegality in the granting of bail, torture of prisoners and illegal methods of execution, the

⁶⁴ Hsü Shu-cheng, a prominent military leader.

⁶⁵ Boris G. Ostroumoff, Russian general manager of the Chinese Eastern Railway.

insufficient number of modern courts and trained judicial officials, lack of financial support of the judiciary, unsatisfactory condition in magistrate courts, police tribunals and miscellaneous complaints.

Part 4 is as follows:

"The committee, having completed their investigation[s] and having made their findings of fact as set forth in parts 1, 2, and 3 of this report, now make the following recommendations:

The Committee are of the opinion that, when these recommendations [shall] have been reasonably complied with, the several powers would be warranted in relinquishing their respective rights of extraterritoriality.

It is understood that, upon the relinquishment of extraterritoriality, the nationals of the powers concerned will enjoy freedom of residence and trade and civil rights in all parts of China in accordance with the general practice in intercourse among nations and upon a fair and equitable basis.

RECOMMENDATIONS

I. The administration of justice with respect to the civilian population in China must be entrusted to a judiciary which shall be effectively protected against any unwarranted interference by the executive or other branches of the Government, whether civil or military.

II. The Chinese Government should adopt the following program for the development of the existing legal, judicial and prison systems of China:

1. It should comply with the provisions of parts 2 and 3 of the whole report relating to the laws and to the judicial police and prison systems, with a view to making such amendments and taking such action as may be necessary to meet the observations there made.

2. It should complete and put into force the following laws: (1) Civil code; (2) commercial code, including negotiable instruments law, maritime law and insurance law; (3) revised criminal code; (4) banking law; (5) bankruptcy law; (6) patent law; (7) land expropriation law; (8) law concerning notaries public.

3. It should establish and maintain a uniformity for the regular enactment, promulgation and rescission of laws, so that there may be no uncertainty as to the laws of China.

4. It should extend the system of modern courts, modern prison[s] and modern detention houses with a view to the elimination of the magistrate courts and of the old-style prisons and detention houses.

5. It should make adequate financial provisions for the maintenance courts, detention houses and prisons and their personnel.

III. It is suggested that, prior to the reasonable compliance with all the recommendations above mentioned but after the principal items thereof have been carried out, the powers concerned, if so desired by the Chinese Government, might consider the abolition of extraterritoriality [according to such progressive scheme] (whether geographical, partial or otherwise) as may be agreed upon.

IV. Pending the abolition of extraterritoriality, the Governments of the powers concerned should consider part 1 of this report with a view to meeting the observations there made and, with the cooperation of the Chinese Government wherever necessary, should make certain modifications in the existing systems and practice of extraterritoriality as follows:

1. Application of Chinese laws. The powers concerned should administer, so far as practicable, in their extraterritorial or consular courts such laws and regulations of China as they may deem proper to adopt.

2. Mixed cases and mixed courts. As a general proposition mixed cases between nationals of the powers concerned as plaintiffs and persons under Chinese jurisdiction as defendants should be tried before the modern Chinese courts (Shen P'an T'ing) without the presence of a foreign assessor to watch the proceedings or otherwise participate. With regard to the existing special mixed courts, their organization and procedure should, as far as [the special conditions in] the settlements and concessions warrant, be brought more into accord with the organization and procedure of the modern Chinese judicial system. Lawyers who are nationals of extraterritorial powers and who are qualified to appear before other [*the*] extraterritorial or consular courts should be permitted, subject to the laws and regulations governing Chinese lawyers, to

represent clients, foreign or Chinese, in all mixed cases. No examination would [should] be required as a qualification for practice in such cases.

3. Nationals of extraterritorial powers. (a) The extraterritorial powers should correct certain abuses which have arisen through the extension of foreign protection to Chinese as well as to business and shipping interests, the actual ownership of which is [wholly] or mainly Chinese. (b) The extraterritorial powers which do not now require compulsory [periodical] registration of their nationals in China should make provision for compulsory registration at definite intervals.

4. Judicial assistance. Necessary arrangements should be made in regard to judicial assistance (including *commissions rogatoires*) between the Chinese authorities and the authorities of the extraterritorial powers themselves, e. g.: (a) All agreements between the foreigners and persons under Chinese jurisdiction which provide for the settlement of civil matters by arbitration should be recognized, and [the] awards made in pursuance thereof should be enforced by the extraterritorial or consular districts [*courts*] in the control [*case*] of persons under their jurisdiction and by the Chinese courts [in the case of] persons under their jurisdiction, except when in the opinion of the competent court the decision is contrary to public order or good morals. (b) Satisfactory arrangements should be made between the Chinese Government and the powers concerned for the prompt execution of judgments, summonses, and warrants of arrest or search, concerning persons under Chinese jurisdiction, duly issued by the Chinese courts and certified by the competent Chinese authorities and vice versa.

5. Taxation. Pending the abolition of extraterritoriality, the nationals of the powers concerned should be required to pay such taxes as may be prescribed in laws and regulations duly promulgated by the competent authorities of the Chinese Government and recognized by the powers concerned as applicable to their nationals.'

The Chinese Commissioner affixed his signature to the whole report under the following statement: 'By signing this report my approval of all the statements contained in parts 1, 2 and 3 is not to be implied.' It is to be noted that the Chinese Commissioner made no reservation with respect to part 4 containing the recommendations.

With regard to the question of the privacy of the report, the majority of the Commissioners are of the opinion that the report is for the official information of their respective Governments and that the Commissioners have no authority to make the report public. Therefore no information concerning the contents of the report has been given out in Peking."

MAYER

793.00 C 73/332 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, November 22, 1926—3 p. m.

276. Your telegram 525, November 1, 5 p. m.⁶⁶ Inform Ministry of Foreign Affairs that press here this morning publishes article obviously based on knowledge of report of Extraterritoriality Commission. State that in view of pressure here and in order to avoid speculative comment as to contents of report this Government proposes to give report to press for publication on Monday, No-

⁶⁶ Not printed.

ember 29. You will doubtless desire to furnish correspondents of American papers at Peking with the report at the same time. Other governments are being informed.

KELLOGG

793.003 C 73/351 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 27, 1926—10 a. m.

[Received November 27—6:56 a. m.]

580. 1. The substance of your telegram number 276, November 22, 3 p. m., was conveyed to the Foreign Office. By a memorandum actually sent yesterday morning in a note 26th and received yesterday evening and purporting to be a reply to ours of October 28th,⁸⁷ in pursuance of your circular telegram October 25, 6 p. m.⁸⁷ the Foreign Office states as follows:

“It will not [*sic*] be recalled that the question of publicity of the report has been reserved for discussion and arrangement among the Governments concerned.

In view of the importance of the conclusions of the Commission, the work of translating the recommendations contained in part 4 into the Chinese language was first undertaken and is now completed. It is therefore suggested to have this part published first together with the declaration made by Dr. Wang Chung-hui, Chinese commissioner, before signing the report.⁸⁸

As for parts 1, 2, and 3, of the report, the Chinese Government, in view of the general reservation made by the Chinese Commissioner relative thereto, are of the opinion that publication of these parts may give rise to misapprehensions, and it is therefore desirable to withhold it.”

2. I assume that the Department intends to follow out its purpose of making public the full text of the report without regard to the Chinese suggestion that recommendations be published without the findings upon which they are based.

MACMURRAY

793.003 C 73/351 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, November 27, 1926—8 p. m.

285. Department is publishing report of Extraterritorial[ity] Commission on November 29.⁸⁹ This date has been notified to other

⁸⁷ Not printed.

⁸⁸ The Chinese Foreign Office on Nov. 28 released part 4 of the report and Dr. Wang's declaration, for publication on Nov. 29.

⁸⁹ Department of State, *Report of the Commission on Extraterritoriality in China, Peking, September 16, 1926* (Washington, Government Printing Office, 1926).

governments concerned and it is understood that publication will be made in other capitals on same date except in London where there has been delay due to lateness of receiving report and getting it printed.

GREW

**ABROGATION BY CHINA OF THE SINO-BELGIAN TREATY OF
NOVEMBER 2, 1865⁷⁰**

755.93/2a : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 17, 1926—2 p. m.

164. News item published in New York *World* today from Geneva dated August 16 states that China has officially notified Belgium that abrogation of her commercial treaties and extraterritorial rights will be effective October 29. Report states that Spanish and Portuguese will be the next to go and that British, French, Dutch, Italian and American treaties will follow as the dates for extension will arrive. Please telegraph confirmation if such action has been taken by Chinese Government.

HARRISON

755.93/2 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

BRUSSELS, August 18, 1926—2 p. m.

[Received 2:55 p. m.]

58. Department's 40, August 17, 1 p. m.⁷¹ See my weekly political despatches numbers 539, 64 [564] and 76 [576] of July 1st, 29th, and August 11th.⁷¹

Foreign Minister confirms the fact that China has officially notified Belgium that China abrogates her treaty to take effect October 29 [27?]. Although Belgium alone has the right of abrogation, the Government has agreed to negotiate for new treaty, but counsels delay pending outcome of work of international commissions on extraterritoriality and customs. Both Peking and Brussels have therefore consented to a *modus vivendi*, but the Belgian Government has information to the effect that China is not really going to carry out her expressed willingness to proceed with a *modus vivendi*. Foreign Minister has informed Peking that if the *modus vivendi* is

⁷⁰ For text of treaty, see China, Imperial Maritime Customs, *Treaties, Conventions, etc., Between China and Foreign States* (Shanghai, 1908), vol. II, p. 758.

⁷¹ Not printed.

not signed before the end of present treaty the whole matter will be submitted to International Court of Justice at The Hague. In the circumstances, the Government already decided to elicit the help of the American, British and possibly French Governments in an effort to induce China to put into effect the desired *modus vivendi* and a note to this effect will be sent to me shortly.

PHILLIPS

755.93/4 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 19, 1926—7 p. m.

[Received August 19—11:55 a. m.]

337. Your telegram number 164, August 17, 2 p. m.

1. By a palpable perversion of the meaning of article 46, the Chinese Foreign Office, April 16th, assumed the right to give notice of its intention to terminate, October 27th next, the Belgian treaty of 1865. Instead of maintaining its clear rights while offering to incorporate a revision of unsatisfactory provisions, the Belgian Government allowed itself to be drawn into a discussion of a *modus vivendi* to cover the period from October 27th until the negotiation and coming into force of a new treaty. Emboldened by this apparent weakness, the Chinese have made no concrete proposals but simply insist that Belgian treaty rights come to an end on the date specified. Belgian Legation informed the Foreign Office, August 4th, that, unless satisfactory proposals for a *modus vivendi* had been offered within a month, the Belgian Government would take respectful measures such as an appeal to the Washington Conference powers or resort to the Permanent Court on the question of China's right to terminate the treaty. A report on the subject was mailed July 29th.⁷²

2. The Foreign Office had in March last assumed similar right to terminate the French Tientsin treaty of 1866 [1886],⁷³ additional commercial convention of 1887⁷⁴ and the supplementary convention of 1895 relating to trade with Indo-China⁷⁵ and a customs notification was recently issued to the effect that special frontier customs reductions would cease August 8th. The French appear to have accepted this action with no demur beyond an unheeded request that these treaties be kept in force for another year to allow time for negotiating new arrangements.

⁷² Not printed.

⁷³ China, Imperial Maritime Customs, *Treaties*, vol. I, p. 701.

⁷⁴ *Ibid.*, p. 721.

⁷⁵ MacMurray, *Treaties*, 1894-1911, vol. I, p. 28.

3. By the terms of its article 26, the Japanese treaty of 1896⁷⁶ will be subject to revision of its commercial provisions after October 20th next. Officials of the Foreign Office have remarked in discussion with the Belgian Minister that it is intended at that time to give notice terminating the treaty entirely.⁷⁷

4. There is considerable obviously artificial agitation among Chamber of Commerce and such public bodies in support of the Government's policy of exercising in the case of each treaty their right to demand its termination at the earliest date allowed. Our 1903 commercial treaty⁷⁸ would apparently become subject to revision and possibly termination January 13, 1934 (article 17).

MACMURRAY

755.93/6 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 24, 1926—10 a. m.

[Received August 24—9:25 a. m.]

344. 1. Through an oversight my telegram number 337, August 19, 7 p. m., erred in stating (penultimate sentence of first paragraph) that Belgian Minister had specified as alternative protective measures either appeal to the Washington Conference powers or resort to the Permanent Court. Although originally instructed to specify both of these alternatives, he obtained the permission of his Government to refer only to resort to the International Court of Justice.

2. He now confidentially advises me that his Government is approaching the other participants in the Washington Conference with a view to their making collective representations to the Chinese Government. He is informing the Belgian Government that in his opinion such representations would actually weaken the position taken by it on the clear-cut issue as to the interpretation of article number 46 of the treaty, besides irritation [*irritating*] Chinese nationalistic feeling which is especially impatient of collective action by the powers. I fully share the Belgian Minister's opinion and suggest that, if approached, you might see fit to reply that collective action would appear advisable only in the event that the Chinese should offer unsatisfactory terms for the proposed *modus vivendi*.

MACMURRAY

⁷⁶ China, Imperial Maritime Customs, *Treaties*, vol. II, p. 1332.

⁷⁷ The Chinese Foreign Office in a note to the Japanese Minister in Peking, Oct. 20, 1926, expressed the desire of the Chinese Government that the treaty referred to, together with notes, protocol and the supplementary treaty and annexes of 1903, be revised within a six months' period. The reply of the Japanese Legation, Nov. 10, 1926, in the form of a memorandum, consented to "consider sympathetically the wishes of the Chinese Government." (File No. 793.942/5.)

⁷⁸ *Foreign Relations*, 1903, p. 91.

755.93/12

The Ambassador in Belgium (Phillips) to the Secretary of State

[Extract]

No. 585

BRUSSELS, *August 25, 1926.*

[Received September 8.]

SIR:

As I have already reported in my telegram No. 58, of August 18, 2 p. m., Belgium has decided to elicit the help of the American, British and, possibly, French governments in an effort to induce China to put into effect the desired *modus vivendi*, and a *Note Verbale* to this effect, dated August 21, has been communicated to me, a copy and translation of which is enclosed. . . .

I have [etc.]

WILLIAM PHILLIPS

[Enclosure 1—Translation]

*The Belgian Foreign Office to the American Embassy*BRUSSELS, *August 21, 1926.*

NOTE VERBALE

In the month of April last, the Chinese Government, basing itself upon an erroneous interpretation of article 46 of the Chinese-Belgian treaty of 1865*, advised the Belgian Government that it denounced this treaty and that it considered it as ceasing to take effect as from October 27 next. In making this announcement, the Chinese Government claimed to make use of the faculty of denunciation which, by the terms of this article, is reserved solely for the Belgian Government.

The latter immediately informed the Chinese Government that it was impossible for it to admit of such an interpretation of article 46 of the treaty of 1865, but that it was disposed to consider the revision of this instrument as soon as China was provided with a stable Government and the conclusions of the work of the Tariff Conference and the Commission on Extraterritoriality,⁷⁹ which are being held

*ARTICLE 46.—If hereafter the Government of His Majesty the King of the Belgians should consider it advisable to effect modifications in certain of the clauses of the present treaty, it will be free in this respect to open negotiations after a period of ten years has passed, as from the day of the exchange of ratifications, but, six months before the expiration of the ten years, it must make known officially to the Government of His Majesty the Emperor of China its intention of effecting modifications, and wherein they will consist. Failing this official notification, the treaty will remain in force without alterations for a new term of ten years, and so on from ten years to ten years. [Footnote in the original.]

⁷⁹ See pp. 743 ff., and pp. 966 ff.

in China by virtue of the accords concluded at Washington on February 6, 1922, were known.

In spite of the strong remonstrances of the Belgian Minister in Peking, the Chinese Government refuses to abandon its standpoint; at best it declared that if a new treaty was not concluded by October 27 next, it would endeavor to examine the possibility of finding a provisional *modus vivendi* which, while not disregarding the interests of Belgium, would not in any way injure the legitimate rights of China.

The Minister of Belgium in Peking was then directed to confirm to the Chinese Government that the Belgian Government did not admit of its interpretation of article 46 of the treaty and that it was unable to consider negotiations before the termination of the Tariff Conference and the meetings of the Commission on Extra-territoriality. But he was requested to add at the same time that Belgium would not refuse to examine the possibility of concluding a provisional *modus vivendi* with China, on the condition that this *modus vivendi* would stipulate that the clauses of the treaty of 1865—with the exception of article 46 and the provisions which might be modified by the two Conferences—would remain in force until the conclusion of a new accord.

In view of the obstinacy of the Chinese Government, the Belgian Government, being uncertain as to the bases of the *modus vivendi* which China will propose, informed the Government of Peking that it regretted to have to state that there was complete disagreement between China and Belgium as regards the interpretation of a clause of the Chinese-Belgian treaty of 1865, that this disagreement constitutes a conflict which, by the terms of article 38, paragraph 2, of the Statute of the Court of International Justice,⁸⁰ falls within the province of the Court for those States which have accepted the obligatory character of this provision and that, China and Belgium having on May 13, 1922, and March 10, 1926, respectively, recognized this character, the Belgian Government was disposed to submit the case to the Court of The Hague.

However, as the Belgian Government strongly desires not to be forced to have recourse to this procedure, it has directed the Belgian Minister in Peking to request the Chinese Government to inform him immediately, and at the latest before September 3 next, of the bases of the *modus vivendi* which it stated it was disposed to conclude until circumstances should enable it to enter upon the negotiation of a new treaty. (See herewith the despatch addressed by the Minister of Foreign Affairs of Belgium to His Excellency the Minister of China in Brussels, under date of August 3, 1926.)

⁸⁰ League of Nations Treaty Series, vol. vi, pp. 391, 405.

Filled with the broadest spirit of conciliation and the greatest goodwill toward China, but unable to consider concessions which would sacrifice the security of its nationals and of their enterprises in that country, Belgium is firmly resolved, if China maintains its point of view, to bring the conflict before the Court of Justice of The Hague. Nevertheless, being desirous of reaching an equitable solution without having recourse to an extreme solution, it takes the liberty of appealing to the signatory Powers of the Washington accords of February 6, 1922, and to request the Government of the United States of America to be so good as to exert its influence upon (*agir auprès de*) the Peking Government with a view to obtaining that the stipulations of the *modus vivendi* which it is prepared to sign with China be acceptable: they could only be so on condition that Belgium is not placed on an inferior footing in regard to the other Powers having treaties.

As the Chinese Government has not concealed its intention of adopting, as soon as circumstances will permit, an identical attitude toward the other Powers with treaties, this question does not interest only Belgium. It appears of a nature to engage the attention also of all the Powers which have concluded "unequal treaties" with China.

[Subenclosure—Translation]

The Belgian Foreign Minister (Vandervelde) to the Chinese Minister in Belgium (Wang King-ky)

BRUSSELS, August 3, 1926.

MR. MINISTER: I have the honor to acknowledge the receipt of the letter which Your Excellency was good enough to write me on the 27th of this [*last*] month.

The Belgian Government regrets to have to state that there is complete disagreement between China and Belgium as regards the interpretation of a clause of the Chinese-Belgian treaty of 1865.

This disagreement constitutes a conflict, which, by the terms of article 38, paragraph 2, of the statute of the International Court of Justice, falls within the province of the Court for those States which have accepted the obligatory character of this provision. China and Belgium having, on May 13, 1922, and March 10, 1926, respectively, recognized this character, the Belgian Government is disposed to submit the case to the Court of The Hague.

However, as the Belgian Government strongly desires not to be forced to have recourse to this procedure, I have directed our Minister in Peking to request the Chinese Government to inform him immediately, and at the latest before the expiration of a month's time, of the bases of the *modus vivendi* which it stated it was disposed

to conclude until circumstances enable us to enter upon the negotiation of a new treaty.

I take [etc.]

E. VANDERVELDE

755.93/7 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 27, 1926—noon.

[Received August 27—9:37 a. m.]

356. Your 173, August 24, 6 p. m.⁸¹

1. Belgian Minister confidentially informs me his Government advises him that it contemplates simultaneous action by the Washington Conference powers "in order to obtain a basis for an acceptable *modus vivendi*." If any such action should be taken at all (against which I still strongly advise) it seems to me that it should be in the sense of a protest against China's violation of Belgian treaty rights rather than of an attempt to influence the terms of the proposed *modus vivendi* which is a matter of friendly concession by the Belgian Government and does not involve any question of principle.

2. I beg to request that you advise me of such action as you may decide to take upon the Belgian note.

MACMURRAY

755.93/11 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

BRUSSELS, September 7, 1926—11 a. m.

[Received September 7—10:28 a. m.]

66. My despatch number 585, August 25. September 3, Chinese Minister presented to Foreign Office draft of *modus vivendi* in five articles containing China's terms for 6 months' period following expiration of treaty.

Article 2 provides for reciprocal recognition tariff autonomy with most-favored-nation treatment.

Article 3 is as follows:

"Principle of territorial jurisdiction of each country recognized and with a view to carrying out effect of above, China agrees for the time being, to tolerate temporary *status quo* of consuls' jurisdiction, with the understanding that Belgium agrees to formal renunciation of consuls' jurisdiction in the new treaty to be formed."

My informant at the Foreign Office expressed great dissatisfaction with these terms but said that Belgian Government will await return of Minister of Foreign Affairs, now at Geneva, before formulating reply.

PHILLIPS

⁸¹ Not printed.

755.93/8 : Telegram

The Secretary of State to the Ambassador in Belgium (Phillips)

WASHINGTON, September 8, 1926—2 p. m.

44. Your 62, August 23, 6 p. m., 64, September 1, 2 p. m.⁸² Informally advise Foreign Office that Department, while viewing with sympathy Belgian proposal that this Government exert its influence upon Peking Government with the object of obtaining for Belgium an acceptable *modus vivendi*, questions the advisability of such action, since it might tend to weaken the position taken by the Belgian Government on the clear cut issue as to the interpretation of Article 46 of the Sino-Belgian Treaty of 1865.

KELLOGG

755.93/25 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

BRUSSELS, November 6, 1926—1 p. m.

[Received November 6—10:12 a. m.]

77. My telegram number 66, September 7, 11 a. m. Foreign Office has today notified the Chinese Government that the Belgian Government will submit the question surrounding abrogation of the Sino-Belgian treaty to the Court of International Justice at The Hague.

PHILLIPS

755.93/26 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 9, 1926—noon.

[Received November 9—10:12 a. m.]

535. Legation's mail despatch number 796, October 22.⁸³

1. After weeks of effort by Belgian Legation to meet Chinese Foreign Office demands relative to revision of Sino [-Belgian treaty] of 1865, Belgian Legation was compelled to stand on its treaty rights and to invite the Chinese to join in the terms of a compromise, placing the matter before the Permanent Court of International Justice at The Hague for a decision on the interpretation of article 41 [46] of the treaty. The alternative with which the Belgian Government was faced was the demand by the Chinese that it agree to an abrogation of the treaty and a *modus vivendi* whereby at the end of the 9 months, if no new treaty were negotiated, the Belgian Government might find itself without either treaty or *modus vivendi*—that is to say, with no rights whatsoever in China.

⁸² Neither printed.⁸³ Not printed.

2. At this juncture on November 6th by a so-called Presidential order to the Minister for Foreign Affairs, i. e., from Dr. Koo to himself, the Sino-Belgian treaty of 1865 was "declared to cease to be effective" from October 27 last, and the Minister for Foreign Affairs was ordered to negotiate and conclude a new treaty with the Belgian Government, as soon as possible, on the basis of equality and mutual respect for territorial sovereignty.

3. On the same day the Chinese Government made a statement of its case as well as transmitted a note to the Belgian Minister describing the action taken by the Presidential mandate and the reasons therefor, being a reply to the Belgian Minister's *aide-mémoire* of November 5th in which the latter informed the Chinese Foreign Office of his Government's inability to agree with the Chinese proposal which would bring about the impossible situation described in the alternative aforementioned.

4. Full texts of Presidential order and the exchange of correspondence described above are being sent by radio. My comment will follow later by telegraph.

MACMURRAY

755.93/28 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 9, 1926—1 p. m.

[Received 6:15 p. m.]

536. My 535, November 9, noon. Following are, first, Belgian Minister's *aide-mémoire* of November 5th to Chinese Foreign Office in regard to revision of the Sino-Belgian treaty of 1865:

"Belgian Legation has not failed to bring to the knowledge of its Government the tenor of the Chinese Government's *aide-mémoire* of the 20th [28th] October. Acting on the instructions of the Belgian Government, the Legation has the honor to bring to the notice of the Chinese Government that the Belgian Government does not find the Chinese proposition acceptable.

The last suggestion for a *modus vivendi* offered by the Belgian Government envisaged the fundamental concession to China of the abrogation, by mutual agreement, of the treaty of 2d November, 1865, but correlatively with this concession which divests it (Belgium) of all its rights, Belgium asked that a *modus vivendi* should be concluded which would recognize most-favored-nation treatment and concede to Belgium this treatment until a new treaty has been concluded.

The Chinese Government has not agreed to these proposals which constituted a whole and has presumed to reduce the duration of the *modus vivendi* to a period of a few months, to which an end may be put at the sole initiative of China, if at this moment the Govern[ment] had not reached an agreement as to the basis of a new

treaty, thus placing Belgium in the position of having neither treaty nor *modus vivendi*.

In any case, Government of the Republic cannot fail to notice that this position at which negotiations have arrived demonstrates clearly that the Belgian Government do not make a question of principle or of doctrine out of the fact of their maintaining the clauses of the former treaty.

The negotiations in question have been carried on by Belgium in a spirit of great good feeling towards China. Far from insisting on the rights which belong to them, under article XLVI of the treaty of November 2d, 1865, the Belgian Government has gone as [*so*] far as to take under consideration the abrogation, by mutual agreement, of the treaty and only asked in exchange the establishment, by mutual agreement of a transitional regime whereby Belgian undertakings and interests would not be placed on different footing from those of other countries. It is for this reason that, in the course of one of their latest conversations, the Belgian Minister had the honor to bring to the notice of His Excellency the Minister of Foreign Affairs that he was ready to recommend to his Government that there should be no renewal of the *modus vivendi* after one of the powers equally interested economically in China, such as the United States of America, Great Britain, France and Japan had included [*concluded*] new treaties with China, Belgium agreeing that from this time on it would accept in the matter of jurisdiction that [*sic*] the same arrangements as those which exist between China and any one of these powers.

His Majesty's Government is therefore obliged to discontinue the negotiations which have been carried on and to take the question of law which is raised by the interpretation of article XLVI of the treaty of November 2d, 1865, before the Permanent Court of International Justice at The Hague instituted by the Assembly of the League of Nations on December 13, 1920—in accordance with article XIV of the Covenant of the League of Nations—and which was the subject of the protocol signed at Geneva by the Chinese and Belgian Governments whereby they agreed to recognize the competence of the Court in all questions which the signatories might submit to it.

Consequently His Majesty's Government has the honor to make the offer to the Government of the Republic to establish by common consent—in accordance with one of the methods provided for [in] article XL⁸⁴ of the said protocol—the terms of a *compromis* placing this matter before this International Court.

The recourse to the Permanent Court of International Justice implies, on the part of His Majesty's Government, no unfriendly feeling for China, His Majesty's Legation has therefore been instructed to declare to the Government of the Republic that, in the event of a decision of the Court favorable to the Belgian view, the Royal Government will be ready to continue seeking for a conciliatory solution, inspired by the same spirit which has animated it from the beginning of the negotiations, which is only a desire to satisfy Chinese aspirations while safeguarding Belgian interests. Peking, November 5, 1926."

⁸⁴ League of Nations Treaty Series, vol. VI, p. 405.

Second. Foreign Office's reply of November 6th:

“Monsieur le Ministre: In replying to the *aide-mémoire* which Your Excellency handed to me yesterday, I [have] the honor to state that the Chinese Government profoundly regret that, in spite of the repeated concessions they have made during the course of the negotiations for a *modus vivendi* to take the place of the Sino-Belgian treaty of 1865, the Belgian Government did not see its way to accept their proposition which I communicated to you on the 28th of October last embodying an important concession; but, instead, reverting to its original position before the commencement of the present negotiations, it proposed to raise the question of interpretation before the Permanent Court of International Justice. While adhering to their view as regards the terminability of the treaty of 1865 by notice, the Chinese Government cannot but express their keen disappointment that their untiring efforts for an amicable settlement of the question should have failed to bring about the desired result.

This is all the more regrettable as the progress of negotiations had already reached a stage when the point at issue only involved the question [of] whether a definite period should not be set for the conclusion of a new treaty. The setting of a definite period within which a new treaty is to be concluded is not an unusual practice in international negotiations. The Chinese Government deem this to be the more necessary, not only because of the existence of a nation-wide sentiment in China against the indefinite continuance of unilateral treaties and unequal treatment, but also as a proof of the earnestness of both Governments of [*in*] their undertaking to conclude the new treaty within a reasonable period.

While taking note of the declaration of the Belgian Government that as soon as the United States of America, Great Britain, France and Japan shall have concluded a new treaty with China, the Belgian Government engages itself to accept in the matter of jurisdiction, the same dispositions as may be agreed upon between China and any of these powers, the Chinese Government cannot accept it in lieu of a definite period for the conclusion of the proposed new treaty because it is obvious that if every country whose treaty comes up for revision were to take the same position, a vicious circle would be completed and there would be little hope of bringing into existence new treaties so essential to the common interest[s] of China and the foreign powers.

In the face of the position now taken by the Belgian Government, the Chinese Government felt that there was no other course open to them but to declare that the Sino-Belgian treaty of 1865 was terminated. Accordingly, a Presidential mandate, an English translation of which is herewith enclosed, has been issued today [*sic*] to that effect with the instruction that negotiations for the conclusion of a new treaty with Belgium be started as soon as possible on the basis of equality and mutual respect for territorial sovereignty. It will be noted, however, that in the meantime the local authorities are ordered to extend full and due protection to the Belgian Legation, consulates, nationals, products and ships in China in accordance with the rules of international law and usage, and the Ministries concerned are ordered to propose, in conformity with international practice,

arrangements for their favorable treatment and submit these for consideration, approval and enforcement.

In conclusion, the Chinese Government wish to emphasize once more that, in seeking the early conclusion of a new treaty on the basis of equality and mutual respect for territorial sovereignty, they are not only carrying out their bounden duty to the Chinese people but are prompted by a genuine desire to promote the friendly relations and mutual interests of China and Belgium. The Chinese Government, therefore, are ready at any time to negotiate and conclude a new treaty with the Belgian Government on the basis of the above-mentioned principles.

I have the honor to request Your Excellency to transmit the contents of this note to the Belgian Government and I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration."

Third. So-called Presidential order of November 6th cancelling the treaty:

"*Re* memorial, submitted for consideration and for instructions to be given stating that the treaty of Peking together with the commercial regulations and tariffs annexed thereto concluded between China and Belgium [in] the fourth year of the Manchu Emperor Tung Che, having expired, should be declared to cease from that date to be effective and that for the promotion of friendly relations a new treaty should be concluded on the basis of equality and mutual respect for territorial sovereignty.

Your memorial has been noted. The treaty of Peking in forty-seven articles together with the commercial regulations and tariffs annexed thereto concluded between China and Belgium on the fourteenth day of the ninth moon of the fourth year of the Manchu Emperor Tung Che having expired on the 27th of October last, is hereby declared to cease from that date to be effective. For the promotion of friendly relations with Belgium, your Ministry is ordered to negotiate and conclude a new treaty with the Belgian Government as speedily as possible on the basis of equality and mutual respect for territorial sovereignty. With regard to the Belgian Legation, consulates, national[s], products, and ships in China, the local authorities are hereby ordered to extend full and due protection to them in accordance with the rules of international law and usage. At the same time the Ministries concerned are ordered to propose, in conformity with international practices, arrangements for their favorable treatment to be submitted for consideration, approval and enforcement. The remaining items in the memorial shall be carried out as suggested."

MACMURRAY

755.93/30 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, November 12, 1926—5 p. m.

[Received November 12—3:15 p. m.]

544. [Paraphrase.] Referring to my telegrams 535 and 536 of November 9th.

1. The denunciation of the Belgian treaty constituted a deliberate attempt to find out to what extent the treaty powers were complaisant towards a repudiation of treaty obligations by China. A division of opinion is understood to have existed among the officials concerned. Victory went to those who made it clear that the Peking group, in consequence of the inertia shown by the powers in the making of their dilatory and patently platonic statement concerning the violation of treaty rights brought about by the illegal taxes imposed by Canton, might safely go the Cantonese one better by actually commencing to tear up treaties. Consult telegram number 449 from the Legation, October 2nd [3d].⁸⁵ We are brought by this to the juncture about which we had warning from Dr. Schurman 18 months ago, and to which I have referred earlier as in the fifth paragraph of my number 325 of August 14th.⁸⁶ Those professing to control China's foreign affairs find that espousing the doctrine of repudiation is to their personal advantage. A state of fact now confronts us: an organization which actually is only a derelict of a former regime which received the recognition of foreign powers, though it purports to represent China internationally, has given notice to all powers, by its action regarding Belgium, of its disregard for the binding force of China's treaties. This action has the more pointed significance because of its being wholly unnecessary. The Belgian Government had unreservedly offered to negotiate a new treaty and to regard the old treaty as meanwhile no longer in force, provided only that pending the outcome of the negotiations Belgium be placed on a footing giving her equality with the other treaty powers. The very liberality of this offer not to insist upon treaty rights out of deference to the national aspirations of the Chinese had the effect, I am confident, of giving the Chinese encouragement to presume upon this indulgence. The significance of the action taken is emphasized further by the following fact: In the exceedingly disingenuous statement which the Foreign Office issued is an assertion that national aspirations are hardly fit matters to submit to adjudication. If in its context this has any meaning beyond impertinence or bombast, it constitutes a warning that the intention of the Peking administration is to take the position that abrogation of the so-called unequal treaties has become such a necessity for the nation as to give justification for treating the obligations of China as scraps of paper. Until 1934 our own treaty of 1903 is not due to be revised. But my belief, which I confidently venture to express, is that even though in the meanwhile we should make concessions beyond what the Washington Conference contemplated, by way of bowing to the storm, some specious occasion will have been

⁸⁵ *Ante*, p. 866.

⁸⁶ *Ante*, p. 671.

made by the Chinese before that date to declare our treaty terminated. That is, unless in the meantime our intention not to tolerate such treatment of our rights has been made very clear.

2. The feasibility of having the Washington Conference powers make a protest to China against the denunciation has been discussed with me by the Belgian Minister. I expressed my own opinion to him that a protest such as that would not be well-advised, for it would be a prejudgment of the World Court's decision on the question of interpretation which Belgium proposes to submit, and therefore it would be subjected to violent nationalistic propaganda along the line that China was being confronted by the Western powers with a choice between yielding to what we desire or taking the question before a court willing to serve our avowed interests.

3. However, considering both our own interests and our genuine sympathetic attitude toward China's international development on a basis of understanding and fair dealing, I feel most strongly that we should take occasion informally to intimate that the United States Government does not have any sympathy with the Chinese in the doctrine of international irresponsibility which has stood in the way of our recognition of the Russian regime. I beg to suggest respectfully that if the Secretary were in person to make an informal intimation to that effect, it would be greatly influential in acting upon the Chinese as a deterrent from pursuing the course of action which would, I gravely apprehend, lay the foundation for a new war in a not very distant future in the Far East. Also I propose, for my part, unless instructed to the contrary, to take available opportunities for pressing upon Chinese officials a view in this matter similar to that which I expressed to the former Acting Minister for Foreign Affairs last September. [End paraphrase.]

4. Reuter message from London November 9 stated that Washington correspondent of the *Times*, in setting forth what he considered to be the view of the State Department as to the continuance of our 1903 treaty until 1934, went on to say that "the fact that the Sino-Belgian treaty apparently does not confer on China the right to initiate negotiations for revision, although it entitles the King of the Belgians to do so, is so radical a variation from the terms of the American treaty as to permit the American Government to refrain from participating though remaining an interested listener of the Sino-Belgian discussion." I respectfully request to be informed what, if any, basis there may have been for this statement.

MACMURRAY

755.93/30 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, November 15, 1926—6 p. m.

267. Your 544, November 12, 5 p. m. Action mentioned in Paragraph 2 is approved by Department. Department does not understand purpose of suggestion in Paragraph 3 to the effect that the Secretary intimate that this Government has no sympathy "with the Chinese in the doctrine of international irresponsibility which has stood in the way of our recognition of the Russian regime." There would seem to be danger here of the possibility of confusing this Government's policy *vis-à-vis* China with the policy which it has pursued *vis-à-vis* the present Russian regime. The advisability of making such an intimation at this time to an irresponsible and uncontrolled regime at Peking, which may in the near future be superseded by one even more radically inclined, might furnish the very occasion for discussing with this Government the question of its treaty relations suggested in the last sentence of Paragraph 1 of your telegram. Department would prefer that this question be raised by China in its own way, leaving this Government free to accept or reject the proposal as the occasion may require. It is the more persuaded that the matter should be left alone for the time being in view of the reply made by the Japanese Government to the Chinese Government's note of October 20, 1926,⁸⁷ quoted in your 545, November 12, 6 p. m.⁸⁸

With reference to Reuter message quoted in Paragraph 4 of your telegram, this would appear to be a speculation of London *Times* correspondent based on statement made to press correspondents on Monday, November 8, 1926, to the effect that the Secretary did not know of any reason why this Government should support the Belgian Government in any protest against the denunciation by China of its treaty with Belgium.

KELLOGG

793.00/188 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, November 19, 1926—4 p. m.

[Received November 19—1:54 p. m.]

563. Referring to your telegram 267 of November 16 [15].

1. The reference made to nonrecognition of Russia in relation to the suggestion in third paragraph of my number 544 of November

⁸⁷ Substance of Chinese and Japanese notes given in footnote 77, p. 986.⁸⁸ Not printed.

12 was by way of illustrating the workings of a policy now being adopted by the Chinese in emulation of Russia, and was not intended as an intrusion by me into the field of our relations with the Soviet regime. Perhaps my suggestion lacked clearness because of its being phrased on an assumption that by chance my previous reports had conveyed to the Department a realization of the struggle here between two rival doctrines of nationalistic thought upon China's foreign relations with regard particularly to the so-called unequal treaties, i. e., the evolutionary and the revolutionary.

2. So rudimentary is China's political development that even yet she is incapable of satisfactorily exercising certain functions of sovereignty that are essential, as jurisdiction over foreigners and their interests. And so chaotic are her internal conditions that in matters such as customs and other forms of taxation, an unrestricted exercise of sovereign rights would not conduce to the advantage of anybody except those desiring the funds to carry on civil warfare against one or another disjointed military leader. I have held conversations with many Chinese, Chinese of all classes, among them nationalist agitators and, recently, the Kuomintang leaders in Canton. All of them would doubtless make prudent denials if I quoted their remarks, but, without exception, every one of them who has at any time allowed himself, in intimate conversation with me on the problems of China, to go further than meaningless generalities has acknowledged his realization that today this is the state of affairs. Yet, while in their hearts recognizing the presence of conditions so deplorable in their national life, all Chinese who are politically minded desire that the treaties which determine their relationships internationally be modified for the purpose mainly of taking away what, in their view, is a stigma of racial inferiority. (Concerning this, see my number 293 of July 28, 1925, 9 a. m.⁸⁹) Conservative leaders and radical Cantonese Red leaders have alike stressed to me the very significant, although not practical and sometimes not sincere, view that they would gladly have the nationals of the treaty powers, as a patently necessary safeguard for foreigners against the cupidity and the arbitrariness of the greater part of the leaders in China, continue to enjoy all of their special privileges, at least for the present, provided only that they save China's face by giving their consent to some apparent renunciation of their special treaty rights.

3. A differentiation appears at this point. The facts are accepted by the saner, more constructive elements, who propose going ahead on a basis that while conditions in truth are bad, there has been appreciable progress made—to which the report of the Commission on Extrater-

⁸⁹ *Foreign Relations*, 1925, vol. 1, p. 799.

itoriality bears witness—and that the making of modifications of our treaty position ought to be carried through by mutual consent, so that account of the progress really made will be taken and new progress encouraged and stimulated. Those who adhere to this theory want the people of China to earn their own salvation, as was done by the people of Japan and Siam, first of all by making themselves sovereign in their own domains and by proving themselves capable of bearing a sovereign nation's responsibility, merit recognition as such. It was this theory that the Washington Conference proceeded upon and which was the basis of the treaties and resolutions that resulted. It was also the inspiration of the Special Conference on the Tariff and of the Commission on Extraterritoriality which were held under its terms. (In this regard, see my number 270 of July 10, 1925, 11 [10] p. m.⁹⁰ and the reply from the Department, number 148, July 14, 1925, 5 p. m.⁹¹) The Washington Conference resulted in our leadership of a cooperative activity among the powers most interested in a policy of self-abnegation and of cooperation with China to enable her by evolutionary processes to achieve her own political destiny.

4. The failure of China to use her opportunities effectively, in combination with the powers' deplorable failure over a period of more than three years to induce France to take action essential to putting into effect the Washington treaties, opened the way for the Soviet's disruptive influences, aided by enormous propaganda and subventions, to bring together a very large group of Chinese adhering to the Third International's avowed policy of harassing the imperialist and capitalist powers by the method of arousing an antforeign feeling in the so-called semicolonial nations of the East, particularly China, persuading them to see as the way of gaining freedom from the oppression of foreigners—responsible for their militarists fighting wars and attempting to grind down the poor—is to do as Russia: declare a debt to be an injustice which therefore must not be paid, and declare a treaty obligation to be a curtailment of sovereignty which must be repudiated by a self-respecting people.

5. In respect to these two doctrines, China at present is at the cross-road; she has gone a step upon the road of repudiation. Before China makes her choice irrevocably, it is my feeling that we are obliged both to China and ourselves to speak some friendly words of warning. I stoutly venture again to make my suggestion. In addition, since I am unable to avoid having contacts and occasionally intimate conversations with Chinese in the course of which a refusal on my part to give my opinion would be taken as inferring an approval of the violation of Belgian rights by China, I beg, for my own guidance,

⁹⁰ *Foreign Relations*, 1925, vol. I, p. 778.

⁹¹ Not printed.

to be authorized to cast whatever influence I have in favor of China's carrying out the international responsibilities and obligations she has.

MACMURRAY

755.93/33 : Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

BRUSSELS, November 23, 1926—2 p. m.

[Received November 23—1:53 p. m.]

80. My 77, November 6, 1 p. m. Chinese Minister here submitted memorandum to the Foreign Office yesterday refusing to agree to submission of abrogation of the treaty of 1865 to the Court of International Justice at The Hague. Foreign Office is preparing to submit it to The Hague without acquiescence of China.⁹²

PHILLIPS

**CHINESE PROTEST AGAINST THE ADHERENCE OF CERTAIN POWERS
TO THE NINE-POWER TREATY CONCERNING CHINA, SIGNED
FEBRUARY 6, 1922⁹³**

500.A4d/107

The Ambassador in Germany (Schurman) to the Secretary of State

No. 589

BERLIN, December 23, 1925.

[Received January 9, 1926.]

SIR: I have the honor to enclose herewith a communication to the Secretary of State from the Minister of Foreign Affairs, which was handed to me today by Mr. Trautmann, Head of the Chinese Division of the German Foreign Office, and which, as will be seen, contains the adherence of Germany to the Washington Treaty Relating to Principles and Policies Concerning China.

In this connection, Mr. Trautmann stated that the German Government felt their policy in China was identical with that of the United States. He added that Germany, having now adhered to the Washington Treaty, would naturally take part hereafter with the other Powers in any conferences that might be held in respect of China.

I have [etc.]

JACOB GOULD SCHURMAN

⁹² The Belgian Chargé d'Affaires at The Hague, by a note dated Nov. 25, 1926, submitted to the Permanent Court of International Justice the question of the Chinese abrogation of the Sino-Belgian treaty of 1865. The Belgian Government on Feb. 14, 1929, requested that this case be struck from the Court's list of cases, as the matter had been settled by a preliminary treaty between Belgium and China, signed Nov. 22, 1928.

⁹³ For text of treaty, see *Foreign Relations*, 1922, vol. I, p. 276. For list of powers adhering to this treaty, with dates of adherence, see *ibid.*, 1925, vol. I, p. 762.

[Enclosure—Translation]

The German Minister of Foreign Affairs (Stresemann) to the Secretary of State

BERLIN, December 17, 1925.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of the kind note of October 1, of this year,⁹⁴ in which Your Excellency invites the German Government in the name of the Government of the United States of America acting for all the signatory powers to adhere to the treaty signed in Washington on February 6, 1922, regarding the principles and policy to be followed in matters concerning China.

On the strength of a full power given to me by the President of the Reich, I hereby declare that Germany, subject to ratification, adheres to the said Treaty.^{94a}

I gladly take [etc.]

STRESEMANN

500.A4d/107a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 9, 1926—11 p. m.

11. On October 1 this Government pursuant to Article 8 of Nine Power Treaty relating to principles and policies invited the German Government to adhere to that Treaty. On January 7 the Chinese Minister called upon me and discussed with me an instruction which he stated he had received from his Government to protest against Germany's adherence to this Treaty. The Chinese Minister explained that his Government made this protest because the Powers which attended the Washington Conference and which signed the treaty were all Powers possessing special treaty rights in China and inasmuch as Germany no longer occupied such a position, having renounced such special rights, she no longer enjoyed the right to be invited to adhere to this Treaty.

I informed the Chinese Minister that Article 8 of the Treaty relating to principles and policies provided that the Government of the United States should invite those Powers not signatory to the Treaty "which have Governments recognized by the signatory Powers and which have treaty relations with China", to adhere to the treaty. I pointed out that this Treaty was solely for the benefit of China and, after reading the several articles aloud to him, stated

⁹⁴ See instruction No. 288, Oct. 1, 1925, to the Ambassador in Spain and footnote 66, *Foreign Relations*, 1925, vol. I, p. 762.

^{94a} Excerpt from telegram No. 3589, Aug. 19, 1940, from the Chargé in Germany: "ratification of the Nine Power Treaty by Germany did not take place and hence Germany did not adhere to that treaty." (File No. 026 Foreign Relations/1491.)

that I could see no reason why it would not be to the interest of China to have every Government having treaty relations with China adhere to it. The Chinese Minister agreed to this interpretation and later informed the Department that he had made representation to his Government substantially along the following lines:

"I explained to Secretary Kellogg today your views accordance yours 5th. Kellogg says America's asking Germany adhere Nine Power Treaty is carrying out her duties accordance Article 8. America in her relations towards or concerning China has always been and is still actuated by unselfish motives with a view to enabling China fulfil her aspirations. The same motives that led to the conclusion of Nine Power Treaty guide her actions since. America has never claimed spheres of influence in China nor has she wished or wishes to do anything to impair sovereign rights of China. She therefore does not hold the view that being party to Nine Power Treaty means that she believed in or had spheres of influence in China nor she desired any impairment of Chinese sovereignty. In like manner the asking of Germany to adhere is not understood here as restoring to Germany rights or treaties which she already renounced. In fact adherence imposes on Germany the same obligation by which the eight Powers agree to be guided in their relations with or concerning China. Kellogg went over the treaty article by article and said that nothing can be either directly or by implication injurious or derogatory to China by Germany's adherence. America did not ask Germany to adhere to Customs Treaty or to come to Extra[territoria]lity Commission because Germany is not entitled to participate. America asked Germany to adhere on October 1st. I can assure you that Kellogg in his dealings with China has been most friendly and sympathetic and we can accept his assurances and explanations without hesitation."

KELLOGG

500.A4d/107

The Secretary of State to the Ambassador in Germany (Schurman)

No. 319

WASHINGTON, *January 16, 1926.*

SIR: Receipt is acknowledged of your No. 589 of December 23, 1925, enclosing an original communication from the Minister of Foreign Affairs of Germany to the Secretary of State of the United States, which you state contains the adherence of Germany to the Washington Treaty Relating to Principles and Policies Concerning China, and reporting the statement made to you by Mr. Trautmann that "Germany, having now adhered to the Washington Treaty, would naturally take part hereafter with the other Powers in any Conferences that might be held in respect of China".

An examination of the communication of the Minister for Foreign Affairs discloses that the notice of Germany's adherence is made

“subject to ratifications”; the language of the Minister, in translation, being as follows:

“On the strength of a full power given to me by the President of the Reich, I hereby declare that Germany, subject to ratification, adheres to the said Treaty”.

It is presumed that by this is meant that the declaration of adherence must receive the approval of the German national legislative bodies, in which case it would seem that the note does not constitute that complete adherence on the part of Germany which would warrant the Government of the United States in giving formal notification to the other signatory governments that Germany had adhered. You will please ascertain from Mr. Trautmann whether this presumption is correct.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

500.A4d/128

*The Chinese Ministry of Foreign Affairs to the American Minister in China (MacMurray)*⁹⁵

[Translation]

MEMORANDUM

Regarding the question of Germany's adherence to the Nine-Power Treaty Relating to Principles and Policies Concerning China, concluded on February 6, 1922, the Chinese Government believes that there are two reasons for Germany's not adhering to the said Treaty:

First. The provisions of the said Treaty are all intended to rectify the old treaties. The existence of the provisions of Article I and Article II is due to the fact that the old treaties violate China's sovereignty and restrict China's territorial and administrative integrity. The existence of the provisions of Article III and Article IV, providing for the Open Door and for equality of opportunity, is due to the fact that the old treaties delimit spheres of influence and special interests. It is clearly evident that in spirit and meaning the said Treaty has direct reference to the old treaties, and fundamentally has no concern whatever with such nations as have concluded equal and reciprocal treaties with China.

Second. According to the explanations set forth in Article VIII of the Nine-Power Treaty, there are two conditions for adherence to the Treaty by my country: (a) Recognition already accorded to such country by each country party to the Treaty, and (b) Existence of Treaty relations at that time between such country and China.

⁹⁵ Copy transmitted to the Department by the Minister in China as an enclosure to his despatch No. 425, Jan. 22; received about Feb. 25.

The Ministry of Foreign Affairs would observe that "treaty relations" as mentioned in the said Treaty naturally refers to the various subjects mentioned in the Treaty itself. Evidence of this is found in the conditions for adherence imposed by Article VIII of the Customs Treaty. Aside from the requirement of having been recognized by the various Signatory Powers, there is the requirement of having a direct "Five per centum ad valorem" treaty.

The Nine-Power Treaty and the Customs Treaty were formulated at the same time. The spirit and meaning of the conditions for adherence to each are naturally similar. Reasoning by analogy, since whatever nation adheres to the Customs Treaty must have a treaty providing for a five per centum ad valorem Customs duty, then, naturally, such nations as adhere to the Nine-Power Treaty must have treaties containing stipulations regarding the subjects referred to in the said Treaty before they can adhere. There can be no grounds for doubt as to this.

Similarly, there is the International Postal Agreement. Those countries which have no postal system naturally can not adhere to it.

For the above reasons, in the view of the Chinese Government, Germany certainly is not, in accordance with the spirit and provisions of the Washington Treaties, among those nations that may adhere thereto.

Aside from making separate representations to the German Government and telegraphing the Chinese Minister to the United States to request the United States Government to inform the German Government of the Chinese Government's views on this matter, the Ministry of Foreign Affairs has the honor to prepare this memorandum, with the request that the American Minister will communicate its contents to his Government for its information, to the end that the latter may bring them to the attention of the German Government and may withdraw the invitation that has been issued.

THE MINISTRY OF FOREIGN AFFAIRS

Of the Chinese Republic the fifteenth year, the first month, and the sixteenth day.

500.A4d/108 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, *January 20, 1926—7 p. m.*

21. Your 27, January 15, 9 p. m.⁹⁶ You will inform Chinese Minister for Foreign Affairs that pursuant to the obligation imposed upon it by Article 8 of the Treaty of February 6, 1922, relating to

⁹⁶ Not printed.

Principles and Policies concerning China, to invite the "Powers not signatory to the present treaty, which have governments recognized by the signatory Powers and which have treaty relations with China" to adhere to that treaty, the Government of the United States on October 1, 1925, made the necessary communications to the following Powers: Austria, Bolivia, Chile, Denmark, Germany, Norway, Persia, Peru, Spain, Sweden and Switzerland and on November 21, 1925, to Brazil.⁹⁷ You will say that I have carefully considered the reasons given by him for objecting, on behalf of China, to adherence on the part of Germany to this treaty,⁹⁸ and that inasmuch as Germany has a Government recognized by the signatory Powers and has treaty relations with China, I am unable to share with him the belief that it was not intended by the framers of the treaty that Germany should be asked to adhere. Nor do I share his fear that the adherence of any of these Powers is to be interpreted as affecting their position vis-à-vis China in any other way than to impose upon them the same obligations which have been assumed by the signatory Powers, namely "(1) To respect the sovereignty, the independence and the territorial and administrative integrity of China; (2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government; (3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the Commerce and industry of all nations throughout the territory of China; (4) To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly States, and from countenancing action inimical to the security of such States." Their adherence will likewise carry with it the obligation imposed upon the signatory Powers "not to enter into any treaty, agreement, arrangement, or understanding, either with one another, or, individually or collectively, with any Power or Powers, which would infringe or impair" the above enumerated principles, as well as other obligations contained in that treaty. You should inform the Minister for Foreign Affairs that this Government cannot withdraw its invitation to these countries including Germany because of its obligations under Article 8 of the treaty regarding Principles and Policies and that, aside from the question of treaty obligation, I feel that it is distinctly to China's interest that all of the Powers having

⁹⁷ See instruction No. 288, Oct. 1, 1925, to the Ambassador in Spain, and footnote 66, *Foreign Relations*, 1925, vol. I, p. 762.

⁹⁸ For reasons given by the Chinese Government for objecting to the adherence of Germany to the treaty, see memorandum from the Chinese Ministry of Foreign Affairs, Jan. 16, p. 1004.

treaty relations with China should subscribe themselves to the principles and policies set forth in a treaty the whole purpose of which is to ensure to China the fullest and most unembarrassed opportunity to develop itself and maintain for itself an effective and stable Government.

KELLOGG

500.A4d/131

The Chinese Minister (Sze) to the Secretary of State

WASHINGTON, *January 22, 1926.*

SIR: I have the honor to inform you that I am instructed by my Government to communicate to you for your information and consideration a memorandum, which is herewith enclosed, embodying the views of my Government with respect to the adherence by non-signatory powers to the Nine-Power Treaty signed at Washington on February 6, 1922.

Accept [etc.]

SAO-KE ALFRED SZE

[Enclosure]

MEMORANDUM

In connection with the oral exchange of views regarding the adherence to the Nine-Power Treaty by non-signatory powers upon the invitation of the American Government, it may be recalled that objection was duly raised by the Chinese Government against the adherence by Germany on the ground that Germany's adherence was not contemplated by the Treaty. Switzerland, Chile and Persia, besides Germany, which stand[s] on the same footing as these three countries have concluded treaties of equality and reciprocity with China. As to Bolivia, it is provided in the treaty of friendship between China and Bolivia that the treaty shall come into force after the exchange of ratifications. Now the ratifications were exchanged on December 17, 1924, and the treaty therefore had not yet come into force at the time of the Washington Conference. Its provisions can not possibly have anything to do with the "treaty relations". Peru is now negotiating a new treaty with China, and need not be invited to adhere standing as it does on the same footing with Mexico in this respect.

The Chinese Government suggests that the invitations sent to the five powers above mentioned, namely, Switzerland, Chile, Persia, Bolivia and Peru, to adhere to the Nine-Power Treaty be recalled.

[WASHINGTON,] *January 22, 1926.*

500.A4d/114 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 23, 1926—11 a. m.

[Received January 23—8:36 a. m.]

43. Your telegram number 4 [21], January 20, 7 p. m., sets forth the logic of our position, but, in view of the mood of truculence which animates the attempts of the Minister for Foreign Affairs⁹⁹ to undermine the authority of Washington Conference treaties, I doubt whether a reasonable statement will terminate the debate. It seems obvious that his desire is to make this the occasion for manifesting publicly that his school of nationalistic thought is more patriotic than that of his predecessors and rivals at Washington, and I fear he may allow the correspondence to leak into the press with his antagonistic gloss upon American subservience to the imperialistic powers unless he has an intimation that in doing so he might risk alienation of some degree of sympathy on our part. I therefore respectfully venture to request authorization to include in my note conveying the substance of your telegram, a definite statement of the following general purport.

“Mr. Kellogg further instructs me to advise you that he is at a loss to understand apparent disposition of the Chinese Foreign Office to place the American Government on the defensive for having conveyed to Germany an invitation in literal fulfillment of the provisions of a treaty signed with full cognizance of its import by the representatives of Your Excellency’s Government at the Washington Conference. He ventures the hope that Chinese Government may reconsider a position which would appear a repudiation of the conclusions of that conference and of the principles of friendly cooperation which inspired them. He therefore trusts that Your Excellency may deem it appropriate to discontinue a correspondence, which, if pursued, could lead only to a sharp difference of opinion and to imperilment of that warm sympathy towards China which the American Government and American opinion have had particular occasions to manifest.”

MACMURRAY

500.A4d/114 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 25, 1926—4 p. m.

29. Your 43, January 23, 11 a. m.

1. I approve of statement but suggest that you consider whether it would not be better to omit last sentence which if used I feel might serve only to lend color to any patriotic appeal that the foreign minister might make to Chinese nationalist opinion.

⁹⁹C. T. Wang.

2. Chinese Minister has presented note dated 22nd requesting withdrawal of invitations sent to Switzerland, Chile and Persia on same ground as Germany, namely, that adherence by these countries was not contemplated by the treaty as they like Germany have "concluded treaties of equality and reciprocity with China." Objection to adherence of Bolivia is based on statement that Chinese Bolivian Treaty having become effective only on exchange of ratification on December 17, 1924, the treaty had "not come into force at the time of the Conference." Note states that Peru need not be invited as it is now negotiating a new treaty with China and stands on same footing as Mexico. Reply is being drafted and will be telegraphed.

KELLOGG

500.A4d/117 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, *January 27, 1926—noon.*

[Received 2:20 p. m.]

50. Your telegram 29, January 25, 4 p. m.

1. I apprehend, inasmuch as it appears from your paragraph 2 that a note has now been addressed to you by the Chinese on matters corollary to those dealt with in their note already addressed to me,¹ which I reported in my 38, January 21, 11 a. m.,² that the Chinese seek to develop points of difference between your position and mine, with the intention of making it appear that I colored or distorted your views in my presentation of the matter. I would urge, in order to avoid any appearance of discrepancy such as that which in this and in future cases could be exploited to discredit any representations I might need to make, that you reply to the Chinese Minister in a single note regarding both the invitation to Germany—treated by the memorandum from the Foreign Office which my telegram 27 of January 15, 9 p. m.,² and my telegram 38 of January 21, 11 a. m., reported—and the invitations to other nations—the point treated by the note from the Chinese Minister to which your telegram 29 of January 25, 4 p. m., referred. If you should adopt this suggestion I will not reply to the memorandum from the Foreign Office, other than to acknowledge it and to enclose a copy of your note to the Chinese Minister. I shall wait for your approval.

2. Concerning the suggestion in paragraph 1 of your telegram 29, that a statement of the tenor of my concluding sentence in my 43 of

¹Memorandum of Jan. 16, p. 1004.

²Not printed.

January 23, 11 a. m., might well be avoided, it is my carefully considered judgment that such a statement would tend powerfully to avert any appeal on this subject to nationalistic sentiment. While publication of the fact of German adherence has been made here, it has not led to any public comment whatsoever, and unless Wang himself makes a popular issue of it, it may be expected not to cause comment. I feel strongly that Wang fully sees the sophistry of his position and that by this discussion he is consciously making a test of how far he can presume upon our tolerance. He has given me to understand somewhat naïvely that, if he is persuaded that we remain firm in our attitude, he will be prepared to make the best he can of it. Therefore I venture to express very earnest hope that you will make use of language such as I suggested in my telegram 43 of January 23, 11 a. m., in any note to the Chinese Minister on this question.

3. Concerning your 29, penultimate sentence, may I suggest that the construction is borne out by Chinese reference to the Chinese-Bolivian treaty that Article 8 of the Nine-Power Treaty contemplated adherence of the nations having treaty relations with China when the Treaty on Principles was signed and that at that time Mexico and Peru were parties to treaties with China?

MACMURRAY

500.A4d/119 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, February 3, 1926—5 p. m.

[Received 6:15 p. m.]

64. My urgent telegram number 50, January 27, noon.

1. Today the agitation which was foreseen in paragraph 2 has begun with the publication of a so-called analytical comment purportedly by a famous Chinese authority on international law, by the Kuo Wen, which is a news service which has intimate relations with C. T. Wang.

2. The following are paraphrased excerpts:

The Nine-Power Treaty purposed to restrict the demands of the signatory powers for special interests and rights in China. It is not necessary at all for Germany to adhere to the Treaty because relations between China and Germany have been placed on an equal footing.

Why the American Government did not this time sound the views of the Government of China when Germany was invited to give her adherence to the Nine-Power Treaty is difficult to understand. Moreover the reference of article 8 of the Nine-Power Treaty to non-signatory powers could only mean those powers having unequal treaties with China. It has absolutely nothing to do with those

powers which already have concluded reciprocal agreements with China. Therefore, the American Government's invitation to Germany to give her adherence to the Nine-Power Treaty runs counter not only to the Sino-German agreement, but obviously also to spirit of article 8.

Now the invitation extended to Germany by the United States cannot be construed in any light other than as a confession that the traditional American policy as to China was merely a pretense and that the conference at Washington was only a selfish association for the purpose of division of special interests and rights. The Nine-Power Treaty contains but a general statement of principles for China's liberation, while in the Sino-German agreement in which these principles are carried out in fact, China has recovered her complete freedom. Therefore the American invitation to Germany, which is difficult to understand, is nothing less than encouragement to Germany to put China into further bondage and opposition to China's recovering her absolute freedom. This step by the American Government is tantamount to completely reversing their traditional policy for more than ten years and by it the United States is placed among those powers which are endeavoring to fetter the free development and liberation of China. For a power known as the exponent of justice and right this is surely inadvisable.

If Germany adheres to the Nine-Power Treaty there is no question that it will amount to a nullification of the Sino-German agreement and, solely because of this invitation which the United States extended, the equal and reciprocal agreements between Germany and China will go overboard. What is to become of the earlier boasted international right, morality, and justice. The friendly sentiment of the Chinese people will be surely lost to the Americans, and, without it, American trade in China is certain to sustain a serious setback. Therefore, in the interest of Americans themselves there should be a most careful and serious reconsideration of the whole matter.

3. Wang has evidently deemed it opportune, in the absence of reply to his formal representations, to begin his agitation at the moment we are receiving some adverse criticism because of an altercation Sunday at a skating carnival when two marines of the Legation Guard not in uniform exchanged blows with certain Chinese. The incident itself was trivial except as a basis for agitation. However, there is among students and in certain other quarters a tendency to make an issue out of it, and the foreign-language press and the Kuo Wen service have made of it an occasion for some comment which is very unfriendly.

4. Although the opportunity to forestall the initiation of agitation concerning the question of adherence by Germany has gone by, it is my belief that even yet the arrest of its development is possible by conveying a refusal to reconsider our action in sufficiently blunt terms to impress a man who has a feeling he has out-bluffed us.

5. Respectfully, but very urgently, I request information as to the tenor of your proposed note in reply to the Chinese protests.

MACMURRAY

500.A4d/119: Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, February 4, 1926—3 p. m.

36. Your telegram 64, February 3, 5 p. m. In paragraphs 3 and 4 you state that evidently Wang has thought it opportune to commence agitation in the absence of reply by this Government, and that our opportunity to forestall the beginning of agitation over the adherence of Germany has been lost. I call to your attention that my conversation of January 7 was reported by the Chinese Minister to his Government; see my telegram 11 of January 9, 11 p. m. I then received your conversation from you; see your telegram 27 of January 15, 9 p. m.³ By my number 21 of January 20, 7 p. m., I instructed you concerning what to inform the Chinese Minister. By your number 43 of January 23 you asked in your reply to add a sentence. We gave authority to you but made suggestions. Had you desired to make use of this or to present views to the Foreign Office or obtain publicity, I do not see how blame for the delay rests on the Department. The other day a complete note covering not only Germany alone but all other cases was prepared to deliver to the Chinese Minister. He was called and informed of the substance of it. He asked that we not deliver it inasmuch as he was requesting his Government again to withdraw its request. We shall proceed now to call the Chinese Minister in and deliver the note to him, wiring it to you unless a request to the contrary is received from you.

KELLOGG

500.A4d/120: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, February 6, 1926—3 p. m.

[Received February 6—7:46 a. m.]

66. Last sentence of your 36. I concur fully in your proposal that you deliver your intended note to the Chinese Minister without awaiting further action by him, telegraphing the text of the note to me for use as suggested in my telegram 50, January 27, noon, first paragraph.

MACMURRAY

³ Not printed.

500.A4d/124

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

WASHINGTON, February 6, 1926.

The Chinese Minister called upon the Secretary by appointment at noon today. The Secretary explained to the Chinese Minister that he had been informed that a Chinese News Agency at Peking, reported to be in close touch with the Chinese Foreign Office, had circulated certain statements regarding an invitation which the United States Government had extended to the several non-signatory Powers to adhere to the Nine-Power Treaty relating to principles and policies concerning China. The Secretary stated that the statements circulated by this news agency impugned the motives of the United States Government in sending out these invitations charging that the United States Government thus demonstrated that the Washington Conference, at which that Treaty had been signed, was merely another effort to encroach on Chinese sovereignty. The Secretary informed the Chinese Minister that in view of this evident attempt to question the motives of the Government of the United States in this matter he thought that he could no longer withhold the note which had been drafted in reply to the Minister's note requesting that the Government withdraw the invitations sent to the non-signatory Powers.

He then read to the Chinese Minister a draft of a note which had been prepared but not sent, copy of which is attached to this memorandum.⁴

The Chinese Minister stated that as he had informed the Secretary on a previous occasion, he was using every effort to persuade his Government to reconsider its action. He stated that he had telegraphed a friend of his in Peking who was very close to the Chinese Foreign Minister and had asked him to take the matter up with the Foreign Minister and said that unless this step was reconsidered he could expect a very sharp note from the Secretary of State. The Chinese Minister stated that he had not as yet had any reply to his messages. He asked the Secretary to give him more time as he believed that a reply would reach him at least by Monday, February 8. The Secretary stated that he had no objection to waiting until Monday. He handed the note to Mr. Johnson and instructed him to hold it until further word was received from the Chinese Minister.

N[ELSON] T. J[OHNSON]

⁴Not attached; the note as sent (p. 1019) was identical with this original draft.

500.A4d/130

The Ambassador in Germany (Schurman) to the Secretary of State

No. 760

BERLIN, February 6, 1926.

[Received February 25.]

SIR: With reference to the Department's instruction No. 319, dated January 16, 1926, relating to the adherence of Germany to the Washington Treaty Relating to Principles and Policies Concerning China, I have the honor to report that, in an informal conversation with Mr. Trautmann, Chief of the Asiatic Division in the Foreign Office, on the third instant, I called his attention to the fact that the notice of Germany's adherence, contained in the communication from the Minister for Foreign Affairs, dated December 17, 1925, read as follows:

"On the strength of a full power given to me by the President of the Reich, I hereby declare that Germany, subject to ratifications, adheres to the said Treaty".

I remarked to him that this did not constitute a complete adherence as would justify the Government of the United States in giving formal notification to the other signatory Governments that Germany had adhered. Mr. Trautmann said at once that he understood our position. He then stated that the political officers in the Foreign Office had held that the "Ratifikation" referred to was a mere formality and that, indeed, he himself, in the case of this Treaty which dealt merely with political subjects, thought such ratification unnecessary as, in their view, "the Government had already ratified the Treaty". The legal advisers of the Foreign Office, however, had "taken a different view" and it had therefore been decided to send the Treaty to the Reichstag for formal ratification.

Mr. Trautmann stated that the time for such action was a little uncertain. At the beginning, and before the German Government had taken any action, the Chinese Minister in Berlin saw no objection to Germany's adherence to the Treaty. Later, however, he changed his position. . . .

Mr. Trautmann promised to let me hear from him when the Government approaches the Reichstag on the subject.

I have [etc.]

JACOB GOULD SCHURMAN

500.A4d/121

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Johnson)*

[WASHINGTON,] *February 9, 1926.*

The Chinese Minister called, by appointment, upon the Secretary at twelve o'clock on February 9, and read to him a telegram, copy of which is attached to this memorandum, which he had received from the Chinese Foreign Office to the effect that the Chinese Government will not insist upon withdrawal by the United States of invitations sent to non-signatory powers to adhere to the Nine-Power Treaty relating to principles and policies concerning China. The Secretary informed the Minister that this position seemed satisfactory. He told the Minister that it only remained now for the Chinese Government to withdraw the note which the Chinese Minister had addressed to the Department on this subject and which remained unanswered and the one which the Chinese Foreign Office had addressed to the American Minister in Peking. The Minister stated that he had anticipated this situation and had already drawn up a proposal which he purposed communicating to his own Government, namely, that he should be authorized to withdraw the note which he had addressed to the Department of State and also that the understanding would be that the American Minister at Peking would return to the Chinese Foreign Office the note which had been addressed to the American Minister by the Foreign Office. The Chinese Minister stated that he had taken the liberty of drafting a telegram to his Government indicating that the Government of the United States expected this arrangement and restating the views which he knew the Secretary to hold on this subject, namely, that adherence by non-signatory Powers to the Treaty in question could not be interpreted as in any way meaning an infringement upon China's sovereignty or administrative integrity. He showed the text of his proposed telegram to the Secretary and the Secretary informed the Minister that he saw no objection to this statement of his views. The Chinese Minister asked the Secretary whether he would give to him a memorandum along these lines and the Secretary replied that he had no objection to doing that. He instructed Mr. Johnson to revise the note which had already been drafted as it contained these statements.

N[ELSON] T. J[OHNSON]

[Enclosure 1]

Telegram From the Chinese Foreign Office to the Chinese Minister in Washington (See)

PEKING, February 8, 1926.

Please assure Secretary Kellogg China always most appreciative of American friendship and entertains no doubt of American intention to help us every way possible even if viewpoints happen to differ. China is sincerely desirous of accommodating American view as far as possible. She feels, however, that exclusion of any particular Power from adhering to Nine Power Treaty on principles and policies can not in any way prejudice rights and interests of any signatory power as in Article three thereof. China has undertaken to be guided by principles of open door or equality of opportunity in dealing with all countries irrespective of whether they are parties to the treaty or not from which policy she has no intention to deviate at all. On the other hand and under new conventions based upon principles of equality and reciprocity more recently concluded with some foreign powers China's sovereignty, independence and integrity have been more fully and effectively vindicated than in Nine Power Treaty so that adherence by any such power to the treaty which is admittedly a very useful and effective instrument for protection and recovery of sovereign rights of China would in particular cases bear [the appearance of a?] retrogressive step for China. Moreover, it does not enhance prestige of China to have Powers which have little interests in China like Persia and Switzerland pledge their respect for China's sovereignty and independence. She sincerely believes that her interpretation of article eight is more correct and more consonant with the spirit of the said treaty. So if out of special deference to American Government China does not insist upon withdrawal of invitations already sent out she hopes America will fully appreciate China's position and find a satisfactory solution.

[Enclosure 2]

Draft of Telegram Proposed by the Chinese Minister (See) for the Government of the United States To Send to the Government of China

The American Government appreciates highly the friendly and accommodating communication which has been received from the Chinese Government with reference to the matter of the invitations which in pursuance of Article 8 of the Treaty of the Nine-Powers relative to the principles and policies to be followed in matters concerning China signed in Washington February 6, 1922 the American Government has sent to the various Governments requesting their

adherence thereto. Understanding from this communication from the Chinese Government that that Government, in view of the assurances which have been received from the American Government, is prepared to acquiesce in the action which the American Government has taken, the American Government has the honor to say, by way of re-affirming the assurances previously orally given to the Minister Plenipotentiary of China at Washington, that, it is its view that, by adhering to the Treaty aforesaid, no Power will gain any rights privileges or immunities derogatory to the sovereign rights or dignity of the Chinese Republic, or obtain a status which will in any wise indicate or imply that China has, as vis-à-vis such adhering Power, a status other than that of a co-equal Power. Upon the contrary, it is the opinion of the American Government that, by the adhering of the other Powers to the Treaty aforesaid, China obtains a broadened guarantee that her rights of sovereignty and territorial integrity will be scrupulously respected, and that advantage will not be taken of such domestic conditions as may exist or occur in China to take action which will be in derogation of the sovereignty and territorial rights of China which, under International Law, are conceded to be possessed by her as a sovereign and independent Power and a co-equal member of the Family of Nations.

500.A4d/126 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, February 23, 1926—7 p. m.

46. I am temporarily withholding reply of the Department in view of urgent request of Chinese Minister for delay. He hopes to obtain permission shortly to withdraw note. I expect to be able, if he succeeds, to authorize you to return the note from the Foreign Office unanswered.

KELLOGG

500.A4d/129 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, February 25, 1926—3 p. m.

[Received February 25—11:31 a. m.]

91. Your 46, February 23, 4 [7] p. m.

1. I fear the attitude of the Minister for Foreign Affairs scarcely justifies the hope of the Chinese Minister in this matter. It now seems material to me in the light of your 46 that Wang volunteered at dinner

with me February 10th a statement of his position which I did not consider important at the time in view of my understanding from your telegram February 4, 3 p. m., that the delivery of your note was about to take place. Wang said he had concluded that, in deference to the sensibilities of the United States Government on the question, the proper solution would be that he would not insist that our invitation to Germany be withdrawn and that it should be understood that the necessary ratification of its adherence would be left in abeyance by the German Government. This was now the intention of the latter Government, he said; but since then I have been assured by the German Minister that that is not true, as the intention of his Government is to proceed as a matter of course with ratification, although such action is being delayed for a short time, upon his suggestion, in order to minimize the effects of any propaganda against Germany which might be undertaken here by Wang or his Soviet advisers.

2. Yesterday when I called upon Wang concerning other matters he refrained from referring to this question.

MACMURRAY

500.A4d/131

*The Secretary of State to the Chinese Minister (Sze)*⁵

WASHINGTON, *March 1, 1926.*

SIR: I have the honor to acknowledge the receipt of your note of January 22, 1926, with which you enclosed, under instructions from your Government, a memorandum embodying the views of your Government in regard to the adherence by non-signatory Powers to the Nine Power Treaty signed at Washington on February 6, 1922, relating to principles and policies concerning China. I enclose a memorandum setting forth the views of the Government of the United States relating to the questions raised by the Chinese Government. For the reasons set forth therein the Government of the United States regrets that it finds itself unable to act in accordance with the suggestion of the Chinese Government and withdraw the invitations to adhere to the Treaty which have been extended to Germany, Switzerland, Chile, Persia, Bolivia and Peru.

The Chinese Government must realize that the Treaty of Washington relating to the principles and policies to be followed in matters concerning China was formulated at the Washington Conference on the suggestion of the Chinese Government for the purpose of putting into treaty form the general principles which would recognize the

⁵ File copy bears the notation: "Copied to Peking, Berne, Stockholm, Madrid, Lima, Teheran, Oslo, Berlin, Copenhagen, Santiago, Rio de Janeiro, La Paz, Vienna, Lisbon, The Hague, Tokyo, Rome, Paris, London and Brussels."

sovereignty, independence and territorial administrative integrity of China and provide for the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government; that under Article VIII the United States bound itself to invite adhesion to that Treaty by all non-Signatory Powers having treaty relations with China and having governments recognized by the Signatory Powers. It was not, as has been represented to the United States, only those powers which had special treaty rights but all powers having treaty relations with China. There is no agreement whatever in this Treaty by which China in any way limits its sovereignty, independence, or territorial administrative integrity, in fact, quite the contrary, and I am unable to understand why it should not be considered to the advantage of China for all of the powers having treaty relations with her to subscribe themselves to the principles and policies set forth in a Treaty, the whole purpose of which is to insure to China the fullest and most unembarrassed opportunity to develop itself and to obtain for itself an effective and stable government. I am, therefore, at a loss to understand the apparent disposition of the Chinese Foreign Office to question the action of the American Government in conveying to Germany and other non-Signatory Powers an invitation in literal fulfillment of the provisions of the Treaty signed with full cognizance of its import by the representatives of the Chinese Government at the Washington Conference. It seems to me unnecessary to remind the Chinese Government of the repeated evidences of friendly disposition and helpful attitude of the United States Government, an attitude and a disposition which still exists and which it is my pleasure to evidence on every appropriate occasion. I venture, therefore, to express the hope that in the light of this explanation the Chinese Government will recognize that the adoption of its views would amount to a repudiation of the conclusions of the Washington Conference and of the principles of friendly cooperation which inspired it.

Accept [etc.]

FRANK B. KELLOGG .

[Enclosure]

MEMORANDUM

The Chinese Government refers to an oral exchange of views between the Chinese Minister and the Secretary of State regarding its objection to the adherence by Germany to the Treaty relating to principles and policies to be followed in matters concerning China which was signed on February 6, 1922, at the Washington Conference on the Limitation of Armament, by the United States of America, Belgium, the British Empire, China, France, Italy, Japan, The Netherlands, and Portugal. Similar objection is now raised in the

memorandum which accompanies the Chinese Minister's note of January 22, 1926, to adherence by Switzerland, Chile and Persia, it being declared that adherence by these countries was not contemplated by the Treaty. Objection is made in the same memorandum to adherence by Bolivia on the ground that treaty relations between Bolivia and China did not become effective until the ratifications of the Treaty of Friendship between China and Bolivia had been exchanged on December 17, 1924, and that consequently they did not exist at the time of the Washington Conference. Finally objection is made to adherence by Peru on the ground that Peru is now negotiating a new treaty with China, and need not for that reason be invited to adhere. The Chinese Government suggests in conclusion that the invitations sent by the United States Government to the five Powers above mentioned, namely, Switzerland, Chile, Persia, Bolivia and Peru be recalled.

Article VIII of the Treaty imposes certain duties upon the Government of the United States. This Article reads as follows:

"Powers not signatory to the present Treaty, which have Governments recognized by the signatory Powers and which have treaty relations with China, shall be invited to adhere to the present Treaty. To this end the Government of the United States will make the necessary communications to non-signatory Powers and will inform the contracting Powers of the replies received. Adherence by any Power shall become effective on receipt of notice thereof by the Government of the United States".

Article IX of the Treaty states that the Treaty "shall take effect on the date of the deposit of all the ratifications which shall take place at Washington as soon as possible". All of the ratifications were deposited at Washington on August 5, 1925, on which date the Treaty became effective. On October 1, 1925, the Government of the United States, pursuant to the obligation imposed upon it by Article VIII of the Treaty, made the necessary communications to the following Powers for the purpose of inviting them to adhere to the Treaty: Austria, Bolivia, Chile, Denmark, Germany, Norway, Persia, Peru, Spain, Sweden, Switzerland. On November 21, 1925, a similar communication was sent to Brazil.

Careful consideration was given by this Government to the views of the Chinese Government as expressed orally by the Chinese Minister to the Secretary of State on the subject of adherence by Germany and the Chinese Minister was informed that the Department of State found itself unable to share the Chinese Government's opinion that Germany's adherence was not contemplated by the framers of the Treaty. Similar consideration has been given to the corresponding views of the Chinese Government as set forth in its memorandum on the subject of adherence by Switzerland, Chile and Persia

and in respect to adherence by these countries the Department of State is also unable to find itself in agreement with the Chinese Government. Article VIII of the Treaty which is quoted above designates the Powers that are to be invited by the United States to adhere as those "which have Governments recognized by the signatory Powers and which have treaty relations with China". All of the Powers named have Governments recognized by the signatory Powers and the Chinese Government does not deny that they have treaty relations with China.

The statement contained in the Chinese Government's memorandum that Bolivia's treaty relations with China did not commence until December 17, 1924, the date when the ratifications of the Treaty of Friendship between China and Bolivia were exchanged, may be accepted as a correct interpretation of the effect of the deposit of ratifications. The weight of authority on the question is that when a treaty expressly provides that it is to be effective on ratification, it has no validity or binding force prior to the date of ratification and that ratification is not retroactive. The same rule of interpretation applies to the Nine Power Treaty relating to principles and policies. Article IX of that Treaty, as indicated above, provides that it is to take effect "on the date of the deposit of all the ratifications" at Washington. Deposit of ratifications at Washington was not effected until August 5, 1925. Prior to that date the Treaty had no validity or binding force. Bolivia's treaty relations with China became effective on December 17 of the preceding year and therefore Bolivia, like Germany, Switzerland, Chile and Persia on October 1, 1925, belonged to the category of Powers having Governments recognized by the signatory Powers and having treaty relations with China to which the Government of the United States was obliged by Article VIII to send invitations to adhere.

The memorandum enclosed with the Chinese Minister's note of January 22 is the first intimation that the Government of the United States has had that there is any question as to Peru's treaty relations with China. The records available to the Department of State, namely, the second edition of *Treaties, Conventions, Et Cetera, between China and Foreign States*, published in 1917 by the Maritime Customs of China, indicate that Peru has enjoyed treaty relations with China since 1874. It was the Treaty of 1874 between Peru and China⁶ which placed Peru in the category of Powers "having by treaty extraterritorial rights in China" and therefore entitled to receive invitations to adhere to Resolution V of the Washington Conference which provides for a commission to make an investigation into the present practice of extraterritorial jurisdiction in

⁶ China, Imperial Maritime Customs, *Treaties*, vol. II, p. 1474.

China.⁷ As late as October 31, 1925, or a month after the invitation to adhere to the Nine Power Treaty relating to principles and policies had been sent to Peru, the Department of State was informed by the American Minister at Peking,⁸ in connection with the question of adherences by the Powers to Resolution V, that he had been asked by the Chinese Minister for Foreign Affairs to ascertain whether Peru intended to appoint its commissioner under that Resolution. It is therefore evident that subsequent to October 1, 1925, the Chinese Government recognized that the Treaty of 1874 between it and Peru was still in effect and that the Government of the United States was justified in considering that Peru was to be classed in the category of Powers to which under Article VIII of the Nine Power Treaty relating to principles and policies, invitations to adhere were to be addressed.

500.A4d/131 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, *March 4, 1926—noon.*

53. Department's No. 46, February 23, 4 [7] P. M. and your No. 91, February 25, 3 P. M. On February 27, the Chinese Minister called and stated that he had received a telegram from his Government disapproving his proposal to withdraw the Chinese Government's notes on the question of adherence to the Nine Power Treaty on principles and policies concerning China. A reply to the Minister's note of January 22 was delivered on March 1. In order that you may address an identical communication to the Chinese Ministry of Foreign Affairs in reply to its memorandum of January 16, which you refer to in your No. 38, January 21, 11 A. M.⁹ the text of the Department's note is quoted as follows:

[Here follows the text of the note of March 1 to the Chinese Minister, printed on page 1018.]

The memorandum enclosed with this note is summarized as follows: The Department stated that Germany, Switzerland, Chile, Persia, Bolivia and Peru all fall within the category of countries to which the United States was obligated by Article VIII of the Treaty to send invitations to adhere, as each of these countries had on August 5, 1925, the date on which the Treaty went into effect, governments recognized by the Signatory Powers and at the same time had treaty relations with China. To save expense text of memorandum will not be telegraphed unless you consider it especially desirable to do so. Text follows by pouch.

GREW

⁷ *Foreign Relations, 1922*, vol. I, p. 289.

⁸ Telegram not printed.

⁹ Not printed.

500.A4d/133 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 8, 1926—6 p. m.

[Received March 8—9:30 a. m.]

117. Your 53, March 4, noon.

1. Note from the Foreign Office dated March 4th¹⁰ protests against adherence of Bolivia to the treaty concerning principles on the grounds summarized in second paragraph of your telegram number 29, January 25, 4 p. m.

2. I am today transmitting to the Foreign Office a copy of your reply to the Chinese Minister on March 1st, stating that it embodies replies which you would wish me to make in reply to the Chinese Government's notes to me of January 16th regarding Germany, and March 4th regarding Bolivia.

MACMURRAY

**RENDITION OF THE SHANGHAI MIXED COURT TO THE KIANGSU
PROVINCIAL GOVERNMENT¹¹**

393.1141 W 58/5

The Minister in China (MacMurray) to the Secretary of State

No. 197

PEKING, October 8, 1925.

[Received December 2.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 869, of March 24, 1925¹⁰ relative to the suit of Mr. T. C. White against the Wah Chang Mining and Smelting Company, Ltd., in the International Mixed Court at Shanghai. A copy of this instruction, with the exception of the last sentence, was transmitted to the American Consul at Shanghai, under date of May 11, 1925.

The Department's views that the relation of an assessor functioning in the International Mixed Court at Shanghai towards his own national authorities is the same as in other parts of China, that is, that he attends court as the representative of the Consul-General and is amenable to the latter's instructions, have been noted with great interest. The general impression in China seems to be that the International Mixed Court in Shanghai is a survival of the earlier procedure provided by the treaties for the settlement of "mixed

¹⁰ Not printed.

¹¹ For previous correspondence, see *Foreign Relations*, 1924, vol. I, pp. 524 ff.

cases", as, for instance, in the last sentence of Article XXIV of the Chinese-American Treaty of 1848 [1844]¹³ and in Article XXVIII of the Treaty of 1858,¹⁴ which stipulate that such controversies "shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction". It is true that the same treaties provide that criminal jurisdiction shall be vested in the courts of the offender's nationality, but it was not until Article IV of the Chinese-American Treaty of 1880¹⁵ came into effect that the present status of the "Assessor" as an official who is merely "permitted to attend the trial" was inaugurated. It may here be observed that the French Government has not yet acceded to this alteration of the status of the French judicial officer. The French position in this connection was explained by the French Minister in a letter transmitted with Diplomatic Circular No. 41, of February 16, 1925, a copy of which was sent to the Department on March 19, 1925, without covering despatch.¹⁶

Those persons who hold the view that the Mixed Court at Shanghai has always been conducted on the earlier rather than the later principle are not without certain arguments to support their contention. They point to the early formation of the Court (1869) and to the Chinese name it has always borne (which the Chinese Government now proposes to change) "hui shen kung t'ang" which may be translated "Court of Joint Adjudication". They point, also, to the presence of the Assessor on the bench and the power he wields, in practice superior to that of the Chinese Magistrate, in the formulation of the judgment. They contrast these prerogatives and power with the strictly defined and limited powers of the foreign assessor in the trial of mixed cases under the procedure prescribed by the Treaty of 1880, which obtains elsewhere than at Shanghai.

I would respectfully point out, therefore, that while the powers of the foreign Assessors in the International Mixed Court at Shanghai are undoubtedly greater than the powers of Assessors elsewhere, those powers are actually exercised in a judicial capacity and must on that account be wielded with the strictest impartiality.

Further to illustrate the difference in practice between the functions of the American Assessor in other ports and at Shanghai I have the honor to recall that the Treaty of 1880 authorizes the Assessor to "present witnesses". Since he appears on behalf of the American

¹³ Miller, *Treaties*, vol. 4, pp. 559, 567.

¹⁴ Malloy, *Treaties, 1776-1909*, vol. 1, pp. 211, 220.

¹⁵ *Ibid.*, p. 239.

¹⁶ Not printed.

plaintiff it follows that he concerns himself solely with securing the attendance of witnesses who support the plaintiff's pleading. He also demands the production of evidence for a similar purpose. American lawyers are not permitted to practice in Chinese courts and the Assessor consequently appears as the plaintiff's advocate. Were the American Assessor in the Mixed Court at Shanghai to concern himself solely with witnesses and evidence favorable to the American plaintiff he would at once afford solid ground for the complaint now made by Chinese and non-extraterritorial foreigners that the "interested Assessor" is not an impartial judge, and the result of his one-sided interest in the case would be highly damaging to American prestige. In the Shanghai Mixed Court, as contrasted with mixed courts elsewhere, litigants are represented by lawyers, and the sole duty of the Chinese Magistrate and the Assessor is to render a just verdict on the pleadings and the evidence presented.

I would not venture to discuss at such length the special position of the American and other foreign Assessors in the International Mixed Court at Shanghai were it not for the fact that negotiations for the rendition of the Court to the Chinese authorities are now in progress. I have heard of no proposal, even by the Chinese, that the powers of foreign assessors in relation to those of the Chinese Magistrate shall be diminished in those cases jointly tried by them, nor am I of the opinion that such a diminution would be advisable. However, in view of the Department's opinion already referred to that the American Assessor at Shanghai "attends Court as the representative of the Consul-General and is amenable to the latter's instructions", it is clearly advisable that the point should be brought to the Department's attention. It is to be feared that if the Chinese public were to learn that the American Assessors are controlled in the rendering of their judgments by the American Consul-General, who does not attend the trials, nor hear the evidence, a great deal of indignation would be aroused. One of the aspirations toward which the Chinese have been spurred by foreign opinion has been the creation of an independent judiciary free from administrative interference and control.

I have [etc.]

J. V. A. MACMURRAY

893.5045/294

*The Chinese Minister of Foreign Affairs (Shen Jui-lin) to the Senior Minister (Oudendijk)*¹⁷

[Extract]

PEKING, November 25, 1925.

ANNEX IV.—PROPOSAL CONCERNING THE RENDITION OF THE MIXED COURT AND THE REORGANIZATION OF THE JUDICIAL SYSTEM IN THE INTERNATIONAL SETTLEMENT OF SHANGHAI

1. The Shanghai Mixed Court, together with the Registrar's Office, the prison and Detention House attached thereto, shall be restored to the Chinese Government.

2. The Chinese Government will, in place of the said Mixed Court, establish a Court of Justice of the Shanghai International Settlement, which will be organized upon the model of a regular court of law of the Republic, to deal with all civil and criminal cases, as well as cases involving violations of police regulations arising within the Settlement, in accordance with the laws and ordinances in force in China.

3. Prior to the abolition of consular jurisdiction provided for in the Treaties, when a civil case arises within the jurisdiction of the said Court of Justice of the Shanghai International Settlement in which a citizen or subject of a nation having consular jurisdiction in China is involved as plaintiff and a Chinese citizen as defendant, the consular representative in Shanghai of the said nation may attend the trial to watch the proceedings; provided, however, that such practice shall not apply to civil cases in which citizens, or subjects of the Powers having consular jurisdiction are proceeding against those of Powers having no such right, nor to criminal cases in which citizens or subjects of the Powers having consular jurisdiction are the injured party and Chinese or citizens or subjects of the Powers having no such right are the aggressors.

Cases in which consular representatives in Shanghai may be present to watch the proceedings shall be heard in the first instance by the Special Court, and in the second, by the Special Court of Appeal, both of which shall be attached to the said Court of Justice provided, however, that if the plaintiff should be unwilling to submit to the jurisdiction of the said Special Court, but should voluntarily bring the case to an ordinary court or appeal to a superior court,

¹⁷ Copy transmitted to the Department by the Minister in China in his despatch No. 352, Dec. 18, 1925, as subenclosure in circular No. 337 from the Senior Minister, dated Nov. 28, 1925; received Jan. 28, 1926.

the trial shall be conducted according to the ordinary procedure and the practice of watching the proceedings shall not be applicable.

4. Summons, warrants, orders of detention and search, and of compulsory execution in civil suits shall be served upon or executed against Chinese or nationals of the Powers having no consular jurisdiction in China directly by officers (Huissiers) and judicial police of the said Court of Justice of the Shanghai International Settlement. But in case, where the persons to be summoned are nationals of the Powers having consular jurisdiction, the Consul of the nation concerned shall be notified beforehand.

5. When a warrant of arrest or an order of detention or search is to be served or executed upon the premises of a national of a Power having consular jurisdiction against his employee living thereon, the consul of the nation concerned shall be notified beforehand.

6. Persons arrested by the Municipal police on charges of having violated criminal laws or police regulations shall within twenty-four hours of their arrest be sent to the court of Justice of the Shanghai International Settlement for trial. The Municipal police shall render full and prompt assistance in such matters as shall be requested of or entrusted to them by the Court of Justice of the Shanghai International Settlement.

7. Foreign lawyers are permitted to appear in the Court of Justice of the Shanghai International Settlement on behalf of foreign nationals in the litigation, but they shall be provided with certificates of approval issued by the Ministry of Justice and shall observe all Chinese laws and regulations in force governing Chinese lawyers.

8. Except as otherwise provided for in the preceding sections all Chinese laws and ordinances in force shall be applicable in the Court of Justice of the Shanghai International Settlement.

9. The preceding articles shall constitute an interim measure applicable only during the period prior to the abolition of consular jurisdiction in China, and shall come into force when they have been agreed upon by the Chinese Government and the diplomatic representatives of the nations concerned.

393.1141 W 58/5

The Secretary of State to the Minister in China (MacMurray)

No. 213

WASHINGTON, May 1, 1926.

SIR: The Department has received your despatch No. 197 of October 8, 1925, in regard to the International Mixed Court at Shanghai. You stated that it is the general impression in China that the International Mixed Court in Shanghai is a survival of the earlier procedure provided by the treaties for the settlement of "mixed cases", as, for instance, in the last sentence of Article XXIV of the

Chinese-American Treaty of 1844 and in Article XXVIII of the Treaty of 1858, which stipulates that such controversies "shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction"; that it is true that the same treaties provide that criminal jurisdiction shall be vested in the courts of the offender's nationality; but that it was not until Article IV of the Chinese-American Treaty of 1880 came into effect that the present status of the Assessor as an official who is merely "permitted to attend the trial" was inaugurated.

Your observations on this subject have been read with interest. The Department is of the opinion, however, that this theory in regard to the origin of the International Mixed Court is incorrect and that the view that the Sino-American Treaties of 1844 and 1858 conferred a judicial status on American Assessors in Chinese courts has never been held by this Government. For an exhaustive discussion of this subject you are referred to a report prepared in 1879 by Minister George F. Seward in regard to extraterritoriality in China (*Foreign Relations*, 1880, pages 145-167) and also to Minister W. J. Calhoun's comprehensive instruction No. 571 of June 12, 1911, to the Consul General at Shanghai regarding the case of Ginn and Company *versus* The Commercial Press in the International Mixed Court, a copy of which was enclosed with the Legation's despatch No. 268 of June 22, 1911.¹⁹ On page 6 of Minister Calhoun's instruction above referred to, which was based on Minister Seward's report, he correctly stated that "the basic principle underlying the foregoing treaties (that is, the Sino-American Treaties of 1844 and 1858), which has been reaffirmed and continued in all subsequent treaties, is to the effect that when a foreigner has a civil claim against a Chinese subject, he must appeal for satisfaction, through his consul, to the Chinese authorities, who are to settle and adjust the same; in other words, the jurisdiction over such claims is purely Chinese." Referring on pages 7 and 8 of the same instruction to the establishment of the International Mixed Court Minister Calhoun correctly stated that this court did not originate directly from the terms of any treaty, but was the result of an arrangement or agreement between the authorities of China, Great Britain and the United States, as evidenced by the rules of the court which were promulgated in 1869.²⁰ For a further expression of the Department's views on this subject you are referred to instruction No. 869 of March 24, 1925.¹⁹

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

¹⁹ Not printed.

²⁰ *British and Foreign State Papers*, vol. xciv, pp. 793 ff.

893.053 Sh/45

The Minister in China (MacMurray) to the Secretary of State

No. 595

PEKING, *May 23, 1926.*

[Received June 23.]

SIR: I have the honor to transmit herewith copies of Diplomatic Circulars No. 71, of March 24, 1926, and 102, of April 27, 1926, together with certain observations placed thereon,²¹ which deal with the rendition of the International Mixed Court at Shanghai.

As the Department will note from these circulars, Commissions appointed respectively by the interested Foreign Ministers and the Chinese Ministry of Foreign Affairs began negotiations on February 4, 1926, with the object of drafting an agreement for submission to the Ministers and the Wai Chiao Pu and acceptance by them. It is a matter of great regret, however, that up to the present time these two Commissions have been unable to agree upon terms for the rendition of the court. My Colleagues and I have been earnestly desirous that this vexed question should be solved before the first anniversary of the May 30th incidents at Shanghai,²² but I fear this is now impossible.

The inability of the foreign and Chinese delegates to agree upon terms of rendition arises from the insistence of the Chinese representatives that the reconstituted court shall consist partly of a purely Chinese court organized and conducted practically as would be the case if it were functioning in an area under Chinese control. The foreign representatives have done their best to satisfy this desire to the utmost practical limit, but they have, of course, been obliged to stop short of undertaking to alter the mode of administration of the International Settlement. They have kept in mind that the court that functions in the International Settlement must be in such relations with the Municipal Council and the foreign Consuls concerned that it shall serve as an efficient instrument in the control of the International Settlement and in the maintenance of its peace and neutrality. One means essential to the attainment of this end is the functioning of foreign Assessors in all police and criminal cases arising in the Settlement, and to this the Chinese representatives have interposed, up to the present moment, an absolute veto.

There appears to be now no chance that the rendition of the Mixed Court will take place before May 30th next, but it is to be hoped that the Legations will have been able to take some measures before then to absolve themselves in the eyes of the public from a portion of the

²¹ Not printed.

²² See *Foreign Relations*, 1925, vol. I, pp. 647 ff.

blame for this delay that should rightfully be placed upon the Chinese authorities.

I have [etc.]

J. V. A. MACMURRAY

893.5045/352 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 29, 1926—7 p. m.

[Received May 30—2:20 p. m.]

232. My despatch 352 of December 18th.²³

1. In spite of the disorganization that has prevailed in the Government since January 7th, the Ministers concerned and the Consuls and Municipal Council at Shanghai have been constantly endeavoring to settle outstanding questions with the especial hope of ameliorating Sino-foreign tension before May 30th.

2. In January, by agreement between the Ministers and the Foreign Office, commissions were respectively appointed to hold informal consultations with the object of drafting for subsequent approval an agreement for the rendition of the Mixed Court in meetings held on February 4th and 8th. The Chinese, in spite of an oral promise to the Senior Minister, refused to recede from the position taken in the note of November 25²⁴ (see despatch cited above) in which the Foreign Office had repudiated all previous bases of negotiation for the rendition of the Mixed Court and put forth an absolute demand not for its return but for its abolition and replacement by a new court organized under the Chinese judicial system, realizing that the progressive attenuation of governmental authority resulted in increasing timidity on the part of Chinese officials and consequent obstinacy in maintaining extreme positions. The Ministers felt that if any agreement was to be reached they must in several points abandon the position they had reached in July last, and, on April 9, they met and agreed upon revised instructions to their commission, conceding some of the Foreign Office contentions. These instructions were issued on April 26 and on April 30, May 4 and 11; three more meetings were held and every effort was made to meet the Foreign Office desires and agree upon draft terms for rendition but without avail. The principal points of difference were as to the substantive and procedural laws to be applied [by] assessor in criminal cases, search of foreign premises, court control of foreign lawyers, et cetera.

3. In the meantime V. K. Ting²⁵ representing the Kiangsu *Tupan*

²³ Not printed.

²⁴ See note from the Chinese Minister of Foreign Affairs to the Senior Minister, Nov. 25, 1925, p. 1026.

²⁵ Director of the Shanghai and Woosung Port Administration.

and the Commissioner for Foreign Affairs at Shanghai had informally suggested local negotiations for preliminary provisional agreement regarding the Mixed Court. On May 20 I authorized Cunningham ²⁶ to meet informally with Ting and British and Japanese consuls general. When the Senior Minister circulated the Commission's report of the deadlock in Peking, I placed thereon a recommendation that the consuls concerned at Shanghai be authorized to negotiate an agreement on the principles of rendition which might be published. The prospects for agreement were comparatively bright, for Ting consented to revert to the 1924 basis of discussion. A diplomatic meeting was held May 27 when a telegram was drafted in the above sense prescribing scope of the agreement in general terms and directing its ultimate reference to Peking regarding the crucial question of assessors in criminal cases. My suggestion was adopted that if necessary the consuls might offer to substitute municipal representatives under another name, having merely the right to attend trials and file appeal, ultimate decision in case of disagreement to lie with the Chinese Foreign Office and the Ministers concerned.

4. Two weeks ago the Ministers instructed the consuls in Shanghai to begin negotiations for a suitable change in the land regulations to provide for Chinese representation in the Municipal Council, this method for amendment being provided for in article 28.²⁷

MACMURRAY

893.05/66 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 23, 1926—4 p. m.

[Received July 23—2:10 p. m.]

297. My telegram 232, May 29, 7 p. m.

1. Shanghai consuls and the provincial authorities including Commissioner for Foreign Affairs have agreed upon the terms of rendition which now only require approval of the interested Legations. Final initialed copies of the draft agreement and exchange of notes have not been received but the arrangement will be substantially as follows: (a) In place of the Mixed Court in the International Settlement, Kiangsu Provincial Government will establish Shanghai Provisional Court having similar jurisdiction. (b) Chinese laws and procedure will be applied except as the latter shall be modified by mutual agreement. (c) Assessors to be known as consuls' deputies shall function in all cases required by treaty and in criminal cases

²⁶ Edwin S. Cunningham, consul general at Shanghai.

²⁷ Sir Edward Hertslet (comp.), *Treaties, &c., Between Great Britain and China; and Between China and Foreign Powers, etc.*, 3d ed., rev. (London, 1908), vol. II, p. 678.

“which directly affect the peace and order of the International Settlement.” The powers of the assessors to be in effect those conferred by the treaty of 1880. (d) Municipal police shall be detailed to functions as judicial police under orders of the court. (e) Appeals in Mixed Court mixed civil cases shall be to Commissioner for Foreign Affairs and the consul concerned. Special appellate court to be organized for criminal appeals. Death sentences to be subject to confirmation by the Provincial Government. (f) All judges to be appointed by the Kiangsu Provincial Government. Registrar to be nominated by the Senior Chinese Magistrate to and appointed by Provincial Government, his precise duties to be determined by an international commission. (g) Article 7 of the agreement states *inter alia* “the foregoing six articles forming the provisional agreement for the rendition of the Mixed Court to the Kiangsu Provincial Government shall be in force for 3 years dating from the day on which the Mixed Court is handed over. Within this period the Chinese Central Government may at any time negotiate with the foreign Ministers concerned in Peking for a final settlement which, if agreed upon between the Chinese Central Government and the said foreign Ministers, shall replace the present provisional agreement. If at the end of 3 years no final settlement has been reached in Peking the present provisional agreement shall continue to be in force for another 3 years.”

2. In informal conversation between Peck²⁸ and Wang Chung-hui²⁹ July 21, 10 p. m., latter made no criticism of the proposed terms of rendition except as regards confirmation of death sentences by the Provincial Government. He stated this violated the criminal code which requires confirmation of the Supreme Court.

3. I consider proposed agreement very acceptable solution of Mixed Court problem and anticipate its early approval by the interested Legations. Rendition of the Court should have very salutary effect on Chinese public sentiment.

MACMURRAY

893.05/66 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 26, 1926—3 p. m.

147. Your 297, July 23, 4 p. m. Department approves proposed agreement for rendition of Mixed Court.

KELLOGG

²⁸ Willys R. Peck, Chinese Secretary of Legation at Peking.

²⁹ Chinese Minister of Justice and Commissioner on the Commission on Extraterritoriality in China.

893.05/68 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 30, 1926—4 p. m.

[Received July 30—10:15 a. m.]

308. My telegram No. 297, July 23, 4 p. m.

1. There are plausible rumors that fearing the effect upon the Mixed Court in their own concession at Shanghai the French will obstruct agreement for the rendition of Court in the International Settlement. In the emergency have I your approval for taking the position that the French have no *locus standi* in this matter inasmuch as by retaining their own concession and standing aloof from the International Settlement they wholly disinterested themselves in the latter and disintitiled themselves to any voice in its affairs?

2. It is also rumored that Italy and Norwegians will obstruct rendition. If so I hope I have your approval for very bluntly announcing that we have no intention of accepting any share of opprobrium for such action and will make a frank public statement of our attitude on the question.

3. As a result of public utterances of certain American lawyers who seem to have been duped by less reputable colleagues of other nationalities into taking the initiative in opposing rendition on the ground that it would deprive foregoing lawyers of a share of their vested interest in practice before the Mixed Court, there has been worked up by Chinese lawyers and others somewhat uncomfortable antagonism towards Americans not yet serious but potentially dangerous to our interests.

4. It is entirely possible that the Peking authorities will refuse ratification to the agreement between the consular body and Sun Ch'uan-fang³⁰ even though interested Ministers approve. In that case it seems clear to me that we must take the position that the *modus vivendi* so satisfactorily regulating this local question which has been at issue for 15 years cannot be upset by the intransigence of an unrecognized Central Government which, having lost all semblance of power or authority, has ceased to feel any responsibility for consequences of such decisions as it may presume to make. I trust you approve.

MACMURRAY

³⁰Commander in chief of the allied armies of Chekiang, Fukien, Kiangsu, Kiangsi, and Anhui, and concurrently director general of Shanghai and Woosung Port Administration.

893.05/68 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 31, 1926—11 a. m.

151. Your 308, July 30, 4 p. m. Proposal in paragraph 1 approved except that Department prefers that your stand be based on separation of two Mixed Courts rather than of French and International Settlements. In harmony with established procedure whereby French Assessors have no standing in International Mixed Court, and vice versa, it might properly be contended that consent of French is not necessary to execution of agreement regarding International Mixed Court which has received the approval of the other extraterritorial powers and of the Chinese authorities.

Proposals in paragraphs 2 and 4 approved.

KELLOGG

893.05/72 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 14, 1926—4 p. m.

[Received August 14—8:40 a. m.]

327. Your telegram 151, July 31, 11 a. m. 1. A meeting of the interested Ministers on August 13, 11 a. m., disclosed unexpected unanimity. As a result the diplomatic representatives concerned, subject to instructions awaited by the Italian Minister, have authorized the Shanghai consular body to sign the draft agreement outlined in my telegram 297 of July 23, 4 p. m. Actual rendition is however to await exchange of notes settling court procedure and other points.

MACMURRAY

893.05/73 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, September 1, 1926—5 p. m.

[Received September 1—2:15 p. m.]

364. My telegram 327 of August 14, 4 p. m.

1. Individual signing of the rendition agreement was agreed upon. I understand all consuls concerned have signed or promised to do so. Chinese have signed.

2. The Italians have made eleventh-hour demands which may delay the exchange of notes that must precede actual rendition. These demands are: (a) An Italian always to be included among senior consul's deputies for criminal cases; (b) an Italian deputy to function in cases involving Chinese employed by Italians; (c) extraterritorial lawyers to be permitted to practice in purely Chinese cases; (d) Italy to be represented on the International Commission

for the Revision of the Rules of Procedure (my telegram 297, July 23, 4 p. m., paragraph 1 (b)).

3. These questions have been referred to the Shanghai consuls for settlement. I am informed that compromise seems possible on all points but 2 (c) above to which Cunningham reports the Chinese are unalterably opposed. If the necessity arises I shall follow course outlined in my telegram No. 308, July 30, 4 p. m., paragraph 2, but even more extreme measures may be necessary to secure early rendition. The question may arise whether the other powers concerned could not effect rendition without concurrence of Italy.

MACMURRAY

893.05/88

*Provisional Agreement for the Rendition of the Shanghai Mixed Court, Signed at Shanghai, August 31, 1926*³¹

1. (i) The Kiangsu Provincial Government in place of the Mixed Court in the International Settlement at Shanghai will establish the Shanghai Provisional Court. With the exception of cases which in accordance with the treaties involve the right of Consular jurisdiction, all civil and criminal cases in the Settlement shall be dealt with by the said Provisional Court.

(ii) All laws, including laws of procedure, and ordinances applicable at the present time in other Chinese Courts as well as those that may be duly enacted and promulgated in the future shall be applicable in the Provisional Court, due account being taken of the terms of the present agreement and of such established rules of procedure of the Mixed Court as shall be hereafter agreed upon.

(iii) In criminal cases which directly affect the peace and order of the International Settlement, including contraventions of the Land Regulations and Bye Laws of the International Settlement, and in all criminal cases in which the accused is in the employ of a foreigner having extraterritorial rights, the Senior Consul may appoint a Deputy to sit with the Judge to watch the proceedings. The concurrence of the Deputy shall not be necessary for the validity of the judgment, though he shall have the right to record his objections, he shall not, however, put any questions to the witnesses or prisoners without the consent of the Judge.

(iv) All summonses, warrants and orders of the Court shall be valid after they have been signed by a Judge. All such summonses, warrants and orders shall be numbered for record by the Chief Clerk before service. When the summons, warrant or order is to be

³¹ Copy transmitted to the Department by the consul general in charge at Shanghai, as enclosure to his despatch No. 4417, Dec. 20, 1926; received Jan. 11, 1927.

executed on premises occupied by a foreigner having extraterritorial rights, the Consul or other appropriate official of the Power concerned shall on presentation affix his countersignature without delay.

(v) In cases in which a foreigner having extraterritorial rights or the Shanghai Municipal Council is the plaintiff in a civil action and in criminal cases in which a foreigner having extraterritorial rights is the complainant, the Consul of the nationality concerned or the Senior Consul may send an official to sit jointly with the Judge in accordance with the provisions of the treaties.

(vi) A Court of appeal shall be established in connection with the Provisional Court to deal with criminal cases which directly affect the peace and order of the Settlement and with mixed criminal cases. The President of the Provisional Court shall act concurrently as President of the Court of Appeal. No appeal shall be allowed in cases in which the penalty is below the maximum imprisonment of the fifth degree nor in cases under the Land Regulations and Bye Laws of the International Settlement.

In all cases in which a Senior Consul's Deputy sat in the original hearing a different Deputy shall sit in the appeal, appointed in the same way and having the same rights as the original Deputy. In the same way a different Consular official shall sit in the appeal in mixed criminal cases.

(vii) The President and Judges of the Provisional Court as well as the Judges of the Court of Appeal shall be appointed by the Kiangsu Provincial Government.

2. In cases involving imprisonment for ten years or more and in cases involving the death penalty, the Provisional Court shall report the same to the Kiangsu Provincial Government for approval. In cases in which the Provincial Government refuses its approval, the Provincial Government shall give its reasons and order the Provisional Court to rehear the case and again submit the judgment to the Provincial Government. All criminal cases in which the infliction of the death penalty has been approved shall be remitted to the Chinese Authorities outside the Settlement for the execution of such penalty. Inquests and autopsies (Chien Yen) in the Settlement shall be held jointly by the Judges of the Provisional Court and the Deputies appointed by the Senior Consul.

3. The prisons attached to the Provisional Court, with the exception of the House of Detention for civil cases and the Women's prison which are to be separately provided for, shall be under the charge of the Municipal Police specially detailed for the purpose, but they shall be operated as far as practicable in conformity with the Chinese Prison Regulations and subject to the supervision of the Court. The President of the Provisional Court shall appoint a visiting Committee, which shall include a Deputy of the Senior

Consul, to make investigations from time to time and if it is considered that there are any respects in which the control over the prisoners is unsatisfactory, the same shall be reported to the Court, whereupon the Municipal Police shall be charged by the Court to make the necessary rectification which the said police shall carry out without delay.

4. All summonses, warrants and orders issued by the Court shall be executed by the judicial police who shall be detailed for this duty by the Municipal Police and be directly responsible to the Court in the execution of their duties as judicial police. The Municipal Police shall render full and prompt assistance in such matters as may be requested of or entrusted to them by the Court, and when the Municipal Police arrest any person, he shall, within twenty-four hours, exclusive of holidays, be sent to the Court to be dealt with failing which he shall be released.

5. In all mixed civil cases where there has been a Consular Official sitting jointly with the judge, the appeal shall be made to the office of the Commissioner for Foreign Affairs, acting with the Consul concerned according to the treaties, but such cases may be turned over to the Provisional Court for retrial by a different judge, the original Consular official being also changed. In the event of a disagreement between the Commissioner for Foreign Affairs and the Consul in respect of the appeal in a case which has been retried, the judgment given at the retrial shall stand.

6. The financial affairs and such administrative work of the Court as shall be determined by a joint commission shall be entrusted to a Chief Clerk who shall be recommended by the Senior Consul and appointed by the Provincial Government on the receipt of a petition from the Court. He shall be subject to the supervision and orders of the President of the Court and shall have charge of the staff and exercise proper supervision over the Court finances. If the Chief Clerk is found to be incompetent or remiss in his duty the President of the Court may reprimand him, and if necessary remove him from office with the consent of the Senior Consul.

7. The foregoing six articles, forming the Provisional Agreement for the rendition of the Mixed Court to the Kiangsu Provincial Government shall be in force for three years, dating from the day on which the Mixed Court is handed over. Within this period the Chinese Central Government may at any time negotiate with the foreign Ministers concerned in Peking for a final settlement, which if agreed upon between the Chinese Central Government and the said Foreign Ministers shall replace the present Provisional Agreement. If at the end of three years no final settlement has been reached in Peking, the present Provisional Agreement shall continue to be in force for another three years. At the end of the first three years,

however, the Kiangsu Provincial Government may propose any modifications of the present Agreement provided that notice is given six months before the expiration of the first period of three years.

8. The present Provisional Agreement shall in no way bind the Chinese Central Government in any future discussion between it and the foreign Governments with regard to the abolition of extra-territoriality.

9. The date on which rendition of the Mixed Court shall take place under the above Provisional Agreement shall be fixed by an exchange of notes to take place between the representative of the Kiangsu Provincial Government and the Senior Consul.

Signed at Shanghai, the 31st day of August One thousand nine hundred and twenty-six being the 31st day of the 8th month of the fifteenth year of the Chinese Republic, four copies in English and four copies in Chinese which having been compared are found to agree.

EDWIN S. CUNNINGHAM

Consul General of the United States

N. AALL

Consul General for Norway

J. VAN HAUTE

Consul General for Belgium

S. BARTON

Consul General for Great Britain

The Consul General of Sweden

J. DE LILLIEHOÖK

S. YADA

Consul General for Japan

A. S. P. BRANDAO

Consul General for Brazil

S. LANGKJAER

Consul General for Denmark

E. NAGGIAR

Consul General for France

GIORGIO PIRAJNO

Acting Consul General for Italy

FRANCISCO DE PAULA BRITO

Consul General for Portugal

F. KAESTLI

Acting Consul General for Switzerland

G. M. BIJVANCK

Acting Consul General for the Netherlands

JULIO PALENCIA

Consul for Spain

NORWOOD F. ALLMAN

Consul for Mexico

893.05/82 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 27, 1926—4 p. m.

[Received 6:45 p. m.]

641. My telegram No. 364, September 1, 5 p.m.

1. Consular body at Shanghai recently came to satisfactory understanding with the Chinese local authorities as to the exchange of notes giving effect to the agreement for the rendition of the Mixed Court. The proposed exchange of notes was presented for the approval of the interested Ministers, following whose consideration of the matter I had occasion to telegraph Shanghai as follows:

“December 24, 7 p.m. (1) Italian Minister categorically refuses to accept Mixed Court rendition agreement except upon some arrangements being made assuring the inclusion of an Italian assessor among the senior consul’s deputies.

(2) Senior Minister is referring to consuls through the senior consul the question of modifying the arrangement proposed in the latter’s letter of December 14th so as to have panel of deputies include all assessors that may be named by any interested consul. I myself see no objection to the acceptance of the suggested modification which would permit of concluding the rendition arrangement forthwith; but the question whether it is actually feasible and desirable to have an indefinite number of deputies must be decided by the consuls.

(3) Should the consul not find it possible to accept the proposed modification, indications are that each Legation other than the Italian will authorize its consul to conclude with the Chinese local authorities separate rendition agreement applicable as among the nationals of all such powers as may conclude the same arrangement.”

[2.] Telegram to Shanghai refers to the fact that all present at the meeting except Italian Minister severally declared themselves willing to take such action. For my part, while regretting such a breach of solidarity among the powers, I shall have no hesitation in taking such action rather than let local Italian interests at Shanghai hold us to ransom. Italian Minister shows some indications of weakening in the face of united determination of all his colleagues but may not receive in time for tomorrow’s meeting instructions he insists will be necessary to authorize change in his stand.

3. Consul general at Shanghai has now reported that a meeting of the consular body December 26th rejected the proposal outlined in the second paragraph of my telegram to him but considered and is referring to the Ministers’ two other possible compromises, both of which however failed to receive support of the Italian consul general.

MACMURRAY

893.05/83 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, December 29, 1926—9 a. m.

[Received December 29—6:03 a. m.]

645. My telegram number 641, December 27, 4 p. m. At a meeting of interested Ministers yesterday afternoon Italian Minister was persuaded to make possible the necessary unanimity with regard to rendition of the Mixed Court by acceding to compromise proposal suggested by the consular body at Shanghai with respect to the selection of senior consul's deputies. It is therefore expected rendition can be effected January 1st.

MACMURRAY

893.05/84 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 4, 1927—4 p. m.

[Received January 4—10:17 a. m.]

5. American consul general at Shanghai reported January 3d that rendition of Mixed Court was effected by exchange of notes dated December 31st^{31a} and that first session of Provisional Court would be held January 4th.

MACMURRAY

CONTINUED SUPPORT BY THE UNITED STATES TO THE FEDERAL TELEGRAPH COMPANY IN EFFORTS TO OBTAIN EXECUTION OF ITS CONTRACT WITH THE CHINESE GOVERNMENT³²

893.74/646 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 7, 1926—9 p. m.

9. Your telegram 550 of December 29, 1925, 10 a. m.³³ and Department's 286, October 12, 7 p. m.³⁴ Japanese Ambassador came to see me December 21st, and later spoke with Johnson, chief of Far Eastern Division. Ambassador stated that he was informed by his Government when he received his appointment that only two questions between Japan and the United States were outstanding, im-

^{31a} For the English text of the exchange of notes on Dec. 31, 1926, see *The Municipal Gazette* (official organ of the Council for the Foreign Settlement of Shanghai), vol. xx, No. 1064 (Feb. 18, 1927), p. 47; cf. *The China Year Book*, 1928, p. 468.

³² Continued from *Foreign Relations*, 1925, vol. I, pp. 890-935.

³³ *Ibid.*, p. 935.

³⁴ Not printed.

migration and the Federal wireless contract. His Government recognized, he said, that in regard to settling the immigration question at the present time there was little hope, but it felt that something toward the settlement of the Federal wireless contract question could be accomplished. He placed the responsibility for the situation over the wireless question upon the Government of China which had granted a contract to an American company, violating an agreement the Government had made earlier with the Mitsui Company. He emphasized that if the American and Japanese Governments continued to maintain their respective positions, neither of the contracting companies, in the opinion of his Government, would enjoy any benefit. He said that the Japanese Government, out of a great desire to settle this most vexatious question, had made the proposal which was presented in the memorandum from the Japanese Embassy December 24, 1924³⁵; and that this involved complete relinquishment of the claim of the Japanese company to have a monopoly of communication by radio between China and foreign countries. Chinese nationalistic aspirations would be satisfied by the Japanese proposal, he continued, because wireless communication would thereby be placed under the Chinese Government's control; the Japanese company would be satisfied because the Japanese wireless station at Peking would be saved and made a profitable venture; and American policies would be satisfied because the Japanese claim to a monopoly would be abandoned. Furthermore, he pointed out, the consortium proposal would place on an economically feasible basis the whole wireless situation in China because the necessity for constructing two large wireless stations, where the region provided little room for such competition, would be eliminated. He urged that consideration be given to the Japanese proposal by this Government. I told him that as yet we had no information as to the attitude the Chinese Government took toward the Japanese Government's proposal. He said that he had doubts whether his Government would hear anything on this proposition from the Chinese Government. He felt that if the Governments of Japan and the United States could reach some agreement in regard to the matter, it would have much influence toward persuading the Chinese Government to accept the proposal of his Government.

I am very anxious to have this long-standing controversy settled in such a way as to protect existing legitimate American interests and to be consistent with our policy of maintaining the open door effectively. The force of the economic argument impresses me. I should not wish at this time to see China assume an uneconomic obligation, though the matter is primarily one to be decided by the Chinese Government.

³⁵ *Foreign Relations, 1925*, vol. I, p. 890.

The Japanese originated the proposal for a wireless consortium and I recognize that before giving to it our complete consent, it is necessary to wait until the Japanese have obtained from the Chinese approval of the proposal. But such a proposal, if the Chinese approve it, involving as it does that those party to it relinquish any claim to monopolistic rights, would go far to persuade me of its being acceptable to American interests.

For you to seek official information as to the Chinese attitude toward the Japanese proposal at Peking would be unwise, I realize. However, I believe you should frankly discuss the situation with Colonel Manton Davis³⁶ and you together should canvass the situation that presents itself with reference particularly to the probabilities of anything ever being done by the Chinese toward a fulfillment of the Federal wireless contract. I also should be glad if you will give me your views as to the advisability of our accepting as the only feasible solution of this question the consortium solution or some arrangement such as the AEEFG³⁷ with all contracts pooled and monopolies relinquished.

In order that, if it is deemed desirable, the matter may be discussed here with General Harbord,³⁸ please report your conclusions and suggestions to me.

KELLOGG

893.74/651 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, January 13, 1926—9 p. m.

[Received January 14—10:10 a. m.³⁹]

24. 1. I have fully discussed your number 9, January 7, 9 p. m., with Davis. He concurs in my opinion that to acquiesce in the proposal of the Japanese for a radio consortium or even take it under advisement in such a way as again to enable the Japanese to insist that the Government of China not do anything concerning the Federal contract pending the result of Japanese-American negotiations, would be a mistake.

2. While it may be that no public statement regarding a radio consortium has recently been made by the Chinese, no modification has ever been made in the emphatic statement of opposition which was presented during the Washington Conference by the Chinese delega-

³⁶ Representative in China of the Radio Corporation of America.

³⁷ The so-called AEEFG Consortium was a holding and managing company formed for the purpose of developing and controlling radio communication with and in South America, by the Radio Corporation of America, Marconi's Wireless Telegraph Company, Ltd., of England, Compagnie Générale de Télégraphie sans Fil of France, and the Telefunken Company of Germany.

³⁸ President of the Radio Corporation of America.

³⁹ Telegram in two sections.

tion. I am credibly informed that interested officials of the Ministry of Communications recently had occasion to say to the Japanese here that they resent the proposal of any wireless consortium that would include French and British interests, which the Chinese do not believe have any rights in regard to this matter, and that in their opinion it is a means for depriving themselves of control of wireless. When the Japanese Ambassador said of Japanese Government's proposal that unless we were to join in urging it, it could not be expected to prevail with the Chinese, he was undoubtedly right. If it should prevail then, it would do so for the reason that the Chinese would feel we had betrayed the only hope they have of escaping the coercion of the Japanese and other interested nationalities. But as intimated by the Chinese authorities, the more likely alternative is that if we acquiesced in the Japanese proposal, the result would only be, as the Chinese believe it is intended, to destroy our position under the Federal contract.

3. The statement that Chinese nationalistic aspirations would be satisfied through the Japanese plan by placing wireless under control of the Chinese Government would not deceive the Chinese at all. They would know no commercial enterprise could afford sinking money into wireless stations in China under conditions obtaining at this time without relying upon profits of the enterprise for the payment of the debt, for which retention of such a control would be necessary as would make possible working the stations on commercial lines without danger that militarists would make such interference as has bankrupted all railroads in which an effective control has not been retained by foreigners, and that, therefore, any concession to Chinese control would be one only of appearance. I asked Baron Shidehara ⁴⁰ last June during my conversation with him in Tokyo, ⁴¹ whether in fact that would not be the case and whether the Mitsui Station for instance would not under the Japanese plan substantially remain Japanese as it is now. He acknowledged smilingly that each station would doubtless remain affected with the national character of those interests which had constructed it.

4. Considering the Japanese argument on a basis of economics, it does not appear to me to be sound for the reason that it presupposes that construction of two large stations would be required by any alternative plan. The fact is that establishment of a successful radio system in China, with or without a consortium, requires one high-powered station in addition to the Mitsui Station; even apart from its mechanical defects the Mitsui Station is not fitted for service as a main station, owing to its being remote from the business center of

⁴⁰ Japanese Minister for Foreign Affairs.

⁴¹ See telegram No. 117, July 1, 1925, from the Ambassador in Japan, *Foreign Relations, 1925*, vol. I, p. 909.

China. I believe the real point of the whole Japanese opposition is this: they would prefer China to be served by a station under their own control though it is inadequate for trans-Pacific work, rather than have an adequate station built near Shanghai by Americans or any other nationality.

5. Inasmuch as no one wants to build stations the cost of which it will not be possible to repay out of the profits of operation, it is also fallacious to argue that the erection of stations adequate for communications of a world-wide nature would impose upon the Chinese Treasury an unnecessary and intolerable burden.

6. With regard to protection of the Japanese investment in the Mitsui Station by an arrangement doing away with the monopoly claimed at present by the Japanese, Colonel Manton Davis assures me that if his company were enabled to proceed with construction of the system which was contemplated by its contract, it would be in a position to offer arrangements to the Mitsui Station for cooperation, enabling that station to handle a larger business and to make a larger revenue than it could possibly anticipate if such a system were not effected.

7. I was very informally approached on this subject a week ago by Saburi, now head of the Commercial Department of the Japanese Foreign Office, at present on duty as a member of the Japanese delegation at the Tariff Conference. He intimated to me that he was expected by Baron Shidehara to find occasion, on the basis of our somewhat intimate friendship, to discuss this matter with me rather more informally and outspokenly than a purely official relationship would make possible. He conversed upon the seriousness with which the Japanese Government regards this matter with what, to me, seemed to be specifically instructed emphasis. I told him that I never had been able to understand why his Government attached the vital importance they did to what after all is a commercial venture in regard to which our people ask merely a right to do business in China. I added that I could only surmise that in the eyes of his Government the question had been magnified into having an artificial importance because it invoked considerations of *amour propre* or else of suspicion of our motive. His answer was that he himself felt that both of these elements entered into the question; that in Japan there were persons who could not be dissuaded from believing that our naval authorities had developed the Federal project with a view to possible war with Japan, although he himself was quite prepared to believe this was not the case and to agree with my surmise that the Japanese in the event of such a war would be more likely to profit from such a station. He was less willing to speak definitely upon the element of *amour propre*. He confined himself to remarking that

there is a tendency in some quarters to feel that the United States is seeking to override and to humiliate Japan. I assured him we only have the most friendly intention to live and let live; and that we would be only too glad to have the matter worked out in justice to the interests both of the Japanese and the Americans upon some basis of cooperation. Saburi suggested as such a basis the consortium; but after I reminded him of its unacceptability to the Government of China, he suggested a scheme of joint operation such as AEEFG. I replied that it was my understanding that the arrangement referred to had neither worked efficiently or with satisfaction to any one of the interests involved. When he asked me what suggestion we might offer I answered that I was advised by the American company that it was willing to make a working arrangement between its own stations and the Japanese.

8. Saburi saw Davis a day or two later. Davis outlined such a basis of cooperation to him. Great interest in this suggestion was professed by Saburi, who said that with this in view, he would again study the whole question. He added that the question had been hitherto regarded in Japan entirely from the political point of view and without reference to the economic aspects of the matter.

9. In view particularly of the possibility that an unreserved understanding with the Japanese may be worked out through the intermediation of Saburi, which will permit the matter to proceed, I venture to make a strong recommendation that the Department firmly maintain its position on the rejection of the consortium proposal of the Japanese, which last June under your instructions I conveyed orally to Baron Shidehara, and that it has been informed that the consortium proposal is not acceptable to the Chinese and that unless and until the Government of Japan may be able to offer assurance that the Chinese have changed their stand in this matter the Department is not prepared to entertain the proposal.

10. Copy to Tokyo by mail.

MACMURRAY

893.74/652 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 14, 1926—10 a. m.

[Received January 14—8:45 a. m.]

25. Supplementing my number 24, January 13, 9 p. m., Davis has given me his views concerning your telegram, and he asks that if you have occasion to discuss this matter with General Harbord you communicate his views to the General. Davis' views are:

"The Japanese have a contract to build a wireless station for China at an agreed price, the monopoly grant is merely a provision to secure payment. When payment has been made all basis for claim to mo-

nopoly fails; the monopoly is contrary to the open-door principle and violates Japan's pledges. The Japanese now propose to surrender their contract, objectionable because monopolistic, on condition that the Americans surrender their contracts which are not monopolistic, but the Japanese station has been built as the American have not been. Should the Japanese surrender their contract they would still claim payment for their station. This is the only right they now have save the claim to monopoly which is only security to enforce the right of payment. The monopoly claimed is of doubtful value as security. Peking is no business center; 70 percent of China's overseas traffic originates in Shanghai; any traffic handled by the Japanese station, other than Peking traffic, would be handled originally by Chinese land lines, incurring thereby additional delay, expense, and liability to mutilation. The Japanese station is neither modern nor technically efficient. Because of its quality, its capacity, and its location the Japanese station is not capable of furnishing effective competition with the cables. This one isolated station probably never could pay for itself even with the advantage of a monopoly. The Japanese would now surrender their claim to monopoly of uncertain value in securing payment for the absolute certainty of payment by a consortium. The price at which the Japanese would sell to a consortium appears not to have been officially stated, but Japanese press reports name a price about three times the contract price named in their contract with the Chinese. Under the consortium proposal the Japanese would be paid in full and probably more, thus realizing the only right they now have, while the Americans would surrender every right they have. One isolated wireless station attempting to work with every overseas wireless station in the world could not give China effective wireless service. The two units of the American-Shanghai station cooperating with the Japanese station, made modern, and all served by the auxiliary stations contemplated by the American project would give China effective service. The American companies concerned believe such service would pay for itself. Americans know the state of China's finances and know that if their proposed installations could not pay for themselves, payment would not be made soon, if ever. The American companies have expressed a willingness to cooperate with the Japanese station in establishing a wireless system which they believe will give good service and pay for all the installations. The consortium principle for wireless in China would probably be a failure. Joint management by persons of different nationalities, each of whom is directed from different world centers, would doubtless be a bad management. Wireless stations so managed would likely give poor service at great cost; the Chinese are strongly opposed to a consortium. They state they will never consent to it. Japan's consortium proposal has been given careful consideration by the other Governments and the companies concerned and has been rejected. It would appear most inopportune to reconsider it now."

Copy by mail to Tokyo.

MACMURRAY

893.74/653 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 16, 1926—noon.

[Received January 16—6:09 a. m.]

28. My telegram number 25, January 14, 10 a. m. I am reliably informed that Japanese Minister addressed to the Chinese Government, January 14th, a note protesting against transaction of commercial business with France by French wireless station at Yunnanfu, and with Germany by station at Mukden, reasserting claim to 30-year monopoly.

MACMURRAY

893.74/654 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 20, 1926—7 p. m.

[Received 8:36 p. m.]

35. My telegram number 550, December 29, 10 a. m.⁴²

1. At the request of representative of Radio Corporation I asked the new Minister for Foreign Affairs January 18 to take early occasion to look into the matter of Federal contract and to have project carried into execution as contemplated by the correspondence of October last. He was noncommittal though he politely professed interest, particularly in the possibility of developing broadcasting as a means of conveying political views to the predominant illiterate population.

2. Later in the day I received Saburi who desired to confer with me before his contemplated visit to Japan. He said that Shidehara would doubtless want to know where our informal conversations regarding wireless had led and asked (*pro forma* as it seemed to me) my opinion of the Japanese proposal of June last. I told him I understood that to be substantially identical with the proposals the Japanese Embassy had conveyed to you in December 1924⁴³ and December 1925,⁴⁴ and, with entire frankness, I told him what I conceived to be the objections to that proposal along the lines set forth in my number 24, January 13, 9 p. m.

3. He did not seriously demur thereto but tactfully brought the subject around to the suggestion made by Davis for cooperation on the basis of working arrangements between the American and Japanese units, clearly indicating that a solution of dilemma on such a

⁴² *Foreign Relations*, 1925, vol. I, p. 935.⁴³ See memorandum of Dec. 24, 1924, from the Japanese Embassy, *ibid.*, p. 890.⁴⁴ See telegram No. 9, Jan. 7, to the Minister in China, p. 1040.

purely commercial basis was to the Japanese a new idea well worth studying. I emphasized my conviction that the commercial basis is the only one on which we can hope to arrive at any fair settlement not importing victory to one side and humiliation to the other.

4. He gave me the impression (though it was only a matter of inference from his tone and manner) that he was prepared to recommend to his Government an attempt to solve the problem on this basis.

5. He asked whether, if our several Governments and companies were thus brought into relations of mutual confidence in this matter, it would not be possible for us to reach understanding independently of the Chinese. I answered that he knew as well [as] I that if we were to reach accord with the Japanese interests and then present it as a *fait accompli* to this Government the very Chinese who had asked us to do so would turn and rend us Americans for having conspired with the Japanese against them and that while the Japanese might be complacent about it because they have an actual stake in the wireless here, we cannot afford to compromise our position which thus far rests on a mere contract right. We must have a position independent alike of Japanese opposition and Chinese pusillanimity, otherwise we could enter into negotiations only under what amounts to duress. He suggested that if we got such a position the Japanese interests would think themselves under duress. I said that they could have no ground for thinking we were doing anything but reduce handicap upon us that results from their having already a station in being.

6. Remarking that if there is no mutual confidence between Japanese and American interests deadlock must persist, he asked whether we could not arrive at such a degree of understanding as would permit the matter to proceed. I said that I hoped he could convey to his people the realization that the American interest in the matter is not obdurate but anxious to find some just accommodation of interests; and that if the proposals of Davis are in principle acceptable to the Japanese, it should be possible for him to give us when he returns reassurance which would enable the Americans to dismiss the suspicion that experience has forced upon them, that every time the Japanese talk to us about this question they induce the Chinese to withhold action upon our contract on the ground that the matter [is] being dealt with between the Japanese and our own Government. If we could be enabled to have confidence in the good faith of the Japanese in that respect, I told him, the Japanese might rely upon us to an extent that the discussion warrant[s] them in telling the Chinese that they were prepared to withdraw their objections to the execution of the Federal contract, in the confidence that three-cornered negotia-

tions for the accommodation of the several interests involved would be undertaken so soon as the American contract was in definite process of execution.

7. He asked whether he was to understand that we want in any case to construct trans-Pacific main station at Shanghai. I answered in the affirmative. He asked finally whether we propose business arrangements which would give the Mitsui Station chance to live and prosper, and I told him I understood Radio Corporation to be prepared to make such a division of profits as would enable the Japanese to realize upon their investment here. Saburi gave me to understand that such an arrangement would at any rate be carefully considered by his Government and Japanese interests.

8. Copy by mail to Tokyo.

MACMURRAY

893.74/651 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, *January 23, 1926—4 p. m.*

27. Your No. 24, January 13, 9 p. m., and No. 35, January 20, 7 p. m. Department awaits with interest results of informal conversations which you have had with Saburi and in the meantime should Japanese Embassy here revive question Department will take stand suggested by you in paragraph 9 of your No. 24.

KELLOGG

893.74/655 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *January 27, 1926—5 p. m.*

31. Letter from Harbord, dated January 25, received by Department.⁴⁵ It states that in a letter December 7, 1925, Colonel Manton Davis communicated to him memoranda of the conversations Davis and Barnes Moss had with you and with the Chinese authorities, and also a copy of the Federal Company's understanding regarding the modifications of their contract and the action which the Minister of Communications promised, based on the exchange of notes October 6 and 8.⁴⁶ In his observation that the Chinese have done nothing to fulfill the promises resulting from the above notes, Harbord adverts to the fact that an agreement that negotiations will take place with reference to wireless contracts between the Americans,

⁴⁵ Not printed.

⁴⁶ See telegrams Nos. 426 and 430, Oct. 5 and 8, from the Minister in China, *Foreign Relations, 1925*, vol. 1, pp. 930 and 932.

Japanese, and Chinese has been made by you and the Minister of Foreign Affairs. He adds that it is not made clear who is to extend an invitation by way of initiating these discussions. He informs the Department that a representative of one of the foreign interests which compose the consortium—which he says he has been told is organized by Japanese, British, and French to exploit the wireless communications of China—recently stated to him unofficially and frankly that they are opposing the Federal contract and that it would never be carried out. Harbord suggests therefore that the negotiations provided for by the agreement might well take place in the city of New York. On behalf of the Radio Corporation of America, he expresses a desire to extend an invitation, through the Department, to the representatives of Mitsui Company and of the Chinese Ministry of Communications to meet in New York City for that purpose.

The above would seem to indicate that the more recent developments reported by you in your telegrams 24, January 13, 9 p. m., and 35, January 20, 7 p. m., have not been communicated to Harbord by Davis, particularly Davis' conversations with Saburi which indicate that the contemplated negotiations of the Radio Corporation with the Japanese have already commenced. With regard to Harbord's proposal, please consult Davis and telegraph your comments. Department proposes to reply to Harbord's letter, unless you perceive objection, with the suggestion that he come to Washington for consultation. I would propose at that time to outline to him the developments which you reported in the telegrams mentioned above, and suggest to him that he may not desire, in view of these developments, to continue along the lines he proposed.

For your information, the Department would prefer, inasmuch as you have placed Davis already in direct touch with the Japanese, to leave the decision as to place and mode of purely business negotiations to arrangement between the interested parties.

KELLOGG

893.74/656 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *January 30, 1926—4 p. m.*

[Received January 30—8:37 a. m.]

60. Your telegram number 31, January 27, 5 p. m.

1. Davis and I fully concur in your suggestion that you ask Harbord to consult with you and be informed of developments reported in my cipher telegrams 24, January 13, 9 p. m.; 25, January 14, 10 a. m.; 35, January 20, 7 p. m. He should be asked to bring Davis'

letter of December 7th concerning invitation to parties to meet at New York.⁴⁷

2. [Paraphrase.] You refer to conversations here with Saburi as if they indicated that negotiations have already begun between Radio Corporation and the Japanese. Neither Davis nor Saburi take such a view. They regard them as purely exchanges of views to pave the way for negotiations ultimately between the interested companies, after the Government of China has taken that action which constitutes a condition necessarily precedent to negotiations being inaugurated, as my telegram number 35 pointed out in paragraphs 5 and 6. There is a danger involved in treating the matter as though negotiations were already in progress with the Japanese. [End paraphrase.]

MACMURRAY

893.74/659

*The Secretary of State to the Minister in China (MacMurray)*⁴⁸

No. 147

WASHINGTON, February 10, 1926.

SIR: The British Ambassador called on me on February 4th and asked me as to the status of the negotiations in the matter of the Chinese radio. I answered that I could not give him the details, but that I had understood that Japan had made a proposition to China that all governments interested in radio, including Japan, Great Britain, France and the United States, should enter into a consortium for a joint operation. He said that this also was his understanding of the matter. I told the Ambassador further that the Chinese had objected to such a consortium when it was suggested at the Washington Conference. He answered that it was his understanding that at the time it was not proposed that China should itself participate in the consortium, whereas the later proposal was that it should be a Chinese corporation under control of the Chinese Government. I informed him that China had never replied to the Japanese proposal and that we were unable to find out exactly the attitude of the Chinese Government.

The Ambassador said that his Government had the impression that the Radio Corporation was using its influence in China in opposition to this proposal. I answered that I did not so understand it, that the Radio Corporation was, of course, insisting that China should carry out its contract of concessions for the construction and operation of a station at Shanghai and that negotiations along these lines

⁴⁷ Copy forwarded to the Department by Maj. Gen. James G. Harbord, Feb. 4, 1926; not printed.

⁴⁸ The same, on the same date, to the Ambassador in Japan and to the Chargé in Great Britain.

were proceeding with China. I said further that I understood there had been informal conversations between Colonel Davis and Mr. Saburi in relation to joint operation, but that I did not know exactly the status of these conversations. The Ambassador said that Great Britain had no station of its own but was interested because of the concession. I told Sir Esme finally that I had been informed that the Japanese station was not adequate to furnish long distance service and that in any event there ought to be another radio station.

I am [etc.]

FRANK B. KELLOGG

893.74/661

Major General James G. Harbord to the Secretary of State

NEW YORK, February 11, 1926.

[Received February 12.]

MY DEAR MR. SECRETARY: I acknowledge the receipt of your letter of February 9th,⁴⁹ enclosing the views of Colonel Davis^{49a} regarding the proposal of the Japanese Government that the present controversy regarding radio matters in China be settled by adopting the Japanese proposal of the radio consortium.

Colonel Davis has very clearly stated the arguments against a consortium. It is unnecessary, possibly ungrateful, to reiterate our hope that the State Department will push this matter to a conclusion at a very early date. Our loyalty to its position on the "Open Door" has cost us already half a million dollars in money paid out, which sum is increasing by a little less than \$9,000. each month. We are quite convinced that a consortium for wireless communication in China would be very much better for China than no wireless communication at all. We very much appreciate the earnest support which our Federal project has in the past had from the State Department, and respectfully urge that there be no relaxation in such support. We do feel, however, that the moment the State Department becomes convinced that there is no likelihood of the Chinese going forward with our contract, no political objection to a consortium should be allowed to stand in the way of our making such arrangements as have been open to us for a long time.

I note that you desire Mr. Brown or myself to come to see you when in Washington, in order to talk these matters over. Thank you for the invitation, and it will be accepted at the first opportunity.

Very respectfully,

J. G. HARBORD

⁴⁹ Not printed.

^{49a} See telegram No. 25, Jan. 14, from the Minister in China, p. 1045.

893.74/666 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *March 6, 1926—1 p. m.*

[Received March 6—9:18 a. m.]

114. Following sent to Tokyo in reference to its telegram informing me of recent newspaper comment concerning wireless question:

"12. March 5, 3 p. m. 1. Since Saburi's return to Peking, he has informed me that by reason of the death of Kato, he did not have satisfactory opportunity to discuss wireless question as fully as he had wished during his short visit home. He said Shidehara was disposed to take conciliatory attitude but insisted upon two points, first, Chinese control of wireless stations (although from Saburi's explanation it appears that he does not regard this as incompatible with substantial control of technical operation and finances by representatives of the foreign interests), and second, that any arrangement must take account of the commitments which Japan has already assumed towards British and French wireless interests. I told him that the first of these points made by Shidehara might prove capable of adjustment, in view of the qualifications he had stated, but that as to the second I could offer no suggestion without knowledge of the scope and character of Japan's commitments, which he thereupon undertook to furnish me later. Upon my inquiring whether Shidehara was disposed to fall in with the suggestion that his Government cease its pressure upon the Chinese and permit our contract to be put into course execution with the understanding that three-cornered conversations among the Chinese telegraph administration and the American and Japanese radio interests would follow, thereupon, he made the disappointing revelation that the Japanese Foreign Office is unwilling to let our contract proceed until arrangements have been made between the American and Japanese companies. I told him that insistence upon this point meant that the Japanese expected us to yield our whole position and that it brought to nothing the efforts that he and I had been making to find a way out of the impasse. He promised to continue his study of the subject in the hope of finding a solution.

2. On February 24th I wrote the Chinese Foreign Office a further note urging action on the contract in pursuance of the Government's promise of October 6th.⁵⁰

3. There is, of course, no truth in the statement which you quote as attributed by *Japan Times* to an official of the Foreign Office to the effect that the question is pending between the American and Japanese Governments; see my despatch 6, February 1, 5 p. m. I am reliably informed that Japanese Legation is still urging the Chinese to take no action on our contract for the same reason."

MACMURRAY

⁵⁰ See telegrams Nos. 426 and 430, Oct. 5 and 8, from the Minister in China, *Foreign Relations*, 1925, vol. I, pp. 930 and 932.

893.74/671

The Secretary of State to the Minister in China (MacMurray) ⁵¹

No. 194

WASHINGTON, *March 30, 1926.*

SIR: The British Ambassador called on me on March 25th and told me that, in relation to the radio concession in China, he now understood that the Radio Corporation of America had not with China opposed the consortium, but that he understood there were other American interests which were opposed to it.

I told him I had not heard of any and asked to whom he referred. He said he did not have his papers with him and could not remember, but that it was some telegraph or cable company. I said that the only telegraph or cable company having any line to the Orient was the Commercial Pacific Company, in which the British owned an interest and that I had never heard that they had taken any part in the discussion. The Ambassador said he thought if the United States would urge China to enter into the consortium, China would agree; that the difference between the proposed consortium and the one which had been considered at the Conference was considerable; that the present consortium, among other things, contemplated Chinese operation of the station. He said that he was also informed that the Peking station, belonging to the Japanese, was adequate to communicate with all parts of the United States. I told him that as to that assertion I was not informed and made no promise as to what this Government would do.

I am [etc.]

For Mr. Kellogg:
JOSEPH C. GREW

893.74/672: Telegram

The Secretary of State to the Ambassador in Japan (MacVeagh)

[Paraphrase]

WASHINGTON, *April 7, 1926—4 p. m.*

28. Page 4 of your despatch number 73, March 13, 1926.⁵² Department prefers, in view of status of Federal wireless contract in Peking at present, that discussions of the question should not at the present time be initiated at Tokyo.

KELLOGG

⁵¹ The same, on the same date, to the Chargé in Great Britain.

⁵² Not printed.

893.74/673 : Telegram

The Ambassador in Japan (MacVeagh) to the Secretary of State

[Paraphrase]

TOKYO, April 16, 1926—11 a. m.

[Received April 16—10:15 a. m.]

37. Department's 28, April 7, 4 p. m. Instructions have been strictly complied with. I called on Baron Shidehara at his request, April 3rd, and following a discussion of disarmament, for which see my telegram 36, April 13, 6 p. m.,⁵³ he raised the topic of wireless. I said I could not officially discuss the matter. With that understanding he said that informally and unofficially he wished I would ask the Department of State if they could not reply to the Japanese memorandum dated June 1, 1925.⁵⁴ His view was that before any agreement on economic or business lines could be reached by the two companies concerned, matters of policy should be determined between the two Governments. He was confident the Chinese Government would accept any such agreement but the matter could not be brought again to the attention of our Government by the Japanese Government until they had received a reply to the memorandum referred to. Apparently, though he adverted to the interview he had with MacMurray, he did not consider that the conversation which Embassy's telegram 117, July 1, 1925, noon,⁵⁵ referred to was a reply to their memorandum of June 1, inasmuch as the matter entirely rested with the State Department. The Japanese Ambassador in Washington might properly be asked by Baron Shidehara to convey this request to the Department. However, his reply was that though he would instruct the Japanese Ambassador to communicate on the subject directly with the Department, he wished me to forward the request. Full account reported by despatch being sent by pouch April 17th.⁵⁶ Copy to Peking.

MACVEAGH

893.74/674

*Memorandum by the Chief of the Division of Far Eastern Affairs (Johnson)*⁵⁷

[WASHINGTON,] April 16, 1926.

The Japanese Ambassador came to see me at noon today by appointment. He stated that he desired to know whether there had

⁵³ *Ante*, p. 75.⁵⁴ *Foreign Relations*, 1925, vol. I, p. 906.⁵⁵ *Ibid.*, p. 909.⁵⁶ Despatch dated April 16; not printed.⁵⁷ Copies transmitted on Apr. 23 to the Ambassador in Japan in instruction No. 54 and to the Minister in China in instruction No. 208.

been any developments in the matter of the Federal wireless contract and the Japanese proposal for wireless consortium since his last conversation with the Secretary of State, which was early in January. I told him that there were no developments. I stated that this was due to two facts. First, that political conditions in Peking had been such recently that no progress had been made toward completing the Federal wireless contract with the Chinese Government, and second, that we were still interested in knowing what reply the Chinese Government had made to the Japanese Government's memorandum of last October proposing the consortium to the Chinese Government.⁵⁸

The Ambassador stated that his Government laid great importance upon the Japanese proposal for a radio consortium, as they considered that proposal to be in every sense of the word just to all parties, in accordance with Chinese national aspirations, and, at the same time, a proposal that would mean the settlement of radio construction problems in China upon a basis both economic and business like. In this latter case he stressed the point that it would save money for China in that their proposal would not force the Chinese to unnecessarily large expenditures for radio stations at this time.

I stated that it was our impression that the Chinese Government had been from the beginning opposed to the idea of a radio consortium. I reminded him that when such a proposal was first advanced during the Washington Conference the Chinese delegation had indicated their opposition to such a plan. I stated that this Government had not yet heard that the Chinese Government had changed its attitude on this subject and that we are still interested to know what reply the Chinese Government would make to the Japanese note of last October. The Ambassador stated that the Japanese Government had received no reply as yet and that it felt that no reply would be forthcoming unless the powers, and particularly the United States, could get together and agree on the proposition beforehand as the Japanese Government felt that the Chinese Government would accept any arrangement of this matter which the powers might agree upon. He pointed out that the Japanese proposal for a consortium represented a tremendous advance in the ideas of the powers hitherto interested in Chinese radio, and it meant that they definitely abandoned any idea of monopolistic or exclusive control over radio stations in China. He stressed the point that the Japanese proposal was that the stations were to be turned over to the control of the Chinese. I reminded him that I understood that the proposal would require that the stations be controlled during the

⁵⁸ See *Foreign Relations*, 1925, vol. I, p. 932.

existence of the consortium by engineers of the several countries involved. He stated that this was doubtless true.

I stated to the Ambassador that the Department was still interested, of course, in knowing whether this proposal of the Chinese Government was workable. I reminded him that the Japanese proposal was, in a sense, based on the old proposal for a financial consortium and I pointed out to him that the financial consortium had never been recognized by the Chinese Government, even though the consortium had expressed a willingness to take a Chinese group into membership.

I asked the Ambassador whether the Mitsui station near Peking was in operation and he replied that it was not. I asked him why the Mitsui station was not in operation, stating that I had assumed that it was completed and had become operative. He stated that he did not know why it was not in operation but that he and his Government believed (doubtless someone in Peking had made such a statement to the Japanese) that the Chinese were refusing to take delivery of the station or issue a permit for its operation in face of American opposition to the station. I told him that this surprised me very much because I was certain that there was no opposition on the part of the United States to the operation of a station by Mitsui and Company or any other Japanese company in China. I stated that our interest in this matter was merely in seeing that an American company having a station at Shanghai might be completed; that we were not interested in frustrating the efforts of any other nation. The Ambassador stated that doubtless that was true but that nevertheless they were under the impression that the failure of the Chinese to issue a permit to the Mitsui station was due to American opposition. I stated that I was satisfied that there was no American opposition to the Mitsui station, that Mr. MacMurray, our Minister at Peking, and Colonel Davis, the representative of the American company, had endeavored to explain to Mr. Saburi of the Japanese Foreign Office in Peking that the interested Americans were anxious to cooperate with other stations in every possible way, and to that end would be ready to make proper arrangements for exchange of traffic whenever the American station was ready to function.

The Ambassador remarked that that, of course, was the American proposal but that the Japanese felt that the Japanese proposal was in every respect more just, particularly in view of the fact that under the American proposal competitive conditions would exist which would make it difficult for several stations to live. I stated that it seemed to me that radio stations could make arrangements one with

the other just as the cable companies had made traffic arrangements one with the other and that it was the feeling of our radio interests that there was ample room for a station at Shanghai.

The Ambassador stated that as he had merely come to inquire whether there had been any recent developments that he was not prepared to go into a discussion of the details. With my final statement that no recent developments had occurred in the matter, the conversation ended.

N[ELSON] T. J[OHNSON]

893.74/673 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *May 14, 1926—1 p. m.*

96. 1. Following is for your information and comments, with reference to Department's 97 today.⁵⁹

2. I am very anxious to have this long-standing case settled in such a manner as to protect existing legitimate American interests and to be consistent with our policy of the open door.

3. As I understand it the situation is this: Believing that the Government of China preferred separate understanding with outside countries instead of internationalization of her external communications by radio, the Department has discouraged American radio interests from making arrangements with such other countries as have radio interests in China, and it has given its support to them in direct negotiations with the Government of China. However, events have demonstrated that the influence which the Japanese and British Governments have with the Chinese Government appears to be sufficient to prevent the Chinese Government from completing negotiations with the American company. In your telegram 405, September 21, 1925, 4 p. m.,⁶⁰ you have informed me that the Chinese Government has insisted that the American interests make some arrangement directly with Japanese interests prior to the completion of the American company's contract by the Chinese Ministry of Communications. We have refrained from doing this because the American company have no basis for negotiation with the Japanese in the absence of an executed contract. The proposal of the Japanese is that we give authorization to American company to discuss matters, with a view to a consortium, with the French, British, and their own interests. We have also hesitated to do this, believing that Chinese

⁵⁹ *Infra.*

⁶⁰ *Foreign Relations*, 1925, vol. I, p. 927.

were opposed to an internationalization of their external radio communications. The matter is at a stalemate therefore.

4. A reply to the Japanese memorandum of June 1 last⁶¹ is being considered. In regard to its proposal of a radio consortium, I had thought of informing the Government of Japan that if an arrangement based upon joint cooperation of Japanese, British, French, and American radio interests, and including joint operation of the stations to be set up in accord with the arrangement under the control of China, should prove to be acceptable to the Chinese Government, and, of course, provided it would involve in no way a grant of special privileges bearing a character of monopoly which would operate to prevent independent wireless interests from entering the field, and provided any existing claim to monopoly were given up, this Government would have no objection in principle to the working out of such a plan by the interested private commercial companies.

5. However, on May 12 General Harbord came to consult with me; he handed me a letter⁶² in which it was stated that in the opinion of the Radio Corporation, a position had been reached in regard to its negotiations with the Chinese where financial retrenchment had become necessary; that its intention was to recall Colonel Davis, who was needed by the company and by his family here; and that Davis would be instructed to turn over any papers to you which were necessary to enable you to continue pressure in behalf of Chinese-American control of the communication by radio between the United States and China.

6. The letter from the Radio Corporation concluded with a statement that unless you were able within six months to bring about definite final action by the Chinese Government, it would then seem wise to the Radio Corporation, by way of preparation to enforce a claim for all damages accrued, to consider recommending to the Federal Telegraph Company that it declare that the Republic of China was in default under existing contracts and the further commitments it made last October.

7. I discussed the situation with Harbord as I outlined it above in paragraphs 2 and 3, with which outline he agreed. He stated that the British and French wireless companies had informed him of their being interested in the Mitsui Station at Peking.

8. I said to him that the Ambassador from Japan was insisting to me constantly that the Mitsui Station was adequate to meet China's needs in regard to overseas radio communications and that construction of more stations would only increase China's financial burdens unnecessarily. General Harbord replied that he was not able to

⁶¹ *Ibid.*, p. 906.

⁶² Dated May 10; not printed.

understand how any such claim could be advanced by the Japanese, for according to his information the Japanese station was antiquated and not capable of meeting requirements of overseas communications. He said he believed the Japanese would abandon any such claims in negotiations.

9. I inquired of him whether the Radio Corporation would regard an AEEFG arrangement as acceptable, and I informed him of the reply to the Japanese Government which I had considered making, and which I gave above in paragraph 4. His answer was that from the beginning the Radio Corporation had been in favor of an international arrangement, but it had subordinated its wishes in 1921 to those of the Department in the interest of Chinese-American control of radio communication directly between the United States and China. He declared the proposal as I outlined it acceptable to his company, provided it did not involve, as proposed by Japan, a straight loan by the Radio Corporation, which has no interest in financing as such.

10. He suggested it was necessary to get some definite decision from the Chinese Government for Chinese-American control of communication by radio with the United States, or else for an internationalization of such communication which was the only alternative that seemed to offer. He proposed that instructions be sent in accord with the lines of Department's 97. I agreed to this. Should there be no responsible member of the Government of China in Peking at present to whom you can make the statements in Department's 97, action should not be taken until such an individual appears. It is understood in any case that the Radio Corporation will require the return of Davis by June 30.

11. My desire is that you carefully consider the proposals now placed before you and give me your frank comment and suggestions concerning the best means of arriving at some settlement that is practical and workable. I would suggest as an alternative proposal to the one I outlined in Department's 97, whether you should not give the Chinese notification that we are ready to accept the suggestions which the Provisional Chief Executive made to you September 21, 1925,⁶³ and authorize the Radio Corporation to proceed to discussions with the Japanese company.

KELLOGG

⁶³ Marshal Tuan Chi-jui; see telegram No. 405, Sept. 21, 1925, from the Minister in China, *Foreign Relations*, 1925, vol. I, p. 927.

893.74/673 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, *May 14, 1926—2 p. m.*

97. Your telegram 114, March 6, 1 p. m., and telegram 37 from Tokyo to the Department, April 16, 11 a. m.

Careful consideration has been given to the situation regarding the Federal Company's wireless contract with the Chinese Ministry of Communications. The United States Government has supported that original contract since it was signed, in its belief that the contract accorded with the policy of equality of commercial opportunity and the open door and that the Government of China preferred to have control over external radio communications independently rather than internationalization. This position has been supported by the Government of the United States when, at times, it seemed the Chinese Government itself appeared to be indifferent thereto. This Government has discouraged the American radio interests from participating in any arrangement in which internationalization of the external radio communications of China would be involved. The continued delay of the Chinese Government, and its unwillingness, apparently, to take any action to fulfill the contract made between the Ministry of Communication^s and the Federal Company raises the question whether the desires of the Chinese Government have been correctly understood by the Government of the United States. You are requested to explain the above to the Ministry of Foreign Affairs in Peking, provided it is feasible to do so at this time, reminding it that the United States Government has displayed patience in regard to the long delays in these negotiations which have involved for the private American interests considerable financial loss, and stating that the Government of the United States hopes that the Chinese Government will make some decision by June 30th next. You will state that the Government of the United States hopes to have been informed by the Chinese Government, by that date, that it has taken action to carry out the contract, in good faith, as proposed in the notes exchanged last October. If, by the date mentioned, the Chinese Government should fail to take such action, this Government could not avoid concluding that the Chinese Government had determined upon a modification of the position it has taken heretofore. The Government of the United States would then, while reserving all the American company's rights conferred by its contract and reserving any claim the company may have owing to the Chinese Government's failure to complete its contract, feels free to permit such arrangement

to be made by American radio interests as they may care to work out for radio communications in China with radio interests in other countries, subject to the single provision that if any arrangement is made which establishes or perpetuates any monopoly either as to the ownership or the operation of radio in China, they will not receive support from the Department of State.

For your information: The Department has been informed by the Radio Corporation that its intention is to recall Davis, effective about June 30. Davis may be informed of the contents of this telegram.

KELLOGG

893.74/682 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 19, 1926—9 a. m.

[Received May 19—2:20 a. m.]

215. Following from Davis for Radio Corporation, referring to your telegram 97, May 14, 2 p. m.:

“With the support of one of the allied military authorities now dominating Peking, W. W. Yen, as Premier, is trying to form a government, but, lacking support by another of such authorities, he is not making much headway. None of those appointed to ministerial positions has accepted. I doubt if in the near future a government will exist to which the American Minister can appropriately present an ultimatum. I will leave Peking about June 30th and will sail on *President Pierce* from Kobe or Yokohama.”

MACMURRAY

893.74/691 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, June 11, 1926—6 p. m.

[Received June 12—4:31 p. m.⁶⁴]

243. Your numbers 96, May 14, 1 p. m. and 97, May 14, 2 p. m.

1. No action on these two telegrams has been taken. I have waited for some semblance of government to emerge which at least should possess authority to handle the matter. No one is in charge of the Ministry of Communications. If the Minister who was designated by the Acting Premier should take office, seemingly there would be a prospect more favorable than hitherto for reaching the immediate objective, the conclusion of the “clarification agreement”.

⁶⁴ Telegram in two sections.

2. Pursuant to your 96, paragraph 11, I have thought much on the possibility of giving American radio interests authority to deal in the first instance with the Mitsui Company. I have tried to consider the question from a point of view not biased by personal prejudices. Having been associated with this question from its beginning, I find myself still convinced of the unwisdom of the suggested procedure. Tuan originated the suggestion merely out of desire to avoid a dilemma and without any idea of attaining constructive results. It has never been approved by those officials of the Ministry of Communications who desire at heart to improve China's external communications. The adoption of it would be interpreted as capitulation to the monopolistic pretensions of the Japanese and as subordination of American interests to Japanese interests; we would forego such standing with the Chinese as we have in this matter and would incur antagonism none the less intense because such action on our part had been controlled by a former chief executive who is regarded universally as a tool of the Japanese.

3. In the same spirit I venture to comment upon the procedure I am directed to take, if possible by June 30th, by your number 97. To intimate definitely to the Chinese an intention to abandon hope of executing the Federal contract and to arrange radio communication by means of combination with the interests of other nationalities, I fear, would be regarded by the political leaders of China as a challenge they could accept with impunity. Relief from the embarrassment they are subjected to by conflicting American and Japanese pressure would be thereby given to them, and they would be enabled to take against any proposals of a wireless consortium a purely defensive position—a position as strong tactically as the position they have taken in resisting a financial consortium. Competitive bidding for piecemeal construction contracts would probably be the result. By their adherence to the consortium the two American companies might be excluded from such bidding. In any case no Chinese Government, in the present state of aroused Chinese feeling against what is called foreign domination, can be expected to grant another contract (except through intimidation [*sic*] or corruption) as favorable as the Federal contract. If we once give up that contract, whose essential elements are already accepted and accomplished facts, my belief is that American interests, whether independently or associated with other nationalities, could not obtain in any foreseeable future a contract containing financial and technical safeguards which would be adequate to make the enterprise safe as a commercial venture. Therefore, I should urge that we should avoid, until the very last moment that the American radio interests can afford to hang on—and I for my part realize fully the fine spirit shown by the Radio Corporation in meeting the dis-

appointments and delays—conveying any intimation of our contemplating a possibility of abandoning hope that the Federal stations would be built under the contract. Therefore, to try to bring this matter to a head in connection with the departure of Davis, I would request authorization to be less specific than was contemplated in your number 97 regarding the attitude the United States Government takes toward possible arrangements being made between Radio Corporation and other national interests, and to inform the Chinese, in general terms only, that since China has not lived up to the opportunity presented, the whole question of developing radio communications in the Far East must be taken under advisement afresh by the American interests, reserving entire freedom of action, if occasion offered, to work with China, or, if their own advantage should so dictate, to work in disregard of Chinese interests.

4. I am conscious that no new or more expeditious or hopeful means of settlement of the question than we have already followed are presented by these views and suggestions. However, I believe that none of the other methods suggested could bring the question to a settlement without definite certainty that the effectiveness and the authority of the principle of equal opportunity would be impaired or without a grave risk that American interests would be barred from participating in Chinese wireless communications. . . . I see no way, however, in view of the failure of the Chinese Government to give the cooperation they asked of our Government in making the open door effective in this matter, by which we ourselves can abandon that objective without injuring a policy we feel vital to American interests, as well as to Chinese interests. As I see it, this is the whole crux of the question between ourselves and Japan. Circumstances have rendered impossible the full consideration of this matter with the Japanese Foreign Office which Saburi had hoped would take place, in regard to which see my telegram 35 of January 20, 7 p. m. Yet as he has explained it to me, the upshot amounted simply to the following: that the Radio Corporation should as a preliminary to any further negotiations arrange terms with the Mitsui Company upon which the Mitsui Company would be ready to give up its monopolistic rights; our suggestion, on the other hand, had been that the American company would be prepared to participate in tripartite negotiations for settlement if the Japanese, without express renunciation of the position they have taken, would simply permit the Federal Wireless Company's contract to take its course without the Japanese raising objection. To me, their insistence that recognition of their claim to monopoly be taken as a basis seems to indicate that the reality of the open-door principle is what is at stake, for, although we may believe that Japan at the Washington Conference

renewed her adherence to the doctrine of the open door with entire good faith, it is the fact nevertheless that the character of Japanese interests in China prompts a policy restricting the scope of interpretation of the open-door doctrine rather than of enlarging it. It seems impossible upon any other hypothesis to explain the pertinacity they have manifested in fighting our interests in this commercial matter, which involves but a relatively small radio station, and in seeking to turn the question by exaggeration into a major issue as between Japan and the United States, trying to wear down our patience, as it seems to me, in dealing with a perennial source of vexation. The Japanese Government's recent importunities that its memorandum of June 1, 1925, be answered—which Baron Shidehara fully understood, last June when I conferred with him, was to receive only an oral answer, which I made to him in your behalf at that time—may indicate, I venture to suggest, that it is the patience of the Japanese themselves which is becoming exhausted, in which case there is a better hope on our part of inducing the Japanese to accept an arrangement in which no surrender of our fundamental position is involved.

5. I infer from your 96, paragraph 6, that Radio Corporation has in mind to allow 6 months before it definitely abandons its reliance upon the Federal contract. I am not able to hazard an assurance that the question can be adjusted within that period in favor of us along the lines we have followed. However, I strongly believe we should not abandon that hope, and as a last resort should attempt through a consortium to provide for wireless in China, until the expiration of that period.

6. Though I am venturing below to comment upon the matter of business organization only to the extent that it is involved in the peculiarities of China's political situation, I give my full endorsement to the opinion I understand Davis has written to his company, which is, in effect, that a consortium or any other form of international cooperation in regard to radio communication with China should include that each separate station should be operated and controlled by a single foreign interest acting in conjunction with the Chinese. Traditional Chinese tendency to play off foreigners against each other in the interests of China, and the nature of the international rivalries in China, probably would make the success of stations in China which were controlled by an international board less likely than in any other place in the world.

7. Meanwhile I again venture the suggestion that if a further reply to their proposal is insisted upon by the Japanese the answer should be in accord with the sense of my telegram 24, January 13, 9 p. m., paragraph 9, rather than with that of your 96, in order to leave the

responsibility upon the Japanese Government for demonstrating that the proposal it made would be workable so far as the Chinese are concerned, and that it is not merely a maneuver designed to have us compromise the present position we have with the Chinese.

8. I discussed these comments in an entirely frank way with Davis. He concurs in them.

9. I request permission to send copies of this and your telegrams referred to above to Embassy, Tokyo.

MACMURRAY

893.74/699 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, July 15, 1926—5 p. m.

141. Substance of your essential points in telegram number 243, June 11, 6 p.m. was communicated to Radio Corporation. In reply July 12 the Radio Corporation agreed that the communication to the Government of China be worded in accord with suggestions of your third paragraph and stated that to do so will leave them free under the sanction of the Secretary of State to proceed, in case they desired to do so, as was outlined to the Minister in the Secretary's telegram of May 14, 2 p. m., No. 97; that they have at present no idea of "abandoning a release on" the Federal contract even though they were to begin negotiating with the other radio interests. General Harbord said he agreed with the views of the Minister and Colonel Davis that a consortium or any other form of international cooperation for radio communication with China should involve the control and operation of each separate station by one foreign interest in conjunction with the Chinese. The reply further stated that the Far Eastern representative of the Radio Corporation, Colonel Curtis H. Nance, who is at Manila now, had been designated as Davis' successor and instructed to write to you. In communicating with the Chinese Government, you will be guided by the views of the Radio Corporation as expressed above.

KELLOGG

893.74/711 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, August 19, 1926—noon.

[Received August 19—9:30 a. m.]

335. My telegram 243, June 11.

1. Assuming that the conclusion of the "clarification agreement" is merely a technical negotiation of protective agreements not involving

such new obligations by China as would require a recognized government as a necessary condition precedent to a judgment of validity, and proceeding for our part on that assumption, I had a long talk yesterday with the Acting Minister for Foreign Affairs, Admiral Tsai. I explained our views in full on the economic and political hearings of the Federal contract. On his part he gave no indication of desiring to associate the question of recognition with the Federal wireless contract.

2. He appeared to understand the significance of carrying out the Federal contract as a concrete application of the principle of the open door, and he gave some reason to me to hope that he, in behalf of the Foreign Office, will give his assent in the near future to signature of clarification agreement now being awaited by Ministry of Communications.

3. In the conversation I reiterated the assurance to him that when once the clarification agreement was signed and necessary orders given regarding land and bonds, the Chinese may notify the Mitsui Company immediately that the American radio interests and the Chinese Ministry are prepared to meet with the Japanese interests in a tripartite conference with a view to arriving at a solution of the problem along lines such as Davis has suggested.

4. I also took occasion to intimate to him that the moment is nearing when Radio Corporation will have to look after its own interests by means of arrangements elsewhere, in case the Chinese fail to make use of the opportunity which still is open to them. Since the Cabinet has a somewhat indeterminate status and its duration is probably brief, it seemed to me to be injudicious to make a more categorical statement.

MACMURRAY

893.74/712

Memorandum by the Assistant Secretary of State (Harrison) of a Conversation With the British Ambassador (Howard)

[WASHINGTON,] August 21, 1926.

The Ambassador referred to his last conversation with the Secretary, and inquired whether there was anything that I could tell him with regard to the matter of the Federal Radio's contract in China. I replied that I had nothing new to say. The Ambassador said that some months ago when speaking to the Secretary, Mr. Kellogg had indicated that he was awaiting the views of the Legation, and he had understood that the Legation had felt that there was little hope for progress in view of the status of affairs in China. Of course he appreciated that the situation was now much the same as it was then.

The Ambassador expressed the hope that we might be able to come to some understanding. He thought that the Japanese proposal for a consortium taking in China and placing the matter really under Chinese control, nominally if not actually, was substantially different from the consortium proposal that had been put forward during the Washington Conference, and should be acceptable to China. I expressed some personal doubt as to whether China would consent to a consortium.

The Ambassador also urged the desirability of the consortium solution which would eliminate the Japanese and American monopoly. I expressed surprise that he considered that there was any monopoly involved in the Federal contract. I referred to the fact that some time ago the British Government had raised a question with regard to an alleged special privilege entailed in the Federal contract which we had answered, I understood, to the satisfaction of the British Government. The Ambassador said that of course it was an intricate matter and that he did not have it all in mind, but that he would be glad to give me an *aide memoire* or discuss with me the position of his Government which maintained that the Federal contract did involve a virtual monopoly. I remarked that the Federal contract did not disturb the Japanese station at Peking nor the French station at Shanghai, but that I was ready to discuss the matter further with him. While admitting the existence of the Japanese station at Peking and the French station at Shanghai, the Ambassador remarked that these stations were not powerful and that the erection of a large powerful station at Shanghai by the Federal would mean that that station would carry on all international business. He also observed that his Government was anxious to reach, if possible, a satisfactory solution of the whole question.

L[ELAND] H[HARRISON]

893.74/716

The British Ambassador (Howard) to the Assistant Secretary of State (Wright)

MANCHESTER, MASS., August 27, 1926.

[Received August 30.]

MY DEAR MR. WRIGHT: When I saw Mr. Harrison in Washington on August 21st, I touched, amongst other matters, upon the question of wireless in China with special reference to the so-called Federal Contract. I intimated in the course of our conversation⁶⁵ that this contract was regarded with some apprehension by His Majesty's Government as vitiating the principle of the "open door" in China, and Mr. Harrison expressed surprise that any such fears should be agi-

⁶⁵ See memorandum by the Assistant Secretary of State, Aug. 21, *supra*.

tating our minds. In the circumstances, permit me to invite reference to Mr. Chilton's note No. 704 of July 22nd, 1925,⁶⁶ which informed the United States Government that His Majesty's Government were in general agreement with the Japanese proposals for a wireless consortium and which contained the following paragraph:

"In determining their attitude in this matter, His Majesty's Government have been impressed by the fact that the difficulties now handicapping the development of wireless communications with China afford a striking illustration of the soundness of the general principles so ably championed by the United States Government in other spheres of foreign relations with that country. The essence of these principles consists in the eradication of international competition in China and the abstention of the foreign powers concerned from any attempt to seek special privileges for themselves and their nationals. His Majesty's Government do not doubt that these considerations will also animate the policy of the United States Government in the present instance. At the same time, however, they view with a certain apprehension the possibility of practical application being given to the suggestion put forward by the United States representatives at the time of the Washington Conference that the conduct of wireless between the United States and China ought to be solely in the hands of a Sino-American enterprise. Whilst His Majesty's Government for their part were prepared to accept the recommendations of the wireless experts when taken as a whole, they cannot but feel, in the light of the present difficulties, that the suggestion of the American representatives on this particular point would in practice militate against the above-mentioned principle of equality of opportunity and encourage the powers to claim from the Chinese Government a monopoly of the wireless traffic between themselves and China. Such action on the part of the powers would materially increase the difficulties of the situation and result in the infliction of a considerable injustice on China."

Since the general contents of the Federal Contract will be well known to you, I think it is hardly necessary to say any more at present about our apprehensions over the possibility of a radio monopoly in China. There are, however, certain points in the Federal Company's Agreement of September 19th, 1921,⁶⁷ which I feel may have escaped the notice of the United States Government, and these I have outlined in the enclosed memorandum for your information.

In the light of this memorandum, you will realize that, if the Federal Contract is carried out, my Government may find themselves obliged, at the request of the British banks and bondholders interested, to take concerted action with the other Powers concerned for the protection of British interests in this matter.

Believe me [etc.]

ESME HOWARD

⁶⁶ *Foreign Relations*, 1925, vol. I, p. 910.

⁶⁷ See despatch No. 37, Sept. 27, 1921, from the Minister in China, *Foreign Relations*, 1921, vol. I, p. 450; for text of agreement, see *List of Contracts of American Nationals With the Chinese Government*, etc., annex VIII (Washington, Government Printing Office, 1925).

[Enclosure]

MEMORANDUM

Clauses 4 and 5 of the Agreement of September 19th, 1921, between the Federal Company and the Chinese Government read in part as follows:

From Clause 4

“. . . The Government also pledges as further and additional security, as aforesaid, the surplus earnings from any and every source accruing to the Ministry of Communications, and if at any time such earnings shall prove deficient, the Government agrees in such event to provide from other Government sources amounts necessary and sufficient to redeem the Bonds herein authorized to the end that the obligations of said Bonds shall be promptly and fully met. . . . The Ministry of Communications above referred to, so as to fully pay the same agrees that no deductions of any kind shall be made from said surplus earnings of said Ministry of Communications above referred to until full provision has been made for said payment as aforesaid, the Government further agrees, in any event, to provide for the full and prompt discharge of said Bonds, in the amounts falling due each year, together with the premium thereon, from other earnings of the Ministry of Communications or from other Chinese Government sources.”

From Clause 5

“. . . Further so long as any part of this loan is unredeemed and unpaid, the said China-Federal Radio Administration and the surplus earnings of the Ministry of Communications, shall not, under any circumstances, be mortgaged, nor shall the respective receipts therefrom be given as security to any other party, nor shall the Ministry of Communications of the Chinese Government impair the security of this loan by any pledge of, or agreement to pay from, the surplus earnings of said Ministry of Communications, to the end that this loan, so long as any part of it unredeemed and unpaid, shall have priority as regards principal and premium, and interest over all other loans, charges, or mortgages charged or to be charged on the Ministry of Communications . . . and no loan, charge or mortgage shall be raised or credited [*created*] which shall take precedence or be on equality with this loan, or which shall in any manner lessen or impair its security upon the revenue aforesaid.”

It is felt that the pledging of the whole of the surplus revenues of the Chinese Government Railways to an industrial concern, for purposes outside railway development, is prejudicial to the working of the International Bankers' Consortium of 1918. Moreover, a special lien on Chinese Government revenues would seem inconsistent with the principle of complete equality which formed the basis of the wireless resolution passed by the Consortium Council in Paris

on May 28th, 1923, from which the following (Article 5) is a pertinent extract:

"It was resolved that each group in the new consortium shall be a national unit and that no member of any group shall, within the scope of the operation of the consortium, represent directly or indirectly any other national interest".

In this connection, it is of interest to note that the Federal Agreement provides that the Bonds of the Chinese Government shall be secured upon the radio stations, and all revenue accruing therefrom, and it also specifically provides that if this security is found to be insufficient, then the Chinese Government pledges all surplus earnings from whatever source of the Ministry of Communications, and from all other Chinese Government resources. Under the agreement, the Chinese Government is further prohibited from impairing the security of the bonds "by any pledge or agreement to pay from the surplus earnings of the said Ministry of Communications to the end that this loan as long as any part of it remains unredeemed and unpaid shall have priority as regards principle [*sic*] and premium and interest above all future loans, charges, or mortgages charged, or to be charged on the Ministry of Communications." This would appear to conflict with the undertaking entered into by the four Powers interested in the Banking Consortium and seems further to contravene the pronouncements of the United States Government on behalf of their national group in their notes to (a) the French, British and Japanese Embassies of October 8th, 1918,⁶⁹ and (b) to the Chinese Government on September 28th, 1920,⁷⁰ from which the following extracts are respectively quoted:

(a) "The proposal of the Government of the United States contemplated that industrial, as well as administrative loans should be included in the new arrangement for the reason that, in practice, the line of demarcation between various classes of loans often is not easy to draw. Both alike are essential fields for legitimate financial enterprise and both alike should be removed from the sphere of unsound speculation and of destructive competition. The intention of this Government was to suggest as a means to that end, that the interested Governments should, by common consent, endeavour so to broaden the membership in the newly formed national groups that all financial firms of good standing interested in such loans might be included in the respective groups and should withhold their support from independent financial operations without previous agreement of the interested Governments".

(b) "In the proposal of the United States Government which in practice envisaged a reconstruction of the Old Consortium it was specifically stated that there was no intention of interfering with any

⁶⁹ See note to the French Ambassador, *Foreign Relations*, 1918, p. 193.

⁷⁰ *Ibid.*, 1920, vol. I, p. 572.

of the rights of the Consortium. The hope was expressed, however, that the new national Groups formed might be made so broad as to include the members of the former Consortium as well as others who had legitimate claims to such inclusion, so as to meet the larger needs and opportunities of China in a spirit of harmony and of helpfulness rather than of harmful competition and self-interest."

A further portion of Clause 5 of the Federal Agreement lays down that no deductions of any kind shall be made from the surplus earnings of the Chinese Ministry of Communications until full provision has been made for the wireless bonds. This is at variance with Article 5 of the Agreement regarding the Anglo-French loan of 1908 to the Board of Posts and Communications,¹¹ which states that the service of the loan will be paid from these surplus revenues. The text of article 5 of the loan agreement is as follows:

FRANCE (Banque de l'Indo-Chine), GREAT BRITAIN (Hongkong and Shanghai Banking Corporation) AND CHINA.

Agreement for a loan of £500,000 [*£5,000,000*] to the board of Posts and Communications—October 8th, 1908.

Article 5.

"The service of principal and interest of this loan will be paid from the surplus revenues of the various productive works of public utility controlled by the Board of Posts and Communications; in the event of these surplus revenues being insufficient, other revenues will be selected to make up the deficiency."

"The Board will further, from and after the date of the first coupon, and during the currency of this loan, leave on fixed deposit in equal shares with the two contracting banks in Shanghai, the estimated silver equivalent of the payment of interest next due. In like manner, from and after the end of the tenth year, the Board will also leave on fixed deposit with the contracting banks in Shanghai the estimated silver equivalent of the instalment of principal next due. These fixed deposits will be renewed and adjusted half yearly on the dates on which interest coupons become due to the bondholders, the silver equivalents of interest and/or principal which they represent being calculated at the rate of exchange or average rate of exchange, settled for the remittance of loan service made ten days previously. Interest on these deposits shall be allowed by the contracting Banks at their advertised rates for the time being for twelve months fixed deposits, subject to any change of rate from the date of such change and will be payable half-yearly.["]

Finally, Clauses 4 and 5 of the Federal Agreement seem to violate Article 6 of the Agreement of April 10th, 1911, between the Eastern Telegraph Company and the Chinese Government, which agreement reads as follows:

¹¹ For text of agreement, see *Foreign Relations*, 1908, p. 204.

Copy from Book of Agreements of Eastern Extension, Australasia and China Telegraph Company, Limited, and The Chinese Government, in F. 1490/667/10 of 1925.

AN AGREEMENT, made this tenth day of April, 1911, corresponding with the Twelfth day of the Third Moon of the Third Year of Hsuan Tung, Between THE IMPERIAL CHINESE BOARD OF COMMUNICATIONS (hereinafter called "The Yuchuanpu") of the one part and the EASTERN EXTENSION AUSTRALASIA AND CHINA TELEGRAPH COMPANY, LIMITED, and THE GREAT NORTHERN TELEGRAM COMPANY, LIMITED, of Denmark (hereinafter called "The Companies"), of the other part.

WHEREAS the Yuchuanpu for the purpose of reorganising, improving and developing the Telegraph and Telephone Services throughout the Chinese Empire has to provide large sums of money in the immediate future.

AND WHEREAS in accordance with the existing agreements between the Imperial Chinese Telegraph Administration and the Companies certain revenues administered by the Companies are paid quarterly to the said Administration.

AND WHEREAS the Companies are prepared to make an advance on account of the said revenues to the Yuchuanpu for the purposes stated.

IT IS THEREFORE MUTUALLY AGREED between the parties hereto, as follows:—

ARTICLE 1

The Companies agree to make an advance to the Yuchuanpu of the sum of £500,000 (five hundred thousand pounds sterling) on the conditions hereinafter named.

ARTICLE 2

The advance shall be made at par, and shall bear interest at the rate of five per cent per annum.

ARTICLE 3

Of the said sum of half a million pounds sterling a sum of £300,000 (three hundred thousand pounds sterling) shall be paid by the Companies to the Yuchuanpu on May First, 1911, corresponding with the Third Day of the Fourth Moon of the Third Year of Hsuan Tung, and the balance of £200,000 (two hundred thousand pounds sterling) shall be paid within six months after the date of the payment of the above stated £300,000. The said payments shall be made to a bank designated by the Yuchuanpu.

ARTICLE 4

The advance of money together with all interest in respect thereof shall be satisfied and extinguished by the payment by the Yuchuanpu to the Companies of a series of equal half-yearly instalments of £21,018 (Twenty-one thousand and eighteen pounds sterling) each. The first of these half-yearly instalments shall be paid on June 30th, 1912, corresponding with the Sixteenth day of the Fifth Moon of

the Fourth Year of Hsuan Tung, and the last of the half-yearly instalments shall be paid on or before the 31st December, 1930. All payments shall be made in sterling or its equivalent through a Bank designated by the Companies either in London or at Shanghai. Should from any unforeseen circumstances of whatsoever nature the Yuchuanpu find itself unable to make the stipulated payment on the date agreed upon, the Companies shall be paid interest at the rate of five per cent per annum on the amount of the outstanding account from the date on which payment was due and until the actual date of payment, it being understood that in case of non-payment or short payment the Companies may deduct any amount due under this Agreement from money due from the Companies to the Imperial Chinese Telegraph Administration under the existing Agreements or Contracts between the said Administration and the Companies or either of them.

ARTICLE 5

The Imperial Government of China hereby guarantees the repayment of the £500,000 and the payment of interest thereon in accordance with the stipulations contained in Article 4, and as security for the money advanced hereby grants to the Companies a preferential lien on China's revenue from "Through Traffic" and "Limitrophe Traffic": subject always to the lien held by the Companies under any Agreement or Agreements in force for the time being between the Imperial Chinese Telegraph Administrations and the Companies. The above revenues are declared free from all other loans, mortgages or charges.

By the aforesaid "Through Traffic" is understood traffic as defined in the sixth recital of the Agreement dated the 26th of July, 1904, between the Imperial Chinese Telegraph Administration and the Companies, and by the aforesaid "Limitrophe Traffic" is understood traffic as defined in Article one of the Telegraph Convention dated the 13th of May, 1897, between the Imperial Chinese Telegraph Administration, and the Great Northern Telegraph Company, Limited, of Denmark, with the additional traffic as mentioned in Article seven of the Agreement dated the 22nd of October, 1902, between the same parties.

ARTICLE 6

No Loan or Mortgage shall be charged upon the security named above until this present advance of money by the companies is redeemed, and neither the Yuchuanpu nor the Imperial Chinese Telegraph Administration shall make any arrangements or agreement or take any other step during the term of this present Agreement that would in any way diminish China's share of the revenue from the aforesaid "Through Traffic" and "Limitrophe Traffic".

ARTICLE 7

This Agreement is signed under authority of an Imperial Edict dated the Eighth day of the Third Moon of the Third Year of Hsuan Tung which has been officially communicated to the Ministers of Great Britain, Russia and Denmark in Peking by the Waiwupu.

IN WITNESS WHEREOF the undersigned duly authorised to this effect have signed the present agreement.

Done in Peking in the English language and in the Chinese language. Six expeditions [*sic*] duly compared and found to be in agreement, of which one shall be retained by the Yuchuanpu, one by the Waiwupu, one by the British Minister, one by the Russian and Danish Minister[s], and one by each of the Companies, have been signed in each of these languages on the Tenth day of April, 1911, corresponding with the Twelfth day of the Third Moon of the Third Year of the reign of Hsuan Tung.

For the Imperial Chinese Board of Communications,
(Signed) Chow Wan Pang. (seal)

Appointed with Imperial approval Director
General of the Imperial Chinese Telegraph
Administration and being an expectant Tao-
tai with the brevet rank of the second class.

For

For the Eastern Extension Australasia and China Tele-
graph Company, Limited.

(Signed) A. B. Skottowe.

The Acting Manager in China.

For the Great Northern Telegraph Company, Limited,
of Denmark.

(Signed) J. J. Bahnson.

The General Manager in China and Japan.

893.74/714: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, September 1, 1926—6 p. m.

[Received 8:18 p. m.]

365. My 335, August 19.

1. After further conversation with Minister of Communications and Admiral Tsai, latter presented the Federal question to Cabinet meeting August 26 by a memorandum which requested instructions and which clearly favored the fulfillment of the Federal Company contract, despite the opposition of the Japanese. He has informed me since then that Minister of Communications Chang and Minister of Finance Koo, supported him. The Cabinet decided that there should be discussion of the matter again after settlement of the political situation, in other words, further consideration should not be given until a "regular" government, or as was intimated by Tsai, a "recognized" government, is established.

2. After I received an intimation that no very mature deliberation had in fact preceded the taking of this decision by the Cabinet, but with rather a casual hope that the Cabinet might arrange to exchange

performance of the contract for an early recognition of their regime by us, I saw Admiral Tsai again and emphasized to him the importance of any action which would necessitate my reporting that we must give up hope definitely that China would carry out her obligations. Thereupon Tsai offered to request reconsideration by the Cabinet at its August 31st meeting. I have just been told by him that at this meeting the Cabinet, although attempting not to close the subject by declaring that their intention was not to end negotiations in this matter, confirmed the previous decision.

3. This action, taken admittedly in consequence of threats recently reiterated by the Japanese and of intimations of British opposition, I can only consider as definitely putting an end to all hopes of securing from the Peking regime favorable action in regard to the Federal contract. A more favorable conjuncture could not have been hoped for. Chang, who himself had signed the supplementary agreement made in September, 1921,⁷² was prepared to make the clarification agreement, subject only to its receiving approval from the Minister for Foreign Affairs who probably has the most friendly attitude in regard to the United States of any official of China and personally was most anxious to have the agreement given effect, but who felt compelled, under duress of political circumstances, to bring the matter before the Cabinet. He has assured me he presented the question as a choice between possibly offending the Japanese by failure to observe a monopolistic contract and possibly offending us by failing to meet the test, as our Government regards it, of the policy of the open door and of the sincerity of China in cooperating in that policy. That the Cabinet should on this presentation of the case have repudiated or postponed indefinitely the execution of the Federal contract is, in my opinion, final evidence that reliance can no longer be placed upon the Peking authorities by the American company to effect its rights under their contract. I can no longer recommend therefore that they continue to exert effort along this line.

4. However, I would advise most earnestly that prior to abandoning possibility of progress upon the basis of the Federal contract, the American interests concerned and the Department [give consideration to?] an alternative plan I have discussed with Davis. This is in essence the following: In view of the lack of active support from the administration in Peking, although already having contractual rights which assures its legal consent to carry out the contract, a practical solution of the difficulties of the American interests should be sought by those interests independently of Peking. Sun Ch'uan-fang, who controls the Shanghai area in which it is proposed that

⁷² See despatch No. 37, Sept. 27, 1921, from the Minister in China, *Foreign Relations*, 1921, vol. I, p. 450.

the main station is to be erected, holds the key to the situation. If he could be induced to allocate the necessary land for the station, construction might immediately be started, in confidence that the administration in Peking would have to acquiesce in the various arrangements which would be incidentally necessary. I believe that in regard to the signature of bonds I am justified in thinking that that matter is considered by Davis to be of no consequence since the Chinese Government then existing gave a formal preliminary bond which covered the entire indebtedness. And in regard to the clarification agreement, it would appear that the central administration in Peking—the technical experts of the Ministry of Communications are friendly—will of necessity come to such an agreement in the face of a *fait accompli* in order to secure the benefits the agreement confers as to equipment and financial arrangements.

5. If the Radio Corporation after consultation with the Department were to approve this course, I should recommend that I be authorized by you to discuss the matter with Marshal Sun during the trip to the South which I am to make soon. Presumably Moss could later arrange all the necessary details in regard to the land.

MACMURRAY

893.74/714 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, September 7, 1926—6 p. m.

184. Paragraphs 4 and 5 of your telegram 365, September 1, 6 p. m. Belief of Department is that it would not be wise for this Government to take the responsibility of encouraging Radio Corporation to make arrangements with local Shanghai authorities which would ultimately depend upon the good will of the Central Government at Peking for final fulfillment either in regard to intercourse between the Government and the wireless station at Shanghai or in regard to ultimate payment of bond. Procedure such as that should be left to the Radio Corporation entirely. In communicating your telegram in substance to the Radio Corporation, answering a letter dated September 2,⁷³ Department is so informing Radio Corporation.

In view of previous negotiations in this matter with the Central Government, the Department in any case would not be willing to give you authorization to discuss the matter on behalf of the Corporation with the local authorities at Shanghai.

KELLOGG

⁷³ Neither letter printed.

893.74/722

Memorandum by the Secretary of State[WASHINGTON,] *September 25, 1926.*

The Japanese Ambassador called on me today and we discussed the radio situation in China. He reminded me that the Japanese Government had sent its original note on this question about a year ago and that he had had various discussions since. His Government was very much disappointed that they had not received a reply to their note. The Japanese Ambassador said that I told him on May 10 that we had considered the matter, had drafted a note, and were telegraphing it to MacMurray for suggestions. I think this is correct but in addition to this I did ask MacMurray to try to find out from the Chinese Government what answer they were going to make to the Japanese proposal for a consortium and as to whether the Chinese would consider a consortium as they had always opposed it; also what the Chinese Government generally would do about the situation. The Japanese Government thinks that I did not tell him that on the 10th of May. I think that I did tell him but he says not.

The Japanese Ambassador feels as though he should have an answer to the question; that the Japanese Government under the present conditions in China feels it is very important that there should be more harmony between the United States and Japan as to the radio interests; that Japan is not finally committed to the proposition that it has made but is prepared to consider any reasonable proposition which the United States will make if the spirit of the proposal is in harmony with the general ideas expressed by the Japanese Government. The Ambassador said that the Japanese Minister in Peking has lately had a conversation with the new Minister of Foreign Affairs of China and the Chinese Minister of Foreign Affairs suggested that it would be well for Japan, the United States and China first to have a conference before taking the matter up with the British and the French.

893.74/721 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, *September 29, 1926—1 p. m.*

[Received 8:33 p. m.]

437. Department's telegram number 184, September 7, 6 p. m., and Legation's telegram number 365, September 1, 6 p. m.

1. Word has been sent me by Admiral Tsai Ting-kan, now ill in a hospital, that the Japanese Chargé d'Affaires had informed him that

the Japanese Minister who is returning here from Japan about the 10th of October had instructions from his Government that he take up the wireless question with me and with the Chinese. Admiral Tsai desired that I be advised of this so I might be prepared.

2. I at once went informally to the Admiral, September 27th. He somewhat elaborated on the above-described message. Apparently some time ago, no doubt during the period of his activity in behalf of the Federal wireless contract, for which see Legation's 335 and 365, Tsai told the Japanese Chargé, Hori, in a very frank conversation that he felt it necessary equally for Japan, the United States, and China to settle the one question now clouding their perfect friendship, that he was convinced completely that the interested Americans were willing to make any reasonable compromise once they were placed on a footing of equality with the Japanese, and to insist that the Chinese Government execute the Federal contract, and that furthermore, to the latter end, he would do all he could. Tsai believed that Hori was much impressed and that he reported the conversation to Tokyo with the result I described in paragraph 1.

3. I briefly reiterated our position to Tsai that when the "clarification agreement" had been signed and necessary orders given as to land and bonds, we would be willing to meet the Japanese and the Chinese with a view to finding a solution of the problem along the reasonable lines proposed heretofore, but that, before we would do anything further, we must be put on this basis of parity with the Japanese.

4. I could not help being impressed with the apparent sincerity of the stand the Admiral declared he had taken with the Japanese in support of the Federal contract, with the logic of his remarks, and, likewise, with the belief he seemingly had that he could succeed in achieving the result desired. He stated at the end of our conversation that he would have a talk with Yoshizawa as soon as the Minister arrived, and that he would inform me of the result and then invite Yoshizawa and me, and probably Chang, the Minister of Communications, to an unofficial dinner at which we could informally discuss the matter. I shall accept such an invitation unless instructed to the contrary, provided it appears advantageous then, and I shall quite frankly tell all that we desire to solve the problem but state that we are unable to enter any negotiations for that purpose until and unless our contract is executed by the signature of the "clarification agreement", and so forth.

5. Since, in addition to the conversation I had with Tsai, Saburi very earnestly spoke to me in the above regard when he returned recently from a brief visit to Tokyo, I am the more inclined to the belief that the Japanese are becoming increasingly anxious that this matter be settled. Saburi emphasized that the only question pending between his country and the United States was the wireless question

and that our inability to come to a decision on it was a great pity. From a frank discussion of it with him I gathered quite conclusively that the Japanese Government now regarded the question primarily as one involving their national prestige and therefore that the finding of a solution which would save face for them was the principal problem.

6. Pending the arrival of Yoshizawa, at which time presumably it will develop whether definite proposals are contemplated by the Japanese, I suggest that it is inadvisable to communicate to Radio Corporation this recent phase of the situation unless doing so is necessary to keep alive the interest of the corporation in the matter, since, until the matter is further in progress, for them to send their representatives here would hardly serve any useful purpose or be justified. However, should the Department give information of the matter to Radio Corporation, may I suggest that it be given somewhat in this sense?

MAYER

893.74/721 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, *September 30, 1926—6 p. m.*

210. Paragraph 4 of your number 437, September 29, 1 p. m. Until further instructed you should not commit yourself in connection with the proposed discussions between Minister Yoshizawa, Admiral Tsai, and the Minister of Communications concerning radio contracts. In a day or two the Department expects to consider the entire situation with General Harbord, after which the Department will be in a position to give the necessary instructions. You should refrain from comment, which includes the statement you suggested, if the unofficial dinner is given, and you should at once report to the Department any proposals or suggestions.

KELLOGG

893.74/722

Memorandum by the Chief of the Division of Far Eastern Affairs (Johnson)

[WASHINGTON,] *October 11, 1926.*

The Japanese Ambassador called on me at 3 o'clock today and referred to a conversation which he had had with the Secretary of State on September 25, at which time the Secretary had stated that he hoped to make some reply to the Japanese Embassy's note of June 1, 1925, in regard to the question of the Federal Wireless con-

tract with China. I told the Ambassador that I hoped that within two or three days we would be able to make a reply. He stated that he hoped that our reply would be favorable. He said that when he left Tokyo he had been told by his Government that it looked upon the Federal Wireless question as one of great importance second only to the immigration question and that he had been instructed to make every effort to find some way whereby this question might be settled in a manner acceptable to both sides. He stated that he had now been in Washington for more than a year and that he was very disappointed that he had been unable to accomplish anything in this matter.

N[ELSON] T. J[OHNSON]

893.74/727 : Telegram

The Chargé in China (Mayer) to the Secretary of State

[Paraphrase]

PEKING, October 13, 1926—1 p. m.

[Received October 13—8:01 a. m.]

474. Your telegram 210, September 30, 6 p. m.

1. The confidential Chinese agent of the Federal Company here states that the Director General of Telegraphs, Chiang, has told him twice lately that it is now a propitious time for us to take up the wireless question again, and each of them considers Koo favorable to our desires regarding the question. That Koo is both Acting Premier and Minister for Foreign Affairs would likewise appear to be to our advantage.

2. I was further informed by the Federal Company's agent that he is reliably advised that within about two months Chang Tso-lin intends to put his own cabinet in power here and that the present stop-gap organization is only permitted out of respect for Wu Pei-fu, who had a working agreement with Chang Tso-lin and whose influence is now waning in China, if it is not practically lost. Should this information be correct, as I am rather inclined to think, it would be preferable for us, in view of the pro-Japanese connections of Chang Tso-lin, to make a further attempt to have the Federal Company contract executed during the lifetime of the present cabinet.

3. Pursuant to the Department's telegram aforementioned, I shall take no action in the matter unless directed to do so.

MAYER

893.74/727 : Telegram

The Secretary of State to the Chargé in China (Mayer)

[Paraphrase]

WASHINGTON, October 16, 1926—1 p. m.

232. Your number 474, October 13, 1 p. m. A conference with General Harbord and Colonel Davis has been held by the Department in regard to the wireless matter and the questions which were covered by recent telegrams from the Legation. Department is now preparing a reply to the note of June 1, 1925, from the Japanese Embassy. It will discuss the various points which were raised in that note, and it will conclude with stating that if the Governments of China and Japan approve, Radio Corporation of America will extend an invitation to the Chinese Ministry of Communications, the Mitsui Company, and the Federal Telegraph Company as well, to meet in the city of New York to discuss the various matters at issue with a view to working out in common accord a solution of those difficulties. The substance of this draft will be communicated to you when it has been completed, for communication simultaneously to the Chinese Foreign Office.

You may, pending receipt of these instructions, listen to whatever proposals may be made, immediately reporting them to the Department by telegraph.

KELLOGG

893.74/730a

The Secretary of State to the Japanese Ambassador (Matsudaira)⁷⁴

MEMORANDUM

The Secretary of State has recently been informed by the Japanese Ambassador that the Japanese Government desired to receive a reply to the memorandum of the Japanese Ambassador on the subject of wireless telegraphy in China which was left with the Secretary of State on June 1, 1925.⁷⁵ Careful consideration was given by the Government of the United States to the Japanese Ambassador's memorandum above referred to and its views on this subject were orally conveyed to the Foreign Minister of Japan by Mr. John Van A. MacMurray, the American Minister to China, on the occasion of his visit to Tokyo on June 30, 1925.⁷⁶ Nevertheless the Government of the United States is desirous of clearing up any uncertainties which

⁷⁴ Copies of this memorandum and its enclosures were sent to the Ambassadors in Great Britain and France, Nov. 4, 1926.

⁷⁵ *Foreign Relations*, 1925, vol. I, p. 906.

⁷⁶ See telegram No. 117, July 1, 1925, from the Ambassador in Japan, *ibid.*, p. 909.

may still exist as to its position in this matter, with a view to hastening an amicable settlement of this question, and to that end submits the following expression of its views.

The Government of the United States is gratified to note that the Japanese Government in the suggestions it makes has no other desire than to reach a practical solution of the difficulty that will best serve the lasting interests of China and will at the same time obtain friendly cooperation among the Powers interested in radio enterprise in that country. With such desire the Government of the United States is in complete accord.

The Government of the United States has made note of the observation of the Japanese Government that the Mitsui Company, pursuant to contracts entered into in 1918,⁷⁷ has completed a radio station at Peking. As pointed out by the Japanese Government the establishment and operation by the Mitsui Company of the Peking station have never been questioned by the Government of the United States or by the Federal Telegraph Company. Nor has the right of Japanese subjects freely to contract with the agencies of the Chinese Government in this regard been questioned.

The Japanese Government recalled that it had felt constrained to take exception to the establishment by the Federal Company of wireless stations at Shanghai and elsewhere since the establishment of such stations was considered to be an infringement of the contractual right already acquired by the Mitsui Company from the Chinese Government. The Japanese Government observed that it still held to the belief that such contractual right, as opposed to the claim of the Federal Company, was not inconsistent either with treaty provisions between the United States and China or with the principle of equal opportunity and that it found ample support in a series of international precedents. It is the understanding of the United States Government that the contractual right of the Mitsui Company which is especially referred to by the Japanese Government is set forth in a supplementary clause of the contract between the Mitsui Company and the Chinese Ministry of the Navy, which was agreed to on March 5, 1918, and which reads as follows:

“During the period of thirty years mentioned in Article 4 of the Contract, the Government shall not permit any other person or firm to erect, nor shall it erect by itself any wireless station in China for the purpose of communicating with any foreign country.”⁷⁸

and that it is this clause which the Japanese Government maintains is neither inconsistent with the treaty provisions between the United States and China nor with the principle of equal opportunity. The

⁷⁷ MacMurray, *Treaties*, 1912-1919, vol. II, pp. 1519-1523.

⁷⁸ See *ibid.*, p. 1519 n.

Government of the United States regrets that it is unable to find itself in accord with the position of the Japanese Government on this point. It is the view of the United States Government that the clause in question is inconsistent with the terms of Article XV of the Sino-American Treaty of 1844,⁷⁹ which provides that American citizens in China shall not be "impeded in their business by monopolies or other injurious restrictions;" with the provisions of the exchange of notes, dated November 30, 1908, between His Excellency K. Takahira, Japanese Ambassador to the United States, and the Honorable Elihu Root, Secretary of State, in which it was set forth that "the policy of both Governments . . . is directed . . . to the defense of the principle of equal opportunity for commerce and industry in China."⁸⁰ This principle has, therefore, long been accepted by the Chinese, the Japanese and the American Governments. It was the restatement of an old and accepted principle and not a new engagement which found expression in Article III of the treaty between the United States of America, Belgium, the British Empire, China, France, Italy, Japan, The Netherlands and Portugal, relating to principles and policies concerning China, which was signed at Washington on February 6, 1922.⁸¹ This Article reads as follows:

"With a view to applying more effectually the principles of the Open Door or equality of opportunity in China for the trade and industry of all nations, the Contracting Powers, other than China, agree that they will not seek, nor support their respective nationals in seeking—

(a) any arrangement which might purport to establish in favor of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China;

(b) any such monopoly or preference as would deprive the nationals of any other Power of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government, or with any local authority, in any category of public enterprise, or which by reason of its scope, duration or geographical extent is calculated to frustrate the practical application of the principle of equal opportunity.

"It is understood that the foregoing stipulations of this Article are not to be so construed as to prohibit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial, industrial or financial undertaking or to the encouragement of invention and research.

"China undertakes to be guided by the principles stated in the foregoing stipulations of this Article in dealing with applications for economic rights and privileges from Governments and nationals of all foreign countries, whether parties to the present Treaty or not."

⁷⁹ Miller, *Treaties*, vol. 4, p. 559.

⁸⁰ *Foreign Relations*, 1908, pp. 510-512.

⁸¹ For text of treaty, see *ibid.*, 1922, vol. 1, p. 276.

It should be added that the attitude taken by the United States Government in connection with the claims of the Mitsui Company for the exclusive right to establish radio stations in China is similar to the attitude assumed by it in connection with the contract entered into by the Great Northern Telegraph Company and the Chinese Government, whereby the former claimed a monopoly of cable communications in China.⁸²

The Japanese Government stated in its memorandum of June 1, 1925, that it appeared that the American counter-project was intended to secure for the Federal Company the exclusive control of all radio stations to be constructed by the Company. With reference to this point the attention of the Japanese Government is invited to the terms of the contract between the Federal Telegraph Company of California and the Chinese Government of January 8, 1921,⁸³ and the supplementary agreement of September 19, 1921,⁸⁴ which provide that the stations to be erected under the contract are to be managed by a joint partnership entitled the "China-Federal Radio Administration" rather than placed under the exclusive control of the Federal Company.

The Japanese Government also stated that it appeared that the American counter-project was intended to secure for the Federal Company a monopoly of the radio service between the United States and China. In making this statement the Government of Japan apparently had reference to Article XIV of the supplementary agreement of September 19, 1921, between the Federal Telegraph Company of California and the Chinese Government, which reads as follows:

"The Government agrees that all moneys and income accruing to it from the operation of said stations or from the operation of the China-Federal Radio Administration shall be immediately upon the receipt thereof deposited in the Asia Banking Corporation, or such other bank or banking institution as may be from time or (*sic: to?*) time designated by the Federal Telegraph Company, and that all radio messages from China and for the United States of America are to be handled exclusively by the Federal Telegraph Company for a time twenty (20) years from the date of the completion of the last station erected and provided for under the agreement of the 8th day of January 1921. It is further agreed that for and throughout said twenty (20) year period, the land upon which said stations are con-

⁸² See *ibid.*, 1921, vol. I, pp. 414-416, 442; for text of contract of the Great Northern Telegraph Co., see MacMurray, *Treaties, 1894-1911*, vol. I, p. 59.

⁸³ See telegram No. 14, Jan. 8, 1921, from the Minister in China, *Foreign Relations, 1921*, vol. I, p. 408; for text of contract, see *List of Contracts of American Nationals With the Chinese Government*, etc., annex VIII (Government Printing Office, 1925).

⁸⁴ See telegram No. 37, Sept. 27, 1921, from the Minister in China, *Foreign Relations, 1921*, vol. I, p. 450; for text of supplementary agreement, see *List of Contracts*, etc.

structed, and all buildings and improvements thereon, shall be kept and maintained free and clear of all liens, charges, and incumbrances of every kind and character whatsoever excepting only the lien of the bonds hereby secured, and the obligations of the Government to the Federal Telegraph Company."

The meaning of the clause in this Article which reads "that all radio messages from China and for the United States of America are to be handled exclusively by the Federal Company for a time twenty (20) years from the date of the completion of the last station erected and provided for under the agreement of the 8th day of January, 1921" is that all radio messages transmitted to the United States by the China-Federal Radio Administration, from the stations constructed for that Administration by the Federal Company, are to be received and handled in the United States exclusively by the Federal Company for the period specified. It is in fact merely an arrangement by which the stations in China, in which the Federal Company is interested jointly with the Chinese Government, are, as regards their traffic to the United States, to work in circuit with the stations operated in the United States by that company. It is obvious that such an arrangement does not operate to exclude the possibility of operation of other circuits that may be established. The United States Government does not therefore conceive that a traffic arrangement of this character constitutes a monopoly or exclusive privilege, nor that it would constitute a monopoly in China, or, it may be remarked, in the United States. The Japanese Government is perhaps aware that, from the beginning of the Federal Company's negotiations with the Chinese Government, the United States Government has given appropriate diplomatic support upon the express condition that the project should involve no monopolistic element or abridgment of equality of opportunity. The Japanese Government may be assured that this will continue to be the policy of the Government of the United States.

The Japanese Government observed that it was not convinced of the immediate need of China for two high powered radio stations for external communications; that the expenditure charged to China could not fail to intensify the strain on her already overburdened treasury; and that experience had shown that radio communication is not financially profitable, at least for a number of years after its initiation. These questions have not been discussed between the Governments of the United States and China since the Federal Company's project has been regarded as a purely commercial enterprise. In this connection the views of the American interests concerned, with which views the Government of the United States is disposed to agree, are set forth in a memorandum attached hereto as an enclosure.

In a memorandum of the Japanese Ambassador dated December 24, 1924,⁸⁵ the Japanese Government made the following proposals:

“That the principles governing the Consortium be applied to the contracts secured by the Mitsui Company and the Federal Telegraph Company.

“These contracts are thus to be pooled and superseded by a loan agreement for wireless enterprise in China of the same nature as ordinary railway loans that may be undertaken by the Consortium.

“The parties to the proposed loan agreement shall be, on the one side, the Chinese Government and, on the other, a financial group representing American, British, French and Japanese interests. The financial group is to consist of the Federal Telegraph Company, the Marconi Company, the French General Wireless Telegraph Company and the Mitsui Company, and is to be constituted upon full communication and understanding with the Consortium.

“The operation of wireless telegraphy in question shall be placed under the exclusive control of the Chinese Government, while the financial group is to supply the services of engineers and accountants in order to assist China in the enterprise.”

Referring to the Japanese Government's proposals above quoted the Government of the United States in a memorandum dated February 28, 1925,⁸⁶ stated that it was in doubt whether the arrangement suggested by the Japanese Government would be acceptable to the Chinese Government and that it desired to be reassured on that point before giving further consideration thereto. The Japanese Government stated in its memorandum of June 1, 1925, that it was hoped that the terms of its proposals, which it believed to be more in accord with the interests of the Chinese than were the terms of the American proposal, would eventually be found acceptable to the Chinese.

Since the date of the Japanese Embassy's memorandum of June 1, 1925, the Government of the United States has been informed that the Japanese Government, in response to a proposal of the Chinese Government of August 28, 1925,⁸⁷ for a joint American-Japanese radio loan, informed the Chinese Government that it found in that proposal an acceptance of the proposals which it had made to the United States on December 24, 1924, which would take in the interests of all of the Powers concerned in this question. The Government of the United States would be interested to know what response the Chinese Government has made to this suggestion of the Japanese Government.

The views of the American interests concerned in regard to the proposals of the Japanese Government are attached as a second enclosure to this memorandum.

⁸⁵ *Foreign Relations*, 1925, vol. I, p. 890.

⁸⁶ *Ibid.*, p. 900.

⁸⁷ See telegram No. 360, Aug. 29, 1925, from the Minister in China, *ibid.*, p. 919.

The Government of the United States has carefully considered the arguments of the American interests concerned respecting the consortium proposed by the Japanese Government. It is disposed to believe those arguments are sound. It is further disposed to view with favor the suggestions of the American interests concerned of a cooperative arrangement by which the Mitsui and the Federal Stations completed and brought up to date might coordinate their efforts to obtain the best operating efficiency, then pool their gross receipts and divide them on an equitable basis. The Government of the United States would venture to express the hope that the Japanese Government will believe that such an arrangement for cooperation would better serve the interests of the Japanese company concerned than would the proposal of an international consortium, or at least that the suggested arrangement for cooperation may furnish an acceptable basis for discussion between the parties financially concerned.

In this connection the Government of the United States would recall that on September 25, 1926, the Japanese Ambassador had a conversation with the Secretary of State, during the course of which he stated that the Japanese Minister at Peking had lately had a conversation with the new Minister for Foreign Affairs for China concerning these matters and that the Chinese Minister for Foreign Affairs had suggested that it would be well for Japan, the United States and China first to have a conference on these matters before taking the question up with the other Governments. The Government of the United States in setting forth its views with regard to the points raised in the Japanese Government's memorandum of June 1 and in furnishing somewhat at length, in the enclosures hereto attached, the views of the American interests concerned has desired to indicate how fully it is in accord with the suggestion of the Japanese Government that the parties financially interested should meet together in an attempt to work out in common accord a solution that will serve the lasting interest of China and obtain friendly cooperation among interested parties. It would therefore express the hope that in the suggestions herein made the Japanese Government will find an acceptable basis for the discussions which all parties apparently believe to be desirable.

The discussions regarding those matters have heretofore been limited to Japanese, Chinese and Americans. The Government of the United States would therefore suggest that a meeting be held to discuss the proposal above outlined and that each meeting, at least in the first instance, be limited to accredited representatives of the Chinese Ministry of Communications, the Mitsui Company and the Federal Telegraph Company of Delaware.

The Radio Corporation of America, while financially and technically interested in the problems to be discussed, is not a party to the Federal contracts. This Corporation has indicated a desire to entertain as its guests in the City of New York accredited representatives of the Chinese Ministry of Communications, the Mitsui Company and the Federal Telegraph Company of Delaware that they may there study wireless communication systems and find, if happily they may, a means whereby the Japanese and American interests may by cooperation between their respective projects amicably solve the wireless difficulty which has for so long been the subject of discussion between the Governments of China, Japan and the United States. If the Government of the United States may be informed that the foregoing suggestion is acceptable to the Governments of Japan and China, it will be pleased to communicate that fact to the Radio Corporation of America to the end that invitations may be accordingly issued.

WASHINGTON, *October 28, 1926.*

[Enclosure 1]

If China depends for overseas wireless service upon the Peking station alone, the development of such service will be retarded to the injury of China and as well to the injury of other countries and their nationals. The Peking station is not thought to be technically efficient; it is badly located; but a small portion of China's overseas traffic originates in the Peking area; the station must depend for the greater part of its traffic upon the land lines, incurring in consequence for its messages additional expense, delay and liability to mutilation. The station cannot furnish effective competition with the cable and perhaps could never develop revenues sufficient to pay for itself. Moreover one receiver and one transmitter alone could not establish efficient circuits with the many wireless stations of the world. The delays on such circuits would discourage not encourage development of the service. On the other hand, the American interests concerned believe that a comprehensive and efficient wireless service can be formed in China by coöperation between the Mitsui and the Federal projects both completed and brought up to date; that such a system would prove profitable and produce revenues sufficient to pay for both projects. The American companies, disposed to enter into such a coöperative arrangement, are willing to put large sums of their own money to the hazard of the correctness of their beliefs. In the opinion of the American interests concerned the Japanese Government, entertaining the fears it does concerning the strain upon China's treasury the completion of these projects

would entail, does not correctly evaluate the increased revenues sure to result from new facilities of high efficiency. American communication companies find that facilities newly created, create revenues by which they are sustained and stimulate rather than diminish the revenues of those facilities which existed before. And further, the question of whether the results to be expected would justify the expenditures which must be made, would appear rather to be one for decision by the parties financially interested, who, better than their Governments, can determine the soundness of their business arrangements.

[Enclosure 2]

The Japanese Government suggests as a solution the cancellation of the Mitsui and the Federal contracts and the organization of a consortium including Japanese, British, French and American radio interests to make with the Chinese Government whatever arrangements may be found necessary for the establishment and operation of China's overseas wireless service. In its memorandum the Japanese Government points out that the Mitsui Company has completed its station at Peking. The American companies for their part would point out that the completion of the Mitsui station is the very fact which would make this suggestion in its present form impossible of acceptance. Cancellation of the contract would not cancel the completed station. The Mitsui Company would properly expect payment for the station it had built. Under its contract with the Chinese Government payment is the only right the Mitsui Company has. The monopoly asserted is only a security for that right. If through the organization of an international consortium the Mitsui Company should secure payment, then all its rights under its arrangement with the Chinese Government would have been realized. In exchange for this, the Japanese Government suggests the Federal Company shall surrender all its rights under its contracts. On further consideration the Japanese Government will doubtless agree that acceptance of this suggestion would result in the complete abandonment by the Federal Company of its legal position relative to the establishment of radio stations in China without any corresponding concession on the part of the Mitsui Company. Moreover the Japanese Government has perhaps not had opportunity correctly to estimate the difficulties of developing overseas wireless communication through the instrumentality of a consortium. The negotiation of entirely new arrangements with China, representatives of five nations participating in such negotiations; the construction of wireless installations when four interested parties would each strive with the others to furnish equipment; the hodgepodge construction resulting from the compromises inevitable in such situation; the operation of wireless stations by a management

composed of representatives of five different nationalities each controlled from a different world center; the poor quality and the high cost of service resulting from arrangements so made and stations so built and operated would apparently preclude such method furnishing the practical and helpful solution so much desired by the Japanese Government.

In the opinion of the American interests concerned the best sort of consortium would be one of final results. Many grave difficulties would be avoided if the Japanese and the Americans would complete their respective projects, bring them up to date, thereafter separately manage them according to the provision of their several contracts but coordinate their efforts to obtain the best operating efficiency, then pool their gross receipts and divide them on an equitable basis. The American interests concerned would be disposed to enter such a consortium. They believe it would furnish an efficient wireless service and would provide revenues to pay for all the installations. Coöperation is normal in radio. Japanese and Americans successfully coöperate in maintaining the Japanese-American circuit. They could be mutually helpful in their wireless projects in China.

893.74/730b : Telegram

The Secretary of State to the Chargé in China (Mayer)

WASHINGTON, October 28, 1926—noon.

251. Department's 232 of October 16, 1 p. m. Following memorandum will be handed today to Japanese Ambassador:

[Here follows the memorandum, dated October 28, to the Japanese Ambassador, and its enclosures, printed *supra*.]

You will leave a copy of the above with the Chinese Ministry of Foreign Affairs accompanied by a memorandum somewhat along the following lines: stating that this is a copy of a memorandum which has been handed to the Japanese Ambassador at Washington in reply to his memorandum of June 1, 1925, and state that you have been instructed to invite attention of the Chinese Foreign Office to the proposal of the Radio Corporation of America to invite duly accredited representatives of the Chinese Ministry of Communications, Mitsui Company and the Federal Telegraph Company of Delaware to meet in the City of New York for the purpose of making a study of wireless communication systems and of finding a means whereby Japanese and American interests concerned may by cooperation between their respective projects amicably solve the wireless difficulty which has for so long been the subject of discussion between the Governments of China, Japan and the United States. You should remind the Chinese Ministry of Foreign Affairs that the Federal

Telegraph Company of Delaware expects the Chinese Ministry of Communications to proceed without delay to the execution of its part of the contract made with the Federal Company. You should express orally the hope of that Company that the Ministry of Communications will not make use of this proposal as an excuse for further delay in the execution of the contract. In your memorandum to the Ministry of Foreign Affairs you will conclude by asking for an early indication of the attitude of the Ministry of Foreign Affairs and the Ministry of communications towards this proposal which is in conformity with suggestions heretofore made to you by Chinese officials, in order that you may, without loss of time, advise the Department so that it can communicate the information to the Radio Corporation of America.

KELLOGG

893.74/733 : Telegram

The Chargé in China (Mayer) to the Secretary of State

PEKING, November 4, 1926—11 a. m.

[Received November 4—6:45 a. m.]

529. Department's 251, October 28, noon. Copy of Department's memorandum to the Japanese Ambassador of October 28 handed by me yesterday evening to Dr. Koo accompanied by memorandum pursuant to Department's instructions. I expressed orally the hope of the radio company that the Ministry of Communications would not make use of this proposal as an excuse for further delay in the execution of the contract and pressed Dr. Koo to reply at his very earliest convenience. He stated he would take up the matter immediately with this in view.

MAYER

**DISAPPROVAL BY THE DEPARTMENT OF STATE OF PROPOSED GRANT
OF OIL MONOPOLY BY THE CANTON GOVERNMENT TO THE STAND-
ARD OIL COMPANY**

893.6363/59

*The Consul General at Canton (Jenkins) to the Minister in China
(MacMurray)*⁸⁹

No. 352

CANTON, December 21, 1925.

SIR: I have the honor to refer to my despatch No. 333 of December 3, 1925,⁹⁰ and previous correspondence concerning the Canton gov-

⁸⁹ Copy transmitted to the Department by the consul general as an enclosure in his despatch No. 419, Dec. 21, 1925; received Jan. 16, 1926.

⁹⁰ Not printed.

ernment's monopoly on petroleum products and to report that Mr. Cameron, the general manager in South China of the Standard Oil Company of New York, recently had a conference with Mr. T. V. Soong, Minister of Finance and head of the Canton government's Oil Monopoly Bureau.

Mr. Cameron came to Canton from Hongkong at the express invitation of Mr. Soong. Mr. Soong made it quite plain that the Canton regime intended to continue its monopoly on petroleum products. He admitted that the price of oil was high and that the government was experiencing difficulty in obtaining an adequate supply. He asserted, however, that a very considerable revenue was coming in and that he expected to increase this as time went on.

Mr. Soong then intimated to Mr. Cameron that the Canton government would like to enter into some agreement with the Standard Oil Company by which the company would supply most, if not all, of the oil and gasoline consumed in this district, and might at the same time undertake the distribution of petroleum products under the local government's supervision. Mr. Cameron explained that he had no authority to discuss a proposal of this sort but promised to refer Mr. Soong's suggestions to the Standard Oil Company's general offices in New York.

Subsequent to this interview Mr. Parker, assistant general manager in South China, and Mr. Clark, the company's manager in Canton, had another conference with Mr. Soong in order to have a clearer idea of the local government's proposal. Mr. Clark has told me confidentially that the local government's offer will be submitted in detail to Mr. Cole, one of the company's directors now inspecting in the Far East. Mr. Parker will go to Shanghai to meet Mr. Cole and confer with the company's general manager for North China at the same time.

Mr. Clark said that he did not think the company would consider the Canton government's proposal. He declared he was opposed to it and that both Mr. Cameron and the manager for North China were of the same opinion.

Mr. Clark said that although the company might be able to make a profitable arrangement with the local government, it should not be overlooked that the acceptance of such a plan as the Canton authorities now propose would be construed as a tacit approval of the monopoly, which would undoubtedly spread to other provinces in China. In addition the British and other American companies would be well within their rights in protesting vigorously against any such arrangement because it would effectively shut them out of a legitimate market.

In connection with the Canton government's proposals it may be interesting to the Legation to know that the imports of Russian oil from Vladivostock have been as follows:

1925	
October	120, 450 gals.
November	131, 550 "
December 1 to 17th,	92, 500 "

It is admitted that this Russian oil is not satisfactory because its quality is inferior to American and British oils. It is also interesting to note that the quantity of American oil imported by the Monopoly Bureau from the Pacific coast is now increasing rapidly, so that the indications are Russian oil will ultimately be forced out of the market. These importations are being made by independent companies, including general commission merchants, who have not hitherto dealt in kerosene. It is understood that at present the imports of oil are less than a fourth of what they should be under normal conditions.

I have [etc.]

DOUGLAS JENKINS

893.6363/58 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *January 7, 1926—3 p. m.*

[Received January 7—7:20 a. m.]

10. Following from American consul [general,] Canton:

"January 5, 2 p. m. Referring to my despatch number 352 of December 21st, I have been informed Standard Oil Company is seriously considering accepting local government's offer to operate oil monopoly. Perhaps there is no alternative, but such step would seem to be very unfortunate because of the effect upon the rest of China and probable complications with other oil companies.

General Boulder [*Chiang Kai-shek*] of Whampoa Cadets has returned to Canton. It is understood that he has compromised his differences with other party leaders. Reliably informed Borodin is leaving Canton shortly, probably for Moscow."

2. To which I have replied as follows:

"January 7, 3 p. m. (1) Your January 5, 2 p. m. The Legation could not countenance or support any arrangement between the so-called Canton Government and an American Company imposing or based upon restraint on trade contrary to treaty and to the established policy of the United States Government as concerns monopolies.

(2) You should informally advise the local representative of the Standard Oil Company in the above sense.

(3) I am repeating your January 5, 2 p. m. and this telegram to the Department."

MACMURRAY

893.6363/58 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, *January 11, 1926—9 p. m.*

14. Your 10 January 7, 3 p. m. Your instruction to Consul General at Canton is approved. Any such monopolistic arrangement as described in your paragraph 1 could not be countenanced or supported by this Government in view of its established policy as set forth specifically in Article III of the Nine Power Treaty of February 6, 1922.⁹¹

KELLOGG

893.6363/60 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *January 30, 1926—3 p. m.*

[Received January 30—5:42 a. m.]

59. American consul at Swatow telegraphs that Swatow authorities have instituted oil monopoly similar to that in operation at Canton—see Canton's despatch 366, October 27th, to Department.⁹²

MACMURRAY

893.6363/62 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, *March 16, 1926—10 a. m.*

[Received March 16—6:22 a. m.]

131. My 10, January 7, 3 p. m.

1. American consul general, Canton, has transmitted information obtained from Standard Oil Company and representative there and understood to be confidential to the effect tentative agreement for the resumption of business has been worked out in detail subject to confirmation by company's head office in New York as well as by Canton Government. The plan does not contemplate a monopoly nor action by company as agent of Government; nor any signed agreement or undertaking on the part of company. The undertaking if actually arrived at apparently will be that Canton Government will issue regulations for importation and distribution of oil providing for internal revenue tax; that immediately after promulgation of regulations, company will resume sale of oil to be taxed by local authorities as it leaves company's warehouses. Tax will of course fall upon Chinese consumer and not American company although it will be a gross violation

⁹¹ *Foreign Relations*, 1922, vol. I, p. 279.

⁹² Not printed.

of existing treaty rights (see Canton's despatch No. 387, February 18, to the Legation; copy to the Department.⁹⁵

2. While conscious of the difficulties of the American oil trade in Kwangtung and prepared to support any proper measures for its relief, I cannot but consider that it would be extremely regrettable if such representative American interests were to compound with the Canton authorities in disregard of treaty provisions by an arrangement which would undermine constant efforts of our Government to prevent illegal taxation of American trade in China. The Legation's position in endeavoring to protect American business interests from unlawful restrictions and exactions is compromised whenever those interests enter into arrangements recognizing those restrictions. I venture to suggest that this matter be taken up with the Standard Oil Company in the sense of the foregoing.

MACMURRAY

893.6363/62 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 6, 1926—1 p. m.

77. Your 131, March 16, 10 A. M. Department prefers to take no action in matter in the absence of a request from interested firm. In this connection see Department's telegram No. 298 of November 17, 6 p. m. 1921.⁹⁵

KELLOGG

893.00/7441 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 7, 1926—3 p. m.

[Received June 7—8:25 a. m.]

241. My 239, June 3, noon.⁹⁵ Following from American consul general at Canton:

"June 5, noon. Canton regime has appointed Eugene Ch'en, T. V. Soong and Chan Kung-pok to negotiate with Hongkong for the settlement of the strike. Government has ordered also the abolition of the oil monopoly on June 15th, but it is understood high stamp tax will be retained.

Office of Provincial Commissioner of Foreign Affairs has been abolished and Ministry of Foreign Affairs will communicate direct with consuls."

MACMURRAY

⁹⁵ Not printed.

893.6363/70 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 6, 1926—3 p. m.

[Received July 6—8:30 a. m.]

274. My 131, March 16, 10 a. m., and your 77, April 6, 1 p. m. Following from American consul general, Canton, July 2, 2 p. m. :

“July 2, 2 p. m. Standard Oil Company is about to resume sale of oil under agreement by Cantonese regime requiring the company to apply for license and submit to the presence of Chinese tax official in the warehouse to check sales, affix stamp, et cetera.”

MACMURRAY

ATTITUDE OF THE UNITED STATES TOWARD THE DEMAND OF THE CHINESE GOVERNMENT FOR THE RECALL OF THE SOVIET AMBASSADOR IN CHINA ⁹⁸

701.6193/84 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, August 18, 1926—noon.

[Received August 18—9:45 a. m.]

331. 1. I was approached yesterday in behalf of the nominal Minister for Foreign Affairs by a member of the Foreign Office, Wei, who informed me that the Soviet Government has been notified by this administration that Karakhan no longer is *persona grata* as Ambassador from Russia, but that his recall is likely to be refused by Moscow. Demands have persistently been made by Moscow that information be given to it of the reason alleged against him. The Peking authorities, while convinced Karakhan has abused his diplomatic status by meddling in Chinese domestic politics and by indulging in subversive propaganda, have refused to state their grounds for desiring that he be recalled or transferred and so make the question a matter of debate.

2. Wei had been sent to me, and to the Senior Minister and the British Legation, to inquire what view we would take of the matter if the Chinese Foreign Office gave Karakhan his passport and, in case the Ambassador refused to leave the security he has in his Embassy in the Diplomatic Quarter, insisted on dealing with his staff instead of with him.

3. My reply was that it must not be assumed from the fact that my Government had no official relations with the regime of the Soviets

⁹⁸ For previous correspondence concerning relations with the Soviet Ambassador, see *Foreign Relations*, 1925, vol. 1, pp. 636 ff.

that we are hostile to Russia. We are merely aloof. So far as I as American Minister am concerned, I do not have any relationship with Ambassador Karakhan except in his capacity as dean of the diplomatic body, which he is in consequence of his acceptance as Russian Ambassador by the Chinese. If his functions as such were to be terminated by the Chinese, the question for us would be equally determined by that act. His status is a matter wholly between the Chinese and the Russians. We are completely unconcerned, even though we may deplore the fact that an attitude of active hostility has been taken openly by the Soviet representative in regard to what we deem our just rights in China.

4. A rather outspoken conversation followed, in the course of which I intimated that in case the Chinese attempted Karakhan's removal by force, it was ironical that we who uphold the Boxer protocol⁹⁷ would have to give protection to Karakhan, for he has proclaimed that protocol iniquitous and obsolete although he insists occasionally upon participating in the privileges conferred by it.

5. In addition I made reference to the possible position of the Russians that the present Peking regime lacked competence to declare a diplomatic representative to be *persona non grata*. Wei said it was not impossible that the Russians might take such a position but he thought they could not do so consistently, not only in view of their Manchurian interests but of the attitude they have adopted hitherto. I intimated that, whatever attitude toward the present Peking regime we ourselves might have, it might well be, if in fact the Russians had dealt with that regime as the Government of China, that any questioning by them of the competence of the regime to dismiss the unwelcome Russian Ambassador might be considered as estopped.

6. I trust you approve of my views in this matter.

MACMURRAY

701.6193/84 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, August 19, 1926—6 p. m.

168. Your telegram number 331 of August 18th, noon. The question of the Soviet Ambassador's status concerns only China and the Soviet Government. No doubt as to this fact should be left in the minds of the Chinese.

HARRISON

⁹⁷ of September 7, 1901; Foreign Relations, 1901, appendix (Affairs in China), p. 312.

701.6193/85 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, *September 1, 1926—8 p. m.*

[Received September 1—11:12 a. m.]

367. My 331, August 18, noon. I am informed by Admiral Tsai that Karakhan, in consequence of Chinese representations, is to be withdrawn in a few days from Peking.⁹⁸

MACMURRAY

**RIGHT OF AMERICAN CITIZENS TO BRING SUITS IN CHINESE COURTS
AGAINST THE GOVERNMENT OF CHINA**

811.0433/63

The Chargé in China (Mayer) to the Secretary of State

No. 788

PEKING, *October 22, 1926.*

[Received November 24.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 307 of August 20, 1926,⁹⁹ requesting me to endeavor to obtain information as to whether citizens of the United States may bring suit in China against the Government of China. In reply I have the honor to state that at the sixth meeting of the Commission on Extraterritoriality held on February 19, 1926 (see page 11 of the minutes)⁹⁹ the American Delegate inquired in what manner claims might be filed against the Chinese Government. To this inquiry Dr. Wang Chung-hui, the Chinese Delegate, replied as follows:

"In China the Treasury is a public juristic person. It represents the state. Now from the standpoint of private law, it is capable of having rights and is fully subject to liability and may, therefore, be sued even without its consent. A claim against the Treasury may be enforced by legal proceedings in the same manner and by the same procedure as against private individuals."

Article XVI of the Regulations relating to Civil Procedure provides as follows:

"General forum of the Treasury shall be determined by the place in which the public office representing the Treasury in action is situate; that of any public juristic person other than the Treasury, by the place in which the office of such public juristic person is situate."

⁹⁸ L. Karakhan, Soviet Ambassador in China, sailed from Shanghai Sept. 26, 1926.

⁹⁹ Not printed.

In view of the present informal relations existing between the United States and the Peking Régime, I did not consider it advisable to make an official inquiry regarding the matter. However, a member of the Legation inquired informally of one of the Judges of the Chinese Supreme Court, and his reply, a copy of which is transmitted herewith,¹ is to the effect that an American citizen may bring suit in China against the Government of China either in the Higher Court of Justice or the District Court of Justice.

From the foregoing it would appear that in theory an American is entitled to bring suit in the Chinese courts against the Government of China or against one of its departments. However, in actual practice it would probably be very difficult for an American to obtain a judgment, or to secure execution thereof, if judgment were rendered in his favor. . . .

I have [etc.]

FERDINAND MAYER

**STATUS OF PERSONS OF CHINESE RACE IN CHINA CLAIMING
AMERICAN CITIZENSHIP**

151.10 Wong Chong-sing

*The Secretary of State to the Consul in Charge at Hongkong
(Carleton)*

WASHINGTON, *January 5, 1925.*

SIR: The Department has received your despatch No. 621 of October 15, 1924,¹ upon the subject of the visa of certificates of identity held by American citizens of the Chinese race, and in this connection the Department encloses a copy of a letter received from Mr. August J. Knapp¹ stating that one Wong Mow, a native born American citizen of Chinese descent, has a minor son named Wong Chong Sing, residing in China whom he desires to bring to the United States but that some difficulty has been experienced in obtaining the necessary visa from your office.

You are informed that a person of the class above described, who may claim American citizenship under the provision of Section 1993 of the Revised Statutes of the United States, may present to the Consulate General his own affidavit setting forth that his blood father was born in the United States, and giving the place and date of the affiant's birth. This affidavit should be accompanied by documents bearing the endorsement of a qualified representative of the Immigration Service, Department of Labor, showing that Depart-

¹ Not printed.

ment's findings as to the father's status. Upon presentation of such an affidavit and accompanying document, the consular officer is authorized to issue a certificate under the seal of the Consulate General, giving the name of the person concerned and showing the nature of the evidence submitted to establish his father's birth in the United States. To the certificate the Consul should attach and certify thereto a photographic likeness of the person to whom the certificate is issued. Such certificate may then be used as a travel document for use in returning from China to the United States. The question of the admission to the United States of the bearer of such a document is one which must be determined upon his arrival at an American port of entry, and the person to whom the certificate is issued should be made clearly to understand this point. Your attention is invited in the above connection to the Department's telegrams of October 11, 1919, and January 20, 1920, to your office upon this general subject.²

With respect to the recommendation contained in your dispatch under acknowledgment that finger prints be required on certificates of identity and on the applications of Chinese persons for passports or registration, you are informed that the Department is not disposed to concur in this recommendation, since it is believed that such a practice would be calculated to arouse more or less complaint on the part of Chinese Americans who might be subject thereto.

I am [etc.]

For the Secretary of State:
J. V. A. MACMURRAY

130 Ng Ming

The Secretary of State to the Minister in China (MacMurray)

No. 159

WASHINGTON, February 20, 1926.

SIR: There is enclosed a copy of the Department's instruction of January 5, 1925, concerning the procedure which should be followed in cases of children of native born American citizens of Chinese descent, who are residing in China and who may claim American citizenship under the provision of Section 1993 of the Revised Statutes of the United States.

You are requested to circularize the instruction above mentioned to all consular officers in China.

I am [etc.]

For the Secretary of State:
JOSEPH C. GREW

² Neither printed.

393.1121 Chu Shea-wai

The Secretary of State to the Minister in China (MacMurray)

No. 202

WASHINGTON, April 19, 1926.

SIR: The Department has received your despatches No. 325 of December 7, 1925 and No. 388 of January 7, 1926, and their enclosures,³ in regard to the arrest and detention of Chu Shea-wai, an American citizen of Chinese race, by the military authorities at Canton.

The Department notes from the passport record of Chu Shea-wai that he was born at New York City on February 13, 1903, that he last left the United States on August 18, 1921, since which time he has apparently been residing at Hongkong and Canton; that on October 6, 1923, he applied at Canton for a Departmental passport, which was issued to him on November 22, 1923; and that at the time of his arrest this passport had not yet expired. It is further noted that the Consul General at Canton stated in his despatch No. 321 of November 5, 1925,⁴ to the Legation that Chu Shea-wai had many Chinese relatives, that he was living as a Chinese and that he possibly may have had some connection with politics although there appeared to be no proof of this. In view of these facts the Department considers that it is doubtful whether Chu Shea-wai is entitled any longer to receive the protection of this Government.

It is a generally recognized rule, which may be regarded as a rule of international law, that when a person who was born with dual nationality is residing in either of the countries of which he is a national, that country has a right to assert its claim to him without any interference by the other, unless perhaps such person, having reached the age of majority, has clearly elected the nationality of the other country and is only temporarily residing in the country asserting the claim. Even in the latter case it cannot be asserted with any degree of confidence that the country in which the person is found has no right to assert its claim to his nationality and allegiance, since it may not recognize the principle of election. It is not believed that extraterritoriality affects this rule. In the present case it seems clear that Chu Shea-wai, although he is a citizen of the United States, under the law of this country, because of the fact that he was born in this country, is also a citizen of China, under the law of that country, because his father was of Chinese nationality, and it does not appear that the existence of extraterritorial jurisdiction in China interferes in any way with the right of China to claim this individual as a Chinese citizen.

³ None printed.

⁴ Not printed.

You will accordingly instruct the Consul General at Canton to take no further action in the case and to be guided by this instruction when similar cases arise in the future in his district.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

130 Ng Ming

The Secretary of State to the Minister in China (MacMurray)

No. 227

WASHINGTON, May 20, 1926.

SIR: With reference to the Department's instruction of February 20, 1926, concerning the procedure which should be followed in the cases of children of native born American citizens of Chinese descent who are residing in China and who may claim American citizenship under the provisions of Section 1993 of the Revised Statutes of the United States, and with which was transmitted a copy of the Department's instruction of January 5, 1925, concerning the case of Wong Chong Sing, you are informed that the Department, after carefully considering the cases of persons coming within the class above mentioned, has reached the conclusion that all persons of the Chinese race who claim to be American citizens and who are eighteen years of age or more should be required to apply for passports in the usual manner. The applications of such persons should be accompanied by all available evidence to establish the applicant's identity and claim to American citizenship and a report by the officer before whom the application is executed, setting forth in detail the result of such investigation as he may make concerning the case. Special care should be exercised in definitely establishing the applicant's identity. In the cases of persons who claim American citizenship under the provisions of Section 1993 of the Revised Statutes of the United States, the officer taking the application should report whether the applicant had evinced a desire to retain his American citizenship upon reaching eighteen years of age, as provided by the Act of March 2, 1907,⁵ and whether during his foreign residence he has committed any act which resulted in his expatriation or which indicated a desire to elect Chinese rather than American nationality.

You are requested to circularize this instruction to all consular officers in China, as supplementing the previous instruction dealing with this question.

I am [etc.]

For the Secretary of State:

ROBERT E. OLDS

⁵ 34 Stat. 1228.

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