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THE DEPARTMENT OF STATE

PAPERS RELATING TO THE
FOREIGN RELATIONS
OF THE UNITED STATES

1921

(IN TWO VOLUMES)

VOLUME II



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July 5 (1234)	<i>To the Commissioner at Berlin (tel.)</i> Instructions to ascertain whether Germany will enter protocol confirming U. S. rights and privileges as stipulated in Treaty of Versailles, including participation in Reparation Commission, etc., so far as U. S. Government may wish to participate; resumption of diplomatic relations dependent upon German attitude thereupon.	5
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GERMANY

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TERMINATION OF THE TREATY OF 1837 BETWEEN THE UNITED STATES AND GREECE

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ATTEMPT BY THE GREEK AUTHORITIES AT SMYRNA TO LEVY TAXES IN DEROGATION OF AMERICAN RIGHTS IN TURKEY

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EXEMPTION FROM SERVICE IN THE GREEK ARMY OF AMERICAN CITIZENS OF GREEK ORIGIN WHO HAD SERVED IN THE AMERICAN ARMY

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GUATEMALA

OVERTHROW OF PRESIDENT HERRERA

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HAITI

DISCORD OVER THE EXECUTION OF THE TREATY OF SEPTEMBER 16, 1915

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MEASURES TO RELIEVE THE FINANCES OF HAITI

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Undated	<i>Memorandum of a Conversation between the Secretary of State and the British Ambassador, April 12, 1921</i> Discussion of intimation that British reply to U. S. note on status of Yap would probably be claim that British were bound by agreement of 1916 with Japan to favor award of islands in north Pacific to Japan.	284
Undated [Rec'd Apr. 29]	<i>From the Italian Embassy</i> Italy's desire that perfect equality of rights of all will be recognized in the exercise of mandates.	287

NEGOTIATIONS FOR A TREATY BETWEEN THE UNITED STATES AND JAPAN RELATING TO CERTAIN PACIFIC ISLANDS FORMERLY IN GERMAN POSSESSION

1921 Undated	<i>Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador, June 3, 1921</i> Discussion of the Yap question: the general principles involved; the disposition of ex-German cables; future rights to cables, radio stations, and all methods of communication; and administration of island. Suggestion that memorandum of proposals for discussion be drawn up by Ambassador.	287
Undated	<i>Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador, June 13, 1921</i> Presentation of Japanese tentative draft memoranda of proposals as basis for settlement; exclusion therefrom of any mention of radio and Secretary's insistence that Yap be available to all nations alike for communication whether by cable or otherwise.	290
Undated [Rec'd June 18]	<i>From the Japanese Embassy</i> Tentative agreement to get the United States free access to the Island of Yap on equality with Japan or any other nation as regards landing and operation of cables.	291

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1921 Undated [Rec'd June 18]	<i>From the Japanese Embassy</i> Tentative proposals for the disposal of existing cables to Japan, Netherlands and United States, and arrangements for their operation; and an agreement that U. S. and Netherland cables at Yap be free from taxation or control of local authorities.	291
Undated	<i>Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador, August 19, 1921</i> Discussion of U. S. memorandum (text printed) proposing certain rights, privileges, and exemptions for United States or its nationals in Yap; and suggesting convention with Allied Powers for allocation of cables, with provisions for administration, extradition, and expropriation of property.	292
Sept. 8	<i>From the Japanese Embassy</i> Acceptance of U. S. proposals concerning rights, privileges, etc.; suggestion that convention be concluded, with understanding that no further objection to Japanese mandate will be raised. Objection to inclusion of provisions for expropriation and extradition in proposed treaty with Allies, the latter being covered by existing extradition treaty between Japan and United States.	295
Sept. 15	<i>To the Japanese Embassy</i> Proposals, for the inclusion in the convention, of provisions for application of existing extradition conventions to Yap; expropriation; missionaries, with inclusion of section of article 8 of the British B mandate for East Africa referring to schools; agreement that treaties in force between United States and Japan apply to mandated islands and that citizens and vessels of United States should have free access to all waters of mandated territories. Request for annual report similar to that made to League of Nations.	297
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Sept. 28	<i>To the Japanese Ambassador</i> Suggestion that second and third paragraphs of article 8 of British B mandate for East Africa be incorporated in convention. Concurrence with Japanese construction of provision granting free access to all waters of mandated islands; suggested exchange of notes for classification.	300
Oct. 17	<i>From the Japanese Embassy</i> Concurrence in most of U. S. proposals. Objections to (1) the application to mandatory territories of all existing treaties to which mandatories are parties and recognition of rights of foreign nationals and vessels to have free access to all waters of territories; (2) submission to United States of duplicate of annual report to League.	301

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Undated [Rec'd Dec. 2]	<i>From the Japanese Embassy</i> Proposal to invite British Delegation at Disarmament Conference to discuss points of difference between Japan and the United States regarding mandate of Yap.	304
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Dec. 12	<i>From the Japanese Ambassador</i> Satisfactory adjustment of Yap question, Japan consenting to apply to Japanese mandated islands north of Equator all existing commercial treaties.	306

AGREEMENT BETWEEN THE UNITED STATES AND JAPAN FOR THE PROVISIONAL OPERATION OF THE NABA-YAP-GUAM CABLES

1921 Sept. 15	<i>From the Japanese Ambassador</i> Proposals for making provisional use of the Naba-Yap-Guam cables for communication between United States and Japan, pending repair of Tokyo-Bonin cable.	307
Sept. 28	<i>To the Japanese Ambassador</i> Counter-proposal for provisional use of Naba-Yap-Guam cables.	308
Oct. 6	<i>To the Japanese Ambassador</i> Willingness to eliminate proposal concerning Yap-Menado cable, upon definite understanding as to resumption of Yap-Menado service and continuation of negotiations for settlement of Yap question.	309
Oct. 12	<i>From the Japanese Embassy</i> Confirmation of U. S. understanding.	310
Dec. 24 (3600)	<i>Executive Order</i> Providing for provisional use of Naba-Yap-Guam cables during Washington Conference under conditions specified.	310
1922 Jan. 30	<i>To the Japanese Ambassador</i> Agreement that Guam end of Naba-Yap-Guam cables be operated temporarily by U. S. company and Yap and Naba ends by Japan. Details as to rates, for the account of five Associated Powers.	312

JAPAN

INTEREST OF THE UNITED STATES IN A RENEWAL OF THE ANGLO-JAPANESE ALLIANCE

Date and number	Subject	Page
1921 June 22 (353)	<i>To the Ambassador in Great Britain (tel.)</i> Statement given out by Department (text printed) denying cognizance of progress of negotiations for removal of Anglo-Japanese Alliance, or of any assurances against inclusion of anything inimical to U. S. rights. (Sent also to the Chargé in Japan.)	313
Undated	<i>Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador, June 23, 1921</i> <i>Re renewal of Alliance: Secretary's statement of U. S. open-door policy in East, advocating integrity of China and of Russia, calling attention to advisability of British and Japanese cooperation in interest of world peace as against Japanese antagonism to America.</i>	314
Undated	<i>Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador, June 30, 1921</i> Discussion of public statement to be used by Ambassador (text printed) giving Japan's aims under Alliance and denying that it is intended as instrument of hostility to the United States or that it encourages aggressive designs by Japan against China.	316
July 12 (243)	<i>From the Chargé in Japan (tel.)</i> Foreign Office statement (text printed) quoting addition to notification of July 8, 1920, addressed to League of Nations, whereby Japan and Great Britain agree that if Alliance continues after 1921, it must be in form not inconsistent with Covenant of League, and that terms of latter shall prevail.	319

CONVERSATIONS AT WASHINGTON REGARDING ALLEGED DISCRIMINATIONS AGAINST JAPANESE NATIONALS IN THE UNITED STATES

1921 Jan. 3	<i>From the Japanese Embassy</i> Protest against California alien land law of 1920, reiterating objections to California land law of 1913 and stating those objections apply to new law of 1920. Desire for successful outcome of discussions in progress between United States and Japanese Ambassadors at Washington.	319
Jan. 7 (419)	<i>To the Chargé in Japan</i> Transmittal of Japanese memorandum of protest, intended to be formal statement for record and not to affect conversations in progress between Ambassadors of two countries.	320
Jan. 8 (11)	<i>From the Chargé in Japan (tel.)</i> Japan's desire for copy of memorandum of protest; possibility that Ambassador may have exceeded his instructions.	321
Jan. 18	<i>To the Japanese Embassy</i> Reply to Japanese protest reaffirming position taken by United States in 1913-1914.	321
Jan. 25	<i>From the Ambassador in Japan, on Detail in the Department of State</i> Report on informal discussion with Japanese Ambassador covering questions of Japanese immigration to the United States and alleged discrimination against Japanese aliens resident in California; recommendations.	323

JAPAN

TERMINATION OF ACQUIESCENCE BY THE UNITED STATES IN JAPANESE PASSPORT REGULATIONS FOR THE SOUTH MANCHURIA RAILWAY ZONE

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1921 Jan. 3 (3)	<i>To the Chargé in Japan (tel.)</i> Instructions to inform Foreign Office of U. S. intention to discontinue after January 15 temporary acquiescence in Japanese passport control on railways in China under Japanese supervision, U. S. consuls to be instructed accordingly. (Substance sent to Ambassador in Great Britain for information of Foreign Office.)	349
Jan. 3 (1)	<i>To the Minister in China (tel.)</i> Instructions to notify consuls of U. S. withdrawal of temporary acquiescence in Japanese passport control of railways under Japanese supervision and to inform Japanese Minister of action, stating U. S. contention that Japanese authorities have not been granted right to scrutinize U. S. passports in Chinese territory. Instructions to inform British colleague of action taken.	350
Jan. 6 (8)	<i>From the Minister in China (tel.)</i> Notification of U. S. withdrawal of acquiescence sent to Japanese Minister and instructions sent to consuls (texts printed). Inquiry whether instructions include Shantung and Antung Railway.	351
Jan. 8 (10)	<i>To the Minister in China (tel.)</i> Inclusion of Shantung and Antung Railways in instructions for withdrawal of acquiescence.	351
Jan. 12 (22)	<i>From the Minister in China (tel.)</i> Draft of proposed note for Japanese Minister (text printed) explaining that discontinuance of acquiescence in passport regulations applies equally to Mukden-Antung and Shantung Railways outside leased territory.	352
Jan. 19 (4089)	<i>From the Ambassador in Great Britain</i> British note, January 13 (text printed) stating that representative in China has been informed of U. S. action.	352
Jan. 20 (32)	<i>To the Minister in China (tel.)</i> Approval of Minister's note as suggested in telegram no. 22. Instructions to repeat to Tokyo advising of Department's approval.	353
Jan. 28 (4134)	<i>From the Ambassador in Great Britain</i> Statement of Japanese Minister at London that from February 1, 1921, passport regulations will be withdrawn for all foreigners in the South Manchuria Railway zone, exclusive of the leased territory.	353
Apr. 28 (168)	<i>From the Minister in China (tel.)</i> Information that passports are being required only for entering and leaving Leased Territory; also that Americans are not questioned on Shantung Railway outside Leased Territory.	354

JAPAN

FATAL SHOOTING OF LIEUTENANT WARREN H. LANGDON, U. S. NAVY, BY A JAPANESE SENTRY AT VLADIVOSTOK, JANUARY 8, 1921

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1921 Jan. 10 (4)	<i>From the Consul at Vladivostok (tel.)</i> Expression of regret by Japanese consul general <i>re</i> shooting of Lieutenant Langdon. Consul's disassociation from appeals of consular corps to Japanese Army for protection of foreigners in suburbs of city.	354
Jan. 13	<i>From the Japanese Ambassador</i> Expression of condolences over death of Langdon and information that Japanese sentry involved in case is now under trial by court-martial.	355
Jan. 13 (11)	<i>To the Chargé in Japan (tel.)</i> Note for Foreign Office (text printed) conveying U. S. expectation of prompt and suitable reparation in death of Langdon and calling attention to number of like cases of interference with Americans in portions of Siberia where Japanese troops are stationed. (Instructions to repeat to Vladivostok and to Admiral Gleaves.)	355
Jan. 15 (12)	<i>From the Consul at Vladivostok (tel.)</i> Details of fatal shooting as contained in statements of Langdon and the Japanese sentry.	356
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AMENDMENT OF THE PHILIPPINE PETROLEUM ACT OF AUGUST 31, 1920, TO ANTICIPATE OBJECTIONS BY THE NETHERLANDS AND GREAT BRITAIN

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Apr. 9	<i>To the Secretary of War</i> Request for information regarding progress of amendment, in view of British and Dutch interest.	549
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NICARAGUA

INCURSIONS BY REVOLUTIONARY BANDS INTO NICARAGUA

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INCURSIONS BY REVOLUTIONARY BANDS INTO NICARAGUA—Continued

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1921 Aug. 24 (C-21)	<i>From the Nicaraguan Minister</i> Proposal that the United States supply Nicaragua with certain arms and ammunition from stocks left on hand by the war, in view of invasions from neighboring republics and U. S. guaranty against armed intervention, during period of U. S. supervision of financial affairs of Republic.	564
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NORWAY

ARBITRATION AGREEMENT, SIGNED JUNE 30, 1921, BETWEEN THE UNITED STATES AND NORWAY FOR THE SETTLEMENT OF CLAIMS ARISING OUT OF THE REQUISITIONING OF NORWEGIAN SHIPS

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Dec. 2	<i>From the Norwegian Minister</i> Claim by Norwegian Government on behalf of Christiania group of Norwegian shipowners for certain sum as indemnification for damage and loss by violation of existing treaty stipulations in appropriating 15 ships under construction in the United States.	572
1920 May 27	<i>From the Norwegian Minister</i> Representations regarding delay in settlement of claims, causing hardship to Norwegian shipowners and request that matter be laid before the President.	575
Nov. 1 (1691)	<i>From the Minister in Norway</i> Report that the King has been pressed into sending telegram to U. S. President requesting good offices to hasten settlement of claims.	576
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Dec. 29	<i>To the Norwegian Minister</i> Information concerning efforts of Department to secure cooperation of Shipping Board in obtaining proposition acceptable to Norwegian citizens.	577
1921 Feb. 14	<i>From the Norwegian Minister</i> Norway's willingness to accept lump sum named as indemnity if paid within one month, otherwise affair must be settled by arbitration, choice of three courses of procedure being offered, Norway reserving right to invoke anti-requisition clause of treaty.	578
Apr. 1	<i>To the Norwegian Minister</i> Refusal to agree that requisition was breach of treaty; comments and suggestions regarding Norwegian proposals; conclusion that claims should be referred to Permanent Court at the Hague for arbitration, subsequent to special agreement under article II of treaty of 1908.	580
Apr. 28	<i>From the Norwegian Minister</i> Norway's acceptance of U. S. plan for settlement of claims and authorization for negotiations as to special agreement for arbitration.	582
May 28	<i>To the Norwegian Minister</i> Draft of arbitration agreement (text printed) as submitted for Norway's approval.	583

NORWAY

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June 11	<i>To the Norwegian Minister</i> Need for understanding that question of treaty violation will not be raised. Observations and objections to certain points in proposed alteration of draft agreement; substitutes proposed.	590
June 16	<i>From the Norwegian Minister</i> Formal assurance that question of treaty violation will not be raised in agreement. Further suggestion for change in language of draft, though without insistence thereupon.	593
June 29	<i>To the Norwegian Minister</i> Objections to further change in language of draft, citing of precedent in substantiation of U.S. position; proposed date for signing of agreement by both parties.	595
June 30	<i>Agreement between the United States and Norway</i> Arbitration agreement for the settlement of claims arising out of the requisitioning of Norwegian ships.	596

PANAMA

REAPPOINTMENT OF THE FISCAL AGENT, AND THE VINDICATION OF HIS LEGAL POWERS BY THE DEPARTMENT OF STATE

1921 Jan. 18 (4)	<i>From the Minister in Panama (tel.)</i> Substance of message from Fiscal Agent (text printed) concerning refusal of President and Cabinet to approve increase of his salary to \$15,000 and his intention to resign.	600
Jan. 27 (4)	<i>To the Minister in Panama (tel.)</i> Expression of regret at inability of President and Fiscal Agent to agree on salary; willingness to submit name of successor.	600
Jan. 28 (7)	<i>From the Minister in Panama (tel.)</i> Summary of message from Fiscal Agent (text printed) announcing arrangement for him to remain under present contract until March 1. Information of President's intention to transfer Government funds on deposit with International Banking Corp. to National Bank on July 1.	601
Jan. 28 (5)	<i>To the Minister in Panama (tel.)</i> Message from International Banking Corp. to National City Co. (text printed) concerning Panaman President's intention to transfer Government deposits to National Bank, and requesting that Department be urged to intervene. Instructions to verify and advise Department.	601

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June 25 (117)	<i>From the Minister in Panama (tel.)</i> Contract returned to International Banking Corp. with President's approval and with letter from Secretary of Treasury directing that Government deposits be subject to his sole signature.	615
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ACQUISITION BY THE UNITED STATES OF LANDS ON LAS MINAS BAY AND THE ISLAND OF TABOGA

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PARAGUAY

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DISCREPANCIES BETWEEN THE ENGLISH AND SPANISH TEXTS OF THE EXTRADITION TREATY OF MARCH 26, 1913, BETWEEN THE UNITED STATES AND PARAGUAY

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PARAGUAY

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PERSIA

PERSIAN EFFORTS TO INTEREST AMERICAN OIL COMPANIES IN THE EXPLOITATION OF NORTHERN PERSIA

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PERSIAN EFFORTS TO INTEREST AMERICAN OIL COMPANIES IN THE EXPLOITATION OF NORTHERN PERSIA—Continued

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PERU

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REPRESENTATIONS BY THE UNITED STATES ON BEHALF OF THE ALL AMERICA
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PROTOCOL BETWEEN THE UNITED STATES AND PERU, MAY 21, 1921, PROVIDING FOR THE ARBITRATION OF THE LANDREAU CLAIM

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POLAND

REGULATION OF PRIVATE REMITTANCES FROM THE UNITED STATES

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REGULATION OF PRIVATE REMITTANCES FROM THE UNITED STATES—Continued

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RUSSIA

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PROTESTS BY THE UNITED STATES AND BY THE FAR EASTERN REPUBLIC—NEGOTIATIONS AT DAIREN FOR AN UNDERSTANDING BETWEEN JAPAN AND THE FAR EASTERN REPUBLIC

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June 18	<i>To the Japanese Embassy</i> Reports from various sources regarding Japan's encouragement of Semenov's activities in Trans-Baikal, of Japan's initiative in establishing League to Combat Communism, also of its elaborate preparation for complete occupation of Sakhalin.	705
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RESTORATION OF WHITE RUSSIAN CONTROL IN VLADIVOSTOK

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June 1	<i>From the Acting President of the Technical Board (tel.)</i> Negotiations between Kappel leaders and Chita government which will lead to understanding, thus eliminating Semenov. Rumors of Japanese loan to Chinese Eastern Railway.	723
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June 6 (213)	<i>From the Minister in China (tel.)</i> Protest of Mission of Far Eastern Republic in Peking against recent Japanese <i>coup</i> in Vladivostok, holding Allied intervention responsible, and expressing hope that the United States will effect early withdrawal of Japanese troops from Russia.	725
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June 10 (471)	<i>From the Ambassador in Great Britain (tel.)</i> Publication of note from Chicherin to British, French, and Italian Governments stating that Bolshevik regime at Vladivostok was overthrown under protection of Japanese who desire to conquer Siberia, that French are assisting, and that British exhibit hostile activity toward Soviet Government. British refusal to accept note.	727
June 12 (200)	<i>From the Chargé in Japan (tel.)</i> From the consul at Vladivostok: Semenov's request that consular corps mediate with local authorities in his demand for recognition as head of government. Report that Japanese merchants are negotiating for delivery in Japan of Vladivostok stores. Cossack army's request that Semenov depart.	727
June 20 (212)	<i>From the Chargé in Japan (tel.)</i> From the consul at Vladivostok: Semenov's ultimatum demanding money, stores, and permission to leave for Hailar. Permission for him to go to Posiet Bay provided he agrees to keep quiet.	728
June 29 (222)	<i>From the Chargé in Japan (tel.)</i> From Vladivostok: Semenov's departure for Grodekovo.	728
July 11	<i>From the Consul at Harbin (tel.)</i> Opinion that China should be urged not to permit transportation of Semenov's troops through Manchuria to Trans-Baikal.	728
July 13 (196)	<i>To the Chargé in China (tel.)</i> Instructions to urge upon Chinese authorities desirability of preventing transportation of Semenov's forces through Manchuria to Trans-Baikal.	729
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Aug. 26	<i>To the Consul at Vladivostok (tel.)</i> Inquiries whether Vladivostok acknowledges authority of Far Eastern Republic, other questions regarding its government.	730
Aug. 27 (95)	<i>From the Consul at Vladivostok (tel.)</i> Reply that Vladivostok considers itself independent, having revolted against Chita; Chita still controls remainder of Maritime Province; further information as to local government.	730
Sept. 1	<i>To the Consul at Vladivostok (tel.)</i> Inquiry concerning deposed Vladivostok government now functioning in Maritime Province, and instructions to send detailed history of Siberian governments.	730

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Sept. 8	<i>To the Consul at Vladivostok (tel.)</i> Department referred to former Vladivostok government in its telegram of September 1, while reply evidently refers to present government.	731
Sept. 10 (97)	<i>From the Consul at Vladivostok (tel.)</i> Reply to telegram of September 1 regarding former Vladivostok government.	731
Dec. 14 (421)	<i>From the Ambassador in Japan (tel.)</i> From the consul at Vladivostok: Confirmation of report that Habarovsk has been taken by so-called White Partisans and that revolts are spreading.	732

DESIRE OF THE FAR EASTERN REPUBLIC TO ESTABLISH RELATIONS WITH THE UNITED STATES

1921 Mar. 29 (975)	<i>From the Minister in China</i> Note from Yourin, head of mission of Far Eastern Republic in China, March 26 (text printed) expressing desire of Republic for friendly relations with the United States, for exchange of representatives, and for reciprocal trade privileges.	732
Undated [Rec'd Apr. 1]	<i>From Mr. Alexander M. Krasnoshchekov (tel.)</i> Desire of Far Eastern Republic to send to the United States special commission, mostly peasants, accompanied by an attaché of Foreign Office.	734
Apr. 6 (66)	<i>To the Chargé in Japan (tel.)</i> Mission of Maj. W. J. Davis to Far Eastern Republic to obtain information as to military, economic, and political conditions. His instructions as to duties and specific information.	735
Undated [Rec'd Apr. 12]	<i>From Mr. Alexander M. Krasnoshchekov (tel.)</i> Declaration of Constituent Assembly of Far Eastern Republic to all nations (text printed) regarding organization, extent, and policies of Republic; also memorandum to the United States (text printed) urging end to Japanese occupation and recognition of Far Eastern Republic.	736
Apr. 14 (68)	<i>To the Chargé in Japan (tel.)</i> Decision to send James F. Abbott, commercial attaché at Tokyo, and Maj. Davis on mission to Far Eastern Republic for purpose of gathering information. Further instructions. (Instructions to repeat to Harbin, Vladivostok, and Peking for information.)	741
Apr. 23 (74)	<i>To the Chargé in Japan (tel.)</i> Information that mission of Davis and Abbott to Far Eastern Republic is not occasion for furtherance of business interests. (Instructions to repeat to Vladivostok.)	742

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DESIRE OF THE FAR EASTERN REPUBLIC TO ESTABLISH RELATIONS WITH THE UNITED STATES—Continued

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1921 Apr. 27	<i>From Mr. Ignatius Yourin</i> Appeal for closer relationship between the United States and Far Eastern Republic, latter looking to America for industrialization of its natural resources, which is impossible without participation of foreign capital.	742
May 24 (182)	<i>From the Chargé in Japan (tel.)</i> Arrival of Abbott and Davis in Chita.	744
June 19 (211)	<i>From the Chargé in Japan (tel.)</i> Abbott's telegram from Chita stating town is quiet and that Ungern's forces were defeated by Red Army near Verkhneudinsk.	745
July 9 (237)	<i>From the Chargé in Japan (tel.)</i> Telegram from Davis and Abbott at Harbin: Favorable report of situation at Chita; Foreign Minister's desire that America announce terms of participation in Siberian intervention and withdrawal of troops, since failure to do so indicates approval of activities of its ally Japan.	745
Sept. 9 (149)	<i>To the Chargé in Japan (tel.)</i> Instructions for Consul Caldwell to go to Chita on special duty, for informal association with local authorities and for friendly observation. Further instructions.	745
Sept. 23 (313)	<i>From the Ambassador in Japan (tel.)</i> From the consul at Dairen: Yourin's inquiry whether there is any objection to sending trade mission from Chita to the United States.	746
Sept. 27 (164)	<i>To the Ambassador in Japan (tel.)</i> Instructions for Peking (text printed) to express unofficially to Yourin advisability of Chita authorities not interfering with Caldwell's mission; and reply to inquiry regarding trade mission from Chita to United States.	747
Oct. 4 (343)	<i>From the Minister in China (tel.)</i> General belief that U. S. failure to receive commercial mission and nonrepresentation at Washington Conference will drive Far Eastern Republic into agreement with Japan resulting in cession of Northern Sakhalin.	747
Oct. 4 (173)	<i>To the Ambassador in Japan (tel.)</i> Information that informal assistance, but not official recognition, will be extended to individuals sent by Far Eastern Republic. (Instructions to repeat to Peking.)	748
Nov. 4 (369)	<i>From the Ambassador in Japan (tel.)</i> Arrival of Caldwell at Chita, November 2.	748
Nov. 10 (379)	<i>From the Ambassador in Japan (tel.)</i> Summary of telegram from Caldwell: Conversation with Foreign Minister at Chita concerning pending agreements and Japanese concessions at conference at Dairen.	748

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1921 Nov. 14 (384)	<i>From the Ambassador in Japan (tel.)</i> From Caldwell at Chita: Assurances to Foreign Minister regarding U. S. attitude toward pending concession to Sinclair Oil Corp. in Russian Sakhalin, and disavowal of agreement between President Harding and Japanese Minister giving Japan free hand in Far Eastern Republic.	749
Nov. 15 (196)	<i>To the Ambassador in Japan (tel.)</i> For Caldwell: Approval of assurances given Foreign Minister; reference to press announcement of U. S. policy in Russia, September 19; denial of any agreement between the President and Japanese Minister.	750
Dec. 8	<i>Memorandum by the Acting Chief of the Division of Russian Affairs, Department of State</i> Informal discussion between Russian Division and special trade delegation from Far Eastern Republic regarding recognition, withdrawal of Japanese troops, Mongolian question, operation of Chinese Eastern Railway, and Dairen Conference in which Japan proposed a treaty consisting of 17 points and 3 secret articles.	750

CONTINUED REFUSAL BY THE UNITED STATES TO RECOGNIZE THE GOVERNMENTS IN THE BALTIC PROVINCES

1921 Jan. 15	<i>To the French Ambassador</i> Reference to U. S. unchanged attitude toward Russian dismemberment, as outlined in note of August 10, 1920, to Italian Ambassador, as fitting reply to request for concerted action with Allies in recognition of Latvia and Georgia.	752
Jan. 27	<i>From Mr. Jonas Vileisis</i> Renewal of request for recognition of the independence of the Government of Lithuania.	753
May 7 (61)	<i>To the Commissioner at Riga (tel.)</i> Instructions to report opinion as to probability of Bolshevik effort to absorb Baltic States, and of its success as affecting possible U. S. recognition of Estonia and Latvia.	755
May 9 (407)	<i>From the Commissioner at Riga (tel.)</i> Absence of indications that Bolsheviks will attempt to conquer Baltic States through military measures; recommendation for <i>de jure</i> recognition and establishment of bases for future trade.	755
July 1	<i>From the Russian Ambassador</i> <i>Aide Memoire</i> on problems of Baltic States, protesting any dismemberment of Russia during its temporary disability, and advocating establishment of practical relations between the Powers and small nationalities as provisional measure until Russia is reunited.	755

RUSSIA

AMERICAN ATTITUDE OF RESERVE TOWARD TRADE RELATIONS WITH SOVIET
RUSSIA

Date and number	Subject	Page
1921 Mar. 15	<i>From the President of the American Federation of Labor</i> Request for information for dissemination relative to situation in Soviet Russia, in view of propaganda claiming great purchasing power of Soviet Government and great demand for foreign goods, caused by blockade. Resolution of A. F. of L. Convention at Montreal, June 1920, condemning policies of Soviet Government (text printed).	760
Mar. 16	<i>From the Secretary of Commerce</i> Possible effect of British-Soviet trade agreement upon Bolshevik gold. Opinion that United States should change its policy toward such gold.	762
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Undated [Rec'd Mar.21]	<i>From the Soviet Representative in Estonia to the Congress of the United States and President Harding (tel.)</i> Formal proposal of All Russian Executive Committee (text printed) for opening trade relations between Russia and the United States.	763
Mar. 25	<i>From the Assistant Secretary of the Treasury</i> Policy of Treasury to refuse gold of doubtful title but to accept gold certified by responsible party as not of Bolshevik origin, also to accept gold coinage bearing mint mark of friendly nation. Request for views on questions relative to gold origin.	764
Mar. 25	<i>To the Consul at Reval (tel.)</i> Statement for Litvinov (text printed) signifying U. S. desire to have evidence of security of life, guaranties of private property, sanctity of contract, and rights of free labor as proper bases for considering trade relations with Russia.	768
Mar. 27	<i>From the Consul at Reval (tel.)</i> Litvinov's inquiry whether Department's statement of March 25 is official reply to Moscow proposal. Consul's request for instructions as to propriety of communicating further with Litvinov.	768
Apr. 2	<i>To the Consul at Reval (tel.)</i> Authorization to receive Litvinov's communications informally and without comment.	769
Apr. 5	<i>To the President of the American Federation of Labor</i> Reply in detail concerning Russia's inability to furnish exports and lack of purchasing power for imports, with no likelihood of alleviation as long as present political and economic system continues; statistics in evidence of negligible volume of trade with Russia and its steady degeneration despite fact that restrictions have been removed.	769
Apr. 9	<i>To the Assistant Secretary of the Treasury</i> Department can give no assurance that title to Soviet gold will not be subject to attack internationally or otherwise; no necessity for inquiring into origin of gold which bears official coinage stamp of friendly nation or gold bearing official German or Mexican mint stamp.	774

RUSSIA

AMERICAN ATTITUDE OF RESERVE TOWARD TRADE RELATIONS WITH SOVIET
RUSSIA—Continued

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1921 Apr. 13	<i>To the United States Shipping Board</i> Inability to advise that Shipping Board vessels be permitted to enter Soviet ports.	775
July 14 (584)	<i>From the Ambassador in Great Britain (tel.)</i> Judgment in test case confirming ownership of gold by Soviet Government where Imperial rubles have been deposited in Bank of England. To complete test, actual gold to be sent to United States by Bank of England as agent.	776
Aug. 11	<i>From the Under Secretary of the Treasury</i> Advice that New York assay office has rejected deposit of Imperial gold rubles of Soviet origin tendered by J. P. Morgan and Co., consigned to them by Bank of England.	777
Aug. 15	<i>From the Rumanian Legation</i> Reservations as to final distribution of some of the gold which reaches the United States from Russia, alleging it to be part of Rumanian gold sent to Moscow in 1916 for safekeeping.	777
Aug. 27	<i>To the Chairman of the United States Shipping Board</i> Summary of Department's views with reference to question of Shipping Board vessels entering Soviet ports, reached after further consideration.	778
Aug. 30 (447)	<i>From the High Commissioner at Constantinople</i> Comments on American penetration in Caucasus and South Russia. Special report by Assistant Trade Commissioner at Constantinople (text printed) regarding H. M. Day's contract with trade union of Azerbaidjan, Georgia, and Armenia for opening up business; his hope to interest U. S. concerns and to receive support of Government.	778
Nov. 1 (85)	<i>To the High Commissioner at Constantinople</i> Inquiries as to details of Day's contract and request for copy thereof; warning against promise of U. S. support, in view of unsettled political conditions in Caucasus.	783
Nov. 2	<i>From the Consul General at London (tel.)</i> Soviet delegate's desire to present text of Russian decree relative to Russian debts and to discuss commercial propositions. Request for instructions whether or not to receive them.	784
Nov. 3 (630)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions for consul general (text printed) to receive Soviet delegate informally and without commitments; reference to U. S. policy to seek practical means for relief of distress of Russian people.	785
Dec. 1	<i>To the Secretary of Commerce</i> Memorandum proposing cooperation with Germany as middleman in Russian-American trade. Request for views.	785
Dec. 6	<i>From the Secretary of Commerce</i> Failure to agree with program of encouraging Germany as intermediary for future U. S. trade with Russia and reasons therefor.	787

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AMERICAN ATTITUDE OF RESERVE TOWARD TRADE RELATIONS WITH SOVIET
RUSSIA—Continued

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Dec. 21 (691)	<i>To the Ambassador in Great Britain (tel.)</i> Necessity for complete information as to nature of proposed basis for cooperation before Krassin's visit can be considered.	789
Dec. 27	<i>To the Secretary of Commerce</i> Information that Department's memorandum of December 1 assumed understanding of advantages of direct trade with Russia and dealt only with attitude to be adopted toward indirect trade which will inevitably exist in greater or less volume.	790

RELEASE OF AMERICAN CITIZENS HELD PRISONERS IN RUSSIA

1921 Jan. 11 (3)	<i>From the Minister in Czechoslovakia (tel.)</i> Czechoslovak willingness to aid in repatriation of Americans in Russia through Red Cross representative or by exchange of some Russians held prisoner in Czechoslovakia.	790
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Mar. 29 (10)	<i>From the Minister in Norway (tel.)</i> Dr. Nansen's inquiry whether U. S. Government is willing to negotiate direct with Soviets, as they desire.	792
Mar. 30 (27)	<i>From the Minister in Czechoslovakia (tel.)</i> Soviets attitude that the United States must treat with them direct and that Americans are held more or less as hostages.	792
Apr. 5 (13)	<i>To the Minister of Norway (tel.)</i> Instructions to inform Dr. Nansen that his further efforts toward repatriation would be appreciated.	793
Apr. 12 (12)	<i>From the Minister in Norway (tel.)</i> Dr. Nansen's telegram to Chicherin, April 7 (text printed) negotiating for agreement regarding release of Americans in Russia; and reply, April 9 (text printed) stating Soviets await direct U. S. negotiations in the matter.	793
May 5 (16)	<i>From the Minister in Norway (tel.)</i> Dr. Nansen's suggestion that Secretary of State either address message to him declining direct negotiations with Soviets or communicate with Litvinov through U. S. consul at Reval.	794

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RELEASE OF AMERICAN CITIZENS HELD PRISONERS IN RUSSIA—Continued

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1921 May 10 (19)	<i>To the Minister in Norway (tel.)</i> Message for Dr. Nansen (text printed) urging his further efforts for release of Americans and stating that their safe delivery must precede any communication of any nature between U. S. Government and Soviets. Desire for his opinion concerning publication of message.	794
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May 19 (21)	<i>From the Minister in Norway (tel.)</i> Message from Moscow to Dr. Nansen, May 15 (text printed) inquiring whether detention of Americans is the only hindrance to resumption of trade and <i>de facto</i> relations between Russia and the United States.	795
May 20 (20)	<i>To the Minister in Norway (tel.)</i> Reply which Dr. Nansen should make to Moscow, maintaining former U. S. attitude.	795
June 21 (444)	<i>From the Commissioner at Riga (tel.)</i> Letter from two American prisoners in Moscow, revealing inhuman treatment received and urging U. S. measures for release of Americans.	796
June 23 (71)	<i>To the Commissioner at Riga (tel.)</i> Instructions to repeat his telegram no. 444 to Embassy at London and Legation at Christiania. Request for opinion whether effective pressure for release of Americans can be exercised by Baltic States.	796
June 23 (28)	<i>To the Minister in Norway (tel.)</i> Instructions to advise Dr. Nansen of substance of Riga's telegram no. 444 and to inquire whether any progress has been made toward release of Americans in Russia.	797
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June 24 (446)	<i>From the Commissioner at Riga (tel.)</i> Opinion that pressure of Baltic Provinces would be ineffective. Suggestion that release of U. S. citizens be demanded, and failing prompt compliance, that embargo be placed on shipments to Russia.	797
July 1 (31)	<i>From the Minister in Norway (tel.)</i> Dr. Nansen's report that no replies have been received from Litvinov; his suggestion that extreme measures be taken to prevent U. S. goods going to Russia.	798
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RELEASE OF AMERICAN CITIZENS HELD PRISONERS IN RUSSIA—Continued

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July 16 (34)	<i>From the Minister in Norway (tel.)</i> Telegram from Chicherin to Dr. Nansen, July 10 (text printed) stating that nothing can be added to previous communications regarding interned Americans.	799
July 25	<i>To the Consul at Reval (tel.)</i> Message for Litvinov (text printed) demanding release of American prisoners in Russia and stressing impossibility of countenancing measures for relief in Russia while Americans are detained.	800
July 26	<i>From the Consul at Reval (tel.)</i> Delivery of Department's message of July 25 to Soviet authorities.	800
Aug. 8	<i>From the Vice Consul in Charge at Reval (tel.)</i> Telegram from Litvinov in Moscow (text printed) announcing release of American prisoners.	800
Aug. 10	<i>From the Consul at Reval (tel.)</i> Arrival at Reval of six American citizens released from Russian prison.	801
Aug. 18 (490)	<i>From the Commissioner at Riga (tel.)</i> Chicherin's notice that American citizens may leave Russia after presenting satisfactory proof of citizenship to Anglo-American Division, Commission Foreign Affairs.	801
Aug. 20 (491)	<i>From the Commissioner at Riga (tel.)</i> Signature of agreement granting facilities for Americans to leave Russia.	802
Aug. 22 (97)	<i>To the Commissioner at Riga (tel.)</i> Hoover to Miller: Possibility of further detention of Americans on technical grounds. Instructions to remind Litvinov of advantage to Bolsheviks in permitting their release under present famine conditions.	802

DEPORTATION OF UNDESIRABLE RUSSIANS FROM THE UNITED STATES

1921 Jan. 12 (2)	<i>To the Commissioner at Riga (tel.)</i> Arrangements for transit through Latvia of 24 aliens sailing from New York. Report results and opinion whether similar arrangements may again be made.	802
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RUSSIA

AMERICAN RELIEF ACTIVITIES IN SOVIET RUSSIA

APPEAL FROM MAXIM GORKY FOR AID TO FAMINE SUFFERERS—AGREEMENT BETWEEN THE AMERICAN RELIEF ADMINISTRATION AND THE SOVIET AUTHORITIES—APPROPRIATIONS BY THE UNITED STATES FOR FAMINE RELIEF

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1921 July 15 (1869)	<i>From the Minister in Norway</i> Telegram to Dr. Nansen from Maxim Gorky (text printed) containing appeals for bread and medicines for Russians suffering from crop failures and epidemics. Dr. Nansen's reply (text printed).	804
July 22	<i>From the Chairman of the American Relief Administration</i> Transmittal of draft message to Gorky offering assistance to starving and sick people of Russia, more particularly the children.	806
July 23	<i>From the Assistant Director, American Relief Administration</i> Hoover's telegram to London Office of ARA for Gorky (text printed) offering relief to starving and sick people of Russia, more particularly the children, on condition of immediate release of American prisoners in Russia and of adequate provision for administration of relief.	806
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July 26 (64)	<i>To the High Commissioner at Constantinople (tel.)</i> Information that Hoover's organization is in charge of relief measures and that they are dependent upon release of U. S. prisoners.	808
Aug. 1	<i>From the Chairman of the American Relief Administration</i> Copy of telegram from London Office of ARA transmitting reply from Gorky, July 31 (text printed) quoting Soviet Government's acceptance of proposal and desire to settle precise conditions at once; copy of telegram to London Office of ARA for Brown (text printed) instructing him to proceed to Riga to open discussions regarding Russian relief, assuming that U. S. prisoners have been delivered out of Russia.	809
Aug. 2	<i>From the Soviet Commissar for Foreign Affairs (tel.)</i> Circular note to all governments welcoming the offers of assistance from foreign organizations and individuals and expressing the hope that governments will present no obstacles.	810
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AMERICAN RELIEF ACTIVITIES IN SOVIET RUSSIA—Continued

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Aug. 25 (503)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to Brown to proceed to Paris as unofficial observer at meetings of International Commission for Russian Relief, in order to report its purposes and plans. U. S. desire to avoid governmental participation in Russian relief.	818
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Sept. 2 (407)	<i>To the Ambassador in France (tel.)</i> For Brown: U. S. decision not to take part in proceedings of international commission; opinion that American relief should be administered through private agency of ARA.	821
Sept. 14 (58)	<i>To Diplomatic and Consular Officers</i> Announcement of American organizations comprising European Relief Council and their policy regarding Russian relief work. Appointment of Colonel Haskell as director of Russian relief. Private character of relief work.	821
Dec. 24 (3601)	<i>Executive Order</i> Establishing measures for purchase of commodities for Russian relief.	822
Dec. 27	<i>From the Chief of the Division of Russian Affairs, Department of State</i> The Russian Ambassador's appreciation of Russian relief measures recently passed by Congress.	823
1922 Jan. 7	<i>From the Secretary of the Treasury</i> Decision in Cabinet meeting, with approval of the President, to accept certain Bolshevik gold on account of relief supplies, as exceptional measure and without setting precedent. Assumption that Department of State will offer no objections.	823
Jan. 10	<i>To the Secretary of the Treasury</i> Approval of acceptance of gold as exception and for humanitarian purposes with understanding that it does not set precedent.	824
Jan. 13	<i>Memorandum by the Chief of the Division of Russian Affairs, Department of State</i> Telegram from Secretary of Navy to High Commissioner at Constantinople, January 12 (text printed) giving orders to afford facilities, including use of vessels, to representatives of ARA.	825

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AMERICAN RELIEF ACTIVITIES IN SOVIET RUSSIA—Continued

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Jan. 24 (3623)	<i>Executive Order</i> Authorizing transfer of medical supplies to Russia.	827

REFUSAL BY THE GOVERNMENT OF THE UNITED STATES TO INCUR RESPONSIBILITY FOR THE RELIEF OF REFUGEES FROM SOUTH RUSSIA

1921 Jan. 14	<i>From the High Commissioner at Constantinople (tel.)</i> Report that French Government intends to withdraw all support to Russian refugees by February 1.	828
Jan. 20	<i>From the French Ambassador</i> Appeal for aid in caring for Russian refugees from the Crimea either through financial cooperation or through procuring shelter for them.	829
Jan. 25 (68)	<i>From the Ambassador in France (tel.)</i> Confirmation of High Commissioner's report concerning French policy toward refugees; French feeling that Allies and United States should collaborate in making Russian Relief Committee an effective organ for dealing with problem.	830
Feb. 1 (41)	<i>From the High Commissioner at Constantinople (tel.)</i> French appropriation of available assets of Wrangel government, including vessels and supplies, to help cover expenses of caring for refugees, thus causing friction with Russians.	831
Feb. 8	<i>To the Chairman of the American Red Cross</i> Desirability of working out a comprehensive and constructive program of international cooperation for care of Russian refugees. Suggestion that matter be presented to League of Red Cross Societies.	831
Feb. 25	<i>To the French Ambassador</i> Belief that problem of caring for Russian refugees is an international one and that matter should be referred to League of Red Cross Societies. Information that United States has no appropriation available for this relief work. Inquiry as to report of French use of assets of Wrangel government.	833
Apr. 15 (133)	<i>From the High Commissioner at Constantinople (tel.)</i> French difficulties in repatriating Wrangel refugees.	836
Apr. 28 (P. 409)	<i>From the Yugoslav Minister</i> Repetition of former appeal for aid to Russian refugees in Kingdom of Serbs, Croats and Slovenes; further urgent request for help also for refugees on Island of Lemnos and Gallipoli Peninsula.	837

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REFUSAL BY THE GOVERNMENT OF THE UNITED STATES TO INCUR RESPONSIBILITY FOR THE RELIEF OF REFUGEES FROM SOUTH RUSSIA—Continued

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May 24 (76)	<i>From the Chargé in Greece (tel.)</i> Inquiry whether aid can be given Russian refugees in Greece who are ill and desperately in need. (Footnote: Transmittal of above appeal to American Central Committee for Russian Relief and American Red Cross.)	840
Oct. 3	<i>From the Assistant to the Chairman of the American Red Cross</i> Red Cross decision to continue relief for Russian refugees at Constantinople for limited time, with understanding that some form of international action will be taken for the solution of the problem.	840

AGREEMENT BETWEEN THE SOVIET GOVERNMENT OF GEORGIA AND THE NEAR EAST RELIEF

1921 May 10 (191)	<i>From the High Commissioner at Constantinople</i> Certificate from the Soviet Government of Georgia to Near East Relief (text printed) granting certain facilities and assistance in relief work.	841
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SALVADOR

NEGOTIATIONS FOR A LOAN IN THE UNITED STATES AND FOR THE ESTABLISHMENT OF A BANK OF EMISSION

1921 May 18 (24)	<i>From the Chargé in Salvador (tel.)</i> Salvador's negotiations for a loan through Bloom Brothers, New York, to be guaranteed by customs receipts and control of customshouses.	843
May 18 (51)	<i>From the Chargé in Salvador</i> Details of proposed loan through Bloom Brothers and plans for establishment of bank through same agents.	843
June 9 (25)	<i>From the Chargé in Salvador (tel.)</i> Salvador's negotiations for loan through Mr. Keith C. Minor, to be guaranteed by customs receipts and control of customshouses. Appointment of Mr. René Keilhauer as Keith's representative in Salvador.	844
June 14	<i>To the French Ambassador</i> Acknowledgment of French note making representations concerning the proposed use of Salvador's customs as security for new loan, claiming prior right of French firm to duties on coffee exports under 1919 loan.	844

SALVADOR

NEGOTIATIONS FOR A LOAN IN THE UNITED STATES, ETC.—Continued

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1921 June 25 (26)	<i>From the Chargé in Salvador (tel.)</i> Signature of concession to Keilhauer for establishment of bank of emission and approval of 60-day option to Keilhauer for \$16,000,000 loan to be guaranteed by customs receipts, customshouses to be controlled by two controllers one to be named by bankers and other by Salvador.	845
July 29 (36)	<i>From the Minister in Salvador (tel.)</i> Imminence of financial crisis. Disapproval of dual control of customshouses as stipulated in Keilhauer option.	845
Aug. 11 (23)	<i>To the Minister in Salvador (tel.)</i> Instructions to endeavor to obtain 1-month's extension of Keilhauer option, pending Keilhauer's discussions with bankers.	846
Aug. 13 (37)	<i>From the Minister in Salvador (tel.)</i> President's agreement to extend time for remainder of loan, if Keilhauer agrees to immediate loan of 3 millions on terms of option.	846
Aug. 23 (25)	<i>To the Minister in Salvador (tel.)</i> Bankers' approval of Salvador's efforts to obtain small temporary loan from other sources. Instructions to endeavor to obtain 2-months' extension of option contract for larger loan.	846
Aug. 26 (38)	<i>From the Minister in Salvador (tel.)</i> President's conditional agreement to 2-months' extension. Loan negotiations of San Francisco group of bankers.	847
Aug. 30 (27)	<i>To the Minister in Salvador (tel.)</i> Instructions to endeavor to obtain 4-months' extension of Keilhauer bank contract, establishment of bank being dependent upon loan negotiations.	848
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Sept. 1 (42)	<i>From the Minister in Salvador (tel.)</i> Disapproval of terms of San Francisco group's project as too oppressive. Suggestion of immediate small loan from New York group to convince President of serious intent of group.	848
Sept. 3 (29)	<i>To the Minister in Salvador (tel.)</i> Authorization to inform President of U. S. disapproval of terms of San Francisco group's project. Information of \$250,000 loan for Salvador through Keith.	849
Sept. 7 (44)	<i>From the Minister in Salvador (tel.)</i> Signature of contract for temporary loan of \$250,000 secured by 41 percent import duties. Extension of loan and bank options for 5 months.	849
Oct. 15 (33)	<i>To the Minister in Salvador (tel.)</i> U. S. desire for certain modifications in loan contract and approval of bankers' plan for exchange of notes of assurance between Salvador and the United States.	850

SALVADOR

NEGOTIATIONS FOR A LOAN IN THE UNITED STATES, ETC.—Continued

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1921 Oct. 18	<i>To the French Ambassador</i> Presumption that in arrangements for \$250,000 loan to Salvador, prior liens upon customs revenue have been recognized and respected.	851
Oct. 21 (58)	<i>From the Minister in Salvador</i> Note of Foreign Office, October 20 (text printed) containing assurances concerning loan. (Footnote: Letter from Keilhauer to Salvadoran Minister of Finance, October 18 (text printed) transmitting draft note of assurances which the bankers desire the Foreign Minister to address to the American Minister.)	851
Oct. 25 (53)	<i>From the Minister in Salvador (tel.)</i> Departure of Keilhauer for United States with powers from Salvador to sign loan contract.	854
Nov. 23 (58)	<i>From the Minister in Salvador (tel.)</i> Request of National Park Bank, New York, for information concerning power of Salvador Minister of Finance to sign Government contracts.	854
Nov. 29 (39)	<i>To the Minister in Salvador (tel.)</i> Instructions that request of National Park Bank is matter upon which no official opinion should be expressed. Permission to furnish bank with names of lawyers in Salvador.	855
Dec. 9	<i>To the British Embassy</i> U. S. understanding as to intentions of promoters of Salvadoran loan concerning debt of Salvador Railway Co. and holders of bonds of 1908 and 1915.	855

SIAM

TREATY AND PROTOCOL BETWEEN THE UNITED STATES AND SIAM, DECEMBER 16, 1920, REVISING EXISTING TREATIES

1920 Feb. 24	<i>To President Wilson</i> Request for President's approval of negotiations with Siam looking toward the surrender of U. S. extraterritorial privileges in Siam and the revision of the commercial treaty between the United States and Siam. (Footnote: The President's marginal notation signifying approval.)	857
Mar. 6	<i>To the Siamese Minister</i> U. S. proposal that evocation from Siamese courts shall last for five years after codes are promulgated and put in force, it being understood that Siam will meet any U. S. objections to said codes.	860
Mar. 6	<i>From the Siamese Minister</i> Request for confirmation of former statement that Department is prepared to grant to Siam fiscal autonomy, at same time desiring certain privileges for U. S. citizens in Siam.	861

SIAM

TREATY AND PROTOCOL BETWEEN THE UNITED STATES AND SIAM REVISING
EXISTING TREATIES—Continued

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1920 Apr. 17	<i>From the Siamese Minister</i> Request that U. S. proposal be modified by eliminating five-year period and providing for absolute surrender of consular and diplomatic jurisdiction upon promulgation of codes. Further comment.	862
Apr. 17	<i>Memorandum by the Secretary of State</i> Siamese Minister's inquiry whether the United States will abandon restrictions on amount of tariff duties which Siam may levy and collect, offering most-favored-nation advantages in return.	864
May 4	<i>To the Siamese Minister</i> Confirmation of former acceptance in principle of right of Siam to levy customs tariffs, with understanding that equal privileges be afforded U. S. imports and exports with those of any other country.	864
May 15	<i>To the Siamese Minister</i> The President's refusal to eliminate five-year period and provide for absolute surrender of jurisdiction upon promulgation of codes.	865
June 3	<i>To the Siamese Minister</i> Draft clause (text printed) to be included in treaty of commerce and navigation with Siam, accepting principle of tariff autonomy on part of Siam.	865
July 30	<i>To the Siamese Minister</i> Submission of draft treaty of commerce and navigation for consideration.	866
Dec. 6	<i>From the Siamese Minister</i> Siam's instructions to its Minister to conclude and sign proposed treaty; his desire that treaty with protocol and exchange of letters be prepared for signature.	866
Dec. 16	<i>Treaty and Protocol between the United States and Siam</i> Treaty of friendship, commerce, and navigation revising former treaties and including protocol regarding elimination of extraterritoriality, the United States preserving right to evocation for period of 5 years.	867
Dec. 16	<i>From the Siamese Minister</i> Understanding as to interpretation of article 1 of treaty.	876
Dec. 16	<i>To the Siamese Minister</i> Acknowledgment of understanding as to interpretation of article 1 of treaty.	877
1921 Mar. 9	<i>Chief of the Division of Far Eastern Affairs to the Under Secretary of State</i> Transmittal of copies of treaty, protocol, and exchange of letters, with summary of terms thereof; suggestion that some measures be taken to facilitate ratification now pending in Senate.	877

SIAM

TREATY AND PROTOCOL BETWEEN THE UNITED STATES AND SIAM REVISING
EXISTING TREATIES—Continued

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1921 May 12	<p><i>To the Minister in Siam</i> Transmittal of the President's instrument of ratification and authorization to effect exchange of ratifications at Bangkok. Instructions to see that Siamese ratification includes both treaty and protocol.</p>	879

AMERICAN INTEREST IN THE EXPLOITATION OF PETROLEUM IN SIAM

ENGAGEMENT OF AN AMERICAN GEOLOGIST BY THE GOVERNMENT OF SIAM—AMERICAN REPRESENTATIONS UPHOLDING THE PRINCIPLE OF THE OPEN DOOR IN SIAM

1921 May 19	<p><i>To the Siamese Minister</i> Letter from Secretary of Interior (text printed) containing advice, as requested by Siamese Government, regarding development of oil resources of Siam and recommending certain geologists as qualified to explore region and advise Government of Siam.</p>	880
July 15 (14)	<p><i>From the Second Secretary of the Legation in Siam</i> Notification of discovery of oil in northern Siam and plans for exploitation by Commissioner-General of State Railways and for distribution of concessions among foreign companies.</p>	882
Sept. 30 (149)	<p><i>From the Minister in Siam</i> British protest against appointment of American to post of Geological Adviser; evidence of British vested rights throughout Siam and predominating influence in affairs of Government, in derogation of open-door policy.</p>	883
Nov. 22 (16)	<p><i>To the Chargé in Siam (tel.)</i> Instructions to make representations upholding principle of open door in Siam.</p>	885
Dec. 1 (198)	<p><i>From the Chargé in Siam</i> Apparent failure of British protest. Performance of duties as Geological Adviser by Mr. Wallace Lee without change in his status of independent responsibility to Commissioner General of Railways.</p>	886
Dec. 6 (200)	<p><i>From the Chargé in Siam</i> Efforts of Standard Oil to secure oil concessions in Siam, and Legation's activities indirectly to secure equality of opportunity for Americans.</p>	887
1922 Jan. 11 (3)	<p><i>From the Chargé in Siam (tel.)</i> British renewal of representations, disclaiming desire to interfere in internal administration but requesting that British expert should cooperate in survey of Siam's petroleum resources. Siam's refusal of request.</p>	888
Jan. 28 (6)	<p><i>To the Chargé in Siam (tel.)</i> Instructions to make no further representations and to avoid private controversy.</p>	889

TURKEY

PROTECTION OF AMERICAN INTERESTS AGAINST TAXATION NOT AUTHORIZED BY TREATY

Date and number	Subject	Page
1921 Feb. 2 (36)	<i>From the High Commissioner at Constantinople</i> Note to British High Commissioner, January 29 (text printed) making representations regarding the restoration of the 11 percent ad valorem duty and protesting against the present customs taxes, including consumption taxes, as illegal, detrimental to U. S. interests, and discriminating against U. S. trade. Proposal of increase in ad valorem duty to 15 percent. (Similar notes to French and Italian High Commissioners.)	890
Feb. 26 (68)	<i>From the Acting High Commissioner at Constantinople</i> Notes from Allied High Commissioners maintaining that consumption taxes must be continued in addition to the re-establishment of the ad valorem tax.	892
May 18 (217)	<i>From the High Commissioner at Constantinople</i> Arguments by Advisory Trade Commission for return to 11 percent ad valorem plus consumption taxes, for presentation to U. S. Government. U. S. Commissioner's categorical reiteration of objections, accusing Allies of efforts to foster trade for their nationals only, and advising that U. S. representations be made in Paris, London, and Rome.	893
June 7 (190)	<i>From the High Commissioner at Constantinople (tel.)</i> Recommendation for pressure upon Allies to bring about cooperation with the United States for regulation of trade with Turkey. Evidence that Allies take advantage of military occupation to obtain commercial privileges.	895
June 21 (203)	<i>From the High Commissioner at Constantinople (tel.)</i> Turkey's willingness to revert to pre-war system of taxation if ad valorem rate is raised to 15 percent to meet urgent needs of Treasury. Opportune moment for bringing pressure to bear in London, Paris, and Rome.	897
July 2 (212)	<i>From the High Commissioner at Constantinople (tel.)</i> Impasse in situation due to reimposed customs taxes on foodstuffs, which will affect U. S. business interests. Citation of excessive tax on alcohol.	898
July 6 (341)	<i>From the High Commissioner at Constantinople</i> Summary of situation as regards taxes; further efforts to secure return to ad valorem system with increase to 15 percent as temporary measure until peace treaty has been signed and permanent tariff system adopted for Turkey.	898
July 24 (221)	<i>From the High Commissioner at Constantinople (tel.)</i> Turkey's willingness to return to ad valorem system as provisional measure if rate is increased to 15 percent and the 4 percent increase is allowed exclusively to Government and not paid on Ottoman public debt. Opinion that proposition should be accepted as purely provisional measure. Advantages of proposed measure.	901
July 26 (381)	<i>From the High Commissioner at Constantinople</i> Turkish note, July 11, transmitted through Swedish Legation (text printed) proposing to revert to 11 percent ad valorem taxes as temporary measure until restoration of peace, under condition that 4 percent increase be allowed. Note sent to Allied High Commissioners (text printed) urging acceptance of Turkish proposal. Comments.	902

TURKEY

PROTECTION OF AMERICAN INTERESTS AGAINST TAXATION NOT AUTHORIZED BY TREATY—Continued

Date and number	Subject	Page
1921 Aug. 18 (232)	<i>From the High Commissioner at Constantinople (tel.)</i> Urgent request for instructions regarding taxation plan set forth in telegram no. 221, in view of report that 11 percent ad valorem system plus consumption taxes will be put into effect September 1.	906
Sept. 1 (78)	<i>To the High Commissioner at Constantinople (tel.)</i> Consideration of Commissioner's telegram no. 221 in connection with requests of British, French, and Italian Embassies for Department's assent to increased Miri duties; necessity for consent of Capitulatory Powers before any change in duties can become effective.	906
Sept. 9 (247)	<i>From the High Commissioner at Constantinople (tel.)</i> Allies' attempt to transfer negotiations to Washington hoping to confuse main issue by negotiations regarding Miri duties, thus appealing to popular sentiment in the United States. Further explanations regarding character of taxes and appeal for support of his policies which are in interest of U. S. trade.	907
Sept. 14 (82)	<i>To the High Commissioner at Constantinople (tel.)</i> Instructions to insist on integral application of pre-war regime and make no commitments without Department's advice.	908
Sept. 23 (469)	<i>From the High Commissioner at Constantinople</i> Note from Allied High Commissioners, August 22, (text printed) advancing considerations in favor of consumption taxes as well as reestablishment of 11 percent ad valorem duties. Reply, September 15 (text printed) advising that Turkish proposal would be essentially a provisional measure pending restoration of peace, and repeating U. S. objections to consumption taxes.	908
Nov. 15 (93)	<i>To the High Commissioner at Constantinople (tel.)</i> U. S. adherence to pre-war regime regarding taxes; gratification of settlement of Miri question. Instructions to refuse to agree to consumption duties should authorities seek to collect them.	913
Nov. 21 (272)	<i>From the High Commissioner at Constantinople (tel.)</i> Urgent request for authorization to accept application to U. S. citizens of municipal taxes for period of armistice without prejudice to future rights, in view of return to ad valorem system and present cooperation of Allied colleagues.	914
Nov. 30 (572)	<i>From the High Commissioner at Constantinople</i> Identical note sent to Allied High Commissioners (text printed) calling attention to discrimination against U. S. goods as demonstrated by figures taken from report of Provisional Committee of Control.	915
Dec. 9 (96)	<i>To the High Commissioner at Constantinople (tel.)</i> U. S. consent to the application to U. S. citizens of municipal taxes as temporary measure without prejudice to rights and without establishing precedent, said taxes to be applied equally to all foreigners.	916

TURKEY

REVIVAL OF THE CHESTER PROJECT FOR CONCESSIONS IN TURKEY

Date and number	Subject	Page
1920 June 10	<p><i>Memorandum by the Assistant Foreign Trade Adviser, Department of State</i></p> <p>Interview with Admiral Chester regarding project for certain oil concessions in Turkey planned by development company in 1911 or 1912, which he proposes to claim after conclusion of peace in Turkey.</p>	917
1921 Feb. 8	<p><i>Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State</i></p> <p>Visit of Admiral Chester seeking good will of Department in project of railroad from Mediterranean to oil fields of Mesopotamia; the Secretary's assurances of interest in development, pointing out, however, difficult conditions now existing.</p>	918
Apr. 2	<p><i>From the Assistant Secretary of the Navy</i></p> <p>Chester's desire to be appointed naval attaché at Constantinople; comment that this would give him semi-official standing in eyes of other Governments in connection with his oil project.</p>	919
Apr. 12	<p><i>To the Assistant Secretary of the Navy</i></p> <p>Disapproval of appointing naval attaché for sole purpose of securing concession for private concern; inopportune time for securing a concession.</p>	919
Apr. 18	<p><i>Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State</i></p> <p>Interview between the Secretary and Admiral Chester and son regarding Department's support of oil project in Turkey. Inadvisability of furnishing letters of recommendation in view of Department's objections to certain monopolistic oil concessions proposed by Great Britain in its own mandate area.</p>	920
May 13	<p><i>From the Ottoman-American Exploration Company, Inc.</i></p> <p>Letter introducing Admiral Chester as representative of corporation for conducting negotiations for concessions in Asia Minor. Request for U. S. cooperation in accordance with Congressional act providing appropriations for arranging survey for oil in foreign lands.</p>	921
May 24	<p><i>Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State</i></p> <p>Interview between the Secretary and Admiral Chester, latter claiming rights to concession based on old project negotiated prior to Franco-Turkish Agreement.</p>	921
June 10	<p><i>Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State</i></p> <p>Explanations made to vice president of Ottoman-American Exploration Co. regarding impossibility of obtaining concessions from Turkish Government at this time and assurances of proper support when conditions warrant.</p>	922

TURKEY

EFFORTS ON BEHALF OF THE ARMENIANS

UNWILLINGNESS OF PRESIDENT WILSON TO ATTEMPT MEDIATION BETWEEN THE
TURKS AND THE ARMENIANS—RELATIONS OF THE NEAR EAST RELIEF WITH THE
BOLSHEVIK AUTHORITIES IN ARMENIA

Date and number	Subject	Page
1921 Jan. 4	<i>From the President of the Assembly of the League of Nations</i> Request for advice as to what action the U. S. Government has taken in carrying out President's promise to act as mediator between Armenians and Turks.	924
Jan. 18 (4)	<i>To the Ambassador in Belgium (tel.)</i> For the President of the Assembly of the League of Nations: President Wilson's reply that he will instruct his representative for mediation to proceed on mission if Principal Allied Powers will agree to make a public engagement not to violate the territorial integrity of Russia. (Instructions to mail to London, Paris, and Rome for information.)	924
Undated [Rec'd Jan. 30]	<i>From the Secretary General of the League of Nations (tel.)</i> Telegram from Acting President of League Council (text printed) stating views expressed in President Wilson's note concerning Armenia will be submitted to Council and note has been brought to attention of representatives of Principal Allied Powers.	927
Feb. 9 (42)	<i>From the High Commissioner at Constantinople</i> Letter from Director General of Caucasus Branch, Near East Relief, to Commissaire of Alexandropol Local Soviet, January 4 (text printed) summarizing reasons for withdrawal of relief work from Bolshevik territory, and informing him of the sending of commission to Tiflis to reach understanding with Bolsheviks, which will determine future policy of NER.	927
Apr. 8 (129)	<i>From the High Commissioner at Constantinople (tel.)</i> Occupation of Erivan by Soviet forces, which apparently means overthrow of Vratzian anti-Bolshevik Government in Armenia.	930
Apr. 19 (90)	<i>From the Ambassador in Italy (tel.)</i> Telegram from Italian Minister in Armenia to Foreign Office (text printed) reporting message from commander of Russian forces in Caucasus assuring Americans that supplies for Armenia will be forwarded in their entirety to their destination.	930
June 15 (297)	<i>From the High Commissioner at Constantinople</i> Mandate from Socialist Soviet Republic of Armenia to Near East Relief (text printed) giving them certain privileges for their work in that area.	930

VENEZUELA

PROTECTION OF AMERICAN PETROLEUM INTERESTS

Date and number	Subject	Page
1920 Apr. 5 (1955)	<i>From the Minister in Venezuela</i> Representations to President Gómez against proposal to restrict size of areas granted for oil exploration and exploitation and to prohibit foreign concessions. The President's acquiescence in Minister's views.	932
May 27 (556)	<i>To the Minister in Venezuela</i> Instructions to render all proper assistance to representatives of Sinclair Exploration Co. of New York in their efforts to obtain oil concession in Venezuela.	933
June 11 (45)	<i>From the Minister in Venezuela (tel.)</i> Decision of Supreme Court annulling contract of Colon Development Co.; similar action expected soon against others for noncompliance in fulfillment of their obligations under contract. Expectation of certain U. S. companies to secure contracts covering these properties.	934
June 14 (2053)	<i>From the Minister in Venezuela</i> Report of warm official reception of Sinclair representative and prospects of early conclusion of contract with Venezuela for exploration of petroleum, etc.	934
June 24 (23)	<i>To the Minister in Venezuela (tel.)</i> Claim of Carib Syndicate, New York corporation, to one-fourth ownership of Colon Development Co. and, by assignment from original concessionaire, of vendors' rights reserved on sale to Colon Co. Instructions to inform Foreign Office of desire that vendors' rights will be recognized in the disposition of properties covered by the concession in compliance with decision of Supreme Court.	935
1921 May 6 (628)	<i>To the Minister in Venezuela</i> Correspondence between Department and Chairman of Carib Syndicate (texts printed) regarding equitable interest of Carib Syndicate in rights forfeited by Colon Co. Instructions.	936
May 27 (2372)	<i>From the Minister in Venezuela</i> New bill presented to Congress designed to change objectionable features of petroleum law of 1920 to suit requirements and suggestions of U. S. petroleum development companies.	938
July 23 (2425)	<i>From the Minister in Venezuela</i> Transmittal of copy of new petroleum law of 1921 embodying modifications and reforms suggested by U.S. companies; steps taken by latter to conform to its terms.	939
Sept. 21 (2511)	<i>From the Minister in Venezuela</i> Custom of U.S. citizens and representatives of financial and commercial companies to adjust differences with Government through good offices of Legation, in spite of existing laws which deny to foreigners recourse to diplomatic channels in claims against Government.	940

VENEZUELA

TREATY BETWEEN THE UNITED STATES AND VENEZUELA FOR THE ADVANCEMENT OF PEACE

Date and number	Subject	Page
1914 Mar. 21	<i>Treaty between the United States of America and Venezuela</i> For the advancement of peace.	941
1915 Feb. 7	<i>Protocol between the United States of America and Venezuela</i> Interpreting article III of the treaty of March 21, 1914, between the United States and Venezuela.	943

YUGOSLAVIA

TERMINATION OF OFFICIAL RELATIONS BETWEEN THE UNITED STATES AND THE KINGDOM OF MONTENEGRO

1921 Jan. (?) 11	<i>From the Yugoslav Minister</i> Request that U. S. representatives in former Kingdom of Montenegro be recalled and recognition of Montenegrin representatives in the United States be withdrawn, in view of decree of Montenegrin National Assembly to depose its King and unite with Yugoslavia.	945
Jan. 21	<i>To the Montenegrin Consul General in Charge of the Legation</i> Revocation of letters patent issued to him as honorary consul general of Montenegro at New York, in view of present status of his country; expression of appreciation of his services.	946
Feb. 8 (16)	<i>To Diplomatic and Consular Officers</i> Notification that recognition of Montenegrin representatives is no longer necessary, in view of present status of Montenegro; revocation of letters patent to honorary consul general at New York.	947
Apr. 15 (49)	<i>From the Prime Minister and Minister for Foreign Affairs of Montenegro</i> Protest on behalf of Royal Government of Montenegro against severance of diplomatic relations.	947
July 15	<i>To the Italian Chargé</i> Information concerning relations between United States and Montenegro.	949

CANCELATION OF THE EXEQUATUR OF THE YUGOSLAV CONSUL GENERAL AT NEW YORK

1921 June 10	<i>To the Yugoslav Chargé</i> Suggestion that Yugoslav consul general at New York be relieved because of improper use of his official position.	949
June 16 (279)	<i>From the Yugoslav Chargé</i> Attempt to justify consul general's actions.	950

YUGOSLAVIA

CANCELATION OF THE EXEQUATUR OF THE YUGOSLAV CONSUL GENERAL AT NEW YORK—Continued

Date and number	Subject	Page
1921 June 27	<p data-bbox="186 322 432 348"><i>To the Yugoslav Chargé</i></p> <p data-bbox="186 348 841 435">Information that charges against consul general have been proved and that he is no longer <i>persona grata</i> to this Government. Transmittal of canceled exequatur and suggestion that another person be appointed.</p>	952
Undated	<p data-bbox="186 449 841 493"><i>Memorandum by the Secretary of State of a Conversation with the Yugoslav Chargé, July 21, 1921</i></p> <p data-bbox="186 493 841 579">Chargé's explanation that former Chargé had acted without instructions in the matter of the removal of the consul general at New York; desire for continued friendly relations, of which the Secretary gives assurances.</p>	953

GERMANY

TREATY BETWEEN THE UNITED STATES AND GERMANY ESTABLISHING FRIENDLY RELATIONS, SIGNED AUGUST 25, 1921

711.62119/-: Telegram

The Commissioner at Berlin (Dresel) to the Acting Secretary of State

[Paraphrase]

BERLIN, *January 15, 1921—11 a.m.*

[Received 2 p.m.]

56. I am informed by Simons, the Minister for Foreign Affairs, that, in regard to the possibility of a separate peace, a peace declaration would be greeted by the German people with joy and that any endeavor to ratify the Treaty of Versailles with reservations would greatly delay an effectual peace as both parties must accept the reservations, thereby starting endless discussion. It should be easy to reach a separate treaty following a declared peace, as the questions at issue between Germany and the United States are not complicated. The Foreign Minister also pointed out that under article 248 of the Treaty of Versailles the Entente obtains a first mortgage on all the state and commonwealth property in Germany, but that as the United States has little or no claim to reparations our ratification of this first mortgage would not work to our advantage.

Simons believes that were the peace to be made today instead of a year and a half ago there are many things that would doubtless be done entirely differently; from this point of view alone America should feel that it is only right that she should not ratify the Treaty of Versailles but should make a separate peace.

In a separate conversation with Secretary of State Albert,¹ the latter expressed views nearly identical with those of Simons, adding that though he himself could disregard sentimental considerations, it was necessary to consider the disillusionment suffered by the German people at the failure to realize the fourteen points; whereas they might have understood America's action in signing the treaty a year and a half ago, today they could not understand or forgive it, enough time having elapsed for us to understand what the treaty

¹ Head of the Chancellery.

meant. Although Germany was not over-friendly to the League of Nations, a bitterness would be bred between Germany and America if the latter should accept the Treaty of Versailles without it that would spoil their relations for years to come.

DRESEL

711.62119/- : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, February 16, 1921—5 p.m.

284. Your telegram no. 56, January 15. We were disconcerted to learn that German officials were conducting with you discussions of the delicate nature that you report. Thinking it best to ignore the matter, we did not reply at the time, but in view of press despatches emanating from Berlin which state that German officials had been discussing the matter with you, it may become necessary for some statement to be made. The Allies might easily misconstrue such conversations as are reported, and feel that we were allowing ourselves to become an entering wedge between them and Germany. We should like you to avail yourself of the first appropriate opportunity, or if necessary to avoid undue delay, to seek an occasion to inform the German officials that you are not aware just what attitude or policy will be taken by your Government on the questions which appear to have been touched upon in your conversations, and make clear, furthermore, that you are not authorized to enter into discussions of this nature, as they might readily give rise to inferences both misleading and incorrect.

COLBY

711.62119/2 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, February 19, 1921—noon.

[Received February 21(?)—12:34 a.m.]

176. Department's telegram no. 284, February 16. I regret greatly any embarrassment which the Department may have been caused by the statements which were made to me as I reported in my cipher telegram no. 56 of January 15, but I must emphasize that "discussions" is not the appropriate word for what did take place. The conversations were entirely on one side, and, as I had done previously in similar instances, I felt it my duty to report them as informa-

tion, only, of the German attitude and without expectation of an answer.

The question of what would follow our rejection of the Versailles peace has, ever since my arrival here, been the favorite topic of conversation with the Germans, and as a result of articles appearing from time to time in the press it has been constantly revived. At all times, however, I have been careful to handle the subject with the utmost caution and to assume merely the passive attitude of a listener. Upon the two occasions I mentioned in my telegram I was especially careful to assure the persons who spoke to me that I had no intimation of my Government's policy, no opinion of my own to express, and was without authorization from my Government to discuss the subject.

My efforts to trace the origin of the report confirm the theory that it originated in loose talk by some one at the Foreign Office which came to the knowledge of a correspondent who misunderstood the facts. In spite of all efforts it has been impossible, as the Department knows, to prevent occasional misrepresentations of this nature which have been a serious annoyance to me in my work here.

In accordance with your instructions I shall, at the first convenient opportunity, repeat the assurances that I have already given, though in view of the prompt denial by the German Government I believe that the matter will have no further consequence.

The article that the Foreign Office published in the *Deutsche Allgemeine Zeitung* on February 7 without previous communications with me reads as follows:

“The statement made by a news agency that discussions with Mr. Dresel, the representative here of the American Government, have taken place relating to the establishment of a state of peace between the United States and Germany is not, we are informed, in accordance with fact. There is no question of discussions of this nature at the present time as President Wilson has refused to make any utterance on the subject and as the newly elected President has not yet taken office.”

DRESEL

711.62119/9a : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

WASHINGTON, July 5, 1921—3 p.m.

1231. Joint Congressional Resolution dated July 1st approved by the President, July 2d, reads as follows:

“Joint resolution terminating the state of war between the Imperial German Government and the United States of America and between the Imperial and Royal Austro-Hungarian Government and the United States of America.

That the state of war declared to exist between the Imperial German Government and the United States of America by the joint resolution of Congress approved April 6, 1917, is hereby declared at an end.

Section 2. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the Treaty of Versailles, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts, of Congress, or otherwise.

Section 3. That the state of war declared to exist between the Imperial and Royal Austro-Hungarian Government and the United States of America, by the joint resolution of Congress approved December 7, 1917, is hereby declared at an end.

Section 4. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 3, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the Treaty of Saint Germain-En-Laye, or the Treaty of Trianon, have been stipulated for its or their benefit or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts of Congress or otherwise.

Section 5. All property of the Imperial German Government or its successor or successors and of all German nationals which was on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents or employes, from any source or by any agency, whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents or employes, from any source, or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said gov-

ernments respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered through the acts of the Imperial German Government, or its agents, or the Imperial and Royal Austro-Hungarian Government, or its agents, since July 31, 1914, loss, damage or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities, or of any operations of war or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce and industrial property rights and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government or their successor or successors shall have respectively confirmed to the United States of America all fines, forfeitures, penalties and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America.

Section 6. Nothing herein contained shall be construed to repeal, modify or amend the provisions of the joint resolution 'declaring that certain acts of Congress, joint resolutions and proclamations shall be construed as if the war had ended and the present or existing emergency, expired,' approved March 3, 1921, or the passport control provisions of an act entitled 'An act making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1922', approved March 2, 1921, nor to be effective to terminate the military status of any person now in desertion from the military or naval service of the United States, nor to terminate the liability to prosecution and punishment, under the Selective Service law, approved May 18, 1917, of any person who failed to comply with the provision of said act, or of acts amendatory thereof."

HUGHES

711.62119/10a : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, July 5, 1921—4 p.m.

1234. Our telegram number 1231, July 5. Having in mind the reservations in section 2 of the peace resolution, you will ascertain, by informal inquiry, whether the German Government intends to question in any way any of the rights, interests, and advantages stipulated for the benefit of the United States in the Treaty of Versailles, referring specifically to part IV, section I, and parts V, VI, VIII, IX, X, XI, XII, XIV, and XV of that treaty, including

our participation in the Reparations Commission, the Commission of Guarantees, and other commissions, so far as this Government may wish to participate.

The peace resolution indicates clearly that the views of Congress are that these rights, interests, and advantages should be secured to the United States and that the United States will not enter into any treaty which fails to secure them.

You will make it clearly understood that the resumption of diplomatic relations, which is in the discretion of the President, and any further steps with respect to the relations between the United States and Germany, will depend largely on the attitude taken by the German Government in this matter.

Your communication will be informal, but we desire an authoritative and definite answer so that this Government may know the exact situation.

The Department desires to know whether the German Government would enter into a protocol confirming all the rights and privileges mentioned above. It is expected that the other Powers would also agree and that in this way an immediate settlement of the treaty situation might be practicable, thus aiding in the establishment of normal conditions and avoiding questions which would arise here, with consequent delay, were the Treaty of Versailles with necessary reservations to be resubmitted to the Senate.

HUGHES

711.62119/16 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, July 22, 1921—8 p.m.

[Received July 23—7 a.m.]

628. Following is text of transmitted letter handed me by Rosen² today:

"Dear Mr. Dresel: I have the honor to acknowledge the receipt of your letter of the 14th instant by which you forwarded me a confidential memorandum which you believe to be the substance of your instructions in regard to the possible methods for reaching a state of peace between the United States and Germany. In doing so you expressly state that the inquiry you are making is to be regarded as of an informal nature.

I have the honor transmit herewith a paper³ which shows the attitude taken by the Reichskabinett in respect to the observations contained in your memorandum.

As you expressly observe in your letter, that the memorandum which you transmitted to me is in no sense the text of a message

² Dr. Friedrich Rosen, who succeeded Simons as German Minister of Foreign Affairs, after the interim tenure of Chancellor Wirth.

³ See the Commissioner's telegram no. 629, *infra*.

which you are directed to hand to the German Government, I wish it to be clearly understood that the enclosed paper is not to be regarded as an official communication to the Government of the United States, but merely as a statement on the contents of the memorandum handed over by you, made on the assumption that the text presented by you fully corresponds with the views of the American Government.

In transmitting the enclosed paper I request you to expressly call the attention of your Government to my foregoing remarks and to point out to it that the German Government starts from the assumption that the United States of America on its part will recognize the responsibilities which under the Treaty of Versailles are connected with the assertion of the rights, interests and advantages mentioned in your memorandum.

I further have the honor to observe that the German Government presumably will be required by the Constitution to have recourse at some juncture of the impending negotiations to the cooperation of the German legislative bodies.

I request that until further agreement my letter and the enclosed paper will enjoy the same confidential treatment which you wished to see applied to your memorandum. I remain, et cetera, (Signed) Rosen."

DRESEL

711.62119/17: Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, July 22, 1921—9 p.m.

[Received 11:09 p.m.]

629. Supplementing my 628, July 22, 8 p.m. Following is text in translation of memorandum enclosed with Rosen's letter above referred to:

"The German Government learns from the communication of the American Commissioner, Mr. Dresel, that the Government of the United States of America wishes immediately to clear up the situation as between the two nations and establish normal relations. Further, it appears from Mr. Dresel's communication that the American Government, in order to attain this purpose, desires information as to whether any of the rights, interests and advantages stipulated in the Treaty of Versailles for the benefit of the United States and reserved by the American Government in section 2 of the joint resolution ending the state of war between the United States and Germany, approved by the President of the United States on July 2nd, 1921, will be brought into question by the German Government. The American Government particularly desires to participate in the Reparations Commission, the Commission of Guarantees and such other commissions as it may be interested in; further it attaches special value to the rights stipulated for the benefit of the United States, in part IV, section I, part[s] V, VI, VIII, IX, X, XI, XII, XIV, and XV of the Treaty of Versailles.

In doing so the American Government points out that it cannot enter into a treaty with the German Government which does not

clearly protect these rights, interests and advantages. Finally the Government of the United States inquires confidentially if a protocol confirming all above mentioned rights and privileges would be entered into by the German Government.

The German Government unites with the American Government in the desire that the relations between the two states should be cleared up as soon as possible. The German Government believe that Mr. Dresel's communication justifies the assumption that the Government of the United States of America has not the intention to ratify the Treaty of Versailles. Nevertheless, the German Government in its endeavor to do everything that might be of service for the speedy reestablishment of a normal state of peace between the two nations, is ready to declare that it has not the intention to bring into question the rights, interests and advantages which the American Government wishes to claim by the Treaty of Versailles in connection with the Congressional resolution approved by the President of the United States on July 2nd, 1921.

The German Government also absolutely agrees to the participation of the United States of America in the Reparations Commission, the Commission on Guarantees and such other commissions as it may desire to take part in.

Furthermore, the German Government is in principle ready to confirm by a protocol (after due specification) the rights and privileges which the American Government wishes to specify in detail as growing out of the Treaty of Versailles and the above mentioned Congressional resolution."

DRESEL

711.62119/18 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, July 22, 1921—10 p.m.

[Received 10:43 p.m.]

630. My 628, and 629, July 22nd. Rosen requested me to consult Department urgently as to advisability of giving publicity to memorandum. He is anxious to publish, and simultaneously with Department if possible. He requests me also to suggest that simultaneously with publication in America a declaration might be issued stating the intention of the United States to restore German property in the hands of the Alien Property Custodian. He said this would have most favorable effect on German people and would be a distinct success for the Government which they so much needed. I discouraged him on possibility of such a statement pointing out that it would be an anticipation of the action of the Congress and possibly unlawful.

It may be possible to give an assurance that the President will recommend such action to Congress but I did not suggest it to Rosen.

Further details in subsequent telegram.⁴

DRESEL

⁴Telegram no. 631, July 23; not printed.

711.62119/18 : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, July 23, 1921—3 p.m.

1305. Your telegrams 628, 629, and 630, July 22, have been received, but nothing further. I am awaiting the later telegram to which you refer in your 630.

I do not understand the fourth paragraph of Rosen's letter quoted in your 628. Ascertain at once and specifically what are the responsibilities to which Rosen refers.

In regard to publishing Rosen's statement verbatim, I am inclined to think that it would be better to agree upon a statement of substance to be issued in Washington and Berlin as mutually agreed; but the matter of publication will be reserved for consideration after receipt of reply to above question. As to property in the hands of the Alien Property Custodian, your position is correct, as Congress alone has power to deal with the matter.

HUGHES

711.62119/19 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, July 27, 1921—5 p.m.

[Received July 28—3:37 p.m.]

638. Department's 1305, July 23, 3 p.m. Rosen has handed me a memorandum explaining German construction of fourth paragraph of his letter to me addressed July 22nd. This reads as follows:

"If the terms of any treaty provision under which a right, privilege or advantage is claimed by the United States of America expressly include a condition or limitation in favor of Germany in respect to such right, privilege or advantage, or are inseparably connected with other German treaty rights, it is expected that the United States Government will not insist on such right, privilege or advantage without also recognizing such condition, limitation or rights."

This follows a brief memorandum which I gave Rosen asking whether I was correctly interpreting the paragraph and which only differs from that now given me by the German Government in that the latter inserts the words "or are inseparably connected with other German treaty rights" before the words "it is expected[?]", and adds the words "or rights" at the end.

As justifying the additional advantage Rosen pointed out that in some cases the right on the one hand and the condition or limitation on the other hand are provided for in different articles or para-

graphs. As an example he states that America in claiming the right of compensation provided for by article 297(e) would have to limit itself to compensation of damages determined by the Mixed Arbitral Tribunal because the procedure of the tribunal is provided for by this same article while on the other hand it could claim from articles 264 to 267 an indefinite right to most-favored-nation treatment because the limitation of right to definite period is only provided for by a later article, namely 280. Rosen further pointed out that the treaty contained series of important provisions connected in such a manner by their substance with other provisions that they cannot be separated from each other. Thus he states that connection exists between the reparation clauses and those concerning evacuation of the occupied Rhineland. He believes it might be doubted in spite of this connection whether the American evacuation would have to be regarded as an express condition or limitation of reparation duty.

Rosen gave it as his opinion that it would be advisable to include in the protocol specific enumeration of the rights, privileges and advantages claimed by United States together with their conditions or limitations in favor of Germany.

As to American decision that a declaration in regard to Alien Property Custodian fund was impossible at present, Rosen expressed regret but stated that he understood the reasons for American attitude.

He agreed that it would be sufficient if a summary of the German note of July 22nd were given to the press. Am I authorized to agree on such a summary with him or will the summary which will be published in America be transmitted to me before publication together with proposed time of release?

DRESEL

711.62119/19: Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, July 28, 1921—8 p.m.

1315. Your telegram no. 638, July 27, 5 p. m. It is my understanding that in substance Rosen means that each provision of the Versailles Treaty must be construed in the light of its context, that is to say, according to its true meaning. There is not the slightest objection to this view. I regard it as wholly undesirable that in the proposed treaty the specific rights, privileges, and advantages claimed by the United States be set forth, together with conditions, limitations, or rights in Germany's favor. To do so would amount to an attempt to insert a commentary upon the Treaty of Versailles into the proposed treaty, and this is contrary to our intention. It

is sufficient to refer by their appropriate designation to those portions of the Treaty of Versailles under which the United States intends to assert rights, and leave any questions which might arise to be determined in the case of the United States, as well as in the case of others, according to the true construction of that treaty. It is my belief that all that is needed at the present moment is a short agreement according to the United States the rights specified in the resolution of Congress with particular reference to those portions of the Versailles Treaty which, through the proposed treaty with the German Government, the United States is willing to accept.

It is not deemed advisable to publish any statement prior to the signing of the proposed treaty. Publication in advance would merely give rise to discussion which would not prove helpful, and this Government desires to reach the point as quickly as possible at which diplomatic relations with Germany can be resumed. There should be an immediate agreement upon the terms of the proposed treaty, and to this end the text is being sent you in a succeeding telegram,⁵ so that there may be no delay in presenting it to the Foreign Office. The necessary full power to sign on behalf of the United States will also be shortly telegraphed to you. That there may be no possibility of a mistake, you should check the portions of the Treaty of Versailles referred to in the first paragraph of article 2 of the proposed treaty with my telegram number 1234, July 5, and advise me immediately if any incongruity or what seems to be a mistake appears in any portion of the text. You should also compare the text of the resolution as it is quoted in the proposed treaty with the text on pages 3454-3455 of the *Congressional Record* for Friday, July 1, 1921.⁶ You will observe that sections 3 and 4, which relate exclusively to Austria-Hungary, are omitted. For additional protection, you will telegraph back the text of the proposed treaty as you receive it, except the quotation from the resolution. You will understand that there should be no publication of the text of the treaty or of the preceding correspondence until the treaty has been signed and you have received instructions in regard to the statement it is desired to publish. The treaty proposed has been drawn carefully to meet the exigency which exists, and the Foreign Office should view it in this light. As soon as the treaty is signed, it can be presented for ratification; upon its coming into force diplomatic relations can be resumed, and any negotiations that seem advisable can then be taken up.

HUGHES

⁵ Not printed; text transmitted therein is the same as the final text printed on p. 29, except for minor alterations as agreed upon in the following correspondence.

⁶ Vol. 61, pt. 4, p. 3299.

711.62119/22 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, August 1, 1921—2 p.m.

[Received 9:23 p.m.]

645. This morning I presented the draft of the treaty to Rosen. He commented at once on the omission of any language securing conditions, limitations or rights in favor of Germany. In reply I set forth the reasons why the American Government considered it inadvisable to include such language, and he then stated that he feared the Cabinet would not dare to come before the German people with a treaty text which alluded in no wise to those rights. Rosen referred again to the possibility that the German Government will of necessity have to lay the treaty before the Reichstag, or at least before its Committee on Foreign Affairs; he expressed his apprehension that if this were not done, the Government could not stand. He took the stand that the situation in the two countries was not on a par, for the Congress had fully discussed the peace resolution and has taken action, but the Reichstag had had no opportunity to be consulted.

The Cabinet will consider the treaty on Tuesday at a special meeting. I shall continue to press for its immediate acceptance, but I fear that there will be considerable delay. Rosen gave me to understand that the legal advisers of the Government must be consulted, as a thorough examination was necessary. For the meantime, he agrees that there shall be no statement published.

DRESEL

711.62119/26 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 6, 1921—6 p.m.

[Received 10:10 p.m.]

650. In extended conversation today with Rosen he assured me that the Government was not opposed to the proposed treaty and was in entire accord in desiring to bring about peace without delay. The Cabinet was however very anxious to arrange slight modifications partly of substance and partly of form so as to make the treaty acceptable to Parliament and to the people generally and to make prompt ratification easier.

1. He continued to press strongly for some explicit recognition in the proposed treaty of rights in favor of Germany connected with the rights claimed by us. He considered the assurances given by me

in accordance with Department's 1315 July 28, 8 p.m., first sentence, as in substance satisfactory but he asked that in order to convince the German people that they were not giving up everything without return some language implying reciprocity should be used. After a prolonged discussion Rosen agreed at my suggestion to submit a draft of an appropriate clause for my criticism and possible transmission to Washington.

2. He inquired as to reason of omission of part 13⁷ which omission he said was not likely [*was likely?*] to create difficulties in the Cabinet with the Socialist members and afterwards in the Reichstag as there was a strong feeling in labor circles that part 13 was favorable to Germany. I said that though I would report his inquiry I was convinced that an insertion of part 13 was impossible.

3. He objected to no interpretation being given to certain clauses of the treaty as to which doubt had already arisen. I answered that I felt sure my Government would be unwilling to attempt at this juncture to make interpretations of language as such interpretations would lead to endless discussions and should not be taken up until the necessity arose.

4. He asked for specific statements in the proposed treaty that negotiations will be later initiated on points not now covered and also that diplomatic and consular relations would be resumed at once on ratification of the proposed treaty. I discouraged any possibility of declarations on these subjects.

5. Rosen made objection to section 5 of article no. 2 of the proposed treaty. He claimed that it was obscure since some acts had been already accomplished under the Versailles Treaty and in others there were fixed periods of time provided by the terms of the treaty which made a delay of an additional two years impracticable and unreasonable. He therefore asked that this article be redrafted. He cited as an especial example article 428⁷ and asked whether the United States would not be at liberty to claim a longer occupation than the Allied Powers.

Rosen laid most weight on the points raised by paragraphs 1 and 5.⁸

DRESEL

711.62119/27 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, August 6, 1921—7 p.m.

[Received 9:56 p.m.]

651. My telegram no. 650, August 6, 6 p.m. Rosen expressly acknowledged to me, when I pressed him, that the only real obstacles to prompt signature, were, in his view, points 1 and 5. It is my opinion that if on point 1 some slight concession can be made, and if point 5 is satisfactorily explained, the Cabinet will soon accept the treaty.

⁷ Of the Treaty of Versailles.

⁸ Of this telegram.

On the subject of the necessity of referring it in advance to the Reichstag or to its Foreign Relations Committee, I cannot, however, get Rosen to commit himself. He will endeavor to get a decision on this point when the Cabinet meets again Monday or Tuesday.

DRESEL

711.62119/26: Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

WASHINGTON, August 8, 1921—6 p.m.

1350. Your 650, August 6, 6 p.m.

Communicate with Rosen respecting points mentioned in your telegram in the following sense:

1. Proposed treaty neither expressly nor by implication involves any disregard of German treaty rights. Each provision of treaty must of course be construed in the light of its context, and any assertion thereunder of rights by the United States must necessarily be consistent with Germany's rights under such provision. However, if German Government continues to press strongly for some provision on this point, Department would be willing to add to subparagraph (1) of Article II the following: "The United States, in availing itself of the rights and advantages stipulated in the provisions of that Treaty mentioned in this paragraph, will do so in a manner consistent with the rights accorded to Germany under such provisions."

2. Your position as to Part XIII is approved, and there appears to be no reason for further discussion of that Part. Participation or nonparticipation of this Government in that part of Treaty of Versailles would not affect German rights relating thereto.

3. Cannot consent to any interpretations being written into treaty. There is no reason why United States should stand in a position different from that of any other Power in this respect.

4. I consider unnecessary and wholly inadvisable inclusion of provisions in treaty relating either to future negotiations or to diplomatic and consular relations. On consummation of treaty this Government will be prepared to restore relations.

5. Rosen evidently attaches too much importance to sub-paragraph (5) of Article II. You may say positively that it was not intended that this paragraph should apply to the period fixed by Article 428, and if a collateral formal declaration is desired to that effect, you can make it. It is not deemed advisable to redraft the paragraph, as more specific statement is impracticable. Department had in mind provisions with respect to acts or election on the part of the United States where time would be important under provisions such as are

contained in sub-paragraph (e), Article 296,⁹ relating to clearing house plan, and paragraph (a), Article 304,⁹ relating to Mixed Arbitral Tribunal. As periods of time provided for by these provisions have not been fixed by ratification on the part of the United States, they should be fixed now by agreement.

HUGHES

711.62119/29 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 10, 1921—noon.

[Received August 11—3:13 a.m.]

656. In interview with Rosen this morning I stated the substance of Department's 1350, August 8, 6 p.m. The only extended discussion took place in regard to point 1. Dr. Rosen stated that in his opinion the exact construction of articles I and II was not clear. The question arose whether the general statement of article I was controlled by article II and was limited to the parts of the treaty specially mentioned or whether under article I the United States might claim later the right to avail itself of rights, privileges, et cetera, not specified but contained in other parts of the treaty. He especially inquired as to the meaning of the word "embrace" in subsection 1 of article II as he did not understand whether it meant merely "include" or whether it signified "is limited to". He therefore asked either, first, that some words of limitation be introduced into article II such as a substitution of the word "are" for the word "embrace" in subsection 1, or else, second, that the clause proposed in Department's 1350, last sentence under point 1, should be inserted at the end of article I instead of after subparagraph 1 of the following article. In that case the words of Department's proposed clause "mentioned in this paragraph" would obviously have to be eliminated. My personal opinion is that this last solution is the more satisfactory. I should, however, in any case be glad to know what construction the Department puts on these two articles in the respect mentioned. Rosen expressed no preference for either solution but brought up the point as he said in the interest of clarity. As to point 2 Rosen stated that he would communicate the decision to the Cabinet and points 3 and 4 were not further urged. While reserving a definite opinion on point 5 until the subject had been studied Rosen stated that in his opinion it would be acceptable. In conclusion in answer to a request on my part for immediate action Rosen stated that he was united with the members of the Cabinet in coming to the speediest agreement possible.

DRESEL

⁹ Of the Treaty of Versailles.

711.62119/30: Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 10, 1921—3 p.m.

[Received August 11—2:49 a.m.]

657. In conversation with Rosen today and yesterday he reverted to the question of disposition of the alien property fund. He stated that this was one on which the whole of the German people felt very deeply and favorable action would be a guarantee of good faith which would have the most beneficial effect. Such action would remove any doubts as to the acceptance of the proposed treaty by the Reichstag whose members would otherwise be unfavorably impressed by the absence of reciprocity in the treaty. He understood that the matter would have to be decided by Congress but he made an urgent plea for a recommendation by the President that the fund should be restored. He cited the treaty of 1828¹⁰ as being still applicable and said he could not believe that the United States would not see the justice of restoring private property as other powers had already done, in especial consideration of the previous policy of the United States having been opposed to any permanent confiscation. In answer I stated that I did not believe that any statement or action by the President was practicable in advance of the decision of Congress but at his urgent request I agreed to state his views to the Department.

DRESEL

711.62119/29: Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

WASHINGTON, August 11, 1921—6 p.m.

1361. Your 656, August 10, noon.

To meet Rosen's wishes I am willing to have clause proposed in Department's 1350, August 8, 6 p.m. inserted at end of Article I instead of after sub-paragraph 1 of Article II, eliminating words "mentioned in this paragraph." While this course is preferred, I am willing to take other alternative by substituting word "are" for word "embrace" in subdivision 1 of Article II, provided the matter is closed promptly upon this basis. In case latter alternative is adopted, clause proposed in Department's 1350 should remain in sub-paragraph 1 of Article II.

Your 657, August 10, 3 p.m. Congress alone can determine disposition of property held by Alien Property Custodian. It is not

¹⁰ Treaty of commerce and navigation between the United States and Prussia, May 1, 1828; for text, see Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 3, p. 427.

practicable for President to deal with the matter. It should be clearly understood that opposition to Treaty or delay in connection with its signing and ratification by Germany cannot in any possible contingency be helpful to Germany.

HUGHES

711.62119/33 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 12, 1921—3 p.m.

[Received 4:58 p.m.]

662. Department's 1361, August 11th, 6 p.m. At interview with Rosen I proposed only first, holding second in reserve in case objection made later. Rosen stated that proposal was great improvement for which he was grateful and that while he could not bind the Cabinet it seemed to him satisfactory. I was unable to get assurance from him that treaty would be signed at once, but Cabinet will meet this afternoon and Rosen promised to put my arguments in favor of prompt signature forcibly before them.

Instructions regarding alien property fund and statement contained in the last sentence of number 1361 were also communicated by me to Rosen who made no comment.

DRESEL

711.62119/39 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 19, 1921—4 p.m.

[Received 9:50 p.m.]

674. The following is translation of a note handed me this morning by Doctor Rosen.

1. The German Government has [with] great satisfaction taken cognizance of the fact that Mr. Dresel held out a prospect of negotiations which will be initiated in connection with the coming into force of the treaty in regard to the construction of the different treaty provisions. The German Government suggests confirming by a protocol or an exchange of notes the understanding in regard to the initiation of such negotiations. It would be extremely desirable if mention could be made of the fact that such negotiations will cover also the furtherance of reciprocal economic relations.

2. The German Government, as the Government of the United States will understand, must emphatically regard it as [of] the greatest importance to give the Reichstag as clear as possible information in regard to the obligations which Germany is undertaking by acceptance of the present treaty. The German Government is of the opinion that it is not the intention of this treaty to impose upon Germany obligations which extend beyond the frame of the Treaty

of Versailles. The German Government would be grateful for confirmation of this construction.

In such case it would also be advisable to word article I of the treaty as follows:

"Germany undertakes to accord to the United States, and the United States shall have and enjoy, all rights and advantages stipulated for the benefit of the United States in the Treaty of Versailles as specified in the aforesaid joint resolution of the Congress of the United States of July 2, 1921, which the United States shall fully enjoy notwithstanding the fact that such treaty has not been ratified by the United States."

3. The German Government has taken note of Mr. Dresel's declaration of August 10th, to the effect that the American Government does not intend to apply the provisions of paragraph 5 of article II to the time limits which are laid down in part 14 of the Treaty of Versailles. The German Government believes that it is justified in assuming that the same construction applies for the period of the time limit provided by article 280 of the Treaty of Versailles, and would be grateful for confirmation of such a construction.

4. According to article 45 of the German Constitution the constitutional representation of the German State is in the hands of the President of the Empire. The preamble of the treaty would therefore have to be drafted as follows: "The President of the United States of America space" "the President of the German Empire space."

DRESEL

711.62119/37: Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, August 19, 1921—7 p.m.

1373. If Germany desires speedily to resume diplomatic relations and to avoid delays which can in no possible way be profitable to her, no question should be raised respecting the reference in the proposed treaty to the peace resolution.¹¹ Congress made that resolution the subject of extended consideration, and there could be no agreement that is inconsistent therewith.

The rights under the armistice agreement of November 11, 1918,^{11a} it should be observed, already exist, and by their recognition Germany loses nothing. Similarly in section 2 of the peace resolution the reference to the rights, privileges, and advantages which flow from participation in the war would not create new rights but would merely cover rights which may be found to exist already. The intention of Congress was, evidently, that although the Treaty of Versailles had not been ratified, the United States and its nationals

¹¹ For text of resolution, see telegram no. 1231, July 5, to the Commissioner at Berlin, p. 3.

^{11a} See *Foreign Relations*, 1918, supp. 1, vol. 1, pp. 463-468 and 494-498.

should not suffer in comparison with its cobelligerents. The important consideration is now that Germany would stand to gain nothing by an opposition to the provision of the proposed treaty which refers to the peace resolution; on the other hand, disagreement with the resolution of Congress would give rise to misunderstanding and to protracted controversy.

If these matters are brought up in such a way that you find it necessary to deal with them, you may explain to Rosen in the manner indicated above.

HUGHES

711.62119/39 : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

WASHINGTON, August 20, 1921—6 p.m.

1376. Your 674, August 19, 4 pm and 675, August 19, 5 pm.¹²

Point 1. It will be entirely agreeable to this Government to resume diplomatic relations at once upon exchange of ratifications of proposed treaty and then to undertake any negotiations that may be desired by either Germany or the United States with relation to commerce or other matters. This Government looks forward in the same event to the fostering of commercial relations between the two countries. You may confirm this understanding in the foregoing language.

Point 2. This Government does not believe there is reason for apprehension by Germany with respect to Article I of proposed Treaty. As stated in Department's 1373, of August 19, 7 pm., it is of great importance that reference in that Article to Peace Resolution of Congress should be retained. On account of conditions here, no opportunity should be afforded for contention that terms of Peace Resolution are not observed. This is a practical situation which the German Government should not fail to consider, as controversy resulting from insistence on Germany's proposal in Point 2 would be serious obstacle to resumption of diplomatic and economic relations. On the other hand, Germany would lose nothing by her assent to Article I as this Government proposed it.

This Government construes the reference to Section 2 of Peace Resolution as creating no new rights as against Germany and as not going beyond the rights which are accorded by Treaty of Versailles and incorporated by reference to that Treaty in the proposed treaty. It does, however, assert intention to maintain all rights obtained through participation in the War and thus to maintain equal footing with co-belligerents.

¹² The latter not printed.

It is the belief of this Department that there is no real difference between provision of proposed treaty relating to rights under Peace Resolution and the rights covered by Treaty of Versailles, save as distinction may be found in that part of Section 5 of Peace Resolution which relates to claims of United States nationals for injuries to persons and property. With respect to this provision, it should be noted that it does not increase obligations or burdens of Germany because all the property referred to would be held subject to Congressional action if no treaty were signed and would not be available to Germany in any event under the terms of the Treaty of Versailles save as against reparation obligations. Whether the claims of United States nationals were pressed in one way or another would be a matter of procedure and would make no practical difference to Germany in the final result.

The Administration is fully appreciative of the considerations entertained by Germany with respect to property sequestered here, and desires a just and reasonable settlement. There is nothing, however, for Germany to gain by opposing the terms of the Peace Resolution or by insisting on anything which could be claimed to be a departure therefrom in the proposed treaty.

It is earnestly urged, with full regard for all the circumstances, that the signing of the Treaty as proposed by this Government,—that is, without the change suggested in Point 2 of your 674,—will pave the way for consideration of the questions relating to property sequestered here which the President desires to be dealt with upon the most fair and righteous basis. It is hoped that Germany's attitude toward this subject will not put obstacles in the way.

Point 3. This Government accedes to the construction of the German Government of paragraph (5) of Article II of proposed Treaty, that this provision is not intended to apply to time limits laid down in Part XIV of the Treaty of Versailles or to those provided by Article 280 of that Treaty.

Point 4. Description in Preamble of German State agreed to.
You may communicate to Rosen contents of this telegram.

HUGHES

711.62119/43 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 22, 1921—3 p.m.

[Received 6:51 p.m.]

680. At interview this morning with Rosen I presented a memorandum founded on Department's 1373, August 19, 7 p.m., and 1376, August 20, 6 p. m. Rosen stated that the subject would be dis-

cussed at a Cabinet meeting to be called Tuesday but his general attitude left little doubt but that the statement was considered satisfactory and he discussed various details concerning the signature and said that he was anxious to have it occur at the earliest moment possible. My impression is that signing may take place on Thursday or Friday.

Rosen requested that the memorandum handed him today and also some others containing substance of various instructions which I had been authorized to transmit might be put in the formal shape of a letter to him as embodying the understanding of the American Government and to this I agreed. He also stated that after signature he would feel it necessary to publish a statement setting out first, the text of the treaty, second, at least the substance of the letter I should write him, third, an account of the course of the negotiations which statement he would submit to me for approval. Please instruct me as to whether I am authorized to agree with him as to the wording of such a statement.

Some discussion ensued as to ratification and Rosen suggested that it might be advantageous if debates could be carried on at the same time in the Reichstag and Senate as to which I made no comment. He stated to me that exact date for meeting the Reichstag had not been fixed but that it would be postponed to a date later than September 6th for which time it had been originally fixed. I shall appreciate some indication of when Department plans to submit treaty to Senate.

I will telegraph later exact date fixed for signature of treaty.

DRESEL

711.62119/46: Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 23, 1921—5 p.m.

[Received 10 p.m.]

682. My 680, August 22, 3 p.m. Following statement is the only statement which German Government proposes to make (translation):

“The German-American treaty printed above is the result of negotiations which commenced at the beginning of July upon the initiative of the American Government in order to bring to a close the state of war still formally existing between Germany and the United States of America. The negotiations were dependent from the start on the fact that the American Government was bound by the well-known peace resolution passed [by] Congress on July 2nd, repeated partially in the preamble of the treaty, which reserves to America in the first place all rights arising from Treaty of Ver-

sailles. As may be observed from the text of German-American treaty, however, several important parts of the Versailles Treaty have been eliminated from it especially part I, League of Nations; parts II and III, territorial changes in Europe; sections II to VIII of part IV, provisions regarding China, Siam, Liberia, Morocco, Egypt, Turkey and Bulgaria and Shantung; part VII, penalties; and part XIII, international regulation of labor. Furthermore, after detailed exchange [of] views it has been agreed that America will claim no rights which go beyond the provisions of the Versailles Treaty. In addition the treaty expressly stipulates that America will make use of the rights granted her only in such manner as to assure the protection of the rights connected therewith granted to Germany by the Treaty of Versailles; the omission of part XIII of the Versailles Treaty with regard to the international regulation of labor occurred after sending¹³ proposal of the German Government. The latter's attempt to induce the American Government to accept this part did not succeed, perhaps on account of the close connection between its provisions and the League of Nations, which was rejected by America. After the entry into force of the German-American treaty diplomatic and consular relations between the two countries are to be resumed as soon as possible upon the wish of both parties. Negotiations are also to be commenced regarding regulation of future trade relations, the fostering of which the American Government also has characterized as desirable as well as regarding all questions affecting the relations of the two countries especially those connected with the treaty.

With respect to German property it is provided in section 5 of the peace resolution that this property shall be retained as a pledge until Germany has given satisfactory security in connection with her obligations. The American Government has, however, declared that the conclusion of the treaty would open the way to a settlement of all questions relating to sequestration [of] German property in the most just and righteous manner."

German Government requests that if Department intends to make any statement on publishing text, it will, if convenient, refrain from questions of interpretation of matters which are not mentioned in this *communiqué*. It is explained that this request is made in the hope of avoiding parliamentary difficulties.

DRESEL

711.62119/43 : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, August 23, 1921—6 p.m.

1380. Your telegram no. 680, August 22. Second paragraph. In order to avoid any possible misunderstanding, it is preferable that you cable the text of your proposed letter to Rosen, embodying the

¹³ For correction of this passage, see telegram no. 688, Aug. 25, from the Commissioner at Berlin, p. 24.

substance of your instructions. Also, before you give your approval to the proposed statement that Rosen is to publish, cable its text together with your observations so that the Department may be in a position to make any pertinent suggestions.

In order not to cause any delay in signing the treaty, it is understood that this action can be taken promptly.

HUGHES

711.62119/47: Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

WASHINGTON, August 24, 1921—noon.

1381. Your 682, August 23, 5 p.m. and 683, August 24, 9 a.m.¹⁴

Cable as soon as Treaty signed as it is important that if text published in Berlin tomorrow Thursday morning, it should be published here at the same time.

Department is uncertain with respect to exact text upon following points. Is Clause set forth in paragraph 1 of Department's 1350, August 8, 6 p.m., inserted in Article I of Treaty, or in subparagraph 1 of Article II? See Department's 1361, August 11, 6 p.m. It is immaterial to Department which course is taken, even if word "are" is substituted for word "embrace" in sub-division 1 of Article II, and it is assumed that this substitution has been made. It is not desired to raise a question but to know exact text as signed.

Do not understand reference in statement which German Government proposes to make that "the omission of Part XIII of Versailles Treaty with regard to the international regulation of labor occurred after sending proposal of German Government." You will remember that Part XIII was not included in Department's 1234 of July 5, initiating negotiations, in referring to Parts of Treaty of Versailles embracing rights which United States intended to reserve. Inaccuracy in Rosen's proposed statement is not very important, but Department would prefer statement to be accurate if subject is mentioned. With respect to proposed German statement that "after detailed exchange of views it has been agreed that America will claim no rights which go beyond the provisions of the Versailles Treaty", it is assumed that this is intended to be read with the subsequent paragraph of the same statement relating to Section 5 of the Peace Resolution and as not contravening the position taken in Department 1376, August 20, 6 p.m. which fully states position of this Government.

Cable at once who are to sign on behalf of Germany and formal description, so that we may have full text in readiness.

HUGHES

¹⁴ Latter not printed.

711.62119/50 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, August 25, 1921—noon.

[Received 8:10 p.m.]

688. Department's 1380 [1381], August 24, noon. Signature will take place at 5 p.m. this afternoon. Rosen is sole person authorized to sign and he has exhibited full powers which I have approved. My description is "Ellis Loring Dresel, Commissioner of the United States of America to Germany." Rosen's description is "Dr. Friedrich Rosen, Minister for Foreign Affairs."

As foreshadowed by my 675, August 19, 5 p.m.,¹⁵ I agreed to substitution of word "are" for word "embrace" in subdivision 1 of article II. The clause authorized by Department's 1350, August 8, 6 p.m., follows this subdivision 1 and as in the original draft contains the words "mentioned in this paragraph."

In my 682, August 23, 5 p.m., the first sentence containing discussion of part XIII of the Versailles Treaty was apparently garbled. After the word "occur[red]" the two following words should read "against the" instead of the words "after sending". This presumably makes the difficulty clear.

After conversation with Dr. Rosen he agrees to discard statement beginning "after detailed exchange of views" and ending "Versailles Treaty" and to substitute therefor a literal translation of the passage in Department's 1376, August 20, 6 p.m., under second paragraph of point 2 beginning "This Government construes" and ending "proposed treaty". I trust this will be considered satisfactory.

DRESEL

711.62119/53a : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Harvey)*¹⁶

WASHINGTON, August 26, 1921—4 p.m.

505. Treaty with Germany was signed yesterday and text was published this morning in Berlin and Washington. Department assumes that it has also been published in your capital. This Treaty, while a definite engagement with Germany, does not place the United States in a position superior to that of the Allied Powers,

¹⁵ Not printed.¹⁶ See last paragraph for instructions to repeat to Brussels (no. 38), Paris (no. 404), and Rome (no. 144).

but adopts, so far as this Government was willing to adopt, the provisions of the Versailles Treaty. It is expected that the Treaty will be ratified promptly. The Senate is in recess until September 21st, and the Reichstag meets a little later. As soon as possible ascertain by informal inquiry the point of view of the Government to which you are accredited. This Government can conceive of no ground of objection to the Treaty, and it will be easily understood that after a controversy of two years this method was the best practicable solution of all the difficulties. It is not thought necessary that there should be any treaty negotiated between the United States and the Allies with respect to the rights acquired under the Treaty with Germany inasmuch as the German Treaty gives to the United States the footing of the various provisions of the Treaty of Versailles. It is, however, desirable to have an understanding with the Allied Powers. This can be effected by an exchange of brief notes to the effect that it is recognized that the United States, in common with the Allied and Associated Powers, enjoys all the rights to which the Treaty refers, and that the Government to which you are accredited intends to raise no question upon this point.

It is hoped that in view of the long discussion that has been had, no action will be taken by any of the Allied Powers which could possibly have the effect of postponing the establishment of stable peace conditions.

You will appreciate how important it is to have it understood at once that the Allies do not disapprove what has been done; on the contrary, it is desirable that an approval be expressed as soon as possible. A public expression of approval, even of an informal character, would be of advantage at this time while public opinion is being formed. The Government to which you are accredited will understand that it would have been idle to expect the United States to enter the League of Nations under the present circumstances or to assume responsibility with respect to questions that are distinctively European. It is hardly to be supposed that any Allied Power would take an antagonistic position, inasmuch as in other respects the United States has the same rights under the treaty that the other powers enjoy, for such a position, futile in itself, could not fail to produce an unfavorable impression upon American opinion. The almost unanimous opinion here seems to be that the wisest course has been taken. The text of the treaty will be cabled you if necessary.¹⁷

Repeat entire message as No. 404 to Paris, as No. 38 to Belgium, and as No. 144 to Rome.

HUGHES

¹⁷ This paragraph paraphrased.

711.62119/64 : Telegram

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

[Paraphrase]

PARIS, September 6, 1921—6 p.m.

[Received 6:48 p.m.]

539. Department's telegram no. 404, August 26.¹⁹ Briand's absence has delayed a reply. I gather that the French think that the Allied Powers must be consulted and that identic action should be taken, and that they have already so informed the Belgians. Article in newspaper here this afternoon was inspired by leak from Belgian sources, but I understand that the Foreign Office is publishing correction.

HERRICK

711.62119/64 : Telegram

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

[Paraphrase]

WASHINGTON, September 7, 1921—noon.

412. Your telegram no. 539, September 6. Ambassador Harvey has telegraphed the Department that there has been no sign of disapproval over the treaty with Germany either in the press or in official quarters, and that it is hardly conceivable that there should be any antagonism on the part of the British Government. Ambassador Child states that Italian Minister of Foreign Affairs in reply to an informal inquiry expressed general approval of treaty consummation as a step taken toward final restoration of normal conditions. The Prime Minister of Belgium has taken the same general attitude. The Department has also understood from the French Chargé d'Affaires that Briand has informally expressed approval. From no power has the Department heard objections. In these circumstances it is not believed to be advisable to press for an answer to the inquiry made in the Department's telegram no. 404, August 26.¹⁹ This Government will insist, of course, on all its rights under the Versailles Treaty, and if the subject should come up you should take the attitude that there is no ground for opposition, and that at least tacit approval is taken for granted.

HUGHES

¹⁹ See footnote 16, p. 24.

711.62119/91a

The Secretary of State to the Commissioner at Berlin (Dresel)

No. 2048

WASHINGTON, *October 21, 1921.*

SIR: There is transmitted in the pouch with this instruction a package containing the President's instruments of ratification²⁰ of the Treaty between the United States and Germany, signed at Berlin on August 25, 1921, which you will exchange for the like ratification on the part of Germany; also the President's full power²⁰ authorizing you to effect the exchange and a form of protocol²⁰ attesting the exchange which you are to sign in duplicate with the German plenipotentiary at the time of making the exchange. Before proceeding to the exchange you should be careful to see that both texts of the Treaty as contained in the German instrument of ratification conform with the two texts of the Treaty as contained in the instrument of ratification of the United States.

As soon as the exchange shall have been effected you will please inform me of the fact by cable, stating in your telegram the date of the exchange and the date of the German instrument of ratification. The German instrument of ratification and the American copy of the signed protocol of exchange should be promptly forwarded by you to the Department.

Should any question be raised by the German Government with respect to the form of the Resolution by which the Senate gave advice and consent to the ratification of the Treaty, you will readily be able to make a satisfactory explanation to remove any possible misapprehension regarding the matter. The terms of the Resolution with respect to participation of the United States in any agency or commission under the treaty of course relate merely to matters of domestic policy and procedure which are of no concern to the German Government. The Senate expressed their understanding in the Resolution, evidently out of abundance of caution, that the rights and advantages which the United States is entitled to have and enjoy under the Treaty embrace the rights and advantages of nationals of the United States specified in the Joint Resolution of Congress of July 2, 1921,²¹ and in the Treaty of Versailles. Negotiations with reference to the Treaty show that there has been no question between the contracting parties with regard to this obviously correct con-

²⁰ Not printed.

²¹ See telegram no. 1231, July 5, to the Commissioner at Berlin, p. 3.

struction, and the understanding of the Senate as expressed in their Resolution is of course in no way at variance with the terms of the Treaty.

I am [etc.]

CHARLES E. HUGHES

711.62119/102

The Commissioner at Berlin (Dresel) to the Secretary of State

No. 1300

BERLIN, November 12, 1921.

[Received December 3.]

SIR: I have the honor to acknowledge the receipt of the Department's mail instruction No. 2048, dated October 21, 1921, which was received in Berlin at 2 p.m. on the 10th instant. I immediately informed the Secretary of State for Foreign Affairs that the President's instrument of ratification of the Treaty between the United States and Germany signed at Berlin on August 25, 1921, together with full powers authorizing me to effect the exchange of ratifications, and a form of protocol had been received. The necessary steps were then undertaken to compare immediately the text of the American instrument with the German instrument. In this connection I regret to state that numerous slight errors in spelling and punctuation were discovered in the German text of the American document, but errors which offered no possibility of confusing the meaning.

It was hoped that the exchange of ratifications might be effected on the afternoon of the 10th, but owing to the fact that the German Chancellor, Dr. Wirth, was in conference with the Reparations Commission it was necessary to postpone the exchange until the following day.

A few minutes before the hour fixed for the exchange of ratifications on November 11th, the Foreign Office sent a representative to me to ask for an explanation of the reservations by the Senate which were included in the instrument. I at once replied that the terms of the Resolution with respect to participation of the United States in any agency or commission under the Treaty related merely to matters of domestic policy and procedure. The Foreign Office, however, requested that the exchange of ratifications be postponed long enough to permit a further consideration of the question by their legal experts. They raised no question, however, with regard to the second portion of the Resolution to the effect that the rights and advantages which the United States is entitled to have under the Treaty embrace the rights and advantages of nationals of the United States.

The Secretary of State for Foreign Affairs called on me toward the end of this discussion and expressed his feeling that the question

raised presented no serious difficulty and suggested the hour of half-past six in the afternoon of that day for the formal exchange of the documents.

Shortly before the hour determined upon, the Foreign Office inquired whether in the interests of what they considered greater clarity I would object to a slight verbal addition to the form of protocol, namely, the insertion of the words "the wording of the Treaty", so that the protocol would then read "and the ratifications of the Treaty aforesaid having been carefully compared and the wording of the Treaty found exactly conformable to each other." I agreed to this slight modification, which does not seem to me open to objection, and at half-past six on the afternoon of the 11th in the Foreign Office I handed the American instrument of ratification to the German Chancellor, Dr. Wirth, and received from him the German instrument of ratification, dated November 2, 1921, signed by the President of Germany, Ebert, and countersigned by the German Chancellor, Dr. Wirth. A protocol of exchange was thereupon signed and sealed, in duplicate, by Dr. Wirth and myself. The two above-mentioned documents are transmitted herewith.²²

On this occasion I expressed to Dr. Wirth my satisfaction that all formalities had now been completed and that a state of peace existed between the United States and Germany and my hope that this would continue and that friendly ties would increase in normal fashion. The Chancellor replied that he echoed my expressions with all his heart and in so saying he believed that he represented a deep feeling on the part of the German people.

I have [etc.]

ELLIS LORING DRESEL

Treaty Series No. 658

*Treaty between the United States of America and Germany, Signed at Berlin, August 25, 1921*²³

THE UNITED STATES OF AMERICA AND GERMANY:

Considering that the United States, acting in conjunction with its co-belligerents, entered into an Armistice with Germany on November 11, 1918, in order that a Treaty of Peace might be concluded;

Considering that the Treaty of Versailles was signed on June 28, 1919, and came into force according to the terms of its Article 440, but has not been ratified by the United States;

²² Enclosures not printed.

²³ In English and German; German text not printed. Ratification advised by the Senate, with reservations, Oct. 18, 1921; ratified by the President, Oct. 21, 1921; ratified by Germany, Nov. 2, 1921; ratifications exchanged at Berlin, Nov. 11, 1921; proclaimed, Nov. 14, 1921.

Considering that the Congress of the United States passed a Joint Resolution, approved by the President July 2, 1921, which reads in part as follows:

“Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the state of war declared to exist between the Imperial German Government and the United States of America by the joint resolution of Congress approved April 6, 1917, is hereby declared at an end.

“Sec. 2. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Versailles, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any Act or Acts of Congress; or otherwise.

“Sec. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals, which was, on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said Governments respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government, or its agents, or the Imperial and Royal Austro-Hungarian Government, or its agents, since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession,

trade, navigation, commerce and industrial property rights, and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America."

Being desirous of restoring the friendly relations existing between the two Nations prior to the outbreak of war:

Have for that purpose appointed their plenipotentiaries:

THE PRESIDENT OF THE UNITED STATES OF AMERICA

Ellis Loring Dresel, Commissioner of the United States of America to Germany,

and

THE PRESIDENT OF THE GERMAN EMPIRE

Dr. Friedrich Rosen, Minister for Foreign Affairs,

Who, having communicated their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I

Germany undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations or advantages specified in the aforesaid Joint Resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the Treaty of Versailles which the United States shall fully enjoy notwithstanding the fact that such Treaty has not been ratified by the United States.

ARTICLE II

With a view to defining more particularly the obligations of Germany under the foregoing Article with respect to certain provisions in the Treaty of Versailles, it is understood and agreed between the High Contracting Parties:

(1) That the rights and advantages stipulated in that Treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in Section 1, of Part IV, and Parts V, VI, VIII, IX, X, XI, XII, XIV, and XV.

The United States in availing itself of the rights and advantages stipulated in the provisions of that Treaty mentioned in this paragraph will do so in a manner consistent with the rights accorded to Germany under such provisions.

(2) That the United States shall not be bound by the provisions of Part I of that Treaty, nor by any provisions of that Treaty including those mentioned in Paragraph (1) of this Article, which relate to the Covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations, or by the Council or by the Assembly thereof, unless the United States shall expressly give its assent to such action.

(3) That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, Sections 2 to 8 inclusive of Part IV, and Part XIII of that Treaty.

(4) That, while the United States is privileged to participate in the Reparation Commission, according to the terms of Part VIII of that Treaty, and in any other Commission established under the Treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

(5) That the periods of time to which reference is made in Article 440 of the Treaty of Versailles shall run, with respect to any act or election on the part of the United States, from the date of the coming into force of the present Treaty.

ARTICLE III

The present Treaty shall be ratified in accordance with the constitutional forms of the High Contracting Parties and shall take effect immediately on the exchange of ratifications which shall take place as soon as possible at Berlin.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in duplicate in Berlin this twenty-fifth day of August 1921.

[SEAL]	ELLIS LORING DRESEL
[SEAL]	ROSEN

[RATIFICATION BY PRESIDENT HARDING, CONTAINING SENATE
RESERVATIONS]

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, That whereas a Treaty between the United States of America and Germany to restore the friendly relations existing between the two nations prior to the outbreak of war, was concluded and signed by their respective plenipotentiaries at Berlin on August 25, 1921, the original of which Treaty, in the English and German languages, is hereto annexed:

And Whereas, the Senate of the United States, by their resolution of October 18, 1921, (two-thirds of the Senators present concurring therein) did advise and consent to the ratification of the said Treaty,

subject to the understanding, made a part of the resolution of ratification, "that the United States shall not be represented or participate in any body, agency or commission, nor shall any person represent the United States as a member of any body, agency or commission in which the United States is authorized to participate by this Treaty, unless and until an Act of the Congress of the United States shall provide for such representation or participation"; and subject to the further understanding, made a part of the resolution of ratification, "that the rights and advantages which the United States is entitled to have and enjoy under this Treaty embrace the rights and advantages of nationals of the United States specified in the Joint Resolution or in the provisions of the Treaty of Versailles to which this Treaty refers";

Now, therefore, be it known that I, Warren G. Harding, President of the United States of America, having seen and considered the said Treaty, do hereby, in pursuance of the aforesaid advice and consent of the Senate, ratify and confirm the same and every article and clause thereof, subject to the understandings hereinabove recited.

IN TESTIMONY WHEREOF, I have caused the seal of the United States to be hereunto affixed.

Given under my hand at the City of Washington, the twenty-first day of October, in the year of our Lord one thousand
 [SEAL] nine hundred and twenty-one, and of the Independence of the United States of America the one hundred and forty-sixth.

WARREN G. HARDING

By the President:

CHARLES E. HUGHES

Secretary of State

[Treaty Series No. 658, published by the Department of State, includes, as an appendix to the text of the treaty restoring friendly relations between the United States and Germany, the text of part IV, section 1, and parts V, VI, VIII, IX, X, XI, XII, XIV, and XV of the Treaty of Versailles, signed June 28, 1919.]

707.1162/9b : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

WASHINGTON, November 14, 1921—5 p.m.

1527. By the exchange of ratifications November 11, 1921, and by Executive Proclamation November 14, 1921, diplomatic relations between the United States and Germany may be resumed.

You are instructed to request your provisional recognition as Chargé d'Affaires *ad interim* pending arrival of letters of credence.

As soon as you have been received, you will advise the Department thereof and request the Foreign Office to recognize the diplomatic secretaries of your staff, and [here follow a list of military attachés and lists of consular appointments].

They should also proceed to their respective posts as soon as the principal officers go there.

You should at once furnish Consul General Coffin²⁶ with a copy of this telegram and have him instruct those officers now in Germany but not already at posts named to proceed immediately to such posts prepared as soon as you notify them that you have been formally received, to request temporary recognition from local authorities, pending receipt of formal recognition, and to take over offices, furniture, archives and other American Government property which may now be in hands of Spanish Consuls in charge of American interests.

Arrangements are being made with the Spanish Government for the return, upon request, of all government property held by diplomatic and consular representatives of Spain in Germany.

HUGHES

123 D 811/29 : Telegram

The Chargé in Germany (Dresel) to the Secretary of State

BERLIN, November 16, 1921—5 p.m.

[Received November 17—8:55 a.m.]

793. I today informed Secretary of State for Foreign Affairs that the American Government deemed diplomatic relations might be resumed, and asked for recognition provisionally as Chargé d'Affaires *ad interim*. He replied that the German Government was ready to resume diplomatic relations and that I am recognized in the capacity mentioned as from this date.²⁷

DRESEL

²⁶ At Berlin.

²⁷ Mr. Dresel's nomination as Chargé, to date from Nov. 14, was confirmed by the Senate Nov. 18. He presented his letter of credence as Chargé d'Affaires to the German Chancellor, acting for the Minister for Foreign Affairs, Dec. 10, 1921.

711.62119/98 : Telegram

The Chargé in Germany (Dresel) to the Secretary of State

BERLIN, November 23, 1921—4 p.m.

[Received 6:45 p.m.]

806. With reference to section 9 [2] of Trading with Enemy Act. Please inform me whether "the end of the war" was fixed by President's peace proclamation. What date shall I state in reply to inquiries?

DRESEL

711.62119/98 : Telegram

The Secretary of State to the Chargé in Germany (Dresel)

WASHINGTON, November 26, 1921—7 p.m.

1547. Your 806, November 23, 4 p.m.

Executive Proclamation of Peace with Germany reads in part as follows "The war between the United States and Germany terminated on July 2, 1921."

HUGHES

701.6211/503 : Telegram

The Chargé in Germany (Dresel) to the Secretary of State

BERLIN, December 8, 1921—4 p. m.

[Received December 9—10:06 a.m.]

816. Foreign Office informs me that it is the intention of German Government to appoint Doctor Karl Lang as chargé d'affaires in Washington and Doctor Kraske counsellor of legation in the consulate general at New York. Lang served in the German Foreign Office during the war and was formerly German consul general in Montreal. An early agreement is requested as it is desired Lang sail on December 17.²⁸

DRESEL

²⁸ The Department having no objection, Dr. Lang presented his credentials as Chargé Dec. 31.

**GERMAN APPEAL TO THE UNITED STATES FOR MEDIATION IN
THE REPARATION SETTLEMENT WITH THE ALLIED POWERS**

462.00 R 29/553

The British Embassy to the Department of State

MEMORANDUM

In view of the failure of the German Government to accept the Paris decisions respecting Reparation or to make a satisfactory counter offer, the Inter-Allied Conference sitting at London has decided to apply the following sanctions to Germany.

1. To occupy the towns of Duisburg, Ruhrort and Dusseldorf on the right bank of the Rhine.

2. To obtain powers from their respective Parliaments requiring their nationals to pay a certain proportion of all payments due to Germany on German goods to their several Governments, such proportion to be retained on account of reparations.

3. (a) The amount of the duties collected by the German Customs on the external frontiers of the occupied territories to be paid to the Reparation Commission.

(b) These duties to continue to be levied in accordance with the German tariff.

(c) A line of custom-houses to be temporarily established on the Rhine and at the boundary of the *Têtes de Ponts* occupied by Allied troops; the tariff to be levied on this line both on entry and export of goods to be determined by Allied High Commission of the Rhine territory in conformity with the instructions of the Allied governments.

The Conference also agreed :

1. To communicate these sanctions to the Allied and Associated Powers not represented at the Conference drawing attention to sanctions 2 and 3 and as regards sanction 2 inviting those powers entitled to a share in reparation payments, to take similar action with as little delay as possible.

2. To send an official notification to all neutral Powers of the imposition of the three sanctions.

In communicating the above to the United States Government, His Majesty's Ambassador is instructed to say that, since they were not represented at the London Conference, the Allied Powers are anxious that they, as one of the principal Allied and Associated Powers, should have early and full information of the measures which it has been decided to take.

WASHINGTON, *March 14, 1921.*

462.00 R 29/552 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, *March 23, 1921—2 p.m.*

165. For General Allen,²⁹ Coblenz.

In response to your various telegrams³⁰ on the subject of Allied customs control in the American zone, you are informed that although this Government will take no part in the enforcement of penalties decided on by the Allies, it does not wish to put unnecessary obstacles in the way of such enforcement. This Government, therefore, perceives no objection to the placing of Allied customs collectors at the request of the Rhineland High Commission in the Rhine bridgehead in the American zone if you consider that this will in no way endanger the safety of the American forces of occupation nor interfere with the authority vested in you under armistice conditions.

Secretary of War has been informed of this telegram.

HUGHES

462.00 R 29/565 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, *March 23, 1921—10 a.m.*

[Received March 24—9:44 p.m.]

318. My 315, March 21.³⁰ In relation to interview to which Simons³¹ summoned me, ostensibly regarding the Silesia question (see my telegram 314, March 21, 5 p.m.³⁰) his chief object was evidently to discuss reparations as reported in my telegram 315, March 21, 6 p.m.³⁰ Since then he has handed me a carefully phrased signed statement of which the text is quoted below. I have been assured that this is entirely for my personal use and that it has not been communicated to anyone else. It is possible that the German Government is using this means to endeavor to start new negotiations. Since several new ideas are contained therein it may be advisable to bring the statement to the attention of the Allied Governments. I shall take no steps to communicate it to Allied representatives here unless so instructed by the Department.

²⁹ Commander of the American Army of Occupation in Germany; American observer on the Rhineland High Commission.

³⁰ Not printed.

³¹ German Minister of Foreign Affairs.

"The German Government regrets extremely that at the London Conference an agreement was not reached in the reparations question. It had the sincere wish to meet the Allied Governments as far as it was in any way possible. The German delegation in this effort far exceeded the boundaries of what was possible according to the judgement of the overwhelming majority of all economic experts.

It is not correct when Mr. Lloyd George makes the assertion that Germany is not ready to give reparation obligations. It is not only entirely clear to the German Government but also to the German people that Germany must afford reparation up to the limit of its ability to pay and that no change in the political grouping will alter this in any respect. All responsible circles in Germany and particularly the German workmen are fully determined to take part with all their strength in the reconstruction of the devastated regions. Not the least of these reasons for this readiness is the sober conviction that it lies in the essential interests of Germany to cause the traces of devastation in France to disappear as quickly as possible. All responsible circles in Germany are unanimous that the German proposals for reparations must take account of the financial needs of the Allies and especially of France. Two important aims in reparations, therefore, come to the front: (1) rehabilitation of the devastated regions; (2) creation at once of an important tangible cash sum in foreign exchange.

In regard to number 1 of the 86 French departments 10 which for years were the theatre of war were hardest hit; numerous cities and villages are [*were*] completely or partially destroyed; wide stretches of fruitful farm lands were devastated. For the rebuilding of the houses and the recultivation and reoccupation of the land, in the two years since the close of the war only very little has been done. Germany has in repeated instances offered its labor, its technical and material help for the immediate rehabilitation. None of these offers have been accepted and neither came to discussion. Why? A real interest in the rehabilitation of the devastated regions is in France, strange as it may sound, very small. The former occupants have received advance indemnities and settled down in other parts of the country. Influential groups of promoters are occupied with the liquidation of the abandoned material and with the work of cleaning up. They do not in the least hurry the performance of their tasks. That which weighs most heavily in the scale is that important circles in France see in the devastated regions an unusually strong means for political agitation which always leaves a deep impression on the inhabitants and on foreigners. Germany wishes no perpetuation of hate between nations. It will, therefore, once more, submit proposals to the French Government, the details of which are at present being considered and discussed with the German laborers themselves. If the French Government has objections to the use of such large amounts of German labor in the reconstruction area, the German Government would also be ready to offer their good services and strength in any other possible form agreeable to France.

As to point 2, the creation of important sums in foreign exchange is possible for Germany only through a strong increase in its exports. In the annexed memorandum³³ of the German experts for the conference is explained in more detail what an enormous increase would be necessary in order to regain great sums and what dangers this would mean for the economic life of other countries. In any event the necessary cash sums could not be realized at once in this way. All other thoughts which have been given expression from time to time such as participation of our former opponents in German industry through sharing capital stocks or other forms of sharing would produce only proceeds in paper marks which are of no use to the foreign creditor. The financial needs of the Allies can only be taken care of by means of credits. The prerequisite for German credit abroad is Germany's financial responsibility. This, however, is wholly undermined by the Allies themselves who in the Treaty of Versailles have reserved for themselves a first mortgage on the total wealth and all sources of income of the German commonwealth and states. In the Paris decisions the Allies have in addition to this claimed for themselves the right to decide whether and in what cases Germany may seek foreign credits as France and England themselves are in debt beyond their capacity and a granting of credit by a neutral is blocked by the general mortgage. The only possible solution of the problem is the acceptance of an international loan in favor of which the Allies would be obliged to waive their general mortgage. Germany would be ready to grant the necessary securities for the service of the loan. It believes that if the loan were put out in proper form and if an amnesty were granted to those who had evaded taxation, the German capital which had fled from the country in considerable amounts could be drawn in for the loan and so made available in the services of reparation. The Allies have repeatedly indicated that Germany's situation is more favorable than [that] of many Allied countries because it has no foreign debts. Germany would not refuse within the bounds of its capabilities to take over the interest and amortization of the obligations of [the] Allies if this should be desired by the Allies and their creditors themselves.

Germany also expressly declares herself ready to join in with any other proposal which seems adapted to bring about a disentanglement of the European economic and financial problems. It will gladly submit the examination of its own financial capability of payment to the decision of unbiased experts. Germany believes that the idle [enormous] damages which the World War has caused, the immense weight of debts which all states which took part have to bear, cannot be laid on the shoulders of any single people. It believes also that the reconstruction of international economic life cannot be obtained by a policy of force and threats but only by the way of peaceful discussion and understanding. The German Government considers it important to issue the assurance with all emphasis that for its part it is honestly willing to follow this path. Signed Simons."

DRESEL

³³ Not transmitted in this telegram.

462.00 R 29/565 : Telegram

*The Secretary of State to the Commissioner at Berlin (Dresel)*WASHINGTON, *March 29, 1921—2 p.m.*

553. Your 318, Mar. 23, 10 a.m.

You are instructed to tell Simons that you have brought his informal memorandum to the attention of your Government which has authorized you to make the following statement:

“The American Government is pleased to note in the informal memorandum of Dr. Simons the unequivocal expression on the part of the German Government of its desire to afford reparation up to the limit of German ability to pay. This Government stands with the Governments of the Allies in holding Germany responsible for the war and therefore morally bound to make reparation, so far as may be possible. The recognition of this obligation, implied in the memorandum of Dr. Simons, seems to the Government of the United States the only sound basis on which can be built a firm and just peace under which the various nations of Europe can achieve once more economic independence and stability. This Government believes that it recognizes in the memorandum of Dr. Simons a sincere desire on the part of the German Government to reopen negotiations with the Allies on a new basis and hopes that such negotiations, once resumed, may lead to a prompt settlement which will at the same time satisfy the just claims of the Allies and permit Germany hopefully to renew its productive activities.”

You are further authorized to give copies of Dr. Simons' memorandum to the Allied representatives in Berlin together with copies of the above statement.

HUGHES

462.00 R 29/647 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, *April 20, 1921—11 a.m.*

[Received 5:16 p.m.]

421. I was asked to see Simons yesterday. He told me that in consequence of premature publicity, neutral power which had been asked to transmit a message to United States had declined to act. Simons said that the Cabinet, at a meeting just held, decided therefore to send the communication through this Commission if I would accept it. I replied that I would on understanding that my action was not official and that I was not prejudicing any decision which might be reached by my Government. I further stipulated that if, as on the earlier occasion, the fact of transmitting memorandum was

ventilated in German press and intimations were made that I or my Government had taken the initiative, I should deny immediately any such statement.

Message will be sent here today and immediately forwarded. Until specifically authorized by Department I shall be careful to let no one, including representatives of the Entente, know of this new step. However, should like to inform Entente colleagues at least a few hours before publication in United States. News of former memorandum was immediately given to their press representatives by Entente representatives after the communication had been made to them. I therefore request in this case the earliest possible authorization to give the news to representatives here of the American press.

DRESEL

462.00 R 29/648 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, April 20, 1921—2 p.m.

[Received 9:32 p.m.]

423. My 421, April 20, 11 a.m. Text of German memorandum follows in official Foreign Office translation:

“Berlin April 20th 1921.

In the name of the German Government and the German people, the undersigned notwithstanding the still existing technical state of war, respectfully petition the President of the United States of America to mediate the reparation question and to fix the sum to be paid by Germany to the Allied Powers and to eagerly urge him to secure the consent of the Allied Powers to such mediation. They solemnly declare that the German Government are ready and willing to agree without qualification or reservation to pay to the Allied Powers as reparation such sum as the President after examination and investigation may find just and right. They formally pledge themselves to fulfill in letter and spirit all the provisions of any award that may be made by him.

With abiding faith in the righteousness of this request and with undeniable sincerity of the purpose, the German people through their constituted government submit their appeal to the President of the United States with the confident hope that it be granted to the end that a final award may be made in accordance with right and justice to meet the heartfelt wishes of all civilized nations, to avoid the immeasurable consequences of imminent coercive measures and to promote the peace of the world. Signed, Fehrenbach, Doctor Simons.”

A further telegram will give résumé of my conversation with Simons at the time of delivery of memorandum which throws important light on the subject.

DRESEL

462.00 R 29/650 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, April 20, 1921—2 p.m.

[Received April 21—2:58 a.m.]

424. When Simons handed me the memorandum contained in my 423 he said he would today send me a memorandum of the German proposals. He had already discussed these informally with British and French Ambassadors, but they would not be published and there would be no further action regarding them until answer was received to appeal to President Harding. He did not commit himself positively, in answering a question, as to whether they would be advanced if a negative answer were received. In that case he felt that it would be useless to proceed with them and he could see nothing ahead but political chaos. In his opinion no government could stand which accepted Paris proposals.

When I pointed out obvious difficulties involved in United States as mediator he said he realized that but considered the situation without precedent. Simons added that whatever the result of Germany's appeal he believed that in justice to German people he ought to advance it so as not to leave unturned the last stone. The President had approved fully his course in presenting it.

I was requested by Simons to state that it was wholly unjust to claim that German Government was maneuvering for delay. He realized fully necessity of immediately making reparations payments within limit of capacity of Germany, and final determination of amounts would not be awaited if rôle of mediator was accepted by United States. In the morning he had been talking with director of the Reichsbank about making to France some immediate cash payments.

Simons said the Government must stand on its refusal to permit Government gold reserves to leave the country, as this would cause immediate collapse in value of mark which would prejudice seriously the neutral holders. The German Government would, on the other hand, make every effort to turn over foreign securities so far as they were not necessary for purchasing food.

On Tuesday of next week Simons expects to make a statement before the Reichstag. I mentioned that in the case of former exchange of memoranda some newspapers had stated that the steps had been taken at America's initiative, and he volunteered specifically to deny this in his statement to Reichstag.

He spoke with considerable feeling and evident sincerity. His attitude was one of depression with little hope for future.

DRESEL

462.00 R 29/655 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, April 21, 1921—4 p.m.

[Received April 23—3:45 p.m.³⁴]

433. This morning, Haniel, Secretary of State,³⁵ told me that by request of Simons he wished to discuss advisability of sending the German proposals to Washington. Simons was apprehensive that this transmission might be considered as an attempt to limit freedom of action of United States in the hoped-for mediation and that it might be thought that the German Government was endeavoring to impose conditions on possible mediation. Haniel categorically disclaims such an attempt. I told Haniel that the German Government would have to decide this matter for itself. Later he showed me copy of the memorandum but especially requested that text be not transmitted as an official document but that at most it should be forwarded for purpose of confidential information concerning point of view of Germany and not be used as a basis of decision regarding American Government's mediation.

Therefore, I give below substance of German memorandum. Haniel tells me that probably this may be made basis of ultimate German proposals to Allies if American mediation should be refused. He says the substance of the memorandum has as yet not been communicated to Allies.

1. German Government believes the most urgent part of reparations problem is reconstruction of the devastated areas. Germany is prepared to undertake the rebuilding of villages and towns which may for that object be pointed out by Allied Powers or to assist with materials and labor in reconstruction in any way the Allies may desire, the expense of material and labor supplied by Germany to be paid from current revenue. A detailed scheme for such reconstruction has been prepared by the Government.

2. Germany wholly recognizes that reconstruction of devastated areas constitutes but a portion of obligations to which Treaty of Versailles compels her. She is therefore prepared to make compensation to Allied and Associated Powers by such other method as may be possible for the injury suffered.

3. It must be considered, however, that Germany's power of payment has been greatly diminished by the war and that any new interference with her productive ability must result in additional weakening of possibility of making reparation.

4. Germany sees no method of meeting her reparation obligations for any extended period of time other than by employing the surplus engendered by labor of the nation to meet the sinking fund and interest on an international loan. In this case the creditors of Ger-

³⁴ Telegram in two sections.

³⁵ Of the Foreign Office.

many would be obliged to waive their rights of insisting on first mortgage on assets of Germany for benefit of those who supply capital. Germany would have to have a free hand in negotiations with such capitalists.

5. In accordance with German view, answer should be made to the following questions: (a) What is Germany's annual productive capacity? In other words, aside from any particular payment, what surplus can be produced if Germany's internal necessities are limited to the greatest extent? (b) How can such a surplus be produced and how can it be made available? (c) Referring to such international loan, what is required for annual interest and sinking fund payments? As limited amounts only are available to meet these charges the total amount of proposed loan depends on them.

6. Germany sincerely trusts that the President of United States will feel he can nominate commission of impartial experts to make investigations and present verdict as to these problems. Germany is willing to agree to such decisions as are based on determinations of the commission. If Germany's total capacity to pay which the experts determine, should be more than interest and sinking fund on international loan, Germany will, upon request, make available to the Allied Governments this difference (a) by providing materials, labor, and other kinds of services in place of cash; (b) by agreeing to transfer to German Government part of indebtedness of Allied Governments to United States; and (c) by consenting to other practicable credit operations.

8. [*sic*] German Government is prepared to transfer to Government of United States or to international capitalists who may take responsibility for the loan the security considered requisite, as, for instance, railroads, mines, harbors, and receipts from customs.

During discussion of last paragraph the question came up of Entente participation in German industries. Haniel stated that this participation was not excluded as no limits were set on eventual decision of President Harding but that they hoped earnestly that if demand was made for this participation it would be for benefit of neutrals or America in form of guarantee for the international loan rather than direct payments to the Entente nations. In the latter case 30 percent would give a controlling interest in many corporations and stock could be voted for political purposes.

Considering the circumstances under which this memorandum was given me, I urgently ask that at present it be not given publicity.

DRESEL

462.00 R 29/648 : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

WASHINGTON, April 21, 1921—5 p.m.

717. Your 423, April 20, 2 p.m.

You are instructed to hand to Simons the following memorandum:

"This Government could not agree to mediate the question of reparations with a view to acting as umpire in its settlement. Impressed, however, with the seriousness of the issues involved as they

affect the whole world, the Government of the United States feels itself to be deeply concerned with the question of obtaining an early and just solution. This Government strongly desires that there should be an immediate resumption of negotiations and reiterates its earnest hope that the German Government will promptly formulate such proposals as would present a proper basis for discussion. Should the German Government take this course, this Government will consider bringing the matter to the attention of the Allied Governments in a manner acceptable to them in order that negotiations may speedily be resumed."

HUGHES

462.00 R 29/648 : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

[Paraphrase]

WASHINGTON, April 21, 1921—6 p.m.

718. Department's telegram no. 717, April 21. You may tell Simons informally and confidentially that although this Government could not act as umpire in settlement of reparations problem, it would be willing with concurrence of Allied Governments to take part in the negotiations if Germany seeks to resume them on a sound basis.

HUGHES

462.00 R 29/681 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, April 24, 1921—10 p.m.

[Received April 25—10:28 a.m.]

442. In separate telegram I am sending note of German Government regarding reparation proposals. Simons handed me the note at 9 tonight. At first he authorized its immediate publication because of aroused public opinion in Germany which obviously affects life and death of 60 million people. Immediately afterwards, however, he telephoned requesting me to consider it confidential so American Government would have a chance for calm consideration of the request in penultimate paragraph. He will take the party leaders into his confidence tomorrow but will ask their help in preserving secrecy and will only give the Reichstag the general lines of note.

Simons then told me he has handed the Chancellor his resignation. Having traveled in Switzerland and Italy, he had obtained some impressions of what is needed in reparation questions which varied with

those of Reichstag and German people. He had therefore no option but resign. I asked whether this note then had his acquiescence. He replied in affirmative that it had agreement of entire Cabinet.

DRESEL

462.00 R 29/684 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, April 24, 1921—11 p.m.

[Received April 25—2:38 p.m.]

443. Section 1.³⁶ Following is Foreign Office translation of text of German reparation proposals:

The Government of the United States have by their note of the 22d instant³⁷ opened the possibility in a way which is thankfully acknowledged of solving the reparation problem once more by negotiations ere a solution is made impossible by coercive measures. The German Government appreciates this step in its full importance. They have, in the following proposals, endeavored to offer that which according to their conviction represents the utmost limit which Germany's economic life, even under the most favorable development, can bear.

1. Germany expresses her readiness to acknowledge for reparation purposes a total liability of 50 billions gold marks (present value).

Germany is also prepared to pay the equivalent of this sum in annuities adapted to her economic capacity totaling 200 billions gold marks.

Germany proposes to mobilize her liability in the following way.

2. Germany to raise at once an international loan of which the amount, rate of interest, and amortization quota are to be agreed upon. Germany will participate in this loan, and its terms in order to secure the greatest possible success will contain special concessions and generally be made as favorable as possible. The proceeds of this loan to be placed at the disposal of the Allies.

3. On the amount of her liability not covered by the international loan Germany is prepared to pay interest and an amortization quota in accordance with her economic capacity. At the present juncture she considers the rate of 4 percent the highest possible.

4. Germany is prepared to let the powers concerned have the benefit of improvements in her economic and financial situation. For this purpose the amortization quota should be made variable. In case an improvement should take place the quota would rise whilst it would correspondingly fall if the development should be in the other direction. For the regulation of this variation an index scheme would have to be prepared.

³⁶ Section 2, which completes the German memorandum herein quoted, is telegram no. 445, *infra*.

³⁷ See telegram no. 717, Apr. 21, to the Commissioner at Berlin, p. 44.

5. To accelerate the redemption of the balance Germany is ready to assist with all her resources at reconstruction of the devastated territories. She considers the reconstruction the most pressing part of the reparation because it is the most effective way to combat misery and hatred created by the war. She is prepared to undertake herself the rebuilding of townships, villages, and hamlets or to assist in the reconstruction with labor, material, and her other resources in any way the Allies may desire. The cost of such labor and material she would pay herself (full details about this matter [have] been communicated to the Reparation Commission).

Note by American Commission[er]: see my 444, April 24, midnight.³⁸

DRESEL

462.00 R 29/687: Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, April 25, 1921—1 a.m.

445. Section 2.³⁹

[Received 4:32 p.m.]

[“] 6. Apart from any reconstruction work Germany is prepared to supply for the same purpose to the states concerned any other materials and to render them any other services as far as possible on a purely commercial basis.

7. To prove the sincerity of her intention to make reparation at once and in an unmistakable way Germany is prepared to place immediately at the disposal of the Reparation Commission the amount of one billion gold marks in the following manner: first, 150 millions gold marks in gold, silver, and foreign bills; second, 850 millions gold marks in Treasury bills to be redeemed within a period not exceeding three months by foreign bills and other foreign values.

8. Germany is further prepared if the United States and the Allies should so desire to assume part of the indebtedness of the Allies to the United States as far as her economic capacity will allow her.

9. In respect of the way the German expenditures for reparation purposes should be credited against her total liability, Germany proposes that prices and values should be fixed by a commission of experts.

10. Germany is prepared to secure the subscribers of the loan in every possible way by assigning to them public properties or public income in a way to be arranged for.

11. By the acceptance of these proposals all other German liabilities on reparation account are canceled and the German private property abroad released.

³⁸ Not printed.

³⁹ Section 1, which contains the first part of the German memorandum here completed, is telegram no. 443, *supra*.

12. Germany considers that her proposals can only be realized if the system of sanctions is done away with at once; the present basis of the German production is not further diminished; and if the German nation is again admitted to the world's commerce and freed of all unproductive expenditure.

These proposals shall testify German firm will to make good the damage caused by the war up to the limit of her economic capacity. The amounts offered as well as the mode of payment depend on this capacity. As far as differences of opinion as to this capacity exist, the German Government recommend to have them examined by a commission of recognized experts agreeable to all parties concerned, the decision of which they hereby declare to accept as should the Government of the United States consider that the negotiations could be facilitated by giving the proposals another form, the German Government would be thankful if their attention were drawn to the points in which the American Government consider an alteration desirable. The German Government would also readily receive any other proposals the American Government might feel inclined to make.

The German Government is too firmly convinced that the peace and welfare of the world depends on the prompt, just and fair solution of the reparation problem as not to do everything in their power to put the United States in a position which enables them to bring the matter to the attention of the Allied Governments. Berlin, April the 24, 1921."

DRESEL

462.00 R 29/3459

Memorandum by the Under Secretary of State (Fletcher) of a Conversation between the Secretary of State and the British and French Ambassadors (Geddes, Jusserand), April 25, 1921

The British and French Ambassadors happening in at the Department at the same time this afternoon, the Secretary showed to them telegrams number 443 and 445, containing the text of the German reparation proposals. The Secretary made it clear at the outset that he was not communicating these proposals in any formal manner; that he was merely giving them informally an opportunity to examine the proposals, and that it was understood that it was not in any way the action of the United States Government. To this they both assented. The Secretary explained that his whole object in this matter had been to be helpful, and that if these proposals, upon examination by their governments, were found to be unacceptable they would not find the United States athwart their path. If, on the other hand, they found them acceptable or found them to contain a basis of negotiation which they wished to consider, he would then, upon an indication to this effect, be glad to transmit them formally.

The Secretary stated, however, that if he were asked to express informally a personal opinion he would say that if the Allied Governments were convinced that no proposals which might be put forward by Germany were worthy of consideration, that no credit could be given to any statements made by Germany, and that Germany did not intend to pay; or if the Allied Governments preferred an economically prostrate Germany which would be unable to pay any considerable amount in reparation, it was, of course, idle to discuss any proposals whatever. The Secretary thought that that would be a counsel of despair, fraught with injury to France and all the world.

The French Ambassador at once disclaimed any such attitude on the part of his Government. The Secretary then said that if the purpose were entertained to compel Germany to pay to the utmost of her ability and to conduct negotiations for that purpose, then the question would arise, as in every case of negotiations, when the psychological moment had been reached which gave to the Allied Powers the utmost advantage; that it would be a serious thing to press to the point where Germany should succumb to a feeling of pessimism. The Secretary said that he would not profess to have a judgment upon the question as to the amount which Germany should pay; that that was a question for expert economists; that he was completely of the view that Germany should be compelled to pay to the utmost of her capacity; but that it was also important that the question of reparations should be settled and that the world should have the advantage of the productive power of Germany; this would be to the advantage of France as well as to the other Powers. The Secretary said that the present question was not whether Germany's offer, in the terms in which it was made, was acceptable. The British Ambassador broke in to say that the question was simply whether it should be transmitted. The Secretary said that the question was whether the Allied Powers were willing to receive it, with the view that it would furnish a basis for discussion; whether a point had been reached that it was better to take the proposal as a basis for further negotiations to the end that the unacceptable conditions should be eliminated, and further concessions obtained. The Secretary said that the occupation could be resorted to later if nothing satisfactory came out of the renewed negotiations, but that the consequences of the complete repudiation of the proposals and the occupation could not easily be foreseen. The French Ambassador said that the attitude of France could not be understood except by remembering that the French people had been flayed and that they felt accordingly. The Secretary said that this feeling of the French people was fully understood; there was deep sympathy with it but that the situation called for that lucidity of treatment and appre-

ciation of the actual facts which the French people were peculiarly able to give.

At the conclusion of the interview, the Secretary said that it was important that he should be advised at the earliest possible moment with respect to the attitude of the Allied Powers; that he did not wish the matter to remain open for conjecture on the part of the public any longer than was necessary; that he desired that the Ambassadors, in communicating with their governments, should make it very clear that the Secretary was not transmitting these proposals; that it was the desire of this Government simply to be helpful in obtaining a just solution of a very pressing problem. The French Ambassador acquiesced, and the British Ambassador said the final word that they understood the Secretary's position perfectly and would safeguard it in whatever was done.

462.00 R 29/3458

Memorandum by the Under Secretary of State (Fletcher) of a Conversation between the Secretary of State and the Japanese Ambassador (Shidehara), April 25, 1921

The Japanese Ambassador called. The Secretary informed the Ambassador that he had a memorandum on the German reparations proposals, which we would communicate to him informally. After reading part of same, the Ambassador asked if he might have a copy. The Secretary informed him that he might keep the copy which he had, on the understanding that it was in no way a communication from this Government, but merely for his personal information; that the United States only wished to be helpful to the Allies in this matter; that he would be glad to hear from the Italian [*Japanese*] Government whether after studying these proposals they cared to have them communicated officially; that if they did not so care, the matter would be dropped.

The Ambassador said that he understood perfectly that he was receiving the information in a purely personal, unofficial way.

462.00 R 29/650½

Memorandum by the Under Secretary of State (Fletcher) of a Conversation between the Secretary of State and the Italian Ambassador (Ricci), April 26, 1921

The Secretary then informed the Ambassador that he had a memorandum on the German reparations proposals which we would communicate to him informally. After reading part of same the

Ambassador asked if he might have a copy. The Secretary informed him that he might keep the copy which he had, on the understanding that it was in no way a communication from this Government, but merely for his personal information; that the United States only wished to be helpful to the Allies in this matter; that he would be glad to hear from the Italian Government whether after studying these proposals they cared to have them communicated officially; that if they did not so care, the matter would be dropped.

The Ambassador said that he understood perfectly that he was receiving the information in a purely personal, unofficial way.

462.00 R 29/694½

Memorandum by the Secretary of State of a Conversation with the British Ambassador (Geddes), April 28, 1921

German Reparations. The British Ambassador said that his Government desired him to thank the Secretary for the manner in which the question had been presented, and to say that the attitude of this Government was very welcome; that on a preliminary consideration, the British Government found the German proposals unacceptable as the Ambassador supposed that we would find them unacceptable; but that the question whether they could be taken as a basis for discussion was under consideration and that a Cabinet meeting was to be held today and that as soon as advised of the result, he would communicate further with the Secretary. The Ambassador said that the British had been put in a very difficult position; that they had had to deal alone with the French and they were very grateful for the way in which we had come into the matter, and that he wished to repeat that the action that the Secretary had taken and the attitude shown by this Government were very cordially appreciated.

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462.00 R 29/708½

Memorandum by the Secretary of State of a Conversation with the Counselor of the French Embassy (De Béarn), April 28, 1921

German Reparations. The Counselor stated that the Ambassador had directed him to inform the Secretary of State of the purport of any message received from the French Government in respect to the matter of the German note on reparations; that the Embassy had received a message from the French Government this morning directing the expression of the thanks of the French Government for our action in the matter and particularly for the assurance that the note

would not be transmitted to the French Government if the terms were unacceptable to that Government and were deemed to impair the rights of that Government under the Treaty of Versailles; that a preliminary review of the matter had impressed the French Government that the proposals were unacceptable but that the matter of reparations was one in which all the Allies were interested and they did not wish to make a final reply until they had had opportunity for consultation with the other Allies.

The Counselor said that he would add unofficially that an examination of the proposals had created the impression that they could not be accepted; that they were much less than what the Allies had proposed at London and that they were not at all consistent with the demands under the Treaty of Versailles; that twenty billion gold marks would be due on May 1st, in lieu of which the Germans offered only one billion gold marks, which added to the eight billion already given, in equivalent, reached only the sum of nine billions in all, and that the rest they seemed to be disposed to ignore altogether; that the Treaty of Versailles gave what was virtually a first mortgage to secure the reparations payments and that the Germans by these last proposals desired to be free of all lien. The Prince de Béarn went on in a further criticism of the proposals and the Secretary said that he understood that this was a preliminary statement. The Prince said that they were simply his personal and unofficial observations; that all he had been instructed to say was to give the thanks of his Government for the action taken, and to express their appreciation at the assurance that the German proposals would not be transmitted if they were unacceptable to the French Government, and deemed to be inconsistent with the Treaty of Versailles and that the matter was under consideration by the Allies and later a further statement would be made. The Secretary said that he must correct the statement with regard to the nature of the assurance given; that it was that the note would not be transmitted if the Allied Governments did not regard the proposals as furnishing a basis for discussion; that the question was not whether the proposals as made would be acceptable to the French Government, or whether they were consistent with the Treaty of Versailles, but simply whether they were deemed to furnish a basis for the resumption of negotiations. The Counselor said that he would inform the Secretary immediately upon the receipt of any further word from Paris.

462.00 R 29/699½

Memorandum by the Secretary of State of a Conversation with the Belgian Ambassador (De Cartier), April 28, 1921

German Reparations. The Ambassador stated that he had heard from M. Jaspar, the Minister of Foreign Affairs, that the German offer was unacceptable, that his Government stood by the Paris proposals, and that this would furnish the only acceptable basis of settlement. The Ambassador in reply to the Secretary's inquiries stated that his Government was desirous that Germany's productive power should be released, and that the country should be put in a position where it could be prosperous and aid in the prosperity of the world, and that this is a very important matter to Belgium, but that it was their opinion that the Germans would finally yield if there were insistence upon the Paris proposals.

462.00 R 29/711 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, April 28, 1921—2 p.m.

[Received 7:45 p.m.]

464. Memorandum from Foreign Office corrects English translation of clause number 1 of memorandum of April 24,⁴⁰ relative to reparations, to read as follows:

"Germany expresses her readiness to acknowledge for reparation purposes a total liability of 50 billions gold marks (capital).

Alternatively Germany is also prepared to pay the equivalent of this sum in annuities, [adapted] to her economic capacity, totaling 200 billions gold marks."

Memorandum continues in translation,

"The German proposal thus offers two possibilities, either the acceptance of a capital debt or the payment of annuities. Numbers 2 to 6 are worked out literally for the first proposal. In regard to the second, the figures would have to be revised appropriately in accordance with an understanding to be reached in regard to annuities. Furthermore, the clause in regard to arbitration in the next to the last paragraph of the note applies to both cases."

Note insertion of word "alternatively".

DRESEL

⁴⁰ See telegram no. 443, Apr. 24, from the Commissioner at Berlin, p. 46.

462.00 R 29/713 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 28, 1921—9 p.m.

[Received April 29—5:30 p.m.]

296. B-463. The Reparation Commission in plenary session last night delivered the following *note verbale* to Von Oertzen of the German Reparation Delegation at Paris:⁴¹

“Reparation Commission in pursuance of stipulations article 233 treaty has decided unanimously to fix at 132 billion gold marks amount damages reparation due by Germany under terms article 232 second paragraph and of annex I of part VIII of the treaty. In fixing this amount Commission has effected necessary deduction from amount of damages in order to make allowance for the restitution effected or to be effected in execution article 238 and in consequence no credit will be allowed Germany in respect such restitutions. The Commission has not included in the above amount sum in respect further obligations incumbent on Germany in virtue of third paragraph article 232 to ‘make reimbursement of all sums which Belgium has borrowed from Allied and Associated Governments up to November 11th 1918, together with interest at the rate of 5 percent on such sums.’”

Logan
WALLACE

462.00 R 29/711

*The Secretary of State to the Belgian Ambassador (De Cartier)*⁴²

WASHINGTON, April 29, 1921.

MY DEAR MR. AMBASSADOR: I have received today the enclosed memorandum from Berlin⁴³ correcting the memorandum of April 24th, with respect to reparations, in the particulars noted.

Believe me [etc.]

CHARLES E. HUGHES

462.00 R 29/684 : Telegram

The Secretary of State to the Commissioner at Berlin (Dresel)

WASHINGTON, May 2, 1921—11 p.m.

808. Deliver to Simons at once the following memorandum.

“The Government of the United States has received the memorandum left by Doctor Simons with the Commissioner of the United States under date of April 24, relating to reparations. In reply this Government states that it finds itself unable to reach the conclusion

⁴¹ This sentence paraphrased.⁴² The same, *mutatis mutandis*, to the British, Italian, and Japanese Ambassadors.⁴³ See telegram no. 464, Apr. 28, from the Commissioner at Berlin, p. 53.

that the proposals afford a basis for discussion acceptable to the Allied Governments. This Government therefore again expressing its earnest desire for a prompt settlement of this vital question strongly urges the German Government at once to make directly to the Allied Governments clear, definite and adequate proposals which would in all respects meet its just obligations."

HUGHES

462.00 R 29/720 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

[Paraphrase]

BERLIN, May 3, 1921—noon.

[Received 6:11 p.m.]

476. Made communication this morning to Simons from context of your no. 808. He did not comment other than to state that it appeared to make an end of all intervention of United States and indicated that we had ranged ourselves definitely on Allies' side. Simons seemed much perturbed.

DRESEL

462.00 R 29/735 : Telegram

The Commissioner at Berlin (Dresel) to the Secretary of State

BERLIN, May 5, 1921—4 p.m.

[Received May 6—1:15 a.m.]

484. Following is translation of a memorandum dated May 4th and handed me today by the Foreign Office which will be published tomorrow:

"The German Government received the memorandum of the Government of the United States on May 3rd from Mr. Dresel and Germany appreciates greatly the serious efforts of the United States Government to find an amicable solution of the reparations question, this great and vital question of Germany and the whole world. She regrets that the American Government has not been able to perceive in the German proposals which have been transmitted a basis for negotiations acceptable to the Allied Governments. The German Government in agreement with the German people is firmly decided now as before to satisfy up to the limits of the capacity of Germany the obligations to reparations defined by the Versailles Treaty. Influenced by this point of view, the German Government had already at the conference of experts in Brussels, which had the purpose of creating objective bases for the capacity of Germany, given the most complete insight into the economic and financial situation of Germany. Germany would also at the present moment gladly have been prepared to follow the advice of the American Government and make immediate and direct proposals regarding the reparation question

to the Allied Governments as recommended in the American memorandum. Unfortunately however following most careful consideration of the advice given the conclusion had to be reached that the present situation made it impossible to work out new proposals which could have satisfied the memorandum according to the views of the Allies. The difficulty of an agreement is still to be found in the divergent estimation of German industry of which the capacity according to article 232 of the peace of Versailles forms the limit of Germany's obligations. The German Government is not in a position from its own knowledge to determine the capacity of Germany as such capacity is dependent on the development of the basis of German economic life and on the cooperation of Germany with the community of nations. The German Government believes that it would be added dishonor if it made engagements which would soon show themselves unfulfillable. By such offers the general feeling would take over the responsibility for all evil which might result later from the impossibility of performance. The elaboration of new proposals was again made difficult to the German Government by the fact that in the meantime the Reparation Commission in accordance with its powers resulting from the Treaty of Versailles had determined the amount of the German reparation debt and that we had to expect immediate communications on the subject.

The German Government will further do all that is possible in order to come to an agreement on the reparation question. It must however emphasize that one nation alone has not the power to make amends for the damage caused by the war and that such reparation is only possible by means of free and unrestrained cooperation of all civilized nations. Germany is willing in this to assume the greatest burden. It relies however on assistance of other countries and not in the least degree on that of the United States of America."

DRESEL

462.00 R 29/762

*Resolution of the Supreme Council of the Allied Powers, London,
May 5, 1921* ⁴⁴

The Allied Powers, taking note of the fact that in spite of the successive concessions made by the Allies since the signature of the Treaty of Versailles and in spite of the warnings and sanctions agreed upon at Spa and at Paris, as well as of the sanctions announced in London and since applied, the German Government is still in default in fulfilment of obligations incumbent on that date [*upon it*] under the Treaty of Versailles as regards;

(1) Disarmament

(2) The payment due on May 21st [*May 1st*], 1921 under article 235 of Treaty, which the Reparation Commission has already called upon it to make at this date.

⁴⁴ Text received in the form of an undated memorandum from the British Embassy; corrections in brackets added from a contemporary printed text (file no. 763.72119/11158).

(3) The trial of war criminals as further provided for by the Allied Notes of February 13th and May 7th, 1920, and

(4) Certain other important respects notably those which arise under articles 264, [to] 267, 269, 273, 321, 322, 327 of the Treaty decide:

(a) To proceed forthwith with such preliminary measures as may be required for the occupation of the Ruhr Valley by the Allied forces on the Rhine in the contingency provided for in paragraph D of this note.

(b) In accordance with article 233 of the Treaty to invite the Reparations Commission to prescribe to the German Government without delay the time and basis for securing and discharging the entire obligation incumbent upon that Government and to announce their decision on this point to the German Government at latest on May 6th.

(c) To call upon the German Government within a period of six days from the receipt of the above decision categorically to declare its resolve:

(1) To carry out without reserve or condition their obligations as defined by the Reparations Commission.

(2) To accept and provide without reserve or condition the guarantees in respect of those obligations demanded by the Reparation Commission.

(3) To carry out without reserve or delay the measures of military naval and aerial disarmament notified to the German Government by the Allied Powers in their note of January 29th, 1921, those overdue being completed at once and the remainder by prescribed dates.

(4) To carry out without reserve or delay the trial of war criminals and other unfulfilled portions of Treaty referred to in the first paragraph of this note.

(d) Failing fulfilment by the German Government of the above conditions by May 12th to proceed to occupy the Valley of Ruhr and to take all other military and naval measures that may be required. Such occupation will continue so long as Germany fails to comply with the conditions summarised in paragraph (c).

462.00 R 29/768

The British Ambassador (Geddes) to the Secretary of State

No. 359

WASHINGTON, May 11, 1921.

SIR: On instructions from my Government, I have the honour to inform you that the German Ambassador in London this morning handed to the Prime Minister, as President of the recent meeting of the Supreme Council in London, a note couched in the following terms, in reply to the resolution of the Allied Powers of May 5th.

It will be observed that this note conveys an unconditional acceptance of the Allied terms.

“Mr. Prime Minister:

“In accordance with instructions just received I am commanded by my Government, in accordance with the decision of the Reichstag and with reference to the resolution of the Allied Powers of the 5th of May 1921, in the name of the new German Government to declare as desired the following:

“The German Government is resolved (1) to carry out without reserve or condition their obligations as defined by the Reparation Commission, (2) to accept and to carry out without reserve or condition the guarantees in respect of these obligations prescribed by the Reparation Commission, (3) to carry out without reserve or delay the measures of military, naval and aerial disarmament notified to the German Government by the Allied Powers in their note of January 29th 1921, those overdue being completed at once and the remainder by the prescribed dates, (4) to carry out without reserve or delay the trial of the war criminals and to execute the other unfulfilled portions of the treaty referred to in the first paragraph of the note of the Allied Governments of the 5th of May. I ask the Allied powers to take note immediately of this declaration.

“etc. etc.

(Signed) Sthamer.”

I have [etc.]

(For the Ambassador)

H. G. CHILTON

**ASSENT OF THE CONFERENCE OF AMBASSADORS TO THE
CONSTRUCTION OF A DIRIGIBLE IN GERMANY FOR THE UNITED
STATES**

S11.348 Z 4/11

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

No. 2744

PARIS, July 8, 1921.

[Received July 20.]

SIR: Referring to my despatch No. 2721 of July 1, 1921,⁴⁵ I have the honor to forward herewith three copies, one of which is certified, of the Protocol signed on June 30, 1921, by the President of the Conference of Ambassadors and the German Ambassador in Paris relative to compensation for destroyed Zeppelins.

I have [etc.]

SHELDON WHITEHOUSE

⁴⁵ Not printed.

[Enclosure—Translation]

Protocol of Agreement between the Principal Allied and Associated Powers and Germany Regarding Compensation for Destroyed Zeppelins, Signed June 30, 1921

As compensation for the seven dirigibles which Germany, by virtue of Article 202 of the Treaty of Versailles, should have delivered to the Principal Allied and Associated Powers and which were destroyed on June 23 and July 26, 1919, respectively, the undersigned, having been duly authorized:

Mr. Jules Cambon, Ambassador of France, President of the Conference of Ambassadors, in the name of the Principal Allied and Associated Powers, of the one part

and

Doctor Mayer, Ambassador of Germany at Paris, in the name of the German Government, of the other part,

Have agreed on the following:

1—Germany shall deliver, in good airworthy condition to the Inter-Allied Aeronautic Commission of Control, the German dirigibles, *Bodensee* and *Nordstern*, to replace two of the dirigibles destroyed;

2—The plans of all the dirigibles destroyed shall be delivered to the Inter-Allied Aeronautic Commission of Control, which shall determine, in accordance with the said plans, the value of the five dirigibles which are not replaced as above. The Allied and Associated Powers shall proceed to divide among themselves this sum which the German Government undertakes to pay them in gold marks. The German Government, nevertheless, shall have the right with respect to each one of the Allied and Associated Powers, but on condition that such Power consent thereto, to substitute, under conditions accepted by the Power concerned, instead of the payment in cash, the delivery either of a civil type of dirigible to be constructed or any aeronautical material which the said Power may indicate to the German Government.

Done in a single copy at Paris, June 30, 1921.

JULES CAMBON

DR. MAYER

811.348 Z 4/37a : Telegram

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

WASHINGTON, September 12, 1921—6 p.m.

536. The right of the United States to participate in reparations in kind to be made by Germany in compensation for dirigibles destroyed in violation of the Armistice Agreement, being recognized by the Allied Governments, this Government requested authorization to have constructed in Germany a dirigible of 100,000 meter capacity. When this request was rejected by the Council of Ambassadors, Mr. Herrick was instructed to offer as a compromise the acceptance by this Government of a somewhat smaller airship of approximately the *L-70* type, such as have already been delivered to Great Britain and to France. The Department is now informed that the Allied Military Committee of Versailles has reported unfavorably to our new request but that the question will again be taken up for final consideration at the next meeting of the Conference of Ambassadors scheduled for the middle of this month.

As it continues to be the urgent desire of this Government, especially since the destruction of the *ZR-2*, to secure its fair share of this reparation in kind, you are instructed orally and informally to endeavor to obtain assurances from the British Government that prior to the next meeting of the Conference the British representative will be given specific instructions to support the request of this Government.

You may point out that the British and French Governments have both received a ship of the type we desire by action of the Supreme Council, September 29, 1919; that a study of the minutes of this same meeting indicates the willingness of the Council to allocate to the United States such a dirigible; that this Government has received little or no aeronautical material from Germany and that it would seem by common understanding that it should be entitled to participate in this distribution on the same basis as the Allies.

In impressing upon the British Government the interest we have in this matter you should emphasize the general principles of policy and political consideration rather than those of a technical or juridical nature upon which the opposition of the Allied Military Committee is based, and urge upon the Foreign Office the desirability of dealing with this matter in a spirit of agreement.

Paris has been instructed to furnish you with detailed statements of developments to date.

Repeat to Rome *mutatis mutandi*[s], as Depts 152 omitting reference to *ZR-2*.

HUGHES

811.348 Z 4/63 : Telegram

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

LONDON, *September 19, 1921—6 p.m.*

[Received September 19—4:45 p.m.]

761. Your 536, September 12, 6 p.m. Foreign Office advises me today informally that, unless I make formal request, it is unable to give me definite assurances that British representative on Conference of Ambassadors will support our claim for German dirigible and even though we make request officially it will not necessarily be granted. This decision is allegedly based on necessity of question being referred to Air Ministry. Please instruct whether I shall address Foreign Office in sense of your 536.

Although I was informed that the Foreign Office would gladly accede to our request, they frankly stated that they preferred not to make a decision unless we pressed the matter officially as they felt that Japan would object to their support of our claim. I understood from my informant that opposition by Japan is the principal obstacle to the fulfillment of our wishes.⁴⁶

Repeated to Paris.

HARVEY

811.348 Z 4/63 : Telegram

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

[Paraphrase]

WASHINGTON, *September 20, 1921—6 p.m.*

552. Your telegram no. 761, September 19. You are authorized to make formal request, emphasizing your earlier arguments by mentioning the fact that, in anticipation of delivery of the *ZR-2* by British Government, the United States organized and trained a large airship personnel and made heavy investments in airship sheds and gas plants; and that, considering the *ZR-2* disaster, opposition of British Air Ministry to our obtaining a substitute seems untimely.

You may, in your discretion, state that an unfortunate impression would be created in the United States if Great Britain, especially after the accident to *ZR-2*, continued opposition to our acquiring an airship similar to the one already delivered by Germany to Great Britain.

Copy of this instruction, together with Department's 536 of September 12, should be sent to Paris Embassy for its information,

⁴⁶ This paragraph paraphrased.

adding that Italian representative on Council of Ambassadors has been given instructions to support our claim at next meeting, scheduled for this week. Prompt action essential.

HUGHES

811.348 Z 4/68 : Telegram

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

LONDON, October 6, 1921—4 p.m.

[Received October 6—3:58 p.m.]

803. Reference German airship for the United States Government. Following note dated October 4th received from Foreign Office this morning.

1. I have given the most careful attention to Your Excellency's memorandum, no. 203 of September 22nd, in which you explain the reasons for which the United States Government desire the issue of instructions to His Majesty's Ambassador at Paris to support at the Conference of Ambassadors the claim of the United States Government to a military airship of the L-70 type as their share of the compensation to be made by the German Government for the destruction of seven Zeppelin airships in the summer of 1919.

2. Your Excellency will I know accept my assurance that in any circumstances—but more especially in those to which Your Excellency draws attention as arising out of the recent deplorable loss of the ZR-2 (R-38)—His Majesty's Government would not do otherwise than examine in the most sympathetic spirit a request of this nature addressed to them by the United States Government. The matter is however affected by certain weighty considerations to which I, much to my regret, call attention and which were probably not present to the mind of the United States Government when their request was formulated.

3. The precise manner in which compensation is to be given by Germany was as Your Excellency points out laid down by the protocol of June 30, 1921 which was drafted in accordance with the allocation of the German airships, approved by the Supreme Council on September 29, 1919. But in considering the form which under the protocol the American share of that compensation should take, it is necessary to take into account, firstly, the rules for distinguishing between civil and military aircraft, which the Allied Governments, in order to secure the execution of articles 170 and 198 of the Treaty of Versailles, are about to submit to the German Government for acceptance; and, secondly, the effect which the decision still to be given by the Reparation Commission, as explained in paragraph 8 below, may have on the matter.

4. The Supreme Council decision of September 29, 1919 under the heading "airships" allocated (1) the two best airships of the 70 class to France and to Great Britain, each power to exercise its choice in that order; and (2) the remaining German airships

(actually five in number, seven having already been destroyed by the Germans although this destruction was not at the time known to the Supreme Council) to the United States, Italy, Great Britain, France, Japan and Belgium, each power to exercise one choice in alternate rotation. The United States not having ratified the Treaty of Versailles did not participate in this distribution so that the five vessels were actually disposed of to Italy, Great Britain and France. The ship allotted to Belgium was destroyed by the Aeronautical Commission of Control as the Belgian Government did not wish to exercise their right of choice. Had the United States Government ratified the treaty at the time these vessels were distributed they would presumably have been allocated to the United States, Italy, Great Britain, France.

5. The protocol of June 30, 1921 provided for the delivery of the airships *Bodensee* and *Nordstern* to Italy and to France as compensation for two of the zeppelins destroyed in 1919 and for payment of monetary compensation for the remaining five zeppelins (the amount due to be estimated from the plans of the destroyed vessels by the Aeronautical Commission of Control). The protocol as Your Excellency points out by providing that the proportions in which this compensation should be divided amongst the Allied and Associated Powers should be decided by themselves, recognized the right of the United States Government to participate therein. It at the same time provided that by direct arrangement between Germany and any Allied and Associated Power one or more civil airships might be delivered to that power in substitution for that power's share of the monetary compensation.

6. The fact that airships of a civil type alone were under the provision of law to be substituted for the monetary compensation was as Your Excellency is aware due to the provisions of articles 170 and 198 of the Treaty of Versailles in respect of subscribing to which the Allied Military Committee at Versailles included amongst the rules for distinguishing between civil and military aircraft a rule defining a military airship as an airship having a greater capacity than 30,000 cubic meters.

7. In these circumstances His Majesty's Government hope that the United States Government will not persist in their claim for a military airship which does not appear to be supported either by the circumstances in which the Supreme Council decision of September 29, 1919 was executed or by the terms of the protocol [of] June 30, 1921. Effect cannot in practice be given to the desire of the United States Government without untoward results among which I may mention an inevitable increase in the difficulties experienced by the Allied Governments in obtaining the execution of articles 170 and 198 of the Treaty of Versailles. Moreover, the construction of a large military dirigible in Germany for the United States Government must inevitably postpone the early termination of the work of the Aeronautical Commission of Control—a measure for which in the face of no little opposition His Majesty's Government have consistently pressed and which is desirable in the interests of both economy and of the relations between the Allied Governments and the German Government. These are consequences which I am confident that the United States Government will be anxious to avoid.

8. Finally it should be explained that in the view of His Majesty's Government the question whether the value of the civil airships delivered and the cash paid by Germany as compensation for the destroyed airships is to be credited to Germany and debited to the recipient is under the terms of the Treaty of Versailles determinable by the Reparation Commission. It is unfortunate that a decision of the Commission on the matter was not obtained before the signature of the protocol of June 30th, 1921, but His Majesty's Government have now instructed the British delegate on the Commission to endeavor to obtain a decision of the Commission thereon at the earliest possible opportunity. Should the Commission decide that no credit is to be given to Germany the acts contemplated in the protocol of 30th June 1921 can be carried out as originally intended. If however the Reparation Commission shall decide that Germany is to be credited on account of reparation this will apparently involve some revision of those arrangements, at any rate in the case of the United States Government which has put forward no claim to reparation and which cannot therefore be debited by an entry on reparation account.

I have the honor to be, etc."

Repeated to Paris.

HARVEY

811.348 Z 4/68 : Telegram

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

WASHINGTON, *October 13, 1921—4 p.m.*

590. Your 803 October 6, 4 p.m.

In replying to the British note of October 4, you are instructed to present the following to the Foreign Office:

"The Government of the United States has carefully considered the reply of His Majesty's Government, dated October the 4th, and is unable to perceive that any new arguments are advanced therein which have not already received serious consideration. While this Government is aware that certain technical difficulties may attend the construction in Germany of an airship for the United States, it is at the same time most firmly convinced that the justice of its claim more than outweighs the objections raised in the British note.

This Government cannot accept the argument that the rules for distinguishing between civil and military aircraft are applicable in this case, holding as it does that these rules were drafted to cover German aircraft, but not aircraft constructed in Germany for the allied and associated powers in just compensation for material illegally destroyed by Germany.

Neither can this Government accept the intimation that the United States has forfeited any of its rights in this connection by not ratifying the treaty. Although the United States did not participate in the distribution of the remaining German airships it never gave up any of its rights to share therein on an equal footing with other nations.

Although fully in sympathy with the desire of His Majesty's Government for the prompt return of normal relations between Germany

and the Allies this Government cannot share the apprehension expressed in the note of October 4th that the presence at Friedrichshaven of the comparatively small number of men necessary to construct this airship will in any way delay or endanger the restoration of peaceful conditions.

In dealing with the question raised in paragraph 8 of the note under reference the attention of the British Government is invited to decision number 1491 of August 17, 1921, whereby the reparation commission confirmed decision 966 of February 22, 1921, which in summary states that the plant, material and arms surrendered by Germany in accordance with Part V of the Treaty of Versailles are to be divided into two sections: 1, material which has certain value as being capable of economic use, for which Germany is to be credited on reparation account; 2, material 'which has no value as being capable of economic employment and must in consequence be considered as being of a military nature.' The latter material is not to be credited to Germany on reparation account.

The two categories are distinguished as follows: 'In general the distinction between these two categories will result from the incorporation of any of the said material, plant, et cetera, in one of the aeronautical, naval or military establishments of one of the Allied and Associated Powers.'

From the above ruling it is evident that the airships delivered by Germany to the Allies and incorporated in their military establishments, together with the ship of this same category now claimed by the United States, do not come within the jurisdiction of the Reparation Commission, and their value is not to be credited to Germany on reparations account.

Furthermore, as stated in Annex 651a, of the Reparation Commission, dated February 5, 1921, 'as the result of a protest from the Committee on the Air Clauses, the Ambassadors Conference however decided on June 5, 1920, that the proceeds of the sale of aeronautical material were attributed entirely to the Allied and Associated Powers in the proportions fixed by the Supreme Council on September 29, 1919, and that they should not be credited to Germany on reparation account.'

It is evident, therefore, that both the Reparation Commission and the Conference of Ambassadors have gone on record that aeronautical material such as required by the United States is not to be credited to Germany on reparation account.

In brief the Government of the United States takes this position; that the destroyed airships were a part of the aeronautical material which, under the terms of the armistice, Germany was to keep immobilized and at the disposal of the Allied and Associated Powers; when these ships were destroyed, their character as military material due the victorious powers was in no way destroyed; the mere fact that Germany, in order to fulfill her recognized obligations, must construct an airship has no significance.

This Government therefore is unable to agree with the British contention that the consequences involved in the granting of the request contained in the Embassy's memorandum number 203 of September 22 are of such moment as to warrant the abandonment of its claim to an airship of the type already delivered by Germany

to England and France, and, actuated by a spirit of friendliness and the desire for reciprocal good will, requests His Majesty's Government to reopen the question for the further consideration which its proper settlement so clearly requires."

A copy of this telegram should be sent to the Paris Embassy for its information and for Boyden⁴⁷ with the request that if the Commission contemplates any decision contrary to the views expressed herein he should request postponement and report.

HUGHES

811.348 Z 4/73 : Telegram

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

LONDON, *October 15, 1921—11 a.m.*

[Received October 15—10:37 a.m.]

826. *Re* German airship: Have yesterday addressed note number 225 to the Foreign Office in accordance with your telegram 590, October 13, 4 p.m., which apparently crossed telegram to Geddes instructing him to explain British point of view. British representative on Conference of Ambassadors has been instructed to defer discussion until conclusion of negotiations between London and Washington.

Am informed that British Government is fearful lest French will use construction of airship for us as a pretext for continuing Aeronautical Commission of Control which British claim is unnecessary and which they have constantly opposed for reasons of policy and economy.

Feel that British opposition is based on this fear and that Japanese may demand similar airship. They intimate that they will support our request provided it will not delay abolition of Commission and provided we reach agreement with Japanese. They are sanguine that question regarding Reparations Commission (see paragraph 8, my 803) can be easily adjusted.

Repeated to Paris.

HARVEY

⁴⁷ Roland W. Boyden, American unofficial representative on the Reparation Commission.

811.348 Z 4/73 : Telegram

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

WASHINGTON, October 21, 1921—3 p.m.

607. Your 826, October 15, 11 A.M. *Re* German airship.

In a recent conversation the British Ambassador explained that the opposition of his government was not based on any desire to prevent the United States from receiving a German airship but was due to the fear that the construction of this ship would prevent the dissolution of the Commission of Control at the end of the year; that apparently the French were supporting the American claim because of their desire to find a basis for continuing this commission; that if this government obtained an airship the Japanese would also want one and that this might extend the period of supervision two or three years; but he did not think his Government would object to the construction of a zeppelin for the United States provided it were understood that the Commission of Control would cease at the end of the year as he supposed the construction of the ship would be under the supervision and control of American naval officers which in all probability would be adequate.

The British Ambassador was informed that the United States was in sympathy with the desire of the British Government for the early dissolution of the Commission of Control and that there was apparently no reason why the construction of the dirigible should lead to a continuance of any greater supervision than was adequate for that particular purpose; for this it was thought that United States Naval supervision might be sufficient but that if the French wanted a look-in there would be no objection; that neither was there any objection in principle to the Japanese obtaining an airship, in which event it would still be entirely practicable to continue a limited supervision; and finally that this government was willing to support the British Government in requesting the termination of the Control Commission to be followed by a limited surveillance of the particular plant where the dirigible was to be constructed, on the understanding that the arrangement for limited surveillance only attached in case the United States obtained the airship and that the construction of the ship was not to be contingent upon any conditions.

Repeat to Paris as Depts 481.

HUGHES

811.348 Z 4/80 : Telegram

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

LONDON, October 26, 1921—1 p.m.

[Received 5 p.m.]

851. Your 607, October 21, 3 p.m., regarding German airship. Have just received note from Foreign Office dated October 24th which confirms your conversations with British Ambassador and concludes with following:

"I now understand from His Majesty's Ambassador in Washington that the support of the United States Ambassador in Paris to the early termination of the aerial commission of control in Germany will be forthcoming at the Ambassadors' Conference and I see no reason why if the Japanese Government also agree the wishes of your Government for the acquisition of this military airship from Germany should not now be gratified".

Full text by pouch.⁴⁸ Repeated to Paris.

HARVEY

811.348 Z 4/80 : Telegram

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

WASHINGTON, December 13, 1921—6 p.m.

681. Your 851 Oct 26 1 p.m. Herrick reports⁴⁹ British Ambassador in Paris has not received instructions from his Government to support the American request for a dirigible to be built in Germany. He states also that Japanese Ambassador is prepared to agree to the American request.

Herrick says British Ambassador informed him that the British Government withdrew its opposition on certain conditions, presumably American support of the dissolution of the Commission of Control.

You are referred to Department's 607, October 21, summarizing a conversation between the Secretary and the British Ambassador in which the Secretary said that this Government was willing to support termination of the Control Commission, but that the construction of the airship was not to be contingent on any conditions.

You are instructed to bring this matter earnestly to the attention of the Foreign Office in order that instructions may be sent promptly to the British Ambassador in Paris. The matter may come up at the meeting on December 16th. Repeat to Paris as Dept's 550.

HUGHES

⁴⁸ Not printed.⁴⁹ By telegram no. 680, Dec. 12; not printed.

811.348 Z 4/90: Telegram

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

PARIS, December 16, 1921—6 p.m.

[Received 10:04 p.m.]

685. At 157th meeting of Conference of Ambassadors this morning I proposed following resolution for adoption by Conference:

"It is decided:

(1) That the Conference of Ambassadors approves the request of the United States Government to have constructed in Germany at Friedrichshafen a dirigible of approximately the *L-70* type (about 70,000 cubic meters);

(2) That the necessary orders will at once be transmitted by the Allied Military Committee of Versailles to the President of the Inter-Allied Aeronautical Commission of Control instructing him to take the necessary measures to insure the work of construction of this dirigible being begun immediately;

(3) That in making the necessary arrangements for the construction of this dirigible the German Government shall be informed that this is an exceptional case and that all future aeronautical construction in Germany shall be regulated by the rules and definitions controlling German aeronautical construction which the German Government has bound itself to accept by its note of May 11th, 1921;

[4] Furthermore upon the completion and delivery of this dirigible to the United States all the material and the shed which were used for its construction shall immediately be destroyed and dispersed and the personnel employed in its construction shall be dispersed so as to insure the complete execution of the treaty."

Japanese Ambassador said he was instructed to grant our request if no other nation had objections.

British representative made the following statement:

"Notwithstanding the technical objections which have been raised I am prepared on behalf of the British Government to accept the resolution proposed by the American Embassy provided that it is accepted by all other members of the Conference and provided that the following additional clause is agreed: 'Additional clause to decision 4, that the construction of this airship shall not be advanced as a reason for prolonging the existence of the present Aeronautical Commission of Control in Germany seeing that the system of aeronautical control to be set up after the withdrawal of the present commission will afford the Allied Governments the necessary means for supervising the proceedings in the factory where this airship is to be constructed'. At the same time in view of the assurance of America that this airship is to be devoted to purely civil purposes I would like it clearly recognized that the Principal Allied Governments have the right, should they so desire, of obtaining a full set of the plans of this airship as part of the reparation in kind for the zeppelins destroyed in 1919 and to which they are entitled under the protocol of London, dated 30th June, 1921."

Ensuing discussion may be summarized as follows: Weygand⁵⁰ said that he understood British proposal to mean that the building of this airship for the United States should not be an argument to maintain the present Aeronautical Commission of Control in Germany but the Principal Allied Powers are now negotiating between themselves with a view to substituting for the present big commission of control a smaller one and he hoped that there would be no gap in the workings of these commissions as it is absolutely necessary that some sort of control should go on at all times. Cheetham⁵¹ said that he was in accord with Weygand's explanation and only wanted to insist on the point that the construction of this dirigible should not be used as an argument for maintaining present commission of control in Germany. Cambon observed that neither did French wish British proposal [to] be used as an argument to have no control whatever.

Our resolution was then adopted subject to the above-mentioned amendment and understanding.

HERRICK

811.348 Z 4/90 : Telegram

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

WASHINGTON, December 23, 1921—6 p.m.

560. Your 685, December 16, 6 p.m.

Department informed that Captain F. B. Upham, Naval Attaché your Embassy, has been designated by Navy Department as its representative in all matters dealing with the construction of this airship. The conditions and specifications required by the Navy Department are being sent him direct. You are requested if necessary to support him in the conduct of his negotiations and to notify the Conference of Ambassadors of his designation. Inform Berlin.

HUGHES

⁵⁰ Gen. Maxime Weygand, representing Marshal Foch, president of the Allied Military Committee.

⁵¹ Sir Milne Cheetham, British minister plenipotentiary, British representative on the Conference of Ambassadors.

GREAT BRITAIN

PROTEST BY THE BRITISH AMBASSADOR AGAINST AMERICAN ALLEGATIONS OF UNFAIR BRITISH COMPETITION FOR CONTROL OF IMPORTANT SOURCES OF PETROLEUM

841.6363/143

The British Ambassador (Geddes) to the Secretary of State

No. 292

WASHINGTON, April 20, 1921.

MY DEAR MR. SECRETARY: I know how great is the importance which you attach to the existence of cordiality and understanding between the peoples of the United States of America and the British Empire. I therefore without hesitation venture to approach you on a matter which appears to me to be of importance in connection with the feelings of friendship existing between our respective countries.

It is I believe common knowledge that on numerous occasions articles and paragraphs have appeared in American newspapers and magazines indicating that the British Government was making determined efforts to secure for the British people control over an unduly large share of the world's oil resources. Somewhat similar statements have been made in the Congress of the United States and assertions have not been lacking that the British Government was attempting to secure, or had already secured, a dominating position in the petroleum industry. Facts and figures adequate to support such assertions have never to my knowledge been included in the articles and speeches which contained them. After the most careful enquiries I have failed to find either in the official information at the disposal of the British Government or in unofficial information gathered from all available sources any solid foundation for the statements and assertions to which I have referred.

Realizing the risk of friction which might attend serious misapprehension on the important subject of the relations of Governments to the petroleum industry, I have followed the example of my predecessors and have attempted whenever opportunity offered to dispel misapprehension regarding the position and interests of the British Government and to assure your predecessors and the Department of State that the allegations to which I have referred are devoid of foundation in fact.

This subject does not lose importance with the lapse of time and I am led to address you upon it now by an indication that many misapprehensions as to the facts still persist in the mind of a member of the American Government, in spite of the fact that so recently as the 13th of January of this year I formally informed the Acting Secretary of State of the United States of the British Government's position with regard to these matters.¹ I understand fully the practical difficulty of maintaining the continuity of Government knowledge at a time of change of Government personnel and this letter is written, therefore, in no spirit of criticism but from a desire to dispel misunderstanding.

I desire to direct your attention to the report appearing in the Congressional Record of April 12th, Vol. 61, No. 2., pages 81 to 90,^{2a} of the debate which took place in the United States Senate on the 12th instant, regarding the ratification of the Treaty of April 6th, 1914, with the Republic of Colombia.² Incorporated with the speech made on that occasion by the Senator from Massachusetts (Mr. Lodge) is the text of a letter addressed to him on March 21st, 1921, by the Secretary of the Interior, dealing largely with the petroleum question. That letter contains several statements based on misinformation and I feel it my duty to bring them to your notice with the request that you may be good enough to place the Secretary of the Interior in possession of the true facts.

After having stressed the seriousness of the oil question from the American point of view, Mr. Fall's letter contains the following paragraphs:—

“Other nations are aware of the seriousness of the situation and Great Britain learned at least one lesson from the recent war. That is to say, that the nation which controlled the oil industry controlled commerce by sea, in view of the fact that no coal burner can compete with an oil-burning ship.

“Realizing this, Great Britain, the nation, has within the last two years particularly followed a policy which she had adopted in many of her provinces many years ago; that is, of excluding Americans from or placing heavy burdens upon such Americans or other foreigners in any British oil field.”

This statement appears to me to be misleading.

In the United Kingdom itself there is no restriction whatever on the exploitation of possible oil-bearing lands by foreigners or foreign companies. A regulation (No. 30 BB) which had been introduced during the war, under the Defence of the Realm Act, restricting the participation of foreigners in British oil under-

¹ No record of this communication in Department files.

^{2a} Vol. 61, pt. 1, pp. 157-168.

² *Foreign Relations*, 1914, p. 163.

takings was aimed at preventing the indirect exercise of enemy influence. It has long since been withdrawn—a fact of which the Department of State was duly apprized.

In Canada the annual production is only about 34,000 tons, which meets but a small proportion of the Dominion's needs. The regulations, generally speaking, require simply that operating companies shall be registered or licensed in Canada, and have their principal place of business within the British Empire. It is, perhaps, worthy of note that the most active company in Canada, both in regard to imports and prospecting work, is Imperial Oil Limited, a subsidiary of the Standard Oil Company of New Jersey.

Since 1883, prospecting or mining leases in India have been granted only to British Companies, but the production of petroleum in that country is only about 1,200,000 tons per annum, a quantity which falls short of the country's requirements.

In Trinidad there is no nationality restriction in the case of private lands. The lessees of Crown lands, however, must be British subjects or British controlled companies. Exception has, however, been made in the case of a particular American Company which has been permitted to lease certain Crown lands in that Colony. Similar regulations apply [in British Guiana, British Honduras, Nigeria, Kenya Colony and Brunei. On the other hand, there are no nationality restrictions whatever]³ in Jamaica, Barbadoes, Sarawak, Somaliland, British Honduras,⁴ British North Borneo and Egypt, in all of which countries prospecting operations have been, or are being, carried on. These are the main facts with regard to the regulations governing the exploitation of oil lands in British territory and they appear to me entirely to disprove the assertion that the British Government have deliberately adopted a policy "of excluding Americans from or placing heavy burdens upon such Americans or other foreigners in any British oil field".

Even in the case of India, where certain restrictive regulations exist, it will be observed that those regulations have been in effect for nearly 40 years. When they were introduced, the oil situation was very different from that now prevailing and the problem was not so much to find new sources of oil as to secure markets for that already produced. There was real danger that oil-lands might be taken up by large foreign oil companies and kept unworked so that prices might be maintained.

³ Section in brackets added in accordance with note of July 27 from the British Embassy (file no. 841.6363/170).

⁴ By note of Aug. 8 the British Embassy informed the Department that the second mention of "British Honduras" was due to a typist's error and requested its deletion (file no. 841.6363/171).

The next two paragraphs of the Secretary of the Interior's letter are quoted as follows:—

“Within the last two years however, taught by the lessons of the war, Great Britain has deliberately pursued a policy of obtaining governmental control of all the great oil companies in which British subjects had been interested, and, going beyond this has secured practical, if not sole, control of the great ‘Royal Dutch–Shell’ and other foreign companies, particularly through what is known as the ‘Royal Dutch–Shell Group’ combine, which was effected in January 1907.

Of course, it is impossible to give exact figures, but our government, through at least two of its departments, has information satisfactory beyond question that the British Government actually controls the ‘Royal Dutch–Shell’ combine, sixty per cent of the stock of which is owned by the ‘Royal Dutch’ and forty per cent of whose stock was owned by the Shell Transport & Trading Company, Ltd.”

The meaning which I understand these paragraphs to convey is that the British Government has a direct controlling financial interest in the Royal Dutch Shell group of companies. If there were any doubt as to this being the correct interpretation to place on the Secretary's words it is dispelled by the following dialogue which took place between the Senator from Massachusetts and the Senator from Indiana in the course of the debate:—

“Mr. WATSON of Indiana: ‘The Senator says that England controls the Royal Dutch Shell group. Does he mean by that the Government of England or citizens of England?’

Mr. LODGE: ‘The Government’.

Mr. WATSON of Indiana: ‘The Government itself?’

Mr. LODGE: ‘The Government has sixty per cent of the stock of the Royal Dutch and forty per cent of the Shell, I think. It may be the reverse, but it controls both. Of course, the Royal Shell is an English corporation. In the Royal Dutch the Government has the absolute control of sixty per cent; at least, that is the report in response to the enquiry of our Government.’”

It is difficult to understand how, in the face of repeated denials by the British Government and by the companies concerned, as well as in the face of formal statements made by me to the Secretary of State of the United States, these errors come to be perpetuated and I would ask you to inform the Secretary of the Interior and any others who may be seeking the truth in this matter, that the British Government have no financial interest whatever, directly or indirectly, in the Royal Dutch–Shell group. The controlling interest in this group is Dutch and not British.

I now pass to what I regard as the most serious point raised at this time and I quote the following passages from the printed copy of Mr. Fall's letter to Senator Lodge:—

"In the lower right-hand portion of this diagram you will find the interlocking British National companies which control British petroleum holdings in the Republic of Mexico.

The Mexican Eagle Oil Company (Limited), known to us as the 'Aguila' Company, is the principal "Cowdray" company in Mexico.

Allow me to call your attention here to a most significant matter which has recently occurred, i.e.:

The British Government and the French Government have each repeatedly protested to the Mexican Government, from time to time, along exactly similar lines to the protests made by this Government concerning the confiscatory decrees of the Mexican Government under the Constitution of 1917, proclaimed by Carranza, and being followed by Obregon.

These protests yet stand as the official last word of Great Britain and France, as exactly similar protests yet stand as our last word to that country.

The Mexican Eagle Company ("Aguila") has been a member of the American Association of Oil Companies and has for years cooperated with this Association in making protests against confiscatory decrees in Mexico, both from the British Government and the American Government.

Recently, within the last three months, the "Aguila" Company finally notified the American Association that it proposed to pursue its own lines and make its own terms with the Mexican Government, accepting the Mexican Government's demands with reference to oil drilling permits, etc.

This came as a shock out of a clear sky, and I am informed that after certain protests made by the Association and by the American Companies, the Mexican Eagle ("Aguila") Company has not, in fact, obtained titles under this confiscatory decree, upon properties belonging to others, but yet has not countermanded instructions to its agents in Mexico to obtain such titles from time to time.

Nevertheless the British protest still stands and Great Britain is ostensibly acting with the United States officially, in identical official protests against the constitution of 1917 and decrees under it.

The British "Aguila" Oil Company owned, as a matter of fact, by Great Britain herself is, however, yielding to such decrees and obtaining advantage of American companies, who are faithfully abiding by the advice and instructions of the American Government in the matter.

British oil interests are giving every assurance to Obregon and Mexican officials, of their support and friendly cooperation, seeking advantage against or over American companies, while the British Government, owning this oil company is ostensibly standing by the United States Government in its action.

I bring these matters to your attention, and am furnishing you with the diagram referred to, for the reason that it is high time that Americans should understand the situation and as patriotic Americans deal with it."

I cannot for a moment suppose that a member of the Administration can have wished to convey to a Senator of the United States the impression that the British Government have been pursuing a

double policy with regard to the situation in Mexico, officially associating themselves, on the one hand, with the Government of the United States in protests against certain legislation in Mexico while, on the other hand, they were seeking through the medium of an industrial concern, which the Secretary of the Interior in his letter incorrectly refers to them as "owning", to take undue advantage of the situation and, by accepting the validity of the legislation in question, to secure concessions on lands already owned or operated by American companies. Mr. Fall is in error in believing that the British Government have any financial interest whatever in the Mexican Eagle Company. The British Government have no such interest. They exercise no control of any kind over the actions or policies of the Mexican Eagle Company and, whatever course may have been taken by that Company in connection with the Mexican law or with any other matter has been taken on the sole responsibility of that Company without any approval, express or implied, from the British Government. It is within the knowledge of your Department, for I had myself the honour of informing the Acting Secretary of State, that a considerable proportion of the stock of the Mexican Eagle Company formerly owned by Lord Cowdray, a private British subject, was transferred some time since to Dutch interests. Moreover, it is reported that a fair proportion of the stock of the company is owned in the United States, so that it is even doubtful now whether private British citizens collectively own a majority interest in the Company.

You will agree with me, I feel sure, that misapprehensions and allegations of this nature regarding the position and policies of His Britannic Majesty's Government in relation to the petroleum industry render international understanding less easy and must tend, I believe, to affect the judgment of American legislators in framing appropriate laws for the protection of American interests against imaginary activities of the British Government. Certainly they do grave damage to the friendly relations between our two countries and I should regard myself as negligent in the performance of my duty if I were to permit them to pass in silence when I find them printed in the official record of the proceedings of Congress over the name of a responsible member of the American Cabinet. It is, nevertheless, in the friendliest spirit that I bring them to your notice, confident in the belief that the Secretary of the Interior will welcome an official denial of alleged facts and circumstances which must have caused him much patriotic anxiety and that he will naturally desire to take the earliest opportunity to correct in the mind of Congress and of the people the unwarranted suspicions to which, I greatly fear, his letter must have already given birth.

Believe me [etc.]

A. C. GEDDES

845.6363/11

The British Ambassador (Geddes) to the Secretary of State

No. 863

MEMORANDUM

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State and has the honour on instructions from his Government to inform him that a member of the staff of the United States Embassy recently called at the Foreign Office and left copies of two documents purporting to be extracts from a proclamation dated the 24th September, 1884, countersigned "Salisbury, Secretary of State for India" and extracts from an agreement dated 23rd August, 1885, between the Secretary of State for India and the Burma Oil Company also signed "Salisbury, Secretary of State for India". A request was at the same time made that the Embassy might be informed whether or not these documents were authentic. The India Office to whom copies of these papers were submitted pointed out that they appear to be those referred to in Senate document No. 272.⁵ The relevant passage is contained on page 8 of the report of the State Department under the heading "India" and runs as follows:—

"American oil companies are expressly excluded from doing business in Burma by proclamation signed by Queen Victoria and Lord Salisbury, Secretary of State for India, on September 24th, 1884, and a blanket concession of ninety nine years was given the Burma Oil Company (Limited) on August 23rd, 1885, protecting this company from all foreign competition."

The India Office further state that in their judgment the documents in question are self-evident forgeries. The late Marquess of Salisbury, whose second and last tenure of the office of Secretary of State for India ceased in April 1878, is represented as holding that office in 1884 and 1885, whereas in fact Lord Kimberley was Secretary of State for India throughout 1884 and Lord Randolph Churchill in August 1885. The wording of these two documents, copies of which are enclosed,⁶ is alone sufficient to indicate their spurious character. The India Office further point out that the message of the President of the United States under date of May 16th, 1921, covering a report by the State Department⁷ "furnishing information supplementary" to that embodied in the previous report regarding restrictions on American petroleum prospectors omitted the statement in the previous report under the head of "India" to which reference is made. The supplementary report, however, does not

⁵ See letter from the Acting Secretary of State to President Wilson, May 14, 1920, *Foreign Relations*, 1920, vol. I, p. 351.

⁶ Not printed; they are entitled Appendix XVIII and Appendix XVIII-A.

⁷ S. Doc. 11, 67th Cong., 1st sess.

contain any admission as to any question of the authenticity of the materials on which the previous statement was based and that statement accordingly stands uncorrected in the original message of May 17th, 1920.⁸

Sir Auckland Geddes is instructed to bring this matter to Mr. Hughes' notice and to inform him of the painful impression produced on His Majesty's Government by the use in an official publication in Congress of such a statement based on documents which bore every indication of being false and the authenticity of which no attempt was apparently made to test.

Sir Auckland Geddes is further instructed to suggest for the consideration of the Secretary of State the propriety of the publication of an acknowledgment that the statement in question was erroneously made and that it has been discovered to be entirely devoid of foundation.

In conclusion, Sir Auckland Geddes has the honour to state that it would be of interest to His Majesty's Government to learn if possible the origin of these fabricated documents and of the means by which they have found their way into the archives of the State Department, and he would be most grateful if Mr. Hughes could see his way to inform him accordingly.

WASHINGTON, *November 15, 1921.*

845.6363/11

The Secretary of State to the British Ambassador (Geddes)

The Secretary of State presents his compliments to His Excellency, the Ambassador of Great Britain, and has the honor to acknowledge the receipt of a memorandum dated November 15, 1921, quoting a passage from page eight of Senate Document No. 272, 66th Congress, 2d Session, in which reference is made to two documents stated to be a proclamation dated September 24, 1884, and an agreement dated August 23, 1885. It is set forth that the India Office believes that the documents referred to are spurious and it is suggested that consideration might be given to the publication of an acknowledgment that the statement in question was erroneously made and entirely devoid of foundation. Inquiry is also made regarding the origin of the documents and the means by which they reached the archives of this Department.

In the memorandum under acknowledgment, no reference is found to a note addressed to the Embassy on September 23, 1921,⁹ in which,

⁸ See *Foreign Relations*, 1920, vol. I, p. 351, footnote 2.

⁹ Not printed.

adverting to informal conversations between the Acting Commercial Counselor of the Embassy and officials of this Department beginning in June of this year, it was stated that the authenticity of the documents referred to seemed open to serious question and the hope was accordingly expressed that this Department might be supplied with copies of the relevant laws, ordinances or regulations which are now or have recently been in force in India, and especially in Burma, to the end that any inadequacy or inaccuracy in the statement under discussion might be speedily corrected.

In a note dated November 6, 1919,¹⁰ the Embassy called attention to certain remarks made in Congress which were stated to represent inaccurately the policy of Great Britain with respect to petroleum. It is evident that the Embassy had in mind a speech delivered on July 29, 1919, which, as printed in the *Congressional Record* of the same date, immediately precedes a report by the Director of the Bureau of Mines to the Secretary of the Interior. This report appears to have been read by the Embassy, since it was cited for the purpose of refuting a statement made in the aforementioned speech. In this report of the Bureau of Mines the statement appears that "American oil companies are expressly excluded from doing business in Burma, and a blanket concession of 99 years was given the Burma Oil Co., (Ltd.) in 1889, protecting this company from all foreign competition. (See Appendices XVIII and XVIIIA.)" The differences between this statement and the statement which was included in Senate Document No. 272¹¹ consist in the addition of the words "by proclamation signed by Queen Victoria and Lord Salisbury, Secretary of State for India, on September 24, 1884", and in the change of "1889" to "1885", the latter date being the one given in the Appendix referred to.

When the report of May 14, 1920, later published as Senate Document No. 272, was under preparation in this Department, consideration was doubtless given to the circumstance that the Embassy had made no mention of the statement regarding India, although taking specific exception to other statements published at the same time.

After a careful consideration of the Embassy's memorandum of November 15, 1921, and of the above mentioned circumstances, it is not yet entirely clear whether it is to be understood that the statement as originally made by the Director of the Bureau of Mines was wholly erroneous or was substantially or in part correct. Doubt on this point seems the more justified since it appears from an

¹⁰ *Foreign Relations*, 1919, vol. I, p. 168.

¹¹ See letter from the Acting Secretary of State to President Wilson, May 14, 1920, *ibid.*, 1920, vol. I, p. 351.

official memorandum issued by the British Government that in India "prospecting or mining leases have been, in practice, granted only to British subjects or to companies controlled by British subjects."¹²

It has been felt appropriate to make these requests for further information, since it would seem that any published statement at this date relating merely to the accuracy of the citations or to the authenticity of the particular documents cited would not only fail to do full justice to the policy of the British Government, but might even furnish an occasion for renewed inferences of a mistaken character.

WASHINGTON, *December 10, 1921.*

REFUSAL BY THE UNITED STATES TO ADMIT BRITISH CLAIMS ON BEHALF OF THE TURKISH PETROLEUM COMPANY¹³

800.6363/229 : Telegram

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

LONDON, *March 1, 1921—5 p.m.*

[Received March 2—2 p.m.¹⁴]

160. Your telegram 1168, November 20th, 1920¹⁵ and instruction 1040, November 23d, 1920.¹⁶ Following note dated February 28th, 1921 received today:^{16a}

"1. I have the honor to acknowledge the receipt of Your Excellency's note of the 6th of December enclosing a communication dated the 20th of November from the Secretary of State of the United States¹⁷ relative to the application in territories placed under mandate of the principles of equality of treatment and opportunity and referring more especially to the petroleum resources found in the Near East. His Majesty's Government are pleased to observe that the United States Government appreciate the general policy adopted by His Majesty's Government in territories under military occupation. I notice, however, that Mr. Colby makes certain observations with regard to the San Remo Petroleum Agreement¹⁸ which appear to indicate that the scope of that agreement is not fully understood.

2. The cooperation of British and French interests in regard to oil production in various countries was first suggested in the early part of the year 1919 by the French Government, when it was pro-

¹² *Despatch to His Majesty's Ambassador at Washington enclosing a Memorandum on the Petroleum Situation* (London, H. M. Stationery Office, 1921). Miscellaneous No. 17. Cmd. 1351.

¹³ For previous correspondence concerning the exploitation of petroleum in Mesopotamia, see *Foreign Relations, 1920*, vol. II, pp. 649 ff.

¹⁴ Telegram in three sections.

¹⁵ Not printed.

¹⁶ *Foreign Relations, 1920*, vol. II, p. 668.

^{16a} Bracketed corrections supplied in text upon comparison with copy of note later received by mail.

¹⁷ *Foreign Relations, 1920*, vol. II, p. 669.

¹⁸ *Ibid.*, p. 655.

posed that some arrangement should be arrived at whereby French interests might be given some participation in the production of petroleum in various regions. The proposal put forward by the French Government was carefully considered, and it was found possible to come to an agreement based on the principles of mutual cooperation and reciprocity in various countries, especially where British and French interests were already considerable and on the whole greater than those of other Allied countries. The agreement aimed at no monopoly or exclusive rights and could only become effective if its application conformed to the desires and laws of the countries concerned.

3. As regards the provisions in the agreement relating to Mesopotamia, I desire to make it plain that the whole of the oil fields to which those provisions refer are the subject of a concession granted before the war by the Turkish Government to the Turkish Petroleum Company. The position of such concessions in territories detached from Turkey is expressly safeguarded by articles 311 and 312 of the Treaty of Sèvres. The history of this concession is as follows:

Prior to the war the position in regard to the Mesopotamian oil fields was as follows:

The concessions for all the oil fields [of] the two vilayets (provinces) of Mosul and Bagdad, were bestowed by the ex-Sultan Abdul Hamid on his Civil List in 1888 and 1898 respectively, and private enterprise had long been debarred thereby from acquiring any oil rights in those particular districts. This situation was so far admitted and recognized that in 1904 the Anatolian Railway Company, nominally a Turkish company but in reality a German concern, obtained a contract from the Civil List by which the company undertook to carry out preliminary surveys of the oil fields and secured the option for their development on joint account.

4. The Civil List in 1906, considering the agreement with the Anatolian Company at an end, entered into negotiations with a British group with a view to the development of the oil fields. These negotiations, which had the full support of His Majesty's Ambassador at Constantinople, continued during the year 1907. They were suspended during the political crisis which broke out in 1908 but were resumed in 1909 with the Turkish Ministry of Finance, to which Department the Mesopotamian oil concession had been transferred from the Civil List, by firmans issued in 1908 and 1909. The general upheaval caused by the events [in] those years impeded the progress of the negotiations during the years 1910 and 1911.

5. In 1912 endeavors were made by German interests to obtain the confirmation by the Turkish Government of the arrangements concluded in 1904 between the Anatolian Railway Company and the Sultan's Civil List, and, with the apparent object of pursuing the matter and of widening the scope of their activity in oil operations in other parts of the Turkish Empire, they formed a British limited liability company called the Turkish Petroleum Company, Limited, the capital of which was partly British and partly German.

6. This development was succeeded by [a] series of negotiations entered into between the British group and members of the Turkish Petroleum Company for the amalgamation of the rival interests and

for pursuing jointly the application before the Turkish Government for the granting [of] a concession for the Mesopotamian oil concession [*fields*]. These negotiations, in which the British and German Governments took an active interest, terminated in the early part of 1914, when an agreement was reached for the fusion of the interests of the original Turkish Petroleum Company and of the original British group in the new Turkish Petroleum Company. This agreement was signed not only by the parties immediately interested but also on behalf of the British and German Governments respectively. The German share in this new company was fixed at 25 percent.

7. In consequence of this arrangement, His Majesty's Ambassador at Constantinople was able to make the necessary representations to the Turkish Government for the grant to the Turkish Petroleum Company of oil concessions in [the] vilayets of Mosul and Bagdad, while representations of the same nature were made simultaneously to the Porte by the German Ambassador. The negotiation between His Majesty's Government and the Turkish Government was not confined to the question of the Turkish Petroleum Company but covered a wide field and involved mutual concessions of very material importance. As a result the Turkish Government on the 28th June, 1914, through the Grand Vizier informed His Majesty's Ambassador in an official communication that the Turkish Ministry of Finance having been substituted for the Civil List in the matter of the petroleum deposits known or to be discovered in [the] vilayets of Mosul and Bagdad had consented to lease the said deposits to the Turkish Petroleum Company, the Ministry reserving the right to fix later on its share in the enterprise as well as the terms of the contract. I should add that during the war the German interests in the company were liquidated and thus came into the hands of His Majesty's Government.

8. From the facts as narrated it will be seen that the Turkish Petroleum Company's right to the lease of the oil fields in the two vilayets rests on an official undertaking given by the Turkish Government to the two Governments concerned after prolonged diplomatic negotiations. In the circumstances the oil rights in the vilayets of Bagdad and Mosul cannot be treated merely as a matter of abstract principle or without referring to the special character of the negotiations which preceded the war. Had no war supervened, and had Mesopotamia remained till now under Turkish rule the exploitation of these oil deposits would long since have begun. It can hardly be contended that His Majesty's Government should now question the validity of [an undertaking granted by the Turkish Government in return for consideration received. And I may add, since the United States] Government will presumably expect His Majesty's Government to recognize the rights acquired [by] the Standard Oil Company in Palestine from the Turkish Government, that these rights, which are based entirely on the grant of a prospecting license, are no stronger than those of the Turkish Petroleum Company, to whom the Turkish Government had definitely undertaken to transfer a valid and already existing concession.

9. In this connection I feel bound to remind you that the attitude of the United States Government in suggesting that His Majesty's Government should disregard the rights acquired by the Turkish

Petroleum Company is scarcely consistent with that adopted by the United States Government in regard to similar United States interests in oil properties in Mexico. For instance, in his letter of the 25th November, 1920,¹⁹ to Monsieur Pesqueira, the Mexican representative in Washington, Mr. Colby expressed particular satisfaction at the statements made in Monsieur Pesqueira's letter, then under reply, to the effect that President de la Huerta and President-elect Obregon had declared that article 27 of the new Mexican constitution "is not and must not be interpreted as retroactive or violative of valid property rights."

10. It will be seen from the above facts that the acquisition by the French Government under the San Remo Agreement of an interest in the Mesopotamian oil fields represents the allotment to the French Government of the former German interests in the Turkish Petroleum Company in return for facilities by which Mesopotamian oil will be able to reach the Mediterranean. The agreement so far as it relates to Mesopotamia may therefore be said to be the adaptation of pre-war arrangements to existing conditions, and in this respect His Majesty's Government far from acting in any selfish or monopolistic spirit, may reasonably claim to have sought [*consulted*] the best interests of the future Arab state. Neither the rights of the Turkish Petroleum Company nor the provisions of the San Remo Oil Agreement will preclude the Arab state from enjoying the full benefit of ownership or from prescribing the conditions on which the oil fields shall be developed.

11. I have not failed to observe [the] large amount of public attention directed to the reported resources of Mesopotamia, which, Mr. Colby states, furnish a peculiarly critical test of the good faith of the nations which have given their adherence to the mandate principle. Apart from the fact that these resources are as yet entirely unproved, I can discern nothing in this principle which compels the mandatory power to discriminate against its own nationals, who, after years of arduous negotiation, secured certain rights and would but for the war have long since been actively at work, in order to afford an equal opportunity to other groups which before the war were not actively concerned in the petroleum resources of Mesopotamia.

12. I have noted with interest the allusions which Mr. Colby makes to the estimates which have been framed of the distribution of the petroleum resources of the world. While I agree that such calculations are of subsidiary importance in this discussion, I think it [desirable] that they should be placed in the proper perspective. It is stated in Mr. Colby's note that the United States possesses only one-twelfth approximately of the world's petroleum resources but I may be permitted to point out that in 1912 the chief geologist of the United States Geological Survey stated that, "the criteria on which such estimates can be based vary in every degree of inadequacy in the different regions", and he was then referring to estimates dealing with the United States only and was not taking into account the infinitely more problematical resources of countries still partially or wholly unexplored, from a geological standpoint.

13. My object in referring to this aspect of the question in a previous note was to show that the United States controls a home pro-

¹⁹ *Foreign Relations*, 1920, vol. III, p. 195.

duction of petroleum which, whether it is about to reach its maximum point or not, is actually and potentially vast, while in neighboring countries it possesses a predominant interest in oil-bearing regions of exceptional promise. The United States Government will doubtless agree that this statement of the existing situation admits of no dispute.

14. While the potentialities of the future are necessarily problematical, the undisputed fact remains that at present United States soil produces 70 percent and American interests in adjoining territory control a further 12 percent of the oil production of the world. It is not easy therefore to justify the United States Government's insistence that American control should now be extended to resources which may be developed in mandated territories, and that too at the expense of the subjects of another state who have obtained a valid concession from the former Government of those territories.

15. His Majesty's Government are nevertheless glad to find themselves in general agreement with the contention of the United States Government that the world's oil resources should be thrown open for development without reference to nationality. I observe, however, that by article 1 of the Act of the Philippine Legislature of the 31st of August, 1920, participation in [the] working of all "public lands containing petroleum and other mineral oils and gas" is confined to citizens or corporations of the United States or of the Philippines, and I cannot but regard this enactment as in contradiction with the general principle enunciated by the United States Government. In this connection I observe that Mr. Colby does not attempt to refute the statements contained in my note of 9th August last concerning the action taken by the United States Government to prevent the exploitation by British interests of such resources in Haiti and Costa Rica.²⁰

16. In your note of the 28th July²¹ the attention of His Majesty's Government was called to the existence of reports to the effect that the officials charged with the administration of Tanganyika Territory have accorded privileges to British nationals that have been denied to the nationals of other countries. It is from no mere love of controversy that I recall this matter to your attention but rather from the conviction that misunderstandings between our two countries over oil questions and indeed our present correspondence are largely due to the spirit engendered by reports of precisely this nature which on dispassionate examination can frequently be found to lack any basis of truth. In the absence of particulars, which the United States Government were requested to furnish, I can only express my regret at being unable to prove positively that the reports quoted by you are based on misapprehension.

I have, et cetera. (Signed) Curzon of Kedleston."

In this connection see my telegram 159, March 1, 4 p.m.²²

DAVIS

²⁰ For the comments by the Secretary of State on the statements regarding Costa Rica in the British note of Aug. 9, see telegram no. 216, Apr. 15, to the Chargé at London, vol. I, p. 651.

²¹ See telegram no. 785, July 26, 1920, to the Ambassador in Great Britain, *Foreign Relations*, 1920, vol. II, p. 658.

²² Not printed.

867.77/372

The Consul General at Berlin (Coffin) to the Secretary of State

BERLIN, April 2, 1921.

[Received April 27.]

SIR: I have the honor to acknowledge receipt of the Department's telegraphic instruction No. 548, of March 26th [28th], 6.00 P. M.,²³ with reference to the assertion contained in the reply of the British Government, dated February 28th last²⁴ to the Department's note of last November, on the subject of Mesopotamian oil fields.

Although I was convinced that no additional information could be obtained on this subject further than that already furnished to the Department, I requested the Deutsche Bank to invite Mr. F. J. Gunther, now residing in Dresden, and who is General Director of the Anatolian Railway, to come to Berlin for a further conference on the matter. Mr. Gunther represented the German interests in the negotiations which took place at Constantinople during the year 1914 between the German and British groups and the Ottoman Government. He is thoroughly familiar with all the circumstances of these negotiations.

Mr. Gunther reached Berlin on April 1st, and I went into the matter thoroughly with him. As a result of our conversation I telegraphed the Department yesterday to the effect that no concession was ever granted to the Turkish Petroleum Company, and that the British claim, as set up in the note of the British Government, dated February 28th, rests solely on the letter of the Grand Vizier, dated June 28, 1914. The Department was furnished with a copy of this letter and a report of the circumstances in my despatch of August 4, 1920.²⁵

There is little to add to that report, but I may say that the draft of the concession which I forwarded to the Department at the same time contained the terms which the German and British interests, represented by the Turkish Petroleum Company, intended to make the basis of their negotiations with the Sublime Porte for the oil concession. This draft, as the Department will note, is dated at London on April 3, 1914. The Deutsche Bank informs me that the draft of this concession contains every possible privilege which the two groups could think of, and that they anticipated that the negotiations which would result in the final concession to be issued would be prolonged for many months, and they never anticipated that they would be able to obtain all favors which they embodied in the draft concession.

²³ Not printed.

²⁴ See telegram no. 160, Mar. 1, from the Ambassador in Great Britain, *supra*.

²⁵ *Foreign Relations*, 1920, vol. II, pp. 660-662.

Mr. Gunther informs me that the letter of June 28th from the Grand Vizier is entirely correct in that the Ottoman Government agreed, in principle, to grant a concession to the Turkish Petroleum Company. This, in fact, was agreed to, verbally, between Mr. Gunther and Mahmoud Shefket Pasha when the latter was Grand Vizier. A short time prior to his assassination he informed Mr. Gunther that the Sublime Porte was willing to accord the concession to the German-British group, and the necessary formalities could be arranged as soon as the German-British group could reconcile their own interests. As the Department is aware, the negotiations between the British and the Germans had covered a very long period, and embraced very serious political and economical questions. They had been concluded in 1914 and, as a result of the agreement, matters were rapidly coming to a head when the war broke out. The letter of June 28th is, however, nothing more than an undertaking to issue a concession at a later date under terms and conditions to be arranged. It is entirely possible that the British-German group might have been unable to reach an agreement with the Turkish Government, and the undersigned can hardly conceive that the letter of June 28th could be held to bind the Ottoman Government to the issuance of a concession, except, possibly, under such terms and conditions as the Ottoman Government saw fit to impose, which might well have been so onerous as to preclude the possibility of a profitable working of such a commercial enterprise.

I have [etc.]

WM. COFFIN

890g.6363 T 84/18a

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

[Extract]

No. 233

WASHINGTON, *November 4, 1921.*

SIR: Reference is made to the Embassy's telegram No. 160 of March 1, 1921, and to the Department's telegraphic instruction No. 448 of August 4, 1921,²⁶ relating to economic rights in mandate territories and particularly to the claim of the Turkish Petroleum Company in Mesopotamia.

The Embassy is requested to present to the Foreign Office a note in the sense of the following, adverting appropriately to the Embassy's communication to the Foreign Office in accordance with the Department's telegraphic instruction No. 448 of August 4, 1921:

[Here follows the text of the note; the note as presented to the Foreign Office on November 17 is printed on page 89.]

²⁶ *Post*, p. 106.

The Embassy is requested to inform the Department by telegraph of the date of the delivery of the note to the Foreign Office and to mail promptly copies of the note to the Department. The Embassy will also mail copies of the note to the American Commission at Berlin, to the American High Commission at Constantinople, and to the Legation at Berne for their confidential information, and to the Embassies at Paris and Rome, to be presented to the French and Italian Foreign Offices.

When delivering the above note or upon the next appropriate occasion, the Embassy may state orally that this Government has noted certain published reports to the effect that the Anglo-Persian Oil Company, which is controlled by the British Government, is expected to be the chief participant in the Turkish Petroleum Company. The Embassy may make inquiry regarding the truth of these reports, and it may be stated that, if the reports are correct, it is assumed that the British Government in a matter in which not merely British nationals but the British Government itself is largely interested will wish, if the claim of the Turkish Petroleum Company is pressed, to have the question of its validity appropriately determined by the suggested arbitration.

I am [etc.]

CHARLES E. HUGHES

890g.6363/49

The Secretary of State to the President of the Standard Oil Company of New Jersey (Teagle)

WASHINGTON, November 22, 1921.

SIR: The receipt is acknowledged of a letter dated November 3, 1921,²⁷ signed by yourself, as President of the Standard Oil Company of New Jersey, by E. L. Doheny, President of the Mexican Petroleum Company, Amos L. Beaty, President of the Texas Company, George S. Davison, President of the Gulf Refining Company, J. W. Van Dyke, Secretary of the Atlantic Refining Company, H. F. Sinclair, President of the Sinclair Consolidated Oil Corporation, and C. F. Meyer, Vice President of the Standard Oil Company of New York, stating that the above named American companies desire to conduct petroleum investigations in Mesopotamia and that a party of geologists and engineers representing these companies is ready to start as soon as assurance is received that permission to make such investigations will be granted. You further request such information and instructions as may be thought necessary.

This Department is not informed that any decision has been reached relative to the working of the oil fields of Mesopotamia or

²⁷ Not printed.

that any regulations have been issued providing for the granting of rights for prospecting or development. It is understood to be the position of the British Government that, during the period of military occupation, no permission is being granted to the nationals of any country to conduct geological investigations in Mesopotamia.

There are, it is well known, in the regions referred to, certain claims to rights alleged to have been granted before the war which, if recognized, would apparently result in the exclusion of American interests from petroleum development in Mesopotamia. These claims have become the subject of diplomatic correspondence and it is understood that no final action has yet been taken by the British Government or by the authorities in Mesopotamia, with reference to them.

As soon as this Department learns that permission for prospecting in Mesopotamia is being or may be granted by the authorities in that territory, you will be promptly informed.

It is helpful to know that American oil companies are prepared to take advantage promptly of the opportunities which are expected to be presented in that region; and, accordingly, your courteous and timely statement of the position and plans of your company is thoroughly appreciated.

I am [etc.]

CHARLES E. HUGHES

890g.6363 T 84/21

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

No. 749

LONDON, December 7, 1921.

[Received December 22.]

SIR: In my telegram No. 930 of November 18, 5 p.m.,²⁸ I had the honor to advise you that the Note transmitted by your Confidential Instruction No. 233 of November 4, with reference to the claim of the Turkish Petroleum Company in Mesopotamia, had been presented to the Foreign Office. The content of the last paragraph of the Instruction was stated orally as directed.

I have the honor to transmit herewith the text of the Note as delivered. Copies were mailed to the Missions at Berlin, Paris, Rome and Berne, and to the High Commission at Constantinople.

I have [etc.]

For the Ambassador:

POST WHEELER
Counselor of Embassy

²⁸ Not printed.

[Enclosure]

The American Ambassador (Harvey) to the British Secretary of State for Foreign Affairs (Curzon)

No. 287

LONDON, November 17, 1921.

MY LORD: I have the honour to advert to my memorandum of August 24th last,²⁹ in which, in connection with the question of A mandates, I stated that my Government was unable to conclude that any concession was ever granted by the Turkish Government to the Turkish Petroleum Company and would shortly take up the considerations which have been advanced by His Majesty's Government upon this subject.

In the Memorandum referred to, the position of my Government with regard to its interest in the disposition of mandate territories was again stated and it was assumed that by reason of the relation of the United States to the victory over the Central Powers and in view of the fundamental principles which have been recognized by His Majesty's Government, there would be no purpose in relation to any of these territories to discriminate against the United States or to refuse to safeguard equality of commercial opportunity.

The Government of the United States does not desire for its citizens any special privileges in the mandate territories, and expects, of course, that private rights actually acquired before the war will in general be respected.

It is believed, however, that in the consideration of claims to rights His Majesty's Government would not entertain any desire to exclude American interests from participation in the development of any important resource, and will appreciate the justice of my Government's contention that the claim of the Turkish Petroleum Company in particular, which relates to the entire petroleum resources of Mesopotamia, should not be recognized except in accordance with the principles which have been accepted by the British Government as applicable to the mandate territories and on the basis of a satisfactory determination of the character and extent of the rights of the company.

Since it has seemed from Your Lordship's most recent communication on the subject that the views of His Majesty's Government with regard to this claim were widely at variance with those of my Government, I was instructed to suggest in my Memorandum of August 24, 1921, that if the claim of the Turkish Petroleum Company continues to be asserted appropriate provision should be made for its determination by a suitable arbitration.

²⁹ See telegram no. 448, Aug. 4, to the Ambassador in Great Britain, p. 106.

In a note dated February 28, 1921,³⁰ Your Lordship was good enough to set forth the various considerations upon which the British Government based its opinion that the Turkish Petroleum Company possesses rights in Mesopotamia. It was stated that the concessions for the oil fields in the two vilayets of Mosul and Bagdad were bestowed by the Sultan on his Civil List in 1888 and 1898 respectively, and that by firmans issued in 1908 and 1909 the concessions had been transferred from the Civil List to the Ministry of Finance. In the negotiations before the war between the British and the German Governments and between each of these Governments and the Turkish Government, the disposition of the oil fields of Mesopotamia was under discussion, and a British Company, called the Turkish Petroleum Company, was organized, representing the amalgamation of German and British interests.

I shall not undertake to review what is said upon this subject in Your Lordship's note, as I do not find in Your Lordship's recital any suggestion that any negotiations which had thus taken place had ripened into any agreement or concession prior to the summer of 1914. The question then comes to the effect of what was done in that year.

It appears that Said Halim Pasha, to whom Your Lordship refers as the Turkish Grand Vizier, addressed on June 28, 1914, a communication to the British Ambassador at Constantinople, a part of which has been stated by Your Lordship, and which is understood to have been identical with a communication of the same date to the German Ambassador at Constantinople. This communication, according to the information in the possession of my Government, reads in translation as follows:

"Mr. Ambassador:

"In your response to the note No. 985 which Your Excellency had the kindness to address to me under date of the 19th instant, I have the honor to inform you as follows:

"The Ministry of Finance being substituted for the Civil List with respect to petroleum resources discovered, in the vilayets of Mossoul and Bagdad, consents to lease these to the Turkish Petroleum Company, and reserves to itself the right to determine hereafter its participation, as well as the general conditions of the contract.

"It goes without saying that the Society must undertake to indemnify, in case of necessity, third persons who may be interested in the petroleum resources located in these two vilayets.

"Be pleased to accept, Mr. Ambassador, the assurance of my very high consideration.

(Signed) Said Halim."

³⁰ See telegram no. 160, Mar. 1, from the Ambassador in Great Britain, p. 80.

In Your Lordship's note of February 28, 1921, it is further set forth that during the war the German interests in the Turkish Petroleum Company came into the hands of His Majesty's Government by liquidation, and have been allotted to the French Government in the San Remo Petroleum Agreement, which is explained as the adaptation of pre-war arrangements to existing conditions.

Your Lordship comes to the conclusion that the Turkish Petroleum Company possesses a right to the lease of the oil fields of the two vilayets of Mosul and Bagdad, resting on an official undertaking given by the Turkish Government to the British and German Governments after prolonged negotiations, and that neither the rights claimed by the Company nor the provisions of the San Remo agreement would preclude the Mesopotamian state from enjoying the full benefit of ownership or from prescribing the conditions on which the oil fields shall be developed.

Without entering into a detailed discussion of legal principles which may be applicable, the Government of the United States is of the opinion that the communication of June 28, 1914, from Said Halim Pasha, even in connection with the communications to which it is understood to have been a reply, cannot well be considered a definite and binding agreement to lease. Since both the extent of the participation of the Ministry of Finance in the operations of the company and the general conditions of the lease were, according to this communication, to be fixed at a later date by one of the parties to the alleged agreement, there would seem to be room for doubt whether, even if war had not intervened, a lease would actually have been executed. As Your Lordship observes with respect to the letter of June 28, 1914, the Ministry reserved "the right to fix later on its share in the enterprise as well as the terms of the contract." There appears to be no reference in Your Lordship's note to the provisions of Turkish Law applicable to the execution of a lease or to the transfer of a concession; and there is no indication, if these provisions were intended to be disregarded, that any progress had been made toward obtaining the approval of the Turkish Parliament.

The relations between the Turkish officials concerned and the Turkish Petroleum Company would appear, therefore, to have been those of negotiators of an agreement in contemplation rather than those of parties to a contract. Your Lordship makes no mention of any communications subsequent to those of June 28, 1914; but from other information in the possession of my Government it would appear that, in later notes addressed to the Turkish Grand Vizier, the British and German Ambassadors raised certain questions with regard to one of the conditions indicated in that communication.

It is hardly necessary to observe that in dealing with the resources of mandate territories, placed under conditions of trusteeship, there should be no consideration of alleged monopolistic claims based on rights asserted to have been vested before the war, unless such rights are established by convincing proof, and it is assumed that this position would be taken by the British Government as a mandatory power, irrespective of the question whether such claims were advanced by British nationals. Hence, the immediate question is one of the proof of the alleged prior contract and an examination of the evidence thus far produced has not disclosed that any prior contract was made with the Turkish Petroleum Company.

The Government of the United States does not believe that any presumption should rest in favor of establishing in the mandate territories arrangements which were merely under diplomatic discussion before the war, but, on the contrary, is strongly of the view that such contemplated arrangements of a monopolistic character and inconsistent with the principles applicable to the mandate territories should receive no sanction.

I am instructed to express again the desire of my Government that the claim of the Turkish Petroleum Company, if it continues to be asserted, should be determined by a suitable arbitration, which, it is believed, should take place prior to any action which might involve further commitments or in any way imply recognition of the claim.

I may observe that the claim which is asserted by the Turkish Petroleum Company in Mesopotamia is regarded by my Government as in an entirely different category from the rights which are understood to be possessed by an American company in Palestine. The latter are apparently far from monopolistic and seem to have been regularly granted according to the prescribed formalities of Turkish Law by the proper authorities of the Turkish Government. Adverting further to the suggestion in the note of February 28, 1921, that the attitude of my Government with respect to the claims of the Turkish Petroleum Company in Mesopotamia is scarcely consistent with its position in regard to American rights in Mexico, it may be observed that those of the latter which have been made the subject of representations by my Government were not merely contemplated or in course of negotiation but were acquired in apparently full conformity with the local law.

In previous communications,³¹ my Government has made clear its attitude toward certain British interests in Costa Rica and has stated its policy with reference to an Act of the Philippine Legislature relating to petroleum development, which is regarded by Your Lord-

³¹ See telegram no. 216, Apr. 15, to the Chargé in Great Britain, vol. I, p. 651.

ship as in contradiction of the general principles enunciated by the Government of the United States.

Shortly after the enactment in question, the Government of the United States recommended that it should be so amended as to conform to the reciprocity provision of the United States general leasing law of February 25, 1920.³² At the last session of the Philippine Legislature an amending bill was passed, the object of which was to relax substantially the restrictions embodied in the original Act. Nevertheless, in the opinion of the Government of the United States, the proposed amendment did not sufficiently meet the situation; and Your Lordship was informed in my Memorandum of August 24, 1921, that it was the intention of my Government to take all appropriate steps with a view to bringing about at the next session of the Philippine Legislature a further amendment so that the Act may conform to the reciprocity provision above referred to. My Government has already taken certain of the steps which it deems appropriate, and believes that its position with regard to the natural resources of the Philippines is entirely consistent with the principles which it desires to see applied in other territories.

I have [etc.]

GEORGE HARVEY

890g.6363 T 84/22

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

No. 816

LONDON, *December 28, 1921.*

[Received January 12, 1922.]

SIR: With reference to the claim of the Turkish Petroleum Company in Mesopotamia, I have the honor herewith to transmit a copy of a communication received from the Foreign Office, acknowledging the receipt of my note No. 287 of November 17, 1921, which went forward as enclosure to my despatch No. 749 of December 7th.

I have [etc.]

POST WHEELER

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Harvey)

No. E 12708/576/93

[LONDON,] *December 20, 1921.*

YOUR EXCELLENCY: I have the honour to state that every effort is being made to expedite a reply to your note No. 287 of the 17th ultimo relative to the Turkish Petroleum Company.

³² 41 Stat. 437.

2. Your Excellency however will readily understand that the matter is one which requires most careful consideration from numerous aspects and by several departments of His Majesty's Government before I shall be in a position to communicate with you further on the subject.

I have [etc.]

CURZON OF KEDLESTON

RESTRICTIONS UPON THE ACTIVITIES OF THE STANDARD OIL COMPANY IN PALESTINE³³

887n.6363/2

The Vice President of the Standard Oil Company of New York (L. I. Thomas) to the Secretary of State

NEW YORK, August 12, 1921.

[Received August 13.]

SIR: I have the honor to refer to my visit at the Department on August 4th, 1921 when, in the course of a conversation with Mr. Fletcher³⁴ and Mr. Millspaugh,³⁵ I put forward the suggestion that representation should be made by the American Ambassador in London to the British Foreign Office so that my Company might be permitted to make a geological survey of their petroleum concessions in the Palestine. Our party have now been detained at Jerusalem for two years, and notwithstanding repeated protests, both through the State Department and by direct representation to the Foreign Office, the British Government have refused to permit any prospecting or research work, claiming we must await the outcome on the question of the Mandate or Protectorate.

It seems clear that to simply make a geological examination of the land does not in itself confer or confirm any rights which we claim. However, if this opinion is not shared by H.M. Government the Standard Oil Company of New York agree that if their research parties are permitted to move about the country for the purpose indicated they will not consider it as conferring any right or confirming any of their claims; furthermore, they will undertake not to sink any wells until such permission has been granted. It should be borne in mind that the rainy season in Palestine commences about December 1st and unless these parties are permitted to promptly go about their business a delay until next Spring is inevitable. What we are seeking to accomplish is to obtain some idea as to whether

³³ For previous correspondence concerning exploitation of petroleum in Palestine, see *Foreign Relations*, 1920, vol. II, pp. 649 ff.

³⁴ Henry P. Fletcher, Under Secretary of State.

³⁵ Arthur C. Millspaugh, attached to the office of the Foreign Trade Adviser, Department of State.

these concessions should be developed, and this, of course, cannot be determined until a thorough geological study has been made.

Asking that you will kindly give this matter your usual prompt attention and advise us what action has been taken,

I have [etc.]

L. I. THOMAS

800.6363/296a : Telegram

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

WASHINGTON, August 22, 1921—noon.

492. L. I. Thomas, Vice President Standard Oil Company of New York, will arrive in London about August 29 and will discuss with you restraints imposed upon his company in Palestine. See Embassy despatch No. 1732, November 24, 1919, No. 3340, August 28, 1920, enclosures, and Embassy telegram No. 3322, October 30, 1919, 6 P.M., and 159 and 160, March 1, 1921.³⁶

You may after discussing the matter with Mr. Thomas make oral representations to the Foreign Office, requesting that representatives of the company be permitted to travel in Palestine so as to enable them to make a geological examination of the areas covered by their rights. Conditions of war, referred to by the Foreign Office in 1919,³⁷ no longer prevail in Palestine, and it is understood that travel is now permitted. It is believed that the granting at this time of such permission could not be construed as inconsistent with the principles which have been accepted by the British Government with respect to the development of the economic resources of mandated regions. The suggested examination could apparently in no way compromise the future authorities of the country, since it is understood that the investigations would not be conducted with a view to acquiring new claims or strengthening old ones. If the above opinion is not shared by the Foreign Office, it should be pointed out that the company is understood to be willing to discuss any reasonable preliminary arrangement designed to preserve the legal *status quo*.

If in the course of your conversations the Foreign Office refers to Mesopotamia, you may say that this Government perceives no objection in principle to geologists travelling freely in Mesopotamia, provided geologists of any nationality are given the same opportunity throughout the entire region, and provided that the legal *status quo* is preserved until the permanent Government is established. See Department's 448, August 4, 1921,³⁸ section 6 (B). Furthermore,

³⁶ None printed except Embassy's telegram no. 160, Mar. 1, p. 80.

³⁷ See telegram no. 3432, Nov. 22, 1919, from the Ambassador in Great Britain, *Foreign Relations*, 1919, vol. II, p. 260.

³⁸ *Post*, p. 106.

this Government assumes that public announcement will be made if or when it is decided to permit geological examinations either in Palestine or Mesopotamia.

Please urge the Foreign Office to hasten its reply. The rainy season begins about December 1 and undue delay would force postponement until next spring, increasing the expense and inconvenience already caused the company by the restraints in Palestine.

HUGHES

800.6363/299 : Telegram

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

LONDON, September 10, 1921—11 a.m.

[Received September 10—9:58 a.m.]

742. Your 492, August 22nd, 12 a.m. After discussion with Thomas upon his arrival on 2d instant and oral representation to the Foreign Office on the 5th as well as conversations between Thomas and Sir John Cadman,³⁹ Thomas accompanied by Wright⁴⁰ had an interview with Colonial Office yesterday.

The latter were clearly maneuvering for position and after inquiring whether Socony⁴¹ and the Government desire or are willing that equal privileges of exploration be accorded other nationals as well (to which an affirmative reply was given) shifted the discussion to Mesopotamia and to mandates in general, inquiring as to how we might define a "monopoly" and also whether arbitration of such an alleged monopoly as the Turkish Petroleum claim should take place without consulting the Mesopotamian Government. We replied that any discussion of that phase of the situation prior to submission thereof to the Department and before receiving the reply of the British Government to your recent memorandum on the question of mandates would be premature.

Upon reiteration of the request that the company's representative be permitted to continue exploration in Palestine we were informed that a definitive reply could only be given to a formal request to that effect, which, in view of the nature of your instructions I hesitate to make without specific directions. It seems clear that the point upon which the British Government may base refusal or at least postponement of decision will be their alleged disinclination to create a precedent in the matter of recognizing rights or concessions acquired before the war.

HARVEY

³⁹ Chief technical adviser to the Anglo-Persian Oil Co.; former Director of the British Petroleum Executive.

⁴⁰ J. Butler Wright, Counselor of Embassy at London.

⁴¹ Standard Oil Company of New York.

800.6363/299 : Telegram

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

WASHINGTON, September 13, 1921—2 p.m.

538. Your 742 September 10, 11 A.M.

After consulting with Thomas, you may make formally the request indicated in Department's 492 of August 22, 1921, without implying in any way that the company waives any of its rights or that the position of this Government relative to economic opportunity in mandate territory has been or will be modified. Point out carefully that this Government would not object if privileges with respect to travel or geological examination similar to those accorded nationals of this country should also be accorded other nationals. The Department feels that objections in detail may be removed by conference between the appropriate authorities and the company's representatives.

HUGHES

867n.6363/7 : Telegram

The Consul at Jerusalem (Southard) to the Secretary of State

JERUSALEM, October 20, 1921—2 p.m.

[Received 3:52 p.m.]

Referring to Department's instruction of August 29⁴² matter of Standard Oil Co. Permission for prospecting has been referred from London to Jerusalem for recommendation. This Government has permitted meetings informally to discuss it and assure me that it is being now returned to London with favorable recommendation.

SOUTHARD

867n.6363/9

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

No. 596

LONDON, October 28, 1921.

[Received November 10.]

SIR: Referring to my telegram No. 862, of October 27, 2 [5] p.m.,⁴² in reference to the representatives of the Standard Oil Company in Jerusalem, and their desire to continue geological examinations, I have the honor to transmit herewith copies of the full text of the Note referred to, together with a copy of my Note to the Foreign Office, No. 189 of September 15.

I have [etc.]

. For the Ambassador:

POST WHEELER
Counselor of Embassy

⁴² Not printed.

[Enclosure 1]

The American Ambassador (Harvey) to the British Secretary of State for Foreign Affairs (Curzon)
No. 189

The American Ambassador presents his compliments to His Majesty's Secretary of State for Foreign Affairs and has the honour to refer to conversations held in March and April, 1920, between Sir John Tilley, of the Foreign Office, and Mr. Wright, Counselor of this Embassy; to a conversation between Sir John Tilley, Mr. L. I. Thomas, of the Standard Oil Company of New York, and Mr. Wright on March 29, 1920; and to a conference at the Colonial Office on the 9th instant, kindly arranged by Mr. Lindsay of the Foreign Office, at which were present Mr. Shuckburgh and Major Young of that office,⁴⁴ Mr. Thomas and Mr. Wright; all relative to the desire of the Standard Oil Company of New York that representatives of that Company now in Jerusalem be permitted to continue geological examinations of the areas covered by their rights or concessions in Palestine, which examinations were commenced by the Company prior to the outbreak of the war in 1914.

In accordance with telegraphic instructions just received from his Government, Mr. Harvey now has the honour to reiterate this request, and in so doing desires to state that it is the opinion of his Government that the granting at this time of such permission could not be construed as inconsistent with the principles which have been accepted by the British Government regarding the development of the economic resources of mandated regions. Furthermore, the exploration and examination desired could apparently in no way compromise the future authorities of the countries concerned, since it is to be clearly understood that the investigations which it is desired to undertake would not be conducted with a view to acquiring new claims or to strengthening old ones.

In this connection Mr. Harvey is happy to improve this opportunity to confirm the statement made by Mr. Thomas and Mr. Wright during the aforementioned conversation, to the effect that there would be no objection on the part of the Government of the United States if privileges with respect to travel or to such geological examination in Palestine, similar to those accorded to nationals of the United States, should also be accorded to nationals of other countries.

Accordingly, Mr. Thomas, who is in London for a short time only but who will be compelled to leave within a few days on account of urgent business, holds himself in entire readiness to cooperate with the authorities of His Majesty's Government and with the Embassy to such ends, and adds to the request of the Department of State his earnest hope that an early decision may be reached by His Majesty's

⁴⁴ The Colonial Office.

Government, in view of the fact that the rainy season in Palestine commences about December 1st, and that delay which might compel postponement of operations until next spring would increase the inconvenience and expense already incurred by the Company.

LONDON, *September 15, 1921.*

[Enclosure 2]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Harvey)

No. E 11576/264/88

[LONDON,] *26 October, 1921.*

YOUR EXCELLENCY: In your note No. 189 of the 15th. ultimo, you enquired whether the representatives of the Standard Oil Company in Jerusalem might be permitted to continue the geological examination, already begun before the war, of certain areas covered by rights or concessions in Palestine acquired by that Company.

2. In reply I have the honour to state that informal permission will be accorded to the representatives of the Standard Oil Company by the Palestine Government, to conduct researches within the limits of the areas over which the Company is known to claim concessionary rights with the object of discovering whether oil in payable quantities exists in these areas, on the strict understanding that such permission is granted without prejudice to the question of the validity of the Standard Oil Company's claims, that no permission can be granted for the exploitation of these areas until the Treaty of Peace with Turkey enters into force and until the terms of the Mandate for Palestine are finally settled, and on the condition that the Company will undertake to furnish a full and complete report of the result of their investigations as required by the Palestine Government and that they will comply with any instructions which may be given by the Palestine Government.

3. I would wish to make it quite clear to Your Excellency, that while the question of the validity of the Standard Oil Company's claims to the areas in Palestine remains unaffected, the fact of their existence has been a determining factor with His Majesty's Government and the Palestine Government in acceding to the request of the Company, and that no precedent is thereby established for the treatment of any future applications of a like nature.

4. I shall be glad to learn from you whether the Standard Oil Company agree to undertake operations in the Palestine areas on the terms set forth above, as well as the names of the persons to whom the work of investigation is to be entrusted by the Company, in order that the Palestine Government may be informed.

I have [etc.]

(For the Secretary of State)

LANCELOT OLIPHANT

867n.6363/10

Mr. H. E. Cole, of the Standard Oil Company of New York, to the Secretary of State

NEW YORK, November 17, 1921.

[Received November 21.]

Subject: Palestine Geological Examinations

SIR: We beg to acknowledge with thanks receipt of your letter of October 28th, TA-867N.6363/8,⁴⁵ containing a paraphrase of a telegram received from the American Embassy in London on the above subject.

While we shall reply categorically to the restrictions and limitations with which the Palestine and/or British Government has qualified its acquiescence in the geological examinations of our claims, we are loath to believe that our Government has recognized the present Administrators of Palestine, whether known as the Palestine or as the British Government, as having the authority to prescribe terms and conditions under which our investigation may be conducted, regardless of the fact that all of our claims were actually obtained previous to the World War, from the Turkish Government.

1. We agree that our geological researches shall be confined to limits and areas over which concessionary rights were granted to our Company by the Turkish Government.
2. We agree that researches for the present are to be for the purpose of discovering whether Petroleum in payable quantities exists in such areas, and that they are to be conducted on the understanding that the permission of the Palestine and/or British Government is accorded without prejudice as to whether the Company's claims are valid.
3. While we fully understand that the permission now proposed is for research and geological examination only, and we will strictly so observe it, yet we are not willing to agree as a condition of this permit or otherwise that the development of our claims shall be delayed until the coming into force of the Treaty of Peace with Turkey, and the final settlement of the terms of the Palestine Mandate. We have not understood that our Government recognizes any right in the British Government to interfere with or delay the development of claims legally obtained from the Turkish Government prior to the War, and would desire to be informed if there has been any change in the attitude of our Government in this respect before agreeing to a delay in the development of our claims, the termination of which delay is so indefinite and so greatly in the discretion of the British Government.

4. We are unable to accept the condition that we are to undertake to supply a full and complete report embodying a result of the inves-

⁴⁵ Not printed.

tigations as may be required by the present Government of Palestine, and that our Company will comply with any instructions which may be given by the Government of Palestine. This might be a recognition of a right, which we deny, in the present British or Palestine Government to modify in any way the terms of our claims. However, we do agree to comply with the terms and conditions of the claims as originally granted by the Turkish Government, and with the Turkish mining laws in force at the time the claims were acquired by us.

It is understood that none of our agreements are to imply that our Company in any way waives any of its rights, or the rights which we understand our Government claims for us and other concessionaires in mandate territories.

One of our Directors, Mr. L. I. Thomas, is now in Constantinople but will be in London in the near future. We have sent him a copy of your letter under reply, together with copy of this communication, and have asked him to place himself in touch with the American Embassy for the purpose of such discussion of the matter in London as may be necessary.

While Mr. A. G. Dana is our representative in Jerusalem in particular charge of our geological party, we would prefer to confine all of the important discussions incident to the investigation of our claims to those to be conducted by Mr. Thomas in London, except, of course, minor details which would naturally have to be adjusted on the ground.

We have [etc.]

H. E. COLE

867n.6363/8 : Telegram

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

WASHINGTON, November 26, 1921—6 p.m.

661. Your telegram 862 October 27, 5 P.M.⁴⁶ and despatch No. 596.⁴⁷

Socony attitude toward British conditions stated in letter to Department of November 17, 1921. After you consult Thomas to whom copy of letter has been sent and in continuance of direct discussions with the Colonial Office, if Foreign Office consents as it has previously, you may state that it is the opinion of the Department that the question of the date when permission for development work can or will be granted does not seem at this time to require discussion. The requested examinations could apparently be made without prejudice to any such question. In view of your note to

⁴⁶ Not printed.

⁴⁷ Of Oct. 28, p. 97.

the Foreign Office of September 15, 1921, pursuant to the Department's instruction of September 13, 1921, and since the examinations are to be without prejudice to the question of the validity of the company's claims, the Department perceives no reason for the conditions which call for a report of the investigations to the Palestine authorities and for compliance with any instructions which may be given by such authorities.

The Department hopes that the accommodating spirit already shown by the British Government in this matter will lead without delay to such a specific interpretation or modification of the conditions as to make them acceptable to the Company and free from controversial features.

You may at your discretion and if deemed advisable address the Foreign Office formally along the above lines, carefully avoiding any statements which might be construed as a recognition or a denial of the British claim to a right to fix the conditions referred to.

HUGHES

867n.6363/17

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

No. 724

LONDON, December 1, 1921.

[Received December 12.]

SIR: With reference to the Department's telegram No. 661 of November 26, 6 p.m., concerning the desire of the Standard Oil Company of New York to make a geological examination of areas covered by the Company's petroleum rights in Palestine, I have the honor to transmit herewith a copy of a Note sent to the Foreign Office on this date.

I have [etc.]

For the Ambassador:

POST WHEELER
Counselor of Embassy

[Enclosure]

The American Ambassador (Harvey) to the British Secretary of State for Foreign Affairs (Curzon)

No. 308

LONDON, December 1, 1921.

MY LORD: In your note to me of October 26 (No. E 11576/264/88)⁴⁸ replying to my request that representatives of the Standard Oil Company of New York be permitted to continue geological exami-

⁴⁸ *Ante*, p. 99.

nations of the areas covered by their rights or concessions in Palestine, which examinations were commenced by the Company prior to the outbreak of the war in 1914, in stating the conditions under which such informal permission will be accorded, Your Lordship observes that no permission can be granted, for the exploitation of those areas until the Treaty of Peace with Turkey enters into force and until the terms of the Mandate for Palestine are finally settled.

It is the opinion of my Government that the question of the date when permission for development work can or will be granted does not seem at this time to require discussion. The requested examinations could, apparently, be made without prejudice to any such question.

In view of my note to Your Lordship of September 15, 1921, (No. 189),⁴⁹ sent you pursuant to my Government's instructions, and since the examinations are to be without prejudice to the question of the validity of the Company's claims, my Government perceives no reason for the conditions which call for a report of the investigations to the Palestine Authorities and for compliance with any instructions which it is [*may be?*] given by such Authorities. My Government hopes that the accommodating spirit already shown by the British Government in this matter will lead without delay to such a specific interpretation of [*or*] modification of the conditions as to make them acceptable to the Company and free from controversial features.

I have [etc.]

GEORGE HARVEY

867n.6363/23

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

No. 824

LONDON, December 30, 1921.

[Received January 12, 1922.]

SIR: Referring to the Embassy's telegram No. 978, of December 15, 4 p.m.,⁵⁰ and its despatch No. 724, of December 1, regarding the desire of the Standard Oil Company to continue geological examinations in certain areas of Palestine, I have the honor to transmit herewith copies (in triplicate) of a further note received from the Foreign Office upon this subject, dated December 28, 1921. This Note, as will be noted in paragraph four, was sent without waiting

⁴⁹ *Ante*, p. 98.

⁵⁰ Not printed.

for the results of the further enquiries addressed to the Palestine Government, reference to which is made in the telegram above mentioned.

I have [etc.]

POST WHEELER

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Harvey)

No. E 13986/264/88

[LONDON,] December 28, 1921.

YOUR EXCELLENCY: With reference to my note of the 12th December,⁵¹ relative to the desire of the Standard Oil Company to resume their geological examination of certain areas in Palestine, I have the honour to inform Your Excellency that I have consulted further with the department of His Majesty's Government immediately concerned with the administration of Palestine, and I now desire to explain that it is far from the wishes of the Palestine Government to accompany the permission which has been granted to the Standard Oil Company with unacceptable conditions. The misapprehension which appears to have arisen on this point may, however, be due to the fact that the nature of the conditions mentioned in my note of the 26th October last⁵² was not expressed in sufficiently clear and unambiguous terms, and I would, therefore, offer the following additional observations on the subject.

2. The Government of Palestine is not at present in a financial position to create a Geological Survey Department competent, within a reasonable period of time, to carry out a thorough survey of the country, and all the information which at present exists in various books and publications is of a very fragmentary and unsatisfactory nature. The Palestine Government therefore proposes to lay down in a Mining Law for Palestine, which will be passed as soon as the mandate for Palestine is issued, as a condition, precedent to the grant of any mineral concession, that applicants for such concessions should bind themselves to present to the Government for its confidential information, a full and complete report of the geological results of their investigations. It is proposed to appoint a Geological Adviser to the Government of Palestine, who will assemble and put in order the information already existing, and collate with it all reports sent in by persons operating mineral concessions. In the present case, the

⁵¹ Not printed.

⁵² *Ante*, p. 99.

Standard Oil Company has been simply asked to collaborate and to give its co-operation in this scheme, which is to be of general application, and in view of the explanations given, I permit myself to hope that the request of the Palestine Government will not be considered unreasonable and that the Company will be prepared to furnish a report of the nature desired.

3. With regard to the second condition, i.e. that the Company will comply with any instructions which may be given by the Palestine Government, the instructions contemplated by the Palestine Government are prompted, not by a desire to hamper the Company's activities, but solely by considerations of public safety. In the present state of political feeling in Palestine, circumstances might conceivably arise in which the Palestine Government would find itself compelled to restrict the movements of the Company's representatives in areas where their personal safety could not be guaranteed without prejudicing the general scheme for the public security of the country. It is hoped, however, that no such circumstances will arise, but it would not be possible to deprive the local authorities of the means of dealing with a contingency which cannot be regarded as an impossible one. There is, however, no doubt that the Palestine Government will do its utmost to impose no unreasonable restrictions on the movements of the Company's representatives.

4. In conclusion, I wish to observe that His Majesty's Government, with the object of avoiding all possible delay in this matter, and of showing their desire to meet as far as possible the wishes of the Company, have given the above explanations without waiting for the results of the further enquiries addressed to His Majesty's High Commissioner in Palestine on the receipt of your note No. 308 of December 12th [1st].⁵³ Although His Majesty's Government are confident that Sir H. Samuel will concur generally in these explanations, it is possible that the Government of Palestine may have something to add of minor importance, from the point of view of local circumstances.

5. I shall be glad to learn that in the light of these assurances the Company will now see its way readily to comply with the justifiable and by no means onerous conditions which the Palestine Government has found it necessary to lay down.

I have [etc.]

[For the Secretary of State]

LANCELOT OLIPHANT

⁵³ *Ante*, p. 102.

NEGOTIATIONS TO ENSURE THE RECOGNITION OF THE RIGHTS
OF THE UNITED STATES IN TERRITORIES UNDER MANDATE⁵⁴

800.01 M 31/60 : Telegram

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

LONDON, August 2, 1921—6 p.m.

[Received 9:31 p.m.]

634. My 570 July 9, 12 noon.⁵⁵ I received last evening the following note from Lord Curzon dated August 1st:

[“My dear Ambassador: You will remember that I twice mentioned to you the subject of the Asiatic mandates and have sought to obtain from you a statement of the criticisms or objections which your Government is understood to desire to raise. The matter is one of some urgency since the Council of the League of Nations has pressed us to give them an answer before the meeting of the Assembly at the beginning of September. On the other hand your Government having formally placed on record its protest may be assumed to have already formulated its objections.”⁵⁶

HARVEY

800.01 M 31/60 : Telegram

*The Secretary of State to the Ambassador in Great Britain (Harvey)*⁵⁷

WASHINGTON, August 4, 1921—8 p.m.

448. Your 634, August 2, 6 p.m.

You may state to the Foreign Secretary that this Government welcomes his suggestion that there should be a discussion of the question of mandates and you may communicate to him the following views of this Government.⁵⁸ Before proceeding to the consideration of the precise terms of draft mandates, it is thought best to restate the general principles which are deemed to be involved.

1. This Government adheres to the position already stated that the right to dispose of the overseas possessions of Germany was acquired only through the victory of the Allied and Associated Powers, and that there can be no valid or effective disposition of these territories without the assent of the United States as one of the participants in that victory.

2. This position of the United States is not opposed, but is confirmed, by the Treaty of Versailles, by which Germany renounces

⁵⁴ For texts of draft mandates, see vol. I, pp. 96 ff.

⁵⁵ Not printed.

⁵⁶ See vol. I, pp. 87 ff.

⁵⁷ On Aug. 7 somewhat similar instructions were sent to the representatives in France, Italy, and Japan; see telegram no. 377 to the Ambassador in France, vol. I, p. 922.

⁵⁸ A memorandum embodying these views was handed to the British Foreign Secretary under date of Aug. 24.

in favor of the Principal Allied and Associated Powers, of which the United States was designated to be one, all her rights and titles over her overseas possessions. It may further be observed that in providing, as stated in Article 440, for the coming into force of that treaty when it had been ratified by Germany and three of the Principal Allied and Associated Powers, it was manifestly not the intention that on such ratification by three Powers there should still remain in Germany any undivided share of title or sovereignty in the overseas possessions described. It would seem to be clear that the renunciation set forth in Article 119 of the treaty was not intended to be divisible.

In the light of all the pertinent considerations, this Government perceives no possible basis for a claim that the other Principal Allied and Associated Powers would be entitled to exclude the United States from full participation, and the United States does not understand that any such claim is made.

3. The right of the United States in the territories in question could not be made the subject of such disposition as is proposed without its assent, and under its constitutional system the giving of this assent is not exclusively within the authority of the President. It is thought, however, that there would be no difficulty in negotiating an appropriate treaty if the terms of the mandates were defined in the line of the following suggestions. It is not the intention of this Government to raise objection to allocation or terms of mandates for the purpose of seeking additional territory or for any other purpose than to safeguard the interests of the United States and the fair and equal opportunities which it is believed the United States should enjoy in common with the other Powers.

4. With respect to mandated territories, other than those which were formerly possessions of Germany, while it is true that the United States did not declare war against Turkey, still the opportunity of the Allied Powers to secure the allocation of mandates and the administration of territories formerly under Turkish rule was made possible only through the victory over Germany, and the United States assumes that by reason of its relation to that victory and of the fundamental principles recognized by the British Government as applicable to the administration of mandated territories, there would be no disposition in relation to any of these territories to discriminate against the United States or to refuse to safeguard equality of commercial opportunity.

5. With this understanding, and without attempting to restate the general principles governing mandates which have been the subject of previous correspondence between the two Governments, this Government desires to submit the following special observations as to the forms of mandates which have been proposed:

Draft A mandates

(a) *Capitulatory Rights.* In the draft for Syria and Lebanon⁵⁹ there is a provision in Article 5 not found in the mandates for Mesopotamia⁶⁰ and Palestine,⁶¹ to the effect that foreign consular

⁵⁹ Vol. I, p. 99.

⁶⁰ Vol. I, p. 105.

⁶¹ Vol. I, p. 110.

tribunals shall continue to perform their duties until the described new legal organization is set up. It is desired that there should be a similar provision in the mandate for Mesopotamia, and that in the mandate for Palestine it should be provided that capitulatory rights shall be continued until adequate courts are established. Provision should also be made in all A mandates for the revival of capitulatory rights in the event of the termination of the mandate regime.

(b) Provisions against Discrimination. The limitation of protection in Articles 11 and 14 of mandates for Syria and Lebanon and Mesopotamia, and of Articles 18 and 21 of mandate for Palestine to States that are members of the League of Nations should be removed and the protection extended so as to embrace the United States. This could be effected by referring to any State mentioned in the annex to the covenant of the League of Nations. The reference to incorporated companies in Article 11 of the mandate for Mesopotamia and in Article 18 of the mandate for Palestine is too narrow and should be broadened to embrace societies and associations (see Article 11 of mandate for Syria and Lebanon).

It is desired that there should also be provision against discrimination in concessions. British B Mandate for East Africa,⁶² Article 7 provides as follows:

"Concessions for the development of natural resources of the territory shall be granted by the mandatory without distinction on grounds of nationality between the nationals of all states members of the League of Nations but on such conditions as will maintain intact the authority of the local government."

Similar provision should be inserted in A mandates and broadened to embrace the United States.

There should also be appropriate provision against the granting of monopolistic concessions or the monopolizing of natural resources by the mandatory itself.

(c) Missionaries. In mandate for Syria and Lebanon protection is accorded provided activities are confined "to the domain of religion." It would appear as if the intention were to restrict, if not to eliminate, educational and charitable missionaries. (See Franco-British Convention, Article 9, signed at Paris, December 23, 1920.)⁶³ It is desired that present and future activities, both religious and educational, of our missionaries should be fully protected, and it is suggested that provision similar to Article 8 of the British B mandate for German East Africa be incorporated in all A mandates.

(d) It will be understood that the consent of the United States shall be necessary to any modification of a mandate after it has been agreed to.

Draft B mandates

(a) The provisions of Article 6 of the British and French mandates for the Cameroons and Togoland⁶⁴ and of the Belgian mandate for German East Africa⁶⁵ and of Article 7 of the British mandate for German East Africa are not extended to the nationals

⁶² Vol. I, p. 121

⁶³ Vol. I, p. 137.

⁶⁴ Vol. I, pp. 109 and 125, respectively.

⁶⁵ Vol. I, p. 133.

of the United States. This should be corrected, and it might be sufficient to substitute "nationals of States mentioned in the annex to the covenant of the League of Nations" for "nationals of States members of the League of Nations" in each of these articles.

In the third paragraph of the same article in each mandate it should also be provided that monopolistic concessions should not be granted by the mandatory, nor should natural resources of the mandated territory be monopolized by the mandatory itself.

(b) Article 8 of the British mandate for East Africa is acceptable and its provisions should be substituted for those of the corresponding article numbered 7 in the other B mandates.

(c) Article 10 of the British mandate for East Africa contains a clause "provided always that the measures adopted to that end do not infringe the provisions of this mandate", which might well be added to the corresponding article 9 of the other B mandates.

(d) The consent of the United States will be necessary to modify the mandate terms.

Draft C mandates⁶⁶ except for Yap

(a) Article 5 should be changed so as to embrace nationals of United States, and to avoid ambiguity as to educational and charitable activities of missionaries it would be preferable to have the same provision as in Article 8 of the British B mandate for German East Africa.

(b) All C mandates treat mandated territory for administration and legislation as integral portion of territory of mandatory. This, unless qualified, would permit discrimination. It is desired that the mandatories respectively should guarantee to United States most favored nation treatment in all C mandate territories, reserving, however, the present special treaty rights of the United States as to German Samoa under Article 3 of the treaty concluded at Washington, December 2, 1899.⁶⁷ This Government has already protested against the discriminatory tariff imposed by New Zealand in violation of this treaty (see Department's telegram of November 17, 1920.⁶⁸) Despatch on this point will go by next pouch.

(c) There should be provision similar to that proposed in the other forms of mandates prohibiting monopolistic concessions by the mandatory or the monopolizing of natural resources by the mandatory itself.

(d) As in other cases modification of mandate will be subject to assent of United States.

The Island of Yap, because of its special characteristics and availability for communication purposes, should be treated specially, and negotiations to this end are in progress.⁶⁹ It is not desired to include Yap in the present representations as to terms of mandates.

6. In connection with the question of A mandates, the following additional points should be noted:

(a) In the note of His Majesty's Government of February 28, 1921,⁷⁰ relating to the application of the principle of equality of

⁶⁶ See letter of Feb. 17, 1921, from the Secretary General of the League of Nations, vol. I, p. 118.

⁶⁷ Malloy, *Treaties*, vol. II, pp. 1595 ff.

⁶⁸ Not printed.

⁶⁹ See pp. 263 ff.

⁷⁰ See telegram no. 160, Mar. 1, from the Ambassador in Great Britain, p. 80.

treatment to former Turkish territories, it was observed that by Article I of the Philippine Petroleum Act approved August 31, 1920, participation in the working of public lands in the Philippine Islands containing petroleum is confined to citizens or corporations of the United States or of the Philippines. This enactment was mentioned as inconsistent with the general principles announced by this Government.

To avoid misapprehension upon this point, it should be stated to the Foreign Secretary that shortly after the enactment in question the Government of the United States recommended that it should be so amended as to conform to the reciprocity provision of the United States general leasing law of February 25, 1920.⁷¹ At the last session of the Philippine Legislature an amending bill was passed the object of which was to relax substantially the restrictions embodied in the original Act. Nevertheless, in the opinion of the Government of the United States, the proposed amendment did not sufficiently meet the situation, and it is the intention of this Government to take all appropriate steps with a view to bringing about at the next session of the Philippine Legislature in October a further amendment so that it may conform to the reciprocity provision above described.

(b) In the same note of His Majesty's Government reference is made to a concession said to have been granted before the war by the Turkish Government to the Turkish Petroleum Company. This Government has already pointed out in its note of November 20, 1920,⁷² that such information as it then had indicated that prior to the war the Turkish Petroleum Company possessed in Mesopotamia no rights to petroleum concessions or to the exploitation of oil. The information possessed at present by this Government confirms this view. This Government is unable to conclude that any concession was ever granted by the Turkish Government to the Turkish Petroleum Company, and this Government will shortly take up the considerations advanced by His Majesty's Government upon this subject.⁷³ It is desired that if the claim of the Turkish Petroleum Company continues to be asserted appropriate provision be made for the determination of this claim by a suitable arbitration.

HUGHES

800.01 M 31/37

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

No. 811

LONDON, *December 23, 1921.*

[Received January 12, 1922.]

SIR: With reference to previous correspondence on the question of Mandates, I have the honor herewith the [to] transmit copies of a Note just received from Lord Curzon. This is in reply to a

⁷¹ 41 Stat. 437.

⁷² *Foreign Relations*, 1920, vol. II, p. 669.

⁷³ See instruction no. 233, Nov. 4, to the Ambassador in Great Britain, p. 86

Memorandum which was based upon the Department's telegram No. 448 of August 4, 8 p.m., and which I handed to him on August 24th last.

I have [etc.]

For the Ambassador:

POST WHEELER
Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Harvey)

W 13209/1149/98

[LONDON,] *December 22, 1921.*

YOUR EXCELLENCY: The memorandum of the 24th August, 1921, containing the views of the Government of the United States concerning the mandates for certain territories which, under the terms of the Treaties of Peace, ceased to be under the sovereignty of the enemy Powers, has received the fullest consideration of the British Government in concert with the Governments of the Allied Powers to whom those views were also communicated.

The Government of the United States claims the right to take part in the disposition of these territories and raises, in this connection, various points in regard to the consequences of the non-ratification by the United States of the Treaty of Versailles and of their non-participation in the war with Turkey.

In furtherance of the general principles governing the mandates, as set out in the previous correspondence between the two Governments, the Government of the United States now submits for the consideration of His Majesty's Government certain modifications which it considers should be made in the texts of the British mandates.

His Majesty's Government have the honour to state that they have never desired to deprive the United States of the fruits of a victory to which it contributed so generously.

They are quite willing to meet the wishes of the United States as regards the British mandates, and it does not, therefore, seem necessary to enter into a detailed consideration of the general considerations contained in the American note.

The co-operation of the United States in the making of peace was a necessary corollary of their co-operation in the war and in the victory. The Treaty of Versailles was the outcome of the co-operation. It was entered into by the Allied Powers upon the assumption that it represented the common views of all those who had taken part in its preparation after their combined effort to achieve the

victory. It was upon the faith of this assumption that the Allied Powers undertook obligations not only towards Germany, but also towards each other, and from which it is now impossible for them to escape.

The decision of one of the Allied and Associated Powers not to ratify the treaty does not modify the obligations which that treaty imposed upon those who have ratified it, nor release them from the pledges it contains; nor can they now enter into new engagements which would be inconsistent with its terms.

What is said above is pre-eminently true with regard to the overseas territories which formerly belonged to Germany. By the Treaty of Versailles Germany renounced all her sovereignty over them; that renunciation was intended, as pointed out in the American note, to be indivisible; no part of that sovereignty remains to Germany to-day. But Germany parted with her sovereignty upon the terms laid down in the treaty. Among the conditions so laid down was the assurance that these territories would in future be administered by mandatories on behalf of, and subject to, the general control of the League of Nations. By that engagement the Allied Powers are bound to stand; they are pledged not only to Germany but to their own peoples to recognise and to accept the special rôle and function of the League of Nations in connection with the mandates over these territories; they can consent to no arrangement with any Power which is inconsistent with the pledges they have given.

In these circumstances His Majesty's Government put forward the following suggestions as calculated to meet the American proposals concerning the British mandates in Central Africa. As regards the mandates for territories in the Middle East, the position of such territories being still legally undefined, His Majesty's Government will make them the subject of a later note: ^{73a}—

1. The Government of the United States proposes that the words "citizens [*nationals*] of States mentioned in the annex to the Covenant of the League of Nations" should be substituted for the words "nationals of States members of the League of Nations" in article 6 of the mandates for Togoland and the Cameroons, and in article 7 of the British mandate for East Africa, in order that citizens of the United States may be covered by the provision.

In the first place this alteration would exclude from the provision States which, though not mentioned in the annex of the Covenant, have become members of the League since the date of the Treaty of Peace.

Secondly, it must be remembered that the aim of the mandatory system is to make the mandatory Power permanently responsible

^{73a} See British note of Dec. 29, p. 115.

for the fulfilment of certain duties to those States which have adhered to the Covenant of the League of Nations. His Majesty's Government find it difficult, therefore, to accept a proposal that the terms of the mandate should refer to any other States, whether by name or by collective definition.

It appears to His Majesty's Government that the best way to meet the wish expressed in the American note would be for the British Government to give to the Government of the United States a guarantee that citizens of the United States shall enjoy in all respects in the mandated territory the same rights and privileges as citizens of States members of the League of Nations, it being understood that they will be subject to the same conditions. This undertaking might be embodied in an exchange of notes.

The Government of the United States further expresses the wish that paragraph 3 of the same article shall stipulate that the mandatory will not grant monopolistic concessions, and that the natural resources of the mandated territory shall not be monopolised by the mandatory itself.

His Majesty's Government have no intention of granting concessions having the character of a general monopoly in the territories in question, nor of reserving such concessions to itself. It is necessary, however, in the interest of the mandated territory, that the mandatory should provide the territory with the fiscal resources which seem best suited to the local requirements and, for this purpose, should preserve the right to create monopolies for purely fiscal purposes. Similarly, it is necessary that the Administration should have the right to exploit, as it considers best, those of the natural resources which can be employed in the public interest, as, for example, water power, which could be utilised for the electrification of a railway or for lighting purposes.

The above considerations could be met by the insertion of the following new paragraph after paragraph 3 of article 6:¹⁴—

Concessions having the character of a general monopoly shall not be granted. This provision does not affect the right of a mandatory to create monopolies of a fiscal character or, in certain cases, to carry out the development of natural resources either directly by the State or by a controlled agency, provided that no monopoly of the natural resources for the benefit of the mandatory shall result therefrom.

2. The Government of the United States asks that article 8 of the British mandate for Tanganyika should be substituted for article 7 of the other African mandates.

¹⁴Numbered 6 in the draft mandates for Togoland and the Cameroons, and numbered 7 in the draft mandate for East Africa.

The object of the Administration at Washington is apparently to ensure as a right to American missionaries the freedom to exercise their vocation in Togoland and the Cameroons, which the British Government have given them hitherto in practice. This object can be achieved without making any change in the text of the mandate. His Majesty's Government are prepared to give to the Government of the United States a similar guarantee as to equality of treatment, as is suggested above, as regards article 6.

His Majesty's Government are further prepared to declare that, in the mandated territories, missionaries shall have the right to acquire and possess property, to erect buildings for religious purposes, and to open schools, adding as a condition the words, "in conformity with the local law."

The text of article 7 would, consequently, read as follows:—

"Subject to the provisions of any local law for the maintenance of public order and public morals, the mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any State member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling, to acquire and possess property, to erect buildings for religious purposes, and to open schools, provided that they conform to the local law."

3. The Government of the United States asks for the addition to paragraph 2 of article 9 of the mandate for Togoland and the Cameroons of the words, "provided always that the measures adopted to that end do not infringe the provisions of this mandate," which occur in article 10 of the British mandate for Tanganyika.

His Majesty's Government have no objection to this addition.

4. Finally, the Government of the United States expresses the wish that the consent of the United States shall be obtained before any alteration is made in the text of the mandates.

It would be difficult to insert in the mandate itself a provision of this nature as between the League of Nations and a Power which is not a member of the League. There is, however, nothing to prevent the mandatory giving a separate undertaking to this effect.

In these circumstances the best method of satisfying the desire of the United States would appear to be that His Majesty's Government, as mandatory, should give the American Government an undertaking that they will not propose nor accept any modifications in the terms of the mandates without previous consultation with the Government of the United States.

His Majesty's Government venture to hope that the Government of the United States will share the view that the wishes of the

United States can be satisfied by means of an exchange of notes between the two Governments, without delaying the issue of mandates which it is undesirable further to postpone.

I have [etc.]

CURZON OF KEDLESTON

867n.01/215

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

No. 831

LONDON, December 30, 1921.

[Received January 12, 1922.]

SIR: With reference to my despatch No. 811 of the 23rd instant, I have the honor to transmit herewith copies of a further note just received from the Foreign Office on the question of Mandates.

I have [etc.]

POST WHEELER

[Enclosure]

*The British Under Secretary of State for Foreign Affairs (Crowe)
to the American Ambassador (Harvey)*

No. E 14259/37/88

[LONDON,] December 29, 1921.

YOUR EXCELLENCY: In my note of December 22nd.⁷⁵ I explained the suggestions put forward by His Majesty's Government to meet the American proposals, concerning the British mandates in Africa, contained in Your Excellency's memorandum of August 24th. 1921, and reserved for the subject of a later note a reply to the proposals in that memorandum relating to the territories under mandate in the Middle East their position still being legally undefined.

2. The position with regard to these territories has not materially changed. A state of peace with Turkey does not yet exist, and the Council of the League has not yet formally approved the provisions of the draft mandates. The consequent delay and uncertainty causes His Majesty's Government considerable anxiety in Palestine. In these circumstances the peculiar religious and racial problems in that country and the particular conditions which attach to His Majesty's Government's acceptance of the mandate as set out in the draft provisions are daily rendering more onerous the task which His Majesty's Government have assumed. For these reasons His Majesty's Government intend to invite the Council of the League of Nations at the forthcoming session on January 10th. formally to express their approval of the terms of the mandate for Palestine as drafted in spite of the dependence of the final legalisation of the

⁷⁵ *Ante*, p. 111.

status of the mandatory upon the entry into force of a treaty of peace with Turkey. It is with this object in view, and in the confident hope that your Government will find it possible forthwith to withdraw any objection that they may still entertain to the provisions of the mandate for Palestine that I now have the honour to furnish you with the following observations upon paragraphs 4 and 5 of your note of August 24th. in so far as they concern those provisions.

3. Paragraph 4. His Majesty's Government have no desire to challenge the statement of the United States Government that the victory over Turkey was bound up with the victory of the Allied and Associated Powers over Germany to which the United States so generously contributed. In particular, His Majesty's Government emphatically disclaim any intention on their part to discriminate against United States nationals and companies or refuse them full equality of commercial opportunity. His Majesty's Government have already explained in the case of the African mandates why they find it difficult to provide in the articles of the mandates, which deal with these questions, for reference to any States, other than those of the League of Nations, whether by name or by collective definition, but they repeat the assurance given in my note of December 22nd. to embody an undertaking with regard to the equal treatment of United States citizens and companies in an exchange of notes between our two Governments.

Paragraph 5. (a) The difference in this respect between the mandate for Palestine on the one hand, and the mandate for Syria on the other, is due, not to any difference of policy but to the fact that whereas in Syria which was taken over at the time of the armistice, the native administration was found to be exercising its functions, the complete collapse of the Turkish administration in Palestine had compelled His Majesty's Government to set up courts which in themselves provided, for the time being, such safeguards as are referred to in article 9 of the Palestine mandate. No foreign tribunals exercise functions in Palestine at present and there is therefore no question of their continuing to perform their duties. In that country adequate courts have already been established, and under the constitutional proposals that are now under consideration for Palestine, His Majesty's Government have inserted a provision in virtue of which foreign nationals, including of course citizens of the United States, shall have the right to be tried by a court with a majority of British judges, except in trivial cases where this provision would lead to administrative inconvenience: in these cases foreign nationals will have the special right to appeal to a court composed with a

majority of British judges. For the rest, His Majesty's Government are prepared to recommend to the League of Nations the extension of the provisions of article 28 of the mandate for Palestine so as to ensure that in the event of the termination of the mandatory régime suitable arrangements are made to safeguard the rights secured by article 6 [9?] of the mandate.

(b) I have already dealt above with the question of possible discrimination against United States nationals and the undertakings which His Majesty's Government are prepared to give. The wording of article 18 of the mandate for Palestine was very carefully considered, and I wish especially to point out that the explanation of the difference between the wording of the Syrian mandate and that of the Palestine mandate is to be found in the difference between French and British law: in the latter the word "company" embraces all bodies which would properly be entitled to the protection of the article in question. His Majesty's Government feel sure that the United States Government, in the light of this explanation, will rest satisfied with the present wording of this article.

His Majesty's Government regret that they cannot see their way to adopt the suggested introduction into the Palestine mandate of the provision of article 7 of the "B" mandate for East Africa on the subject of concessions quoted in your memorandum of August 21st [24th]. The suggestion appears to His Majesty's Government to overlook the peculiar conditions existing in Palestine and especially the great difference in the natures of the tasks assumed in that country and undertaken by them in East Africa. So far as Palestine is concerned, article 11 of the mandate expressly provides that the administration may arrange with the Jewish agency, mentioned in article 4, to develop any of the natural resources of the country in so far as these matters are not directly undertaken by the administration. The reason for this is that, in order that the policy of establishing in Palestine a national home for the Jewish people should be successfully carried out, it is impracticable to guarantee that equal facilities for developing the natural resources of the country should be granted to persons or bodies who may be actuated by other motives. The general spirit of the Palestine mandate in the view of His Majesty's Government, seems to render unnecessary the insertion of an especial provision preventing the mandatory from developing the natural resources of the country for his own benefit.

(c) His Majesty's Government are well aware of the great benefits which all the countries of the Near and Middle East have received from the unremitting and self-sacrificing efforts of Ameri-

can missionaries and educationalists. They have therefore carefully considered the proposal of the United States Government that safeguards for missionary enterprises in the Palestine mandate should be expanded to render them equivalent to those accorded by article 8 of the British "B" mandate for German East Africa. His Majesty's Government would however point out that the intention of article 9 of the Franco-British convention of December 23rd, 1920,⁷⁶ was, so far as His Majesty's Government was concerned, in no way to restrict the extension of missionary enterprise in Palestine. The particular article in question was designed by the French Government to satisfy religious opinion in France regarding the future of the large French ecclesiastical and educational interests already established in Palestine and Mesopotamia.

For the rest, His Majesty's Government feel convinced that the religious and educational activities of the nationals of the United States are adequately safeguarded by the provisions of article 16 of the mandate for Palestine. This article is in fact identical in substance with article 8 of the British mandate for German East Africa. Should, however, the United States Government still desire some further guarantee, His Majesty's Government would be prepared to make a declaration in suitable terms regarding the rights of United States missionaries as suggested in paragraph 2 of my note of December 22nd. regarding the African mandates.

(d) I have already dealt in paragraph 4 of my note of 22nd. December with the suggestion of your Government that the consent of the United States Government should be obtained as to any modification of a mandate once agreed upon and I can only repeat in this note the same offer with regard to the modification of the "A" mandates.

4. I reserve to myself a still further memorandum to Your Excellency regarding the mandate for Mesopotamia. The position of His Majesty's Government in that country is peculiar. The course of events since the grant of the mandate, and in particular the coronation of King Feisal and the appointment of the Arab cabinet for that country, make it necessary for His Majesty's Government carefully to consider the manner in which they can best fulfil the obligations undertaken by them in the draft mandate. They are therefore forced to examine very carefully what, if any, modification of, or addition to, those obligations they are in a position to assume. I hope however to be in a position at an early date to give you the fullest assurance on this matter.

I have [etc.]

EYRE A. CROWE

⁷⁶ Vol. I, p. 137.

ASSERTION OF AMERICAN CAPITULATORY RIGHTS IN
PALESTINE⁷⁷

711.673/114 : Telegram

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

LONDON, *January 24, 1921—6 p.m.*

[Received 9:05 p.m.]

72. In note dated the 19th instant, Foreign Office after referring to its note transmitted in my mail despatch 3985, December 30, 1920,⁷⁸ concerning jurisdiction over foreigners of the courts in Palestine states as follows:

“His Majesty’s High Commissioner for Palestine has now reported that the United States Consul has requested that a certain United States citizen convicted for forgery by the Jaffa court and sentenced to imprisonment should be handed over to him for trial and the conviction quashed. The United States citizen in question was convicted by court composed of a British president and two Palestine judges because at the time there was no indication that the individual concerned was a foreign citizen. Sir H. Samuel reports that the rehearing on appeal is postponed pending negotiations for same [*instructions from me?*] and that the accused is on bail. If and when the rehearing takes place the court will be composed with a majority of British judges. In these circumstances and having regard to the arguments advanced in my note under reference I venture to express the hope that the United States Government will see no objection to the case of this United States citizen being reheard by a court composed as Sir H. Samuel suggests.”

DAVIS

711.673/114 : Telegram

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

WASHINGTON, *February 1, 1921—6 p.m.*

73. Your 72nd, January 24, 6 P.M.

In connection with circumstances indicated in Foreign Office note of 19th instant [*January 19*],⁷⁹ Department has carefully considered Earl Curzon’s note of 29th ultimo [*December 29, 1920*].⁷⁸ Reserving for later consideration Earl Curzon’s observation concerning status of capitulations after coming into force of Treaty of Peace with Turkey, Department is constrained to adhere to position stated in

⁷⁷ For previous correspondence concerning capitulatory rights in Palestine, see *Foreign Relations*, 1920, vol. II, pp. 675 ff.

⁷⁸ *Ibid.*, p. 677.

⁷⁹ See telegram no. 72, Jan. 24, from the Ambassador in Great Britain, *supra*.

its 1214, 6 P.M., December 8 [9], last.⁸¹ Right to maintain consular courts in Palestine, as part of American judicial system, is secured to this Government by treaties and usages and is sanctioned by Acts of Congress. While expressing no doubt of ability and fairness of tribunals established by British authorities in Palestine, Department would not feel justified in waiving right of American citizens to be tried by duly established American courts.

In communicating substance of foregoing to British Government express Department's regret at inability to accede to that Government's wishes.

COLBY

711.673/118

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

No. 4287

LONDON, *March 4, 1921.*

[Received March 22.]

SIR: With reference to my telegram No. 176, March 4, 1 p.m.,⁸² and previous correspondence in regard to the jurisdiction of the Palestine Courts over foreigners, I have the honor to transmit herewith copies of a Note No. E.2340/1647/88 dated March 2nd, 1921, which I have received from the Foreign Office in this connection.

The Foreign Office state that the British High Commissioner for Palestine has been instructed to hand over to the American Consul for trial the American citizen who was recently convicted on a charge of forgery by the Jaffa Court.

I have [etc.]

JOHN W. DAVIS

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Davis)

E 2340/1647/88

[LONDON,] 2 *March, 1921.*

YOUR EXCELLENCY: I have the honour to refer to the note which Your Excellency was so good as to address to me on the 3rd. February⁸³ with regard to the jurisdiction of the Palestine Courts over foreigners.

2. His Majesty's Government appreciate, while regretting the legal reasons and somewhat technical considerations which prompt the United States Government to press their representations for the

⁸¹ *Foreign Relations*, 1920, vol. II, p. 676.

⁸² Not printed.

⁸³ See telegram no. 73, Feb. 1, to the Ambassador in Great Britain, p. 119.

recognition of United States Consular jurisdiction in Palestine, pending the entry into force of the Treaty of Peace with Turkey and the mandate for Palestine, upon which date, as already pointed out in my note of December 29th., the extra-territorial rights enjoyed by foreigners in Palestine will definitely cease to exist. While therefore His Majesty's Government are naturally reluctant to override the decision of the Jaffa Court, and thus not only to run the risk of adversely affecting the authority and prestige of the responsible British authorities in Palestine but also to render more difficult the heavy task which they have accepted, with, as they hoped, the cordial good-will of the United States Government, they are prepared in deference to the United States Government's representations and as a mark of their friendly sentiments to accede to the United States Government's wishes in this matter, pending the coming into force of the Treaty of Peace.

3. Instructions are accordingly being sent to His Majesty's High Commissioner for Palestine that the United States citizen who was recently convicted on a charge of forgery by the Jaffa Court should be handed over to United States Consul for trial.

I have [etc.]

(For the Secretary of State)

LANCELOT OLIPHANT

711.673/118

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

No. 1290

WASHINGTON, April 11, 1921.

SIR: The Department acknowledges the receipt of Mr. Davis' despatch No. 4287 of March 4, 1921, transmitting copies of a note from the British Foreign Office conceding recognition of American consular jurisdiction in Palestine, pending the coming into force of the Treaty of Peace with Turkey. It is noted that the Foreign Office observes that upon the coming into force of the Treaty and the Mandate for Palestine, the extra-territorial rights enjoyed by foreigners in Palestine will definitely cease to exist.

In expressing the gratification of this Government at the action taken by His Majesty's Government in this matter, you will take occasion to refer to the statement in the Department's telegram of February 1, 1921, that the question of the status of the capitulations after the coming into force of the Treaty of Peace with Turkey was reserved for later consideration, and you will indicate that the Government of the United States is not at present disposed to concur in the view of His Majesty's Gov-

ernment that the régime of the capitulations in Palestine will be terminated as a matter of course when the Treaty and the Mandate become effective.

I am [etc.]

For the Secretary of State
HENRY P. FLETCHER

711.673/130

The Consul at Jerusalem (Southard) to the Secretary of State

No. 706

JERUSALEM, August 17, 1921.

[Received September 16.]

SIR: I have the honor to state that on or about August 3, 1921, the Palestine police arrested at the town of Ludd, Palestine, an American citizen named Abraham Chaikin. Mr. Chaikin was charged with carrying a revolver contrary to local law and was tried and sentenced by the District Governor at Ramleh to imprisonment for thirty days.

In accordance with standing instructions this Consulate demanded—a week later when informed of the occurrence—that Mr. Chaikin be turned over to it for trial in the American Consular Court in accordance with the Capitulations. The Civil Secretary of the Palestine government informed this Consulate verbally that there were two reasons why he thought Mr. Chaikin was not subject to American Consular Court jurisdiction. The first reason was that the accused had been apprehended in a military zone by military police, and the second reason was that the accused had been tried and sentenced without claiming American citizenship or American protection.

After some verbal discussion extending over a few days, and upon the insistence of the undersigned the Civil Secretary abandoned his first reason and waived the second upon a promise that this Consulate would secure a legal ruling on the two questions from the Department of State. The accused has therefore been ordered turned into the custody of this Consulate, and he will be tried in this Consular Court and a full report of the result of such trial made to the Department. The trial will probably be held within the next two weeks.

In the meantime the Department's ruling or opinion upon the two points raised by the Civil Secretary of the Palestine Government—the first having to do with the exercise of Capitulatory rights in favor of an American citizen arrested in a military zone by military police, and the second having to do with the exercise of Capitulatory rights in favor of an American citizen who has been arrested by the Palestine police and has submitted to trial in a Palestine court without asserting his citizenship or claiming Consular protection—is respectfully requested.

I have [etc.]

ADDISON E. SOUTHARD

711.673/130

The Secretary of State to the Consul at Jerusalem (Southard)

WASHINGTON, *January 17, 1922.*

SIR: In reply to the questions asked in your despatch No. 706 of August 17, 1921, relative to the arrest and imprisonment by the Palestine Government of Abraham Chaikin, an American citizen, you are informed that the Department is not prepared to accept the view of the Civil Secretary of the Palestine Government that Mr. Chaikin was not subject to American consular jurisdiction because he was apprehended in a military zone by military police and because he was tried and sentenced without claiming exemption as an American citizen.

This Government, under existing treaties and usages, has the right to maintain courts of justice separate from the local administration for the exclusive cognizance of alleged offenses by American citizens in Palestine, and it cannot admit that that right yields to the right which may be asserted by the military authorities to apprehend persons in a military zone. . . .

In regard to the effect of the failure of an American citizen to claim exemption from the military jurisdiction, it may be observed that since the jurisdictional immunity of American citizens in Palestine is derived from rights accorded to the Government of the United States it cannot, in the opinion of the Department, be relinquished at the will of an individual citizen.

I am [etc.]

For the Secretary of State:

WILBUR J. CARR

**REFUSAL BY THE DEPARTMENT OF STATE TO QUESTION THE
RIGHT OF THE BRITISH GOVERNMENT TO EXCLUDE CERTAIN
AMERICAN CITIZENS FROM THE BRITISH ISLES**

841d.00/265

Certain Members of the United States Senate to the Acting Secretary of State

WASHINGTON, *December 15, 1920.*

SIR: On Wednesday last the British Embassy in Washington refused visas for passports regularly issued by the United States Government to four distinguished American citizens chosen by the unofficial, but representative, American Commission on Conditions in Ireland to visit England and Ireland to ascertain the facts with respect to present conditions in Ireland.

It is our opinion that this refusal to admit to England and Ireland Americans seeking to serve the ends of truth and peace by an unobtrusive ascertainment of facts constitutes a violation of the right of free communication between the liberty-loving people of two democracies. Moreover, it is an instance of the kind of governmental suppression of truth and free speech that may result in serious danger to the friendly relations of Great Britain and the United States, because its effect is to foster misunderstandings between peoples whose continued friendship depends upon mutual knowledge and comprehension of the problems confronting each other.

The Government of the United States has placed no obstacles in the way of British and other foreign missions, commissions, and committees, official and unofficial, coming into this country for all kinds of purposes. While we were still neutral with reference to the great war, British missions were permitted to visit all parts of the United States to conduct active propaganda and investigate American industrial, economic and social conditions. Great Britain now denies to American citizens what the United States has fully granted to British citizens.

It is therefore our opinion that this refusal of visas for passports regularly issued to American citizens by the Government of the United States calls for a protest to the British Government by the Government of the United States together with a request for an explanation of the British Government's reasons for pursuing such a course.

Consequently, we wish to urge you to transmit a formal protest to the British Government accompanied by a request that the British Government explain publicly why it refuses the right of travel in the British Isles to representative American citizens seeking to ascertain the truth as to a situation which, if permitted to continue, may seriously affect the friendly relations of the American and the English peoples.

Respectfully,

G. W. NORRIS
T. J. WALSH
JOSEPH IRWIN FRANCE
ROBERT M. LA FOLLETTE
JOS. E. RANSDELL
DAVID I. WALSH
ASLE J. GRONNA
GEO. E. CHAMBERLAIN
DUNCAN U. FLETCHER
JNO. K. SHIELDS

841d.00/265

*The Acting Secretary of State to Senator G. W. Norris*⁸⁴

WASHINGTON, *January 11, 1921.*

SIR: I have the honor to acknowledge the receipt of the letter of December 15, 1920, signed by yourself and other Senators, with regard to the refusal of the British Embassy at Washington to visa passports of certain American citizens who, you explain desire to proceed abroad as an "American Commission on conditions in Ireland to visit England and Ireland to ascertain the facts with respect to present conditions in Ireland." The opinion is expressed in the letter under acknowledgment that the refusal to admit these persons to England and Ireland "constitutes a violation of the right of free communication between the liberty-loving people of two democracies." The opinion is further expressed that the refusal of these visas "calls for a protest to the British Government by the Government of the United States together with a request for an explanation of the British Government's reasons for pursuing such a course." Attention is called to the visit of British Commissions to this country while it was neutral during the war.

I am not entirely clear what British commissions you have in mind in referring to commissions which visited this country while it was a neutral. Representatives of several countries came here to purchase supplies. Their mission was evidently very different from that of the persons who desire to investigate conditions in Ireland.

In commenting on the questions raised by your communication, it may not be amiss to invite attention to an excerpt from a report of Secretary of State Foster to President Harrison under date of January 7, 1893, which was prompted by a Senate Resolution intended to obtain information respecting the subject of immigration, when in that year there was pending before Congress a bill for the suspension of immigration for the period of one year. In that report Secretary Foster said:

"The national power of self-preservation is peculiarly applicable to the exclusion of foreigners. Said Mr. Justice Gray in *Nishimura Ekiu vs. United States* (142 U. S. 659):

"It is an accepted maxim of international law, that every sovereign nation has the power, as inherent in sovereignty, and essential to self-preservation, to forbid the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe."

"In 1852, Mr. Everett, then Secretary of State, said that—

"This Government could never give up the right of excluding foreigners whose presence they might deem a source of danger to the United States." (Mr. Everett, Secretary of State, to Mr. Mann,⁸⁵ December 13, 1852; 2 Wharton's *Digest*, sec. 206.)

⁸⁴ The same to the other Senators signatory to the letter of Dec. 15, 1920, *supra*.

⁸⁵ A. Dudley Mann, special agent (diplomatic) of the United States in Switzerland, 1850-53.

"And Mr. Justice Field, in delivering the opinion of the court in the Chinese Exclusion Case (130 U. S. 609), stated the doctrine thus:

"The power of exclusion of foreigners being an incident of sovereignty belonging to the Government of the United States, as a part of those sovereign powers delegated by the Constitution, the right to its exercise at any time when, in the judgment of the Government, the interest of the country requires it, can not be granted away or restrained on behalf of anyone. The powers of government are delegated in trust to the United States, and are incapable of transfer to any other parties. They can not be abandoned or surrendered. Nor can their exercise be hampered, when needed for the public good, by any considerations of private interest. The exercise of these public trusts is not the subject of barter or contract."

"The subjection of conventional agreements to the power of self-preservation must be implied, for it can not be presumed that when governments contract with each other they will fail to take notice of the existence of so inherent a right of sovereignty and attempt to grant away that which, by the very nature of things, is incapable of being granted."

The exclusion of foreigners is a matter of domestic concern. In harmony with the general principles enunciated in the above quoted extract from Secretary of State Foster's report, Congress has extensively restricted the admission of aliens into this country by providing for the exclusion of numerous classes of persons. And by the Act of August 8, 1918,^{55a} Congress authorized the Executive to supplement existing statutory restrictions by further restrictions and prohibitions if he should feel that the public safety should so require. At present Congress has under consideration proposed legislation involving measures bordering on a total exclusion of a numerous class of aliens from this country for an extended period of time.

By calling attention to the fundamental principles in respect to the sovereign right of a nation to deal with the exclusion of foreigners in any manner which, in its judgment, the national interests may require, I do not mean to imply that arbitrary measures of exclusion directed in a discriminatory manner against a particular nation might not warrant appropriate diplomatic representations. But I beg to point out that the exercise of a sovereign right to exclude aliens can not furnish grounds for a diplomatic protest based on a claim of violation of legal rights.

I feel certain that the refusal of the visas which you find very objectionable in no way involves an unfriendly or discriminatory attitude against the Government of the United States, and I do not feel that the Department can properly question either the right or the judgment of the British Government to refuse admission in

^{55a} Act of May 22, 1918 (40 Stat. 559); proclamation dated Aug. 8, 1918 (40 Stat. 1829).

the present case. The Government of the United States has never acquiesced in the right of any other nation to question its action in such matters.

I have [etc.]

NORMAN H. DAVIS

**BRITISH REJECTION OF THE PROPOSAL TO EXEMPT AMERICAN
COASTWISE SHIPPING FROM THE PANAMA CANAL TOLLS**

811f.8123/91

*The Ambassador in Great Britain (Harvey) to President Harding*⁸⁶

LONDON, *September 19, 1921.*

DEAR MR. PRESIDENT: I fear there is no escape from the conclusion that nothing can be accomplished in the immediate future with respect to an adjustment of the Panama Canal Tolls matter that would be acceptable to both countries. This is what has happened:

I took up the subject with Lord Curzon at what seemed to be the most opportune moment. . . . I prefaced my statement by saying that I had no proposition to submit and was merely groping for a solution and would greatly appreciate his assistance. With that object in view, I should like to speak to him with the utmost frankness regarding the situation in the United States in a wholly personal and unofficial way. He responded most cordially to the effect that our relations had become such that he should feel hurt if I did not approach every subject in that spirit. Thereupon, I laid the situation before him, pointing out that the whole matter was that of the interpretation of a treaty,^{86a} regarding which our most prominent international lawyers differed. Mr. Root holding one view and Senator Knox and Mr. Sutherland the opposite. Mr. Hughes, to my knowledge, had never expressed an opinion upon the subject. Personally, in the contest in the Senate in 1913 I had upheld the contention of President Wilson and Mr. Root but recently, as the result of careful study, I had been greatly impressed by the arguments of Senator Knox. For the immediate purpose I did not consider it necessary to consider the merits of the case from a technical viewpoint, but I had all of the documents bearing upon the matter and should be ready to do so at any time. The immediate problem was, to my mind, purely practical. The Republican Plat-

⁸⁶ Received in the State Department from the White House on Oct. 11.

^{86a} Signed Nov. 18, 1901, between the United States and Great Britain, John Hay and Lord Pauncefote being plenipotentiaries; for text, see *Foreign Relations*, 1901, pp. 243-246.

form, in response to public demand, had committed the party in power to exemption of American coastwise traffic from tolls, the President during his campaign had specifically approved this principle, and a Bill sponsored by Senators Knox and Borah, designed to fulfill this pledge, was pending in Congress. It would have passed and become a law already, but for the reluctant consent of those Senators to let me undertake to resolve the matter through diplomatic negotiation.

This, I remarked, was how it then stood. I had no plan when I left America, but had given the subject a great deal of thought and had a tentative suggestion to put before him for his consideration, which might or might not prove acceptable, but might tend, at least, to a development from which a solution might be evolved. I had not submitted it to my Government, because it was simply the result of groping, and I felt the need of his greater experience in putting it into concrete form if he should feel that it might in any way prove to be feasible. In other words, I should like him to regard the attempt as a little enterprise of our own until we could determine whether it possessed the elements of practicability. If we could reach an understanding along the line which I had in mind, or along any line which might suggest itself to him, I thought that we could reasonably assume that we were rendering a real service in eliminating at least one of the causes of irritation between our two countries. He responded that nothing could be more gratifying to him than to co-operate in such an endeavour.

Thereupon I outlined my tentative suggestion. Recalling that the chief contention of the British Government had been that exemption of tolls upon our coastwise traffic would result in unfair discrimination against Canada, I wondered whether, if the Treaty were so modified, or amended, as to put Canada upon the same basis as the United States with respect to its coastwise traffic, the British objection might not be overcome. I pointed out that from the American point of view this would be a distinct concession, for which Canada should be grateful to both countries, thus inculcating a spirit of helpfulness which would surely tend to enhance friendliness all around. I noted further that in the event of the passage of the Bill, which would surely transpire when it came to a vote, Canada would be deprived of a privilege which, ultimately, might prove of great value. I noted, further, that such an arrangement would not change in the least the basis of equality of toll charges on foreign trade as between the two countries. That was, for example, to say that the charges upon cargos from New York and Liverpool consigned to Japanese, Chinese and other Pacific ports would continue to be identical as at present. I am-

plified the argument in minor respects, but these constituted the major points.

Lord Curzon manifested the keenest interest and promised his sympathetic consideration, while he should familiarize himself with the conditions which were not fresh in his mind. There the matter was left. At the expiration of ten days or two weeks Lord Curzon brought up the subject, saying that it was most disagreeable to him to have to inform me that he feared nothing could be done about the matter. He had talked over the suggestion with the members of the Imperial Conference most informally, and Mr. Meighen⁸⁷ had said promptly that Canada's devotion to the Empire was such that she would not accept any differentiation in her favor as against the United Kingdom or the other Dominions. Consequently, the Conference had agreed unanimously that no proposal, or even suggestion, tending to relieve the situation could be entertained. I tried patiently to explain that no such differentiation was involved, inasmuch as Canada was the only portion of the Empire engaged in purely coastwise traffic, but the attempt was futile. . . .

Needless to say, the passage of the Bill on the eve of the Conference⁸⁸ would be most unfortunate. Could it not be averted without impairing in any degree our rights, upon the ground that the Government is not in a position at the present time to sacrifice two or three million dollars a year, which it derives from the Panama Tolls? It would not be advantageous to have it announced that action is postponed further because of the effect it might have upon the Conference, since doing that might give rise to harmful discussion. The ideal thing to my mind, would be to induce Borah to let the business rest and slip by without publicity.

With best regards [etc.]

GEORGE HARVEY

500.A 4/190½

Memorandum by the Secretary of State of a Conversation with the British Ambassador (Geddes), September 20, 1921

[Extract⁸⁹]

The Ambassador said that he had been instructed by his Government to say that they were satisfied with the proposed agenda⁹⁰ save that they desired to add the subject of the Panama Canal tolls.

⁸⁷ Rt. Hon. Arthur Meighen, Canadian Prime Minister and Secretary of State for External Affairs.

⁸⁸ The Conference on the Limitation of Armament, Washington, 1921-1922.

⁸⁹ Further extracts from memorandum printed in vol. I, p. 71.

⁹⁰ For the Conference on the Limitation of Armament, Washington, 1921-1922.

The Secretary said that he did not think it advisable that this subject should be brought into the Conference; that in his opinion it was a matter to be dealt with diplomatically between the Governments of Great Britain and the United States.

The Ambassador said that it was the view of his Government that it was a question not alone between Great Britain and the United States but affecting other governments and so would appropriately be brought into the Conference.

811f.8123/64

President Harding to the Secretary of State

WASHINGTON, September 29, 1921.

MY DEAR MR. SECRETARY: I have your note of this morning⁹¹ respecting the Panama Canal tolls question and your inquiry for the letter to which Ambassador Harvey has made reference in telegraphic communication. The letter has not yet reached this office. I will be glad to place it at your disposal as soon as it comes.⁹²

For your information, in discussing this question with the British Ambassador, I think it is well to say that it has been intended all along to make any modification of the present arrangement the subject of diplomatic discussion with Great Britain. The pending measure in Congress will likely receive the sanction of the Senate, because it has been maneuvered into a parliamentary situation which makes it impossible to avoid a vote on October 10th. I am very sure the matter will go no further than to receive a favorable vote in the Senate. I feel quite strongly that this may well be left as a matter for negotiation between Great Britain and the United States and has no place as an international problem before the Conference on the Limitation of Armament. At any rate, you may well postpone further discussion on the ground that you are awaiting additional information from the Executive.

Very truly yours,

WARREN G. HARDING

⁹¹ Not printed.

⁹² *Ante*, p. 127.

811f.8123/66½

*Memorandum by the Secretary of State of a Conversation with the
British Ambassador (Geddes), October 17, 1921*

[Extract]

2. Panama Canal Tolls

The Ambassador referred to the vote in the Senate and said that he had been instructed by his government to say that the British Government could not recede from its position.

The Secretary said that the Ambassador would note that the action thus far had only been taken by the Senate and not by Congress. The Secretary added that he considered the question one to be handled in the course of diplomatic negotiations.

The Ambassador said that his Government desired to have it made clear that it was not representing simply its own interests but also the interests of other nations in making its claim.

The Secretary said that inasmuch as the Ambassador had referred to that phase of the matter, he felt that he ought to say that this Government could not recognize any right or claim save as it was based upon treaty; that, in the absence of treaty, it was apparent that no nation would have the slightest basis for contending for free passage through a canal which the United States had built; that hence the question turned simply on the construction of a treaty; that the United States had its treaty with Great Britain^{92a} and the question arose under that treaty; that there was also a treaty with Panama^{92b} which incorporated provisions of the treaty with Great Britain; that so far as Great Britain was concerned the question arose solely by virtue of the treaty with Great Britain, and the United States could not recognize that any other government, not having a treaty covering the question, had the slightest right to make any claim, and therefore that this Government could not admit that Great Britain had any standing to make a claim on behalf of any other Power. The Secretary added that of course he understood that there might be motives and interests which would lead Great Britain to advance a contention under a treaty but it was still its contention and its contention alone, and it could not be regarded by this Government as one that should be advanced in a representative capacity.

^{92a} Signed Nov. 18, 1901; *Foreign Relations*, 1901, p. 243.

^{92b} Signed Nov. 18, 1903; *ibid.*, 1904, p. 543.

The Ambassador said that evidently his Government had been led to bring the matter up by reason of the suggestion of the American Ambassador at London; that a basis might be found for agreement by allowing certain privileges to Canada; that it was apparently in response to this suggestion that he had been instructed to say that Great Britain could not recede from the position already taken.

TERMINATION, EXCEPT AS TO ARTICLE VI, OF THE TREATY OF OCTOBER 2, 1886, BETWEEN THE UNITED STATES AND THE KING OF TONGA⁹³

711.0021/44c

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

WASHINGTON, *May 29, 1915.*

SIR: Referring to the Department's instruction of this day's date,⁹⁴ directing you to give notice to the Secretary of State for Foreign Affairs, pursuant to the provision of the Act of Congress of March 4, 1915,⁹⁵ of the intention of the Government of the United States to abrogate the Treaty of June 3, 1892, with Great Britain,⁹⁶ you are now instructed to inform the Secretary of State for Foreign Affairs that the considerations which made that notice necessary apply equally to Article 10 of the Treaty of October 2, 1886, between the United States and the King of Tonga; and, as the protectorate over the Tonga Islands proclaimed by the Government of Great Britain on May 19 [18?], 1900, was subsequently accepted by the United States, you will, pursuant to the provisions of the Act of March 4, 1915, as set forth in the Department's instruction of May 29 above mentioned, give notice to the Secretary of State for Foreign Affairs of the intention of the Government of the United States to abrogate Article 10 of the Treaty of October 2, 1886, between the United States and the King of Tonga, in accordance with the stipulations of the Treaty requiring one year's notice, such abrogation to take effect on July 1, 1916.

Article 10 of the Treaty of October 2, 1886, with the King of Tonga reads as follows:

"Should any member of the ship's company desert from a vessel-of-war or merchant vessel of either of the High Contracting Parties, while such vessel is within the territorial jurisdiction of the other, the local authorities shall render all lawful assistance for the appre-

⁹³ For text of treaty, see Malloy, *Treaties*, vol. II, p. 1781.

⁹⁴ *Foreign Relations*, 1915, p. 3.

⁹⁵ 38 Stat. 1184.

⁹⁶ For text of treaty, see Malloy, *Treaties*, vol. I, p. 762.

hension of such deserter, on application to that effect made by the Consul of the High Contracting Party concerned, or if there be no Consul, then by the master of the vessel."

I am [etc.]

W. J. BRYAN

711.4121/14

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

No. 2005

LONDON [undated].

[Received September 3, 1915.]

SIR: With reference to the Department's unnumbered instruction of May 29, 1915, respecting Article 10 of the Treaty of October 2nd, 1886 between the United States and Tonga which the Government of the United States desire should be abrogated, I have the honor to enclose herewith a copy of a Note I have just received from the Foreign Office,⁹⁷ enquiring whether since no provision exists for the termination of separate Articles of the Treaty, except Article VI, but only for the termination of the Treaty as a whole, the United States Government desire to give notice of denunciation of the Treaty of October 2nd 1886.

I have [etc.]

WALTER HINES PAGE

711.4121/14

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

WASHINGTON, March 23, 1916.

SIR: The Department has received your undated despatch No. 2005, relative to Article 10 of the Treaty of October 2, 1886, between the United States and Tonga which the Government of the United States desires to abrogate.

It appears to the Department that the British Government has not exactly understood the purpose of this Government as expressed in the communication addressed to them by you regarding the abrogation of this treaty.

It has been previously pointed out to His Majesty's Government that the application of the fundamental principles of the Act of Congress to alien seamen within the territorial jurisdiction of the United States involves an abrogation of such treaty provisions with foreign governments as are inconsistent therewith, and that the Act makes it mandatory on the President, within ninety days after the passage thereof, to give notice to the several governments, respectively, that "so much as hereinbefore described of all such treaties and conventions between the United States and foreign

⁹⁷ Not printed.

Governments will terminate on the expiration of such periods after notices have been given as may be required in such treaties and conventions," the period thus established terminating on July first next.

It will be perceived that it was the intention of Congress that certain provisions of the Act intended to better the condition of seamen should take effect with respect to vessels of foreign nations something over a year after the approval of the Act, a period being accordingly provided within which this Government could take up with these nations the matter of eliminating treaty provisions in conflict with the Act.

The Government of the United States, therefore, pursuant to the provisions of the Act, gave notice of its intention to eliminate Article X of the Treaty of October 2, 1886, between the United States and the Kingdom of Tonga, and confidently expected that a satisfactory arrangement could be made with the proper authorities so that the treaty relations between the two Governments would not be disturbed on July first, when the Act is to become effective as regards all American and all foreign vessels.

Inasmuch as treaties are contracts between governments, they can only be varied in whole or in part by mutual agreement or special consent. It is the hope, however, of the President that such an agreement can easily be reached as will leave unaffected all parts of the treaties with foreign governments not inconsistent with the humanitarian and progressive provisions of the Act.

While recognizing that denunciation of a portion of a treaty may not, according to international practice, be made, the President nevertheless, using the discretion which he deems is granted to him to interpret the Act in the sense contemplated by Congress, desires you to propose for the consideration of the proper authorities an arrangement which will effect the purpose of the Act by the mere omission of Article X of the Treaty of October 2, 1886, between the United States and the Kingdom of Tonga.

It may be observed in this relation that doubtless the general observations made in the communications previously laid before the Foreign Office by you regarding the purposes of the Act of March 4, 1915, will make clear to the British Government the wise and humane purpose towards which the legislation is directed. That Congress did not contemplate the least infringement of the rights of foreign governments respecting the control of their merchant marine while in the ports of the United States, in a manner inimical to those Governments, is evident from the reports of the various committees to which the bill was referred before passage. It is likewise clearly shown by Section 16 of the Act that the intent of Congress was not to disturb the great and valuable treaties now existing between the

Government of the United States and other nations, negotiated from time to time with much care and with much patience, but by appropriate legislation to correct and regulate the long existing and varying methods of procedure in matters affecting seamen. That such methods of procedure and standards of conduct toward seamen generally have not been advanced as they should have been, coincident with the improved treatment of other classes of labor, is believed to be so well established as to need no comment, and the President feels, therefore, that when all the facts and circumstances attendant upon the passage of the Act are fully considered by the other governments whose treaties may be affected in parts, no serious difficulties will be found to delay or to prevent an agreement for the mere abrogation or omission of the respective articles found to be inconsistent with the provisions of the Act.

The President, although deeply anxious that an agreement be reached with foreign governments on this subject, is not concerned as to the particular method by which it may be consummated, whether by signed protocols of conferences or by mutual exchange of notes, as is a common practice in the conduct of many diplomatic affairs of this character. The latter course seems preferable because more easily effected. It will be necessary to refer to the Senate of the United States for its advice and consent such an agreement by an exchange of notes, and this method of procedure will be regular and effective because of the authority already granted to the President by Section 16 of the Act to abrogate the portions of the treaties inconsistent therewith. Hence it will be perceived that the intent of Congress may be fully realized by informal agreements between the Government of the United States and other powers, and that in this way the various important treaties now subsisting may remain in full force and effect with the exception of certain articles relating to seamen.

Please communicate with Foreign Office in the sense of the foregoing.

I am [etc.]

ROBERT LANSING

711.4121/26

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

No. 4037

LONDON, *January 10, 1921.*

[Received January 28.]

SIR: Pursuant to the Department's instruction No. 1075 of December 20, 1920,⁹⁸ (File No. 711.4121/24), I have the honor to transmit herewith a copy of the Note of July 28, 1919, by which the British

⁹⁸ Not printed.

Government on behalf of the King of Tonga gave notice of denunciation of the Treaty of Amity, Commerce and Navigation, concluded on October 2, 1886, between the United States and the King of Tonga.

I have [etc.]

JOHN W. DAVIS

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Davis)

No. 107441/345T

[LONDON,] *July 28, 1919.*

YOUR EXCELLENCY: I have the honour to advert to Your Excellency's Note of May 28th. last (No. 370) and previous correspondence respecting the desire of the United States Government to abrogate Article 10 of the Treaty of Commerce of October 2nd. 1886 between the United States and Tonga. His Majesty's Government regret the delay which has occurred in answering your predecessor's Note on the subject, and which has been largely due to circumstances caused by the war and difficulties of communication with Tonga.

I have now the honour to state that, inasmuch as the Treaty in question makes provision only under Article 14 for its entire abrogation (save in respect of Article 6), it is deemed that the desire of the United States Government will best be met by giving notice of denunciation in accordance with the terms of that Article. His Majesty's Government, on behalf of His Majesty the King of Tonga, by the present note therefore give notice of denunciation of the Treaty of October 2nd. 1886 as provided for in Article 14 and I shall be glad if Your Excellency will be good enough so to inform the United States Government.

I have [etc.]

(For Earl Curzon of Kedleston)

G. S. SPICER

711.4121/26

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

No. 1196

WASHINGTON, *February 18, 1921.*

SIR: The receipt is acknowledged of your note No. 4037 dated January 10, 1921, and the enclosure therewith of a note of July 28, 1919, from the Foreign Office by which His Majesty's Government gave notice in behalf of the King of Tonga of the denunciation, except as to Article VI of the Treaty concluded on October 2, 1886, between the King of Tonga and the United States.

You are requested if the Embassy has not made acknowledgment of the note from the Foreign Office to make such acknowledgment in the following form:

"In due course I communicated to my Government the notice given in behalf of the King of Tonga by His Majesty's Government in your note of July 28, 1919, of the denunciation of the Treaty of Amity, Commerce and Navigation, concluded on October 2, 1886, between the King of Tonga and the United States, that notice being given under Article XIV of the Treaty which provides for its termination one year after such notice, save and except as to Article VI, which is terminable only by mutual consent.

"By direction of my Government I have the honor to acknowledge the receipt of the notice given by His Majesty's Government. It is the understanding of my Government that the provisions of Article VI of the Treaty continue in force under the exception which is made concerning them in Article XIV."

If an acknowledgment of the note of the Foreign Office previously has been made by the Embassy, you are requested to transmit a copy of that acknowledgment to the Department, otherwise you are requested to transmit to the Department a copy of the acknowledgment which the Embassy makes in pursuance of this instruction.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

GREECE

QUESTION OF THE RECOGNITION OF THE GOVERNMENT OF KING CONSTANTINE¹

868.001 C 76/20: Telegram

The Acting Secretary of State to the Minister in Greece (Capps)

WASHINGTON, January 7, 1921—noon.

1. Department's 106 December 30, 5 p.m.,² and your 2 January 3,
7 p.m.³

Department feels that if information is requested of its attitude as regards recognition of King Constantine you should state that you have no instructions.

Bristol was instructed that occasion of recognizing King Constantine should be avoided pending official recognition through diplomatic channels.⁴

Our final decision will be made upon the usual receipt of notice from the King of his assumption of office.

DAVIS

868.001 C 76/21: Telegram

The Acting Secretary of State to the Minister in Greece (Capps)

WASHINGTON, January 15, 1921—1 p.m.

5. The Greek Chargé d'Affaires by note dated January 12³ informed the Department of State that he was in receipt of orders from his Government to the effect that King Constantine had returned to Greece on the 6th of last December and had assumed the function as King. The Greek Chargé was thereupon called to the State Department and told confidentially that while the Department, after consultation with the President, is inclined to consider favorably the recognition of King Constantine it could not accept the form in which the note was sent as a formal announcement of accession. The Greek Chargé was therefore asked to advise the Greek Government that before a reply was given by the Department of

¹ For previous correspondence, see *Foreign Relations*, 1920, vol. II, pp. 705 ff.

² *Ibid.*, p. 710.

³ Not printed.

⁴ Instruction not printed.

State it would be necessary that a formal announcement signed by King Constantine and addressed to the President of the United States be received.

It is the opinion of the Department that as King Constantine's accession to the throne was the result of an election which brought about the overthrow of Venizelos followed by a plebiscite which returned King Constantine a favorable majority his recognition should no longer be refused. The Department has taken no definite action however in this regard.

DAVIS

868.00/251

The Minister in Greece (Capps) to the Acting Secretary of State

No. 510

ATHENS, *January 16, 1921.*

[Received February 26.]

SIR: Continuing my dispatch No. 500 of December 30, 1920,⁵ concerning the recent political events in Greece, I have the honor to submit the following observations on the constitutional and legal basis of the restored monarchy, and the constitutional and legal interpretation given by the party of Mr. Venizelos to the events which led to the removal of King Constantine from the throne in 1917.

It has become increasingly clear, through the convergence of various pieces of evidence, that the Royalists decided at some time, perhaps not until after the death of King Alexander, to take the position that Constantine had never ceased to be King and that, therefore, he had merely to choose the time and occasion that seemed to him most suitable for returning to Greece and resuming the throne.

It is not at all clear that either he or his advisors had this idea of the matter at the time he was forced by Mr. Jonnart, the Special High Commissioner representing the Protecting Powers, France and England, to leave the country and hand over the throne to his second son, Alexander. It is true that he did not "abdicate" to the extent of signing a legal document of that character. The demand was indeed originally made by Mr. Jonnart that he should sign formal articles of abdication, but on the advice of Dr. Streit, his most astute, most intimate and most pro-German counsellor, Constantine demurred; he would agree to leave the country together with the Crown Prince, George, and to hand over the royal power to his second son, Alexander, if they would not force him to sign the

⁵ Not printed.

abdication. It was understood by Jonnart, according to his own testimony, that the abdication was complete and final, in spite of the fact that the formal act was not executed. Whether Constantine and his advisors also regarded it in this light at this time is uncertain, though quite probable; and yet the momentary weakness of Commissioner Jonnart, in making this concession to the pride of the deposed King, furnished the basis—and a very good basis, it must be confessed—for all that has happened in the last two months.

During the sickness of King Alexander, when doubts began to be entertained about his recovery, one began to see in the Royalist papers in Athens and in the newspaper stories which emanated from Lucerne, intimations to the effect that if Alexander should die the throne would automatically revert to his father, whose *locum tenens* Alexander was. Then, when Alexander died and the Council of Ministers, at the suggestion of Mr. Venizelos, tendered the throne to Prince Paul, whom they regarded as the only rightful successor in accordance with the terms of the Constitution, the proffer was accompanied by a stipulation which indicated that Mr. Venizelos himself was aware of the technical weakness in his own position; for he laid down to Prince Paul the condition that his father and his oldest brother should both confirm their abdication and renounce all rights to the throne before he himself would be permitted to occupy it. The very statement of these conditions was as good as suggesting the reply which was actually received from Prince Paul—his father was still the King and he, Prince Paul, could not accept the offer of the throne.

The election, as I stated in my previous dispatch, really hinged upon the administration of Mr. Venizelos, and not upon the succession to the throne. If Venizelos should be defeated, a new Ministry would be formed by the opposition upon the invitation of the Regent, and the new Parliament would determine who should be King. But when Mr. Gounaris announced that his party denied the right of the Protecting Powers to drive out Constantine, who was still the lawful King, Venizelos accepted the challenge and declared that Constantine could never return, for that would mean civil war. The dynastic question was therefore the largest factor in the actual result. Although the overthrow of Mr. Venizelos did not necessarily mean the desire of the people to have King Constantine back, it was a clear indication that the forces of reaction were strong, and that, if the dynastic issue were brought before the people they would probably vote for their former King. This Constantine himself was quick to realize. Both he and Dr. Streit gave out statements to the effect that they would require a plebiscite in which the Greek people

should have an opportunity of expressing its wish on the precise question of the dynasty; and it was at their instance that the Ministry decided upon this course, which was followed in the manner described in my previous dispatch. But in spite of their announcement of a plebiscite, the Rhallys Ministry assumed from the first moment that Constantine was King *in absentia*, and that they governed in his name.

Its first act, after the result of the election became known, was in strict accordance with their theory that Constantine had never ceased to be king: they forced Regent Koundouriotis to resign, on the ground that the Parliament which had elected him was an illegal body, and set up Dowager Queen Olga as Regent. She then issued a proclamation announcing that she was Regent during the absence of her beloved son and would, until his return, act in his name. The new ministry put up the portraits of Constantine and Sophia in all the public offices and instructed the courts to issue their decrees "in the name of Constantine, King of the Hellenes". In all this they acted with entire consistency, but at the same time had to face a serious dilemma: namely, if Constantine had never ceased to be King, and if, therefore, the acts of the Government of Greece during the interval of three and a half years of his absence from the throne were invalid, by what authority did the Royalist Ministry itself come into power—a Ministry which was summoned to take office by Regent Koundouriotis, whose authority was derived from the Parliament whose very existence these ministers now declared to be illegal? And by what right did Dowager Queen Olga become Regent after the enforced resignation of Admiral Koundouriotis, when the invitation to become Regent was extended by a group of political leaders who could only, on their own theory, be acting as individual citizens? Disregarding all these embarrassments, the new ministers forged ahead, following out their theory as rigorously as circumstances would permit.

Their desire would have been to have the Regent issue a sweeping decree invalidating every act of Parliament and Ministry and King since the retirement of King Constantine; this, however, they did not dare to do because it was, after all, this Parliament and the Venizelist Ministry which had laid the basis for the treaties of Sèvres and Neuilly, which had brought to Greece large territorial accessions which the Royalists were eager to possess and enjoy. They have, therefore, proceeded by means of special decrees to revoke piecemeal such of the acts of the preceding Parliament as hindered them in carrying out their political wishes. Consequently we have seen an unending succession of decrees whose sole purpose has been to put Venizelists out of office and to reinstate Royalists in their

places, to abolish public undertakings instituted by the Venizelist government, and to give back pay for three and one half years to a multitude of officers of the Army and Navy and to officials and employees of the Civil Service who had lost their positions, as the Royalists claim, because of their political faith. As a matter of fact very large numbers of these persons were removed during the war as a result of disloyal or treasonable actions. And although no formal action has been taken invalidating concessions, contracts for public works, etc., granted under the Venizelos government, doubt has been thrown upon the validity of all such agreements, and Athens is full of contractors vainly seeking to learn where they stand.

Consistently with their theory, the new regime does not recognize Alexander as having been King. In the royal household he is studiously referred to as 'Prince' Alexander. They admit that he exercised the royal prerogatives, but insist that he did so at the request of his father and as provisional substitute for him. They have not ventured to call him "Regent", but that is precisely what they mean. They also pretend that this was Alexander's own conception of his position. The hard fact, however, which all the rest of the world recognizes, that Alexander became King, if at the request of his father, nevertheless on the nomination of the representative of the Protecting Powers; that all the Governments which maintained relations with Greece recognized him as King, and that his acts as King during the last year and a half of the war were of fundamental importance to the Greater Greece which has been erected as the result of Greece'[s] participation in the war—all this gives the Constantinist theorists a hard nut to crack and they have as yet not openly essayed it.

If Constantine never ceased to be King during the period when he was not permitted to exercise his royal functions, it logically follows that he is entitled to the stipends and honoraria which he enjoyed while in the active administration of his office. The King has not failed to see the opportunity which this argument offers him, and has filed a formal claim with the present Government for three and one half years' back salary, amounting to something over seven and one half million drachmas. It is probable that he will receive this sum as soon as the Government, which is practically bankrupt, can find the money. How they will be able to manipulate the item for salary and perquisites already paid to King Alexander, it is difficult to see. But it will be managed somehow.

A very complete, and it must be acknowledged, a very convincing, argument from the legal standpoint in favor of the Constantinist

theory has been made and published by Mr. Nicholas Stratos. Mr. Stratos was at one time Minister of Marine in the Venizelist Cabinet and a very efficient executive. He, however, committed an indiscretion in connection with a contract for some ships in England, acting directly contrary to instructions which he had received from Mr. Venizelos, and in consequence was asked to resign. He thereupon became an ardent Royalist and a bitter opponent of Mr. Venizelos. He is an exceedingly clever lawyer and has made a telling argument in his pamphlet, which is a study of the constitutional and legal basis for the act of the Protecting Powers in deposing Constantine. Mr. Stratos denies absolutely to the Protecting Powers as such any right whatever to intervene in the internal affairs of Greece, even if, as they alleged, the King or his ministers were failing to carry out the provisions of the Constitution which these Powers had assisted the Greek people in 1868 to adopt and put into force. Their demand that Constantine should abdicate was not, he argues, an act of war nor was it legally justified from any point of view. The Greek people are therefore required, as a self-respecting nation, to restore the situation as it was before it was changed by this outside intervention and to recall Constantine to the active resumption of his Royal functions. It must be acknowledged that Mr. Stratos makes a very strong case, and also that the explanation given by the Protecting Powers at the time of their intervention gives him a very plausible basis for his argument.

The position of Mr. Venizelos himself is much more consistent and legally considered much stronger than that of the Protecting Powers. He has always maintained that the abdication of Constantine was demanded by the Powers, not only because he had violated the articles of the Greek Constitution, but also because he had committed definite acts of hostility against the Entente Allies, and that it was the direct outcome of the revolutionary movement which Mr. Venizelos and his associates inaugurated when they formed the provisional Government at Salonika and called upon all Greeks to join them in fighting the common foe by the side of their natural friends and allies the English, French, Italians and Serbs. This movement was avowedly a revolution. Its immediate object was not indeed the overthrow of Constantine, but rather the active participation of Greece in the war. Mr. Venizelos made it perfectly plain that he would not participate in a civil war, but he appealed to all Greeks to take their position on the issue of honor which was inevitably forced upon Greece, whether they should fight actively on the side of the Entente Allies as their treaty obligations required and as the people had repeatedly, in general elections, evidenced their desire to do, or actively (or by absten-

tion almost as effectively) on the side of the Central Empires. It can hardly be doubted that a very large majority of the Greek people took his side in the revolution, and certainly the 200,000 Greeks who volunteered for the Army at Salonika contributed very essentially to the final Allied success in arms. Inasmuch as the Greek people were divided into two utterly hostile camps by this issue, and the side of Venizelos had come out triumphant, and since furthermore the continued presence of Constantine in Athens, working insidiously and constantly to thwart the purposes of the Allies, was a standing menace both to the Allied cause and to the Greeks who participated on that side; and since, finally, Constantine's Government had publicly declared that all who participated with Mr. Venizelos in the Revolution and took the field in the Allied cause were traitors to Greece and would be so treated if apprehended, the forceful removal of Constantine from the scene was a legitimate and necessary outcome of the Revolution and was a belligerent act in the prosecution of the war. The method by which the abdication was achieved was not altogether unobjectionable, from the point of view of Mr. Venizelos, but the alternative would have been the intervention in Athens of an armed force of Greeks from Salonika, which would have either seized Constantine and his *entourage* or have driven them into exile. This would have been a perfectly simple matter to carry out and there were many who advocated it; it, however, would have meant some shedding of blood in the capital; some lives would have been lost, including those of innocent bystanders, and Mr. Venizelos took the method which the Protecting Powers offered him in preference to the method of bloodshed. It was probably not a difficult choice to make at the time, but it was a choice which offered the royalist lawyer the best possible occasion for assailing the illegal character of the intervention.

That the war could not have been won on the Salonika front except by the removal of Constantine and his principal adherents who constantly menaced the Allied Army in the rear can hardly be doubted, and I know of no student of the war on this front who does doubt it. Nor can it be doubted that his removal was for the best interests of the Greek people both morally and materially. The best conscience of the nation demanded that it should participate in the war on the side of the Entente Allies; the results obtained for Greece through the treaties which have since been negotiated by the successful Venizelist regime amply justify the revolution, which put the major part of Greece into the war, and also the act by which Greece as a nation, instead of that portion of Greece which took up arms as revolutionists from the Constantine government, became a belligerent.

I have [etc.]

EDWARD CAPPS

868.001 C 76/22 : Telegram

*The Minister in Greece (Capps) to the Acting Secretary of State*ATHENS, *January 18, 1921—5 p.m.*

[Received January 19—2:52 p.m.]

6. Your 5, January 15th, 1 p.m. Greek Government explains failure formally to announce accession Constantine due to fact that he never ceased to be King; he simply resumed throne after enforced absence. Logical corollary to this theory is that all acts of Venizelist Government are invalid and present Government goes as far as it dares in this direction. This seems to me more important issue than mere recognition of Constantine as King, and I respectfully suggest that Department would do great service by drawing from Greek Government explicit acknowledgment of legitimacy of former regime by admission that King Constantine succeeds to throne made vacant by death of King Alexander. On this basis early recognition by United States after proper formalities have been complied with it seems to me would be right and proper. If on the contrary we permit theory now being followed to go unchallenged all acts of Venizelos Government likely to be invalidated as hundreds have already been. But for such obviously good things as treaties of Neuilly and Sèvres and foreign loans, et cetera, I believe blanket nullification would have been passed already. As it is, new ministry from moment it came into power acted in the name of Constantine, plebiscite only brought about his physical presence. Alexander is studiously referred to as Prince. Constantine has demanded his full salary for three and a half years of absence. The validity of all contracts made in the interval is being called in question. Of countries represented here, only Holland and Spain have entered into full relations with King; Russian Minister sees him socially, likewise Roumanian Chargé d'Affaires.

CAPPS

868.001 C 76/24 : Telegram

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

[Paraphrase]

LONDON, *January 21, 1921—6 p.m.*

[Received January 22—2 a.m.]

71. I have obtained information that the British Government has not yet been asked by the Greek Government to recognize Constantine. Such request would be refused at present owing to the attitude

both of the French Government and of the British public. The British Government is aware, however, that eventually they must recognize Constantine if they are to accomplish their policy of strengthening Greece. They may be compelled, indeed, to accept revision of the Sèvres Treaty in order to maintain cooperation with France and Italy. But for the sake of Greece they will strongly oppose revision, which is one of the principal questions to come before the conference about to meet in Paris. It is expected that very soon thereafter the British Government will be asked and will consent to recognize Constantine.

DAVIS

868.00/249 : Telegram

The Minister in Greece (Capps) to the Secretary of State

ATHENS, February 4, 1921—7 p.m.

[Received February 5—10:12 a.m.]

13. Ministerial crisis is precipitated by rivalry of party leaders in Cabinet, Gounaris and three others having offered Premier Rhallys their resignations because he opposed Gounaris' desire to go to London conference. Rhallys submits his resignation to King today. Next stage uncertain as financial situation is daily becoming more acute and attitude of the irreconcilables headed by Gounaris more pronounced. Policy of British seems likely favor early recognition of Constantine in order to be able to exercise greater influence on political and military matters provided that Constantine will frankly acknowledge himself to be King in succession to Alexander. Should be glad to know whether he has sent Washington formal notification of accession as Premier Rhallys favored doing, also what position Department has taken about Greece drawing on balance of loan. Minister of Finance has given out many positive statements on this subject.

CAPPS

868.00/249 : Telegram

The Secretary of State to the Minister in Greece (Capps)

WASHINGTON, February 9, 1921—6 p.m.

13. Your 13 February 4, 7 p.m.

Department has been informed by Greek Chargé that formal notification of accession has been mailed through Greek Foreign Office to the State Department. This has not yet been received.

The Department is of the opinion that no formal step towards the recognition of Constantine can be taken until the formal letter has been received.

COLBY

868.001 C 76/29 : Telegram

*The Minister in Greece (Capps) to the Secretary of State*ATHENS, *February 25, 1921—8 p.m.*

[Received February 26—7:55 a.m.]

25. Department's 17, February 16th.⁷ I have communicated to Greek Government our demands relative to imposition new taxes by Greek administration of Smyrna and interference with business of Standard Oil Company there both by note and by personal conference with Minister for Foreign Affairs. He professed ignorance of matter but promised to give it immediate attention. We also discussed recognition of King by United States. Minister desired me to convey to Department the assurances of his Government's intention to honor all actions of Government of Alexander so far as international agreements are concerned. I gathered that the letter which has been sent to the President and doubtless received by this time was merely formal and possibly an attempt to evade the issue. Minister made it clear that in the view of his Government, Alexander while exercising functions of King, was acting as a kind of regent for Constantine. I endeavored to impress upon him the necessity of making his Government's position so clear that no doubt could remain of any intention to question legality of Alexander's reign. Personally I am more and more impressed by insincerity present Government. Their acts at home are in direct contradiction to their professions to countries associated with them in the war. Parliament devotes most of its time distributing money indemnities to so-called victims of the tyranny of Venizelos, rewarding those who betrayed the Allied cause and punishing those who left Constantine and joined Allies. The Liberals were yesterday forced to leave the Chamber in a body and may decide to abstain from further attendance.

CAPPS

868.001 C 76/30

The Greek Chargé (Dracopoulos) to the Secretary of State[Translation ⁸]WASHINGTON, *March 2, 1921.*

MR. SECRETARY OF STATE: I have the honor to transmit to you herewith an autograph letter from His Majesty King Constantine addressed to the President of the United States, and to beg Your Excellency to be so good as to cause it to be brought to its destination.

Accept [etc.]

G. C. DRACOPOULOS

⁷ Not printed; see telegram no. 13, Feb. 19, to the High Commissioner at Constantinople, p. 158.

⁸ File translation revised.

[Enclosure—Translation⁹]*King Constantine to President Wilson*

VERY DEAR AND GREAT FRIEND: I deem myself happy to be able to announce to you that, having been summoned by the unanimous suffrage of the Hellenic people to resume my royal duties, I have acknowledged it as my duty to respond to so honorable a call and have assumed the throne. This event has taken place in the midst of circumstances at once gratifying to myself and reassuring for the future of my country. I trust that under these auspices my hopes for the welfare of my people and my desire to fulfill to the best of my ability the high task which falls to me will achieve beneficial results and will effectually influence the sources of prosperity and the social happiness of my people. I am also persuaded that you will be gratified to see my accession hailed by the acclamations of a generous people who are an element of order in the East and to whose happiness I have undertaken to dedicate myself, and that you will be disposed to accord to me your highly valued friendship in the exercise of my royal dignity. I beg you to be assured that on my part I shall be pleased to reknit the best relations between us and to draw closer the ties of good accord which happily subsist between our two countries. In expressing my earnest hopes for your welfare and the prosperity of the people whose destinies have been confided to you, I take this occasion to tender you the expression of my very high esteem and of my unalterable friendship, with which I am,

Very Dear and Great Friend,
Your Sincere Friend,

CONSTANTIN R.

Written at Our Palace, December 10/23, 1920.

D. G. RHALLYS

868.001 C 76/32: Telegram

*The Chargé in Greece (Hall) to the Secretary of State*ATHENS, *March 16, 1921—1 p.m.*

[Received March 17—4:46 a.m.]

33. Legation's telegram number 8 January 24th and number 27 March 9th, also Department's telegram number 16 February 15th.¹⁰ Minister for Foreign Affairs desired me to transmit to Government

⁹ Supplied by the editor.¹⁰ None printed.

of the United States following information contained in letter to Legation.

“The present Royal Government recognizes all obligations resulting from treaties, conventions or agreements concluded with foreign powers or private persons by the Government administering the affairs of the country during the time when the Royal authority was exercised by the late lamented son of His Majesty King Constantine.”

In other words Greek Government now frankly declares reign of Alexander illegal which is a positive statement they have up to this time avoided making to Legation. Such a stand by present Government here, if accepted, it seems to me will create endless possibilities of future disagreement and discord. French and British Ministers here urging same point on their respective Governments. In interview yesterday with Italian Minister I received distinct impression that Italy would not raise this question with present Greek Government as Italy seems to be well satisfied results of London conference.

HALL

868.01/40 : Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, April 29, 1921—1 p.m.

[Received April 30—6:16 a.m.]

64. On Wednesday April 27 Chamber of Deputies voted favorably on law declaring null and void all legislation enacted by revolutionary government of [Salonica] and succeeding government assembled by Venizelos at Athens in summer of 1917. In other words all acts of Alexander's reign were declared illegal. Following day Stratos raised question of such a law and with approval of Gounaris the said vote was rescinded and the law temporarily shelved. This action of Chamber shows absolute necessity of forcing Constantine and his Government to acknowledge legitimacy of Alexander's reign in order to avoid almost hopeless complications in the future.

HALL

868.01/228

Memorandum by the Under Secretary of State (Fletcher)

[WASHINGTON,] October 21, 1921.

Mr. Chilton, of the British Embassy, called today to say that as a result of our conversation of a week or so ago, with reference to the diplomatic situation in Athens the Embassy had received

a reply from the British Government stating that their confidential reports showed that the Constantine Government was weakening, and that they proposed (and this was told in strict confidence) to transfer their Minister, Granville, to Copenhagen, and send to replace him a diplomat with the personal rank of Minister, but who would function as Chargé d'Affaires, and suggested that in case of any change in our diplomatic representation the same procedure be followed. I explained to Mr. Chilton that it might be that the President would wish to send a man from civil life to Athens, and that in this event it would be hard to explain the situation in a satisfactory manner to a man not accustomed to diplomacy, but that I did not think there would be any immediate likelihood of a change; that I had made the former inquiry in order that the Department might be in a position to advise the President as to the exact diplomatic situation there, in view of the new appointments now being made to our diplomatic service. Mr. Chilton left, in a very courteous way, the impression that our recognition of the present Greek Government by sending a Minister there would be unwelcome to the British Government.

H[ENRY] P. F[LETCHER]

851.73/242

Memorandum by the Under Secretary of State (Fletcher)

[Extract]

[WASHINGTON,] *December 14, 1921.*

The French Ambassador called today, and said that he had heard that this Government was about to appoint a Minister to Greece, which might bring with it the recognition of King Constantine's Government. He said France would greatly deplore recognition on our part of Constantine. He said that England had a Minister Plenipotentiary there—Mr. Lindley, who was, however, accredited to the Greek Government as Charge d'Affaires only, and he suggested that we adopt the same course. I told him that up to this time, following the example of England and France, we had declined to recognize the Constantine Government, but that pressure was being brought to bear on the Government to appoint a Minister to Greece. I told him, however, that the Department would take his suggestion into consideration.

[No signature indicated]

TERMINATION OF THE TREATY OF 1837 BETWEEN THE UNITED STATES AND GREECE

611.6831/35

Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State (Robbins)

[WASHINGTON,] *March 9, 1921.*

On March 7, (1921) in Executive session, the following agreement with Greece was ratified.¹¹ The agreement, which was for the purpose of modifying the provisions of the Treaty of Commerce and Navigation concluded between the two countries on December 22, 1837, so as to continue the said treaty in force until January 26, 1921, and thereafter until a new treaty shall have been concluded or until three months after denunciation by either party, is as follows:

ARTICLE I

"It is agreed between the high contracting parties that Article XVII of the Treaty of Commerce and Navigation, concluded between the Government of the United States and the Royal Hellenic Government on December 22, 1837, shall be substituted [*sic*] by the following:

'The present treaty shall continue in force until January 26, 1921, and thereafter until a new treaty shall have been concluded to take its place or until three months after one of the high contracting parties shall have announced by a formal notification to the other its intention to terminate it.'

ARTICLE II

"The present agreement shall be ratified by the President of the United States of America and by and with the consent of the Senate thereof and by His Majesty the King of the Hellenes, and shall become effective upon the exchange of ratifications, which will take place at Washington as soon as possible."

On January 7th the Greek Chargé d'Affaires, Mr. Dracopoulos, was informed that the Treaty would expire, apparently, by denunciation, on January 26, 1921, the denunciation having been given by the Greek Government on January 26, 1920, to take effect in twelve months. Mr. Dracopoulos communicated with his Government, and informally advised the Near Eastern Division that no formal withdrawal of the denunciation was considered advisable by

¹¹ For previous correspondence concerning the agreement of Oct. 18, 1920, see *Foreign Relations, 1920*, vol. II, pp. 710 ff.

his Government, but that in spite of the fact that the treaty would lapse on January 21 [26], 1921, the status would in no way be changed.

The Government of the United States is therefore at present without a treaty of commerce and navigation with the Government of Greece, although for the present it does not seem to be suffering in any way from this absence of a treaty.

The whole matter, it would seem to me, should remain pending until the question of the recognition of King Constantine and his Government is decided upon by the Secretary of State and the President.

W. R[OBINS]

611.6831/32

The Greek Chargé (Vouros) to the Secretary of State

No. 494

WASHINGTON, April 29, 1921.

The Chargé d'Affaires of Greece presents his compliments to the Honorable The Secretary of State, and acting upon instructions from his Government, desirous of according reciprocity, begs to inquire whether the United States Government, pending the ratification of the agreement modifying the provisions of Article XVII. of the Treaty of Commerce and Navigation concluded between Greece and the United States on December 22, 1837, is applying the rates of the differential tariff on goods coming from Greece in conformity with the disposition of said Treaty.

611.6831/32

The Acting Chief of the Division of Near Eastern Affairs, Department of State (Robbins) to the Greek Chargé (Vouros)

WASHINGTON, April 30, 1921.

MY DEAR MR. VOUROS: I beg to acknowledge the receipt of your memorandum of April 29th, delivered to me in person. You state therein that the Royal Hellenic Government is desirous of according reciprocity to the United States Government and has inquired whether, pending ratification of the agreement modifying the provisions of Article XVII of the Treaty of Commerce and Navigation concluded between Greece and the United States on December 22, 1837, the latter Government is applying the rates of the differential

tariff on goods coming from Greece in conformity with the disposition of said Treaty:

I am pleased to inform you that Greek goods entering American territory are, in present practice, accorded most-favored-nation treatment and that no discrimination of any character whatsoever is in operation at present against Greek goods or ships.

Very truly yours,

WARREN D. ROBBINS

611.6881/33

The Consul General at Athens (Lowrie) to the Secretary of State

No. 102

ATHENS, *May 28, 1921.*

[Received July 1.]

SIR: I have the honor to inform the Department that a Royal Decree published in the *Government Gazette* of May 11/24, Volume 1, No. 81, five copies of which are transmitted herewith, ratifies the Treaty of Commerce and Navigation between the United States and Greece. The decree is translated as follows:—

“*Royal Decree 2:* Regarding the ratification by His Majesty the King of the signing at Washington on October 5/18, 1920, of the convention for the modification of Article XVII, of the Treaty of Commerce between Greece and the United States.

Constantine King of the Hellenes, We declare that there having been contracted at Washington, on October 5/18, 1920, a convention modifying Article XVII of the convention of Commerce and Navigation whose text follows:

(Said text has been published in the *Government Gazette* No. 68, Volume 1, dated April 26/9 May, 1921.)

We accept, approve and sanction this convention in all its conditions, promising to observe said convention faithfully, as well as our heirs and the crown's successors, and not to transgress same and neither to permit its transgression by others.

In proof of the above We have signed and promulgated same and have ordered it to be sealed by Our Kingdom's seal.

Done in Athens the twenty-ninth day of April (May 14 [1921]), 1921.

The Minister of Foreign Affairs,
G. Baltadzis”

Constantine B.,

I have [etc.]

WILL L. LOWRIE

ATTEMPT BY THE GREEK AUTHORITIES AT SMYRNA TO LEVY
TAXES IN DEROGATION OF AMERICAN RIGHTS IN TURKEY

868.01/18 : Telegram

*The High Commissioner at Constantinople (Bristol) to the Secretary
of State*

CONSTANTINOPLE, August 13, 1920.

[Received August 16—7:22 p.m.]

449. Following from Smyrna :

"August 13, noon. I have just had notification from the Greek High Commission that the treaty clauses¹² will be carried out as from yesterday; that the Ottoman officials are superseded by Greek authorities; that the transfer of government commenced yesterday and that relations between the new authorities and foreign representatives will be carried out through the Greek High Commission. Government building, Custom House and *gendarme* stations were taken last night without opposition and Ottoman officials superseded. Despatch will be forwarded. Russell."

BRISTOL

711.673/98

The Vice Consul at Smyrna (Russell) to the Secretary of State

No. 204

SMYRNA, September 3, 1920.

[Received September 27.]

SIR: I have the honor to refer to previous inquiries of this office concerning the possibility of the abrogation of the Capitulations in this district, and to state that the Honorable Arthur Hugh Frazier, American Charge d'Affaires at Athens, has just informed me of the result of an interview with Mr. Politis, Greek Minister of Foreign Affairs, on this subject.

Mr. Politis stated that the Greek Government intended to abrogate the system of Capitulations at Smyrna. He added that, in so doing, the Government was merely availing itself of privileges conferred by the treaty with Turkey.

While I am not a trained diplomat, I must say that I fail to see the logic of the Greek Government's contention. It is my understanding that the United States and the other Allied and Associated Powers never recognized the abrogation of the Capitulations by Turkey, considering that these treaties were bilateral agreements, which could not be nullified by a unilateral declaration. This being the case, the Capitulations must have still been in effect when Turkey ceded the administration of the Smyrna region to Greece. Turkey

¹² Treaty of Sèvres, Aug. 10, 1920.

could not give nor Greece receive more than the Ottoman Empire possessed.

Consequently, it seems to me that Greece inherits the administration, modified by the Capitulations, and that she can not declare them ended any more than Turkey could, except by consent of the Powers interested. Such consent has not been given.

I may add that this is the attitude of all the foreign representatives here.

I have [etc.]

H. EARLE RUSSELL

667.003/102 : Telegram

The High Commissioner at Constantinople (Bristol) to the Acting Secretary of State

CONSTANTINOPLE, *January 24, 1921—6 p.m.*

[Received January 25—12:15 p.m.]

28. Department's 86, November 15th,¹³ and 6, January 20.¹⁴ Question of tariff revision has become acute in Smyrna. Greek authorities have demanded that Standard Oil Company pay to Greek Government arrears of consumption tax amounting 125,000 pounds (Turkish) and have removed Turkish customs officials who, since April 15 last, had failed to collect this tax. When, on advice from Horton,¹⁵ Standard Oil Company refused to pay above sum, new Greek director of customs on January 20th forcibly prevented further distribution of oil.

Horton acting with delegates of Great Britain and France, Italian delegate being sick, held a conference with Sterghiades, Greek High Commissioner, and all four delegates have submitted joint note to Allied High Commissioners and myself.

Note states that Sterghiades claims: (1) that subsequent to signature of Sèvres treaty Greek administration had superseded Turkish in Smyrna district with the consent of Ottoman Government; (2) that Greek Government assumed administration as mandatory of the Allies; (3) that heavy military expenses that were imposed upon Greeks by their action against Kemalists on behalf of the Allies justified levying and collecting.

In reply to Horton's inquiries I have telegraphed him as follows:

"January 22, 6 p.m. Referring to your despatch of January 17th and telegrams 116, 118 and 119. You will inform Greek High Commissioner: 'My Government is surprised at the continuance of the

¹³ *Foreign Relations*, 1920, vol. III, p. 765.

¹⁴ Not printed.

¹⁵ George Horton, consul general at Smyrna.

consumption tax during the period which has elapsed since the original formal military occupation of Turkey by the Allied forces immediately after the armistice in October 1918. These taxes upon some of the prime necessities of life impose an inhuman burden upon the poorest classes in Turkey and add to their acute poverty and misery. The taxes as provided for under the capitulations are the only taxes recognized by my Government and other taxes are considered illegal.'

Unless you have already done so you should make written protest to the Greek High Commissioner and if necessary to the Greek military authorities against their direct interference with and apparent discrimination against American business interests. Further, that you are not aware of any military necessity under the terms of the armistice now in force in Turkey that justifies the use of Greek military forces to interrupt the legitimate business operations of an American company. It is presumed that you have protested against the forcible stoppage of company's business without recourse to the legal processes of law.

You should not by any thing you do in any way imply or admit that the Greek officials and Greek military forces are in any other way on Turkish territory than as representatives of the Allied Powers for the maintenance of the armistice with Turkey.

You should inform the Greek authorities that I have referred this whole matter to my Government and have informed the American Minister in Athens. Further, that the Standard Oil Company is advised not to pay the consumption tax pending reference of the matter to our Government.

You should request the Greek High Commission to furnish evidence that the Greek Government has taken over the administration of the country as mandatory for the Allies. Further request that evidence be furnished that the Greek Government had taken over the administration of the Smyrna region with the consent of the Ottoman Government at the signature of the Sèvres Treaty.

It is my policy to work in harmony with the Allied High Commissioners when their policy conforms to the armistice now being enforced and to the treaty rights of Americans and our interests are being fully protected.

If requested you should advise against the payment of any taxes by American citizens to the Greek Government which are illegal pending instructions from our Government."

See my despatch October 16th¹⁶ for statement of tariff situation. I am taking up Smyrna incident with Allied High Commissioners and will keep Department fully informed of progress. With reference to the Department's telegram 6, January 20th, my opinion requested therein will be influenced by consideration this case but reply will be expedited.

BRISTOL

¹⁶ Not printed.

467.11 Vacuum Oil Co./120

*The Vice President of the Standard Oil Company of New York
(L. I. Thomas) to the Secretary of State*

NEW YORK, *January 28, 1921.*

[Received January 29.]

SIR: I have the honor to bring to the attention of the Department the following telegram which I have received from the General Manager of the Standard Oil Company of New York for the Levant, dated Constantinople, January 25th:

“Since April 15th, 1920, Consumption Tax has not been paid at Smyrna on the advice of our Smyrna Consul General. On January 15th, after thorough investigation, authorities demanded from us arrears amounting to Pounds Turkish 101,998 and they have prohibited further issues from our warehouse until settlement is arrived at. High Commissioner here has advised us not to pay and telegraphed yesterday all particulars to Washington, D. C. If possible please telegraph position taken by State Department and probable result of such action in promptly removing restrictions in our Smyrna business.”

As you are aware, the Greeks have been in occupation of Smyrna for the last 18 months and it would seem from the telegram above quoted that, acting under the instructions of our Consul General we have refused to pay a Consumption Tax of Three Piasters per kilo on refined oil since April 15, 1920. Such a tax was not contemplated under the Capitulations, the abolishment of which has never been recognized by the Allied or Associated Governments. You will note that the authorities are now demanding that we pay arrears amounting to Pounds Turkish 101,998, which at the prewar rate of exchange would be the equivalent of nearly \$450,000 United States currency. At the present rate of exchange same would amount to, roughly speaking, \$75,000.

Apparently the American High Commissioner at Constantinople has supported the attitude which has been taken by the Consul General and has telegraphed to the Department full particulars. We, of course, will be guided by the wishes of the representatives of our Government, but as we are restrained from carrying on our business until a settlement is effected it is vitally important that we be coordinated with the Department of State to the extent of knowing their wishes with the least possible delay.

Asking, therefore, that you will kindly advise us what steps have been taken in dealing with the telegram from the American High Commissioner at Constantinople,

I have [etc.]

L. I. THOMAS

667.003/104 : Telegram

*The Secretary of State to the High Commissioner at Constantinople
(Bristol)*WASHINGTON, *February 19, 1921—6 p.m.*

13. Your 51, February 12, 5 p.m.¹⁷ American Minister at Athens was informed by cable on February 16 regarding the situation and was instructed as follows: "Bring this matter appropriately to attention of Greek Government at once and state that this Government is not aware of any right of the Greek Government to impose upon imports at Smyrna duties or taxes other than the Turkish tariff in force prior to the war and that the reported interference with the business of the Standard Oil Company on account of refusal to pay consumption taxes appears to have been without legal justification. Request that Greek authorities at Smyrna be instructed to remove prohibition imposed upon this American firm's legitimate activities and henceforth to permit entry of American imports without imposing on them consumption taxes in derogation of the rights of the Government of the United States under treaty stipulations."

If the Standard Oil Company on its own responsibility should deem it indispensable from the standpoint of business expediency to make the payments under protest you should not raise objection.¹⁸

Inform Horton of foregoing.

COLBY

667.003/108 : Telegram

*The High Commissioner at Constantinople (Bristol), temporarily
at Alexandria, to the Secretary of State*ALEXANDRIA, *February 24, 1921—10 a.m.*

[Received February 26—3:43 p.m.]

Referring to your telegram of February 19th, quoting your telegram sent American Minister at Athens for Greek Government regarding import taxes at Smyrna, I visited Smyrna yesterday and had conference with delegate Horton and Greek High Commissioner Sterghiades who had just returned from Athens the day before, February 22nd. Sterghiades claimed to know nothing about Department's aforesaid telegram for Greek Government . . .

When manager of the Standard Oil Company visited Smyrna 14th instant written agreement was made with Greek representative of Sterghiades for free pursuit of the company's business pending

¹⁷ Not printed.¹⁸ The Department informed the Standard Oil Company of the instructions sent to Athens and Constantinople.

diplomatic settlement of the tax question. Yesterday Sterghiades confirmed this agreement to me. Therefore, for the time being American business interests are protected but I recommend that there should be no delay in pressing for a settlement of the question of the legal taxes that should be imposed not only in Smyrna but in other parts of Turkey. Business interests require a definite decision.

Sterghiades first claimed full Greek sovereignty over Smyrna district but hedged when I then declared for application of the capitulations and straight import taxes at a rate of 11 percent *ad valorem*. He also stated that he could not impose 11 percent tax without consent of the Allied High Commissioners in Constantinople. Sterghiades was finally compelled to tacitly admit that the Greek Government is administering the Smyrna district as Turkish territory until such time as the Sèvres Treaty is duly ratified, and all taxes now being collected by Greek authorities and expended by them are kept in a separate account that will be finally balanced when the question of indemnity is adjusted.

Sterghiades, being pressed, protested that he could not act without permission of the Allied High Commissioners or authorization his Government. He proposed that: (1) the present method of taxation be continued, that is, specific tax on all merchandise with consumption tax [on] certain articles; (2) the Greek Government to collect the taxes, including all arrears, and give to the United States Government a guarantee that when a final adjustment is made the Greek Government will pay the funds so collected to whomsoever it is decided should have received them. Sterghiades also agreed to recommend to his Government the adoption of the tariff in force before the war, and with the same guarantee. Pending further instructions from the Department, Horton has been instructed to maintain the *status quo* in Smyrna and allow Sterghiades to receive direct instructions from his Government and submit in return the aforesaid recommendations.

I strongly urge the desirability of pressing at this very time for an adoption of the import taxes in accordance with tariff in force prior to August, 1914, without any reservations whatever. The proposition of the Allied High Commissioners to adopt the 11 percent tax but with a continuation of the present consumption tax on certain articles would be just as illegal as the present tax and therefore not justified. The Allied High Commissioners, and evidently backed by their Governments, have never given proper consideration to American commercial interests in Turkey and have constantly put off this settlement of the tax question without justifiable cause; while at the same time, have half-heartedly and after evading the issue as long as possible admitted the equal rights of the United States in the regu-

lation of trade with Turkey under the provision for raising the blockade two years ago. I invite attention to my various despatches on this subject during this time and the reports of the Advisory Trade Commission that have been forwarded.¹⁹

I recommend that this question should be taken up directly with the Governments of Great Britain, France and Italy and a decision required without any delay. There should be no delay waiting for a London conference that will most probably only decide where the next conference will be held. This is only a question of doing what is right and just and I suggest that this should be an appropriate time, when the European countries are looking to the United States for financial assistance, for them to play a fair game. I suggest that the prompt and unqualified resumption of the legal 11 percent tax might be accompanied with an agreement to place before the Advisory Trade Commission of the Associated Governments in Constantinople the question of increasing the *ad valorem* tax to meet the present financial difficulties of the Turkish Government which are partially attributable to not enforcing the 11 percent tax two years ago.

I request to be informed of Department's further action.

BRISTOL

867.512/86

The Consul General at Smyrna (Horton) to the Secretary of State

No. 292

SMYRNA, *March 2, 1921.*

[Received April 16.]

SIR: I have the honor to inform the Department that on February 23rd, Admiral Bristol, American High Commissioner to Turkey, arrived in Smyrna on board the Cruiser *St Louis*. After I had called upon him, he came to the Consulate, and we had a long talk on the local situation, especially with reference to the illegal taxes which the Greek administration here has been attempting to levy upon certain American imported articles, notably petroleum, alcohol, sugar, etc.

At Admiral Bristol's request I invited Mr. Sterghiades, the Greek High Commissioner, to come to the Consulate General and have a conference with us. The Admiral, in talking with Mr. Sterghiades, emphasized the statement that in view of the fact that the treaty of Sèvres has not been ratified, the American Government could not recognize the Greek administration in any other light than as mili-

¹⁹ See pp. 890 ff.

tary occupant executing the terms of the Armistice with Turkey; that we did not recognize the right of the Greek administration to levy other taxes than those provided for by the Capitulations nor to appropriate these to their own use.

This matter of consumption and special taxes has already been fully explained in my dispatches No. 207 of September 9, 1920, File No. 630, No. 273 [271] of January 20, 1921, File No. 630, and No. 274 of January 21, 1921, File No. 630.²⁰

Mr. Sterghiades, replied that he was ready to accept the 11% *ad valorem* or any other tax, if all the High Commissioners would agree, but that he could not have several tax schedules operating at the same time here, as those nationals who were unfavorably affected would be continually complaining and other complications might arise which would affect the commerce of Smyrna and divert it elsewhere.

He said that the Greek authorities were keeping a detailed account of all the taxes collected by them, which they were using for the expenses of the occupation, and which sums would eventually be deducted from the amount due Greece by Turkey in the way of indemnities, etc. He said that Turkey, by the terms of the treaty would be obliged to pay the expenses of the various armies of occupation, and that the taxes now being collected by the Greeks were in this sense actually being realized on behalf of the Turkish Government.

The Standard Oil Company, which was the business firm chiefly affected by collision over the special and consumption taxes, is not being interfered with at present by the Greeks and is peacefully conducting its affairs.

The Admiral explained to Mr. Sterghiades that there never has been any question as to the payment of all legal taxes by American firms, as soon as the two questions are settled as to the rate of taxation and second, as to the parties entitled to receive the amounts collected.

He gave to Mr. Sterghiades the substance of a telegram recently received from the Department²¹ informing him (the Admiral) that the Department had taken up this matter with the American Minister at Athens on February 16, 1921.

As to Mr. Sterghiades' contention that it will not be practicable for him to have several schedules of taxation here, basing his assertions on instructions received by the French and British delegates here from Constantinople, advising them to allow their nationals

²⁰ None printed.

²¹ Telegram no. 13 of Feb. 19, p. 158.

to pay the consumption tax under protest, on the ground that the Turkish treasury had need of being fortified, I have the honor to report that at the latest meeting of delegates, held last Friday, Mr. Laporte, the French delegate, read a communication from his High Commissioner to the effect that the Allied nationals should pay the illegal taxes in question, in case they were paid by all other nationals. He explained that this was the decision of the Allied High Commissioners. He asked me if Americans would pay the special and consumption taxes. I replied that I had no authority to instruct Americans to pay any tax other than that of the Capitulations, i.e. a maximum of 11%. He said then that he should follow suit for French citizens. He so interpreted his instructions. The other two delegates had received no instructions on this point, but I believe that these will not be long delayed.

I believe that the apathy of the Allied High Commissioners on this point, especially the British, is due to the fact that America is at present the chief importer into Turkey, and that they have no especial objection to American imports "fortifying" the Turkish treasury, and paying the expenses of the Greek army of occupation.

I think it certain that if we insist upon the maximum of 11% tax that the others will be forced to fall in line.

I have the honor to enclose herewith clippings from the *Echo de France*, a local newspaper, on the Admiral's visit to Smyrna.²²

I have [etc.]

GEORGE HORTON

667.003/132 : Telegram

The Consul General at Smyrna (Horton) to the Secretary of State

SMYRNA, July 23, 1921—8 a.m.

[Received 6:30 p.m.]

Local Greek administration has published notices that all products or merchandise not indigenous to the country shall be subjected to import duty when arriving here from other ports of Ottoman Empire not occupied by them. This affects particularly American manufactured articles imported by branch offices Smyrna from Constantinople where duty has already been paid. This measure appears to be in direct contravention to attitude of the Department as previously indicated in telegram received by the Legation at Athens February 16th and following instructions of the High Commission we are protesting vigorously against same. The Italian and the French delegates have protested also.

HORTON

²² Enclosure not printed.

667.003/132 : Telegram

The Secretary of State to the Consul General at Smyrna (Horton)

WASHINGTON, July 29, 1921—5 p.m.

Your July 23rd, 8 a.m. Your action approved. Keep the Department informed.

HUGHES

667.003/140

The Consul General at Smyrna (Horton) to the Secretary of State

No. 340

SMYRNA, August 3, 1921.

[Received August 22.]

SIR: With reference to my telegram to the Department of July 23rd and also to the Department's reply to same of July 29th, I have the honor to inform the Department that yesterday I had a long conversation with the Greek High Commissioner on the subject of import duties imposed on American goods which had already paid the duty at Constantinople or other parts of the Ottoman Empire. His Excellency persisted in his point of view that the duty must be paid again here and I telegraphed today to the Department to that effect.

He gave me the following reasons for his action which he requested me to communicate to the Department of State:

1.—He tried for a long time to keep Smyrna and its hinterland as an integral part of the Ottoman Empire, but the Turks first effected a separation by demanding import duty on goods which had already paid duty here, beginning this state of affairs in August 1920. He endured this until about a month ago when he was obliged to retaliate and issue the order which is causing so much discussion.

2.—The Turkish Government has retired all its functionaries from the zone delimited [*delimited?*] by the Treaty of Sèvres which has obliged the Hellenic Administration to replace them by Greek *gendarmes* and functionaries, for the payment of whom and for other necessary expenses the Greek Government is obliged to incash [*sic*] all the available resources of the province, the more so since half of these resources are absorbed by the Public Debt and the *Regie*.

3.—All the provinces which are militarily occupied beyond the zone of Sèvres are administered by a mixed system. All the Turkish functionaries in this region—Justice, Finance, Police, *Gendarmes*—are kept at their posts under Greek control. They are paid by the receipts of the country, but when these do not suffice the deficit must be made up from the Greek Treasury. In addition the Greek Government is building roads, promoting agriculture, taking measures against disease and so forth, all of which cost money.

His Excellency further stated that there has been a great increase lately in shipping goods to Constantinople and to Adalia and transshipping them to Smyrna. This was for some time incomprehensible to him as the goods must pay four or five pounds per ton agents' charges at the point of disembarkment and another four or five pounds per ton here at Smyrna, besides the double duty. His Excellency insists that there must be something dishonest in this and he claims recently to have discovered that the receipts for duty supposedly paid at Constantinople and other points are bogus and are furnished by dishonest Turkish employees who receive small salaries, or none at all, and take this means of making a living. He claims to have detected some of these bogus Customs Certificates and to have punished merchants guilty of conniving at this. He also claims that it is in the interests of the Ottoman Treasury itself that the goods should be forced to pay income [*import?*] duty at Smyrna, thus putting a stop to the above mentioned dishonest practice. I asked His Excellency if he could not permit certain stocks of American goods, now at Constantinople, which had honestly paid duty, to come on to Smyrna without further Customs Charges; but he said that he could not make any exceptions as he would be immediately importuned by all my colleagues to grant them the same privileges.

I have protested as vigorously as possible and done everything that seems possible at this end.

I am submitting to the Department the Greek point of view and I wait for further instructions.

I have [etc.]

GEORGE HORTON

EXEMPTION FROM SERVICE IN THE GREEK ARMY OF AMERICAN CITIZENS OF GREEK ORIGIN WHO HAD SERVED IN THE AMERICAN ARMY

368.117/44: Telegram

The Minister in Greece (Droppers) to the Secretary of State

ATHENS, November 18, 1919—6 p.m.

[Received November 19—1:44 p.m.]

861. An official from the Greek Ministry of Foreign Affairs has notified me formally that American citizens of Greek origin and all other Greeks who have served in the American Army, will be exempted from further service in the Greek Army.

DROPPERS

368.117/44 : Telegram

The Secretary of State to the Minister in Greece (Droppers)

WASHINGTON, January 14, 1920—noon.

3. Your 861, November 18, 6 p.m.

Endeavor ascertain whether similar treatment will be accorded naturalized American citizens who complied with American law but were exempted or given deferred classification; also what treatment will be accorded those who have neither served nor registered for service because not within military age, absent from country or other satisfactory reason, especially in view pending naturalization Convention.

LANSING

368.117/64 : Telegram

The Minister in Greece (Droppers) to the Secretary of State

ATHENS, March 13, 1920—noon.

[Received March 15—1:08 p.m.]

25. Your number 3. Greek Foreign Office has notified us as follows regarding military service in Greece. Class 1. All those who have served during the war in the United States Army are exempted from all military service when returning to Greece. 2d. All those who have not served in the American Army and who belong to the reserve of the Greek Army must, if they return to Greece, serve in the latter army if and as long as the reserve class to which they belong is under arms and will be dismissed at the same time as their comrades of the same class. If their class has been dismissed from active service at the time of their visit to Greece they are by that fact exempt from all military service. 3d. Every Greek citizen belonging to the active army who on arriving in Greece shall within a month present a certificate proving his residence in the United States is exempt from the penalties of the Greek military law for his delay in presenting himself for military service and will not have to serve an additional time in consequence of such delay. As regards exemptions from military service for family reasons, etc., such cases can only be regulated according to the Greek recruiting law.

DROPPERS

368.117/89 : Telegram

The Minister in Greece (Capps) to the Secretary of State

ATHENS, October 15, 1920—1 p.m.

[Received October 16—8:55 a.m.]

220. Difficulty being experienced regarding two classes of residents of America now in Greece and desiring to return to America; namely, minor children of naturalized parentage of Greek descent and adults who have acquired American citizenship since passage of law 120 of January 15, 1914.

Regarding former, Greece claims such children as Greek subjects whether born in America or not if born prior to date of parents' naturalization and holding them subject to military service refuses to recognize American passports for return to States. Such cases apparently require that some agreement be arrived at between the two Governments.

Regarding latter class, Greek Government does not recognize American citizenship unless effected in conformity with law above cited which required consent of Greek Government should first be obtained and is disposed to require Greeks naturalized after passage of law who have come to Greece with American passports and are unable to show evidence of prior consent of Greek Government to their naturalization to surrender their American passports and obtain Greek passports for their return to America. This requirement if complied with will cause them to lose their American citizenship. Pending understanding in such cases important that applicants for passports should be warned of risk of returning to Greece.

Instructions requested with reference to both classes of cases.

CAPPS

368.117/92 : Telegram

The Minister in Greece (Capps) to the Secretary of State

ATHENS, November 11, 1920—noon.

[Received November 12—3:15 a.m.]

246. Legation's cable number 220, October 15th, 1 p.m. In cases when Greek authorities have seized American passports and have compelled holders to obtain Greek passports in order to return to America can the American consulates in Greece be authorized to visa the Greek passports without extra charge?

CAPPS

368.117/92 : Telegram

The Secretary of State to the Minister in Greece (Capps)

WASHINGTON, November 29, 1920—6 p.m.

90. Your 220 and 246 October 15th 1 p.m. and November 11th noon respectively.

Under no circumstances should Consuls visa Greek passports held by Americans describing them as Greeks as such action inconsistent. Please make most earnest representations to Foreign Minister concerning status of naturalized American citizens of Greek origin. Explain that such persons were required when they were naturalized to renounce allegiance to Greece. Express desire of this Government that they be permitted to visit their native land for temporary and legitimate purposes without molestation because of their original allegiance. Say that this Government cannot admit the right of Greek authorities to take up American passports held by naturalized Americans, and request immediate surrender to you of all such passports heretofore seized in order that owners may return therewith to this country.

COLBY

368.117/95 : Telegram

The Minister in Greece (Capps) to the Acting Secretary of State

ATHENS, December 22, 1920—1 p.m.

[Received December 23—4:53 a.m.]

272. In accordance with Department's cable 90, November 29, I made representations to Minister for Foreign Affairs concerning status of naturalized citizens of the United States of Greek origin and made demand for return to Legation of passports that have been seized and the discontinuance of practice of molesting such persons who have come to Greece and desire to return to America.

In reply Minister of Foreign Affairs states that he has given orders to competent authorities to discontinue practice of seizing American passports and to return those already seized to their owners. Minister for Foreign Affairs then reiterated view of Greek Government that it cannot concede American citizenship of Greek subjects who in violation of law 120 of 1914 have become naturalized without previously having consent of Greek Government. Regarding such persons he says, "Every Greek having acquired naturalization in the United States must produce before the competent authorities in order to have his passport visaed the act of naturalization which must be

accompanied by the indispensable authorization of the Royal Government in every case where this naturalization has taken place after the year 1914", implying that failing to show such authorization his passport will be taken up on the ground that the Greek Government claims him and will treat him as Greek subject.

Twenty or thirty naturalized citizens of the United States of this class stranded here as they are required by Greek Government to get Greek passport application before leaving country and then cannot obtain American visé. Enforced stay of these people here a great hardship to them.

CAPPS

368.117/96 : Telegram

The Minister in Greece (Capps) to the Acting Secretary of State

ATHENS, December 23, 1920—7 p.m.

[Received December 24—10:28 a.m.]

274. Yesterday in very satisfactory interview with the Minister for Foreign Affairs Rhallys I expressed dissatisfaction American Government with attitude Greek Government as outlined in its note reported in Legation's 272, December 22, toward former Greek subjects naturalized in America since Greek law of 1914 and again requested return to Legation of all seized American passports. Minister for Foreign Affairs promised this and expressed willingness of his Government to waive strict application of provision of Greek law requiring evidence of prior consent of Greek Government to such naturalization. He stated that he had actually in this spirit given instructions to competent authorities to vise passports of all applicants even if they could not produce such evidence so long as military requirements of Greece permitted such action. Minister for Foreign Affairs frankly expressed a desire to come to understanding with American Government on the entire question and invited me to present proposals.

The Greek law and the American law being in absolute conflict and the present Government in Greece being eager to have American good will, possibly this is favorable moment to secure revision of former unobjectionable points or at least a working agreement that will relieve present situation. Definite understanding requested.

CAPPS

368.117/96 : Telegram

The Acting Secretary of State to the Minister in Greece (Capps)

WASHINGTON, January 8, 1921—1 p.m.

3. Your 274, December 23, 7 p.m.

Department pleased to note present attitude toward naturalization question. Sometime ago, Greek Minister submitted to Department a proposed draft of a naturalization treaty, and Department has prepared counter-draft in reply which will be sent to Greek Chargé within a few days. Copy will be mailed you, together with copy of original Greek draft.²³ Keep Department informed by telegraph of any other developments in the matter.

DAVIS

368.117/100 : Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, March 17, 1921—2 p.m.

[Received March 18—4:19 a.m.]

36. Legation's telegram 274, December 23rd 1920 and Department's 3, January 8th. Naturalized Greeks desiring to return to America are having less difficulty in getting their passports visaed by Greek authorities but up to the present in spite of protests by former American Minister, the Greek Government has not returned to the Legation any of the American passports which were seized.

HALL

368.117/102 : Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, April 6, 1921—6 p.m.

[Received 10:01 p.m.]

50. New mobilization is affecting naturalized citizens of the United States of military age who have been unwise enough to visit their native land at this time. Exemption up to this time from military service of men who have served in our army was a courtesy obtained from Greek Government at critical time in their affairs and has

²³ Neither draft printed; the papers relating to a naturalization treaty with Greece will appear in a later volume of *Foreign Relations*.

proved to be one which has caused Greek Government much trouble as it was never extended to other nations. I have nevertheless induced Greek Government to continue to exempt classes which have never been demobilized since World War; they have reserved the right to consider new classes called as new mobilization for new war.

HALL

368.117/100 : Telegram

The Secretary of State to the Chargé in Greece (Hall)

WASHINGTON, April 7, 1921—2 p.m.

34. Your 36, March 17, 2 p.m.

Informally ask Foreign Minister why American passports seized by Greek authorities have not been returned in accordance with promise mentioned in your 274, December 23, and renew request for return. Telegraph reply.

HUGHES

368.117/102 : Telegram

The Secretary of State to the Chargé in Greece (Hall)

WASHINGTON, April 11, 1921—5 p.m.

36. Meaning of last sentence of your 50 April 6, 6 p.m. not clear. Ascertain and report specific classes to which assurances heretofore given by Greek Government apply.

HUGHES

368.117/105 : Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, May 12, 1921—1 p.m.

[Received May 13—12:32 a.m.]

71. Department's telegram number 36, April 11, 5 p.m. After great efforts I have succeeded in getting from Foreign Office statement in writing that men belonging to classes in Greek Army numbered 1916 to 1921, inclusive, will continue to be exempted if they have served in Army of United States during the Great War. These classes have never been demobilized and on that account exemption is granted. Other classes already called or to be called in the future will be considered as new mobilization to which this exemption does not apply.

HALL

368.117/107: Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, June 7, 1921—1 p.m.

[Received June 8—5:42 a.m.]

82. In spite of Greek law stating that former Greek subjects naturalized in other countries before January 15, 1914 will not be claimed as Greek subjects and in spite of promise to exempt men belonging to classes 1916 to 1921 inclusive who have served in United States Army, Greek military authorities continue to seize for military service naturalized citizens of the United States who are exempt. Usual method is to seize papers and imprison victim. After several days he is forced into military service. If he is able to communicate with Legation matter is taken up with Foreign Office after which there is delay of several weeks before his release is permitted.

Authorities have recently seized for military service several former Turkish subjects who have become American citizens. I am unofficially informed this action is based on their not having obtained consent of Turkish Government to change nationality. I have requested Foreign Minister for an explanation why Greek Government sees fit to pass judgment on question of whether or not citizens of another country have fulfilled their obligations to that country before becoming American citizens.

While there have been not over a dozen requests for assistance from naturalized citizens of the United States the fact that Legation loses track of these people in many cases before all details can be obtained together with fact that there are rumors of many others in trouble makes me deeply apprehensive that many may have tried to report their cases to Legation and that their letters have been stopped by the censor. In view of the fact that new offensive in Asia Minor may start any day I believe it almost imperative that United States should issue very strong warning to Greece that Greek Government will be held responsible for injury or death of naturalized citizens of the United States illegally forced into military service and requesting their immediate release. No passports or other seized papers have been returned. I think it advisable to include in warning statement regarding this matter also, and refusal to visé passports and arrest and imprisonment of naturalized Americans while their cases are being investigated. I believe it advisable for United States to insist upon exemption only for those men naturalized before January 15, 1914 or ex-service men belonging to class of 1916 to 1921. If United States insists upon exemption for those naturalized after January 15, 1914 question of dual nationality will be immediately injected into discussion and may cause fatal delay.

HALL

368.117/108 : Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, June 17, 1921—noon.

[Received 10:05 p.m.]

89. Legation's telegram 82, June 7, and 85, June 9.²⁴ Foreign Office yesterday notified me that in future all men arrested in Greece for evading military service would in case they claimed foreign naturalization be taken to the nearest consulate of their adopted country for examination of papers instead of to Prefecture of Police. If this order is followed by authorities generally which I very much doubt it will tend to improve present highly unsatisfactory situation.

HALL

368.117/108 : Telegram

The Secretary of State to the Chargé in Greece (Hall)

WASHINGTON, June 18, 1921—5 p.m.

54. Your 82, June 7 and 89, June 17.

1. Ask that holders of American passports who have already been arrested, as well as those arrested hereafter, be taken to nearest American consulates for examination of papers. In taking these cases up with the Greek authorities you should, while calling particular attention to Greek Law No. 120 and assurances reported in your Nos. 25, 50 and 71 of March 13, 1920 and April 6 and May 12, 1921, make it clear that this Government does not admit the right of the Greek authorities to impress into the Greek Army naturalized American citizens, whether of Greek, Turkish or other origin, who have not taken up permanent residence in Greece or otherwise forfeited their right to this Government's intervention in connection with this matter.

2. Request that instructions be issued to Greek authorities to refrain from taking up passports held by American citizens, and to return, in accordance with previous assurances, those which have already been taken up.

3. Mail Department copy and translation of Greek Law No. 120 and official statement reported in your 71, May 12.²⁵

HUGHES

²⁴ The latter not printed.²⁵ Documents requested were received as enclosures to despatch no. 730, Aug. 8; not printed.

368.117/112

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 353

CONSTANTINOPLE, *July 18, 1921.*

[Received August 11.]

SIR: I have the honor to report to the Department that a number of cases of impressment of American citizens into the Greek Army have been brought to my attention. In the majority of cases the persons concerned are naturalized Americans of Ottoman Greek origin who have returned to this country to visit their families or for business reasons. I have taken the position that the Greek authorities have no right whatsoever to impress into the Army naturalized American citizens of Ottoman origin, and in each case which has come to my attention I have made representations to the Greek High Commissioner in this City. The latter has not endeavored to maintain the right of the Greek authorities to hold naturalized Americans of Turkish origin, but for technical reasons it has often been difficult to have prompt measures taken by the Greek Military authorities to secure the release of Americans wrongly impressed into military service.

I am enclosing for the Department's information a copy of my note of the 14th inst.²⁶ requesting the release from military service of three Americans whose American citizenship is confirmed by the records of Mr. Ravndal's office.²⁷

I understand that Mr. George Horton, American Consul General and Delegate at Smyrna has also met with a number of cases of illegal impressment into the Greek Army and that he has taken up these cases energetically with the local Greek authorities.

I have the honor to suggest that the Department take steps to bring this matter to the attention of the Greek Government through the American Legation at Athens in order that the Greek Military authorities may be brought to respect American passports and cease impressing Americans of Ottoman origin into the Greek Army.

I have [etc.]

MARK L. BRISTOL

²⁶ Not printed.

²⁷ The U. S. consulate general at Constantinople.

368.117/111 : Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, August 9, 1921—1 p.m.

[Received August 10—2:37 a.m.]

121. Legation telegram 71 May 12, 1:00 p.m., reported that Greek Government in note March 31st designated Asia Minor campaign as new war. But Greek reply to Allied Powers reported in Legation telegram 98 June 26, 1:00 p.m.,²⁸ calls campaign continuation of old war. In view of this contradiction I have requested Greek Government for immediate release from army all classes naturalized citizens of the United States who have served in our army.

HALL

368.117/113 : Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, August 24, 1921—noon.

[Received August 25—12:18 a.m.]

126. Legation telegram numbered 121, August 9, 1 p.m., and Legation despatch number 730 August 8th, 1921.²⁹ Greek Government has wriggled out of contradiction by calling present offensive new stage of old war and refuse to release naturalized citizens of the United States whether or not ex-service men unless listed here in classes 1916 to 1921 inclusive. Have notified Greek Government that I consider explanation of contradiction unsatisfactory and again requested immediate release of all naturalized citizens of the United States as soon as possible. Universal Associated Press despatch published in *New York Times* June 18th, quotes Department as reporting only 20 cases enforced military service from here. Since Legation telegram numbered 82, June 7, 1 p.m., situation much worse. Now on file in Legation about 75 requests for assistance. Probably many more failed to notify Legation. Believe United States should take firmest stand in the matter especially as circumstances attending arrest often inhuman. Foreign Minister seems anxious to relieve situation but I am convinced receives no adequate support Minister of War.

HALL

²⁸ Not printed.²⁹ Despatch not printed.

368.117/119

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 463

CONSTANTINOPLE, *September 14, 1921.*

[Received October 10.]

SIR: With reference to my despatch No. 353 of July 18th, I have the honor to enclose a copy of a communication received from the Greek High Commissioner in reply to my letter of July 15th, demanding the release of American citizens enrolled in the Greek Army, together with copy of my reply.³⁰

It will be observed that the Minister of War has entirely conceded the right of these persons to release, but that it will apparently take some time to obtain action because of difficulties in locating the individuals. I shall continue to press for their release at the earliest possible moment.

I have [etc.]

MARK L. BRISTOL

368.117/112

The Secretary of State to the High Commissioner at Constantinople (Bristol)

No. 79

WASHINGTON, *October 5, 1921.*

SIR: The Department has received your despatch No. 353 of July 18, 1921, relative to the impressment into the Greek army of three persons, Steve G. Pappas, Nicholas Katerges, and Savas Paritsis, the bearers of American passports.

The Department is to-day addressing separate instructions to the American Chargé d'Affaires *ad interim* at Athens in the cases of these three persons whose claim to American citizenship is verified by the Department's records. In the instructions mentioned, copies of which are enclosed,³¹ the Department is requesting the Chargé d'Affaires to endeavor to obtain the release of these three persons from service in the Greek army.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

³⁰ Enclosures not printed.

³¹ Not printed.

368.117/116: Telegram

The Secretary of State to the Chargé in Greece (Hall)

WASHINGTON, October 28, 1921—1 p.m.

76. Your despatch 761 August 23,³² and telegram 126 August 24. Inform Greek government this government anxiously awaiting compliance with requests made Department's telegram No. 54.³³

Nicholas Kouris, passport 148581 March 3, 1921, telegraphs from Athens asking release from Greek army. States he served in American army. Request immediate release.

HUGHES

368.117/122: Telegram

The Chargé in Greece (Hall) to the Secretary of State

[Paraphrase]

ATHENS, November 7, 1921—3 p.m.

[Received November 8—1:40 a.m.]

147. I am pleased to be able to inform the Department that the Acting Foreign Minister has at last consented to exempt naturalized Greeks of all classes from military service in the Greek Army if they have served in the United States Army. This action has been taken as a special favor, inasmuch as the Government is prohibited by Greek law from considering these men to be American citizens if their naturalization took place without the consent of the Greek Government after January 15, 1914. Unfortunately the general staff of the army must approve this decision, but as a special man in the Foreign Office to whom I can report all cases has been assigned to this work, I have reason to believe that the arrangement will function successfully. I asked the Foreign Minister why a circular instruction on exemption could not be issued. He replied that if that were done, the representatives of various European countries would demand the same privilege. For this reason I do not consider it advisable that general publicity be given to this arrangement.

HALL

368.117/123: Telegram

The Chargé in Greece (Hall) to the Secretary of State

[Paraphrase]

ATHENS, December 16, 1921—5 p.m.

[Received December 17—12:45 a.m.]

155. The Foreign Office has informed me verbally that the question of the exemption of naturalized American citizens from present service in the Greek Army has been under discussion with the mili-

³² Not printed.³³ Dated June 18, p. 172.

tary authorities. Under Greek law the men concerned cannot be exempted, but the law will be evaded by giving the men temporary leave at once, during which space of time they can make application to the Government for the customary permission to change their nationality. These petitions will receive immediate action. The men will then have fulfilled the requirements of the Greek law and will be recognized by the Greek Government as American citizens. Possibility of molestation by Greek military authorities in the future will thus be removed.

If the authorities operate this plan sincerely I consider the offer most generous, as permission to change nationality is practically never given unless the applicants have fulfilled the terms of their military obligations to Greece. It is my firm belief that the men who refuse to apply for this permission and in this way have their names removed from the Greek records should receive no further protection from the Legation or the Consulates in questions which involve military service in Greece. The purpose of refusing to obtain this permission can only be that of guarding a loophole of escape so as to avoid some obligation in the future to the United States by claiming Greek citizenship. If the Department concurs in this opinion, may I be informed of its approval by telegraph so that I may notify the consuls to begin keeping lists?

HALL

368.117/123 : Telegram

The Secretary of State to the Chargé in Greece (Hall)

WASHINGTON, January 7, 1922—6 p.m.

3. Your 155 December 16th, 5 p.m.

When you have an opportunity bring offer of Greek authorities informally to attention of interested American citizens, but avoid officially advising them to apply for release from Greek allegiance. Failure to make such application cannot be considered sufficient ground for withdrawal of protection.

HUGHES

GUATEMALA

OVERTHROW OF PRESIDENT HERRERA

814.00/535

The Minister in Guatemala (McMillin) to the Secretary of State

[Extract]

No. 168

GUATEMALA, *March 17, 1921.*

[Received March 28.]

SIR:

1. The inauguration of President Carlos Herrera occurred on March 15th and passed off without notable incident. There were many police in evidence and a policeman's parade. There was also a considerable number of soldiers about the parks and public buildings. This was not an improper provision under all the circumstances.

For many days there had been reports circulated that there was going to be trouble in the city that day. It was even persistently rumored that there was to be an uprising of the lawless classes and that foreigners in general had been singled out and that the places of business of foreigners would be raided and sacked. Quite a number of Americans, disturbed by these rumors, came to the Legation for consultation and advice. A Congressman named Julio Samayoa, who is intensely against the foreign element, and also is antagonistic to the President, made a speech in Congress, a few days before the inauguration, which is said to have been decidedly inflammatory. He is reported to have gone so far as to exclaim, "What care we how badly off we are, provided the foreigners are worse off!", and that the Unionista Party was against Herrera because he had not kept his promises. Other sensational statements along this line were made by him.

I told those who consulted me not to be disturbed—that if an effort was made at pillage and disorder I felt sure the Government had the power to put it down and would do it.

There is evidently an undercurrent among the more radical elements to give President Herrera trouble. This element seized upon an appointment recently made by the President to inflame the public against him. He appointed, as Chief of Staff in the army, General

Ubico who had for a short time been Minister for Foreign Affairs under Estrada Cabrera, and who had also, before that, been Jefe Politico in one of the important Departments at Retahluleu. His appointment raised a great clamor. Thousands of the citizens in and about Retahluleu signed a protest against his appointment. Ubico felt that he had been given very little power with his appointment and therefore had responsibility without power and occupied a position dangerous to himself and useless to the Government, and he has resigned. He was so upset that I received very confidential information that he might feel constrained to seek asylum in this Legation.

I have [etc.]

BENTON McMILLIN

814.00/551

The Minister in Guatemala (McMillin) to the Secretary of State

[Extract]

No. 211

GUATEMALA, July 13, 1921.

[Received July 23.]

SIR:

... As indicated in my cable number 34 of July 12, 1 a. m.,¹ Emilio Escamilla resigned as Secretary of War and Felipe Pereira was appointed to succeed him. Very important and interesting developments preceded this. Escamilla had devoted himself very carefully to the bringing up of the army to an efficient basis. New uniforms were provided, sanitation looked after and proper provisioning not overlooked. To all appearances the condition of the army was better than it had been for years. Escamilla had no doubt of his power with it and its attachment to him. He assured the President accordingly. Less than two weeks ago in a private conversation with the President he assured me of the fine condition in every respect of the army and the police force and of their devotion to their duties. He apprehended no trouble whatever from either.

But, as indicated in Legation's above referred to cable, there is a fierce contest in Guatemala between the Democratic Party and the Unionista Party for political control. The Unionista Party has had unobstructed sway in all branches of the Government since Cabrera was deposed. While not an active partisan himself and trying to avoid the entanglements of party alliance President Herrera from the beginning has surrounded himself with and been influenced mainly by the Unionista Party. The Democratic Party has a big element of the old Liberal Party in it—the Party to which Estrada

¹ Not printed.

Cabrera belonged. In the efforts of the Democrats to get control they began secretly to gain influence with the army. That they succeeded in a very remarkable degree so far as the generals of the army are concerned, is undeniable for suddenly about a week ago it developed that there was a plan devised to control the army through a number of its leading generals. Commanders of some of the main fortresses had been approached and won over. Escamilla could not be convinced that there was anything wrong with the army. But wise officials around the President put agencies to work outside of the War Office to ascertain the exact status of the army. It was found out that a number of the generals were in active sympathy with or engaged in the movement to control the Government. The men charged with being in this condition are General Lima, the head of the active forces, General Ubico, General Orellana and General Monterroso. Others of minor importance are also suspected. At a meeting five or six days ago of the Unionista Party leaders, participated in by the Secretary of War and other high officials the actual situation was made known and freely discussed. At first a large number of those present favored immediate declaration of martial law on account of this peril; and the arrest, trial by court martial and shooting of the chief offenders found guilty. More moderate counsel finally prevailed and the idea of martial law was abandoned. When the new Secretary of War, General Pereira, was appointed without sufficient authority from the Government, he ordered the arrest of the accused officers. The President was quite ill when these things were transpiring and not in a condition to be consulted. The following day he revoked the order for arrest but dismissal of some officers followed. The office of Chief General, held by General Lima, had been abolished by Congress for economy to take effect this month. But it is understood that he has been deposed from all command.

The resignation of the Secretary of War came as a consequence of these various things. Both he and the Government seem to realize that he had allowed the Government to be imperiled by overconfidence in the army and want of essential knowledge of what was going on and he tendered his resignation voluntarily. He was tendered the portfolio of Fomento (corresponding to our Interior Department). The official organ of the Government announced that he had accepted it but at this writing there is uncertainty as to whether he will go forward with the discharge of its duties or retire to private life.

The Government authorities believe that this intriguing and undermining of the army was intended to overthrow the Government and make a change from the President down. I think it

possible that this is the true version. On the other hand the Democratic leaders insist that there was no such purpose; that the only object was to oust the Unionista Party and put control into the hands of their party. Pursuant to this claim when the generals heard that there was an order issued by the new Secretary of War for their arrest, they sent one of their number, General Oriana, to the President to know why they were to be arrested, to protest against it and to protest that their action was not intended against him but was a movement to have him reform his Government.

When the President revoked the order for the arrest of the Generals the new Secretary of War resigned and General Mendoza was appointed on the 12th as Secretary of War. He is a graduate from the Polytechnic School and his ability and education are highly commended. He has the reputation of being honest and fearless and the appointment is regarded as a good one. This whole situation may be summarized as a very dangerous crisis which came near precipitating a revolution. It was as sudden as it was dangerous for no Government official, high or low, thought such a thing possible a fortnight ago.

I have [etc.]

BENTON McMILLIN

814.00/552

The Minister in Guatemala (McMillin) to the Secretary of State

[Extract]

No. 220

GUATEMALA, July 28, 1921.

[Received August 6.]

SIR:

...Rumors that the Government of President Herrera will be attacked with force and possibly overthrown, continue to be kept in circulation by his enemies. Dates for this action are sometimes fixed. Thus far they have not materialized. Some of his opponents say that force will not be the means adopted; but that in lieu of a revolution by force they will keep up an unending nagging war on him, defeating his measures, and thwarting his policies till in despair and disgust he will resign. The fact that he is one of the most pacific, quiet and peace loving of men, encourages some of this method of warfare. The parties—Unionista and Democratic—are becoming so equal in strength that he sees the necessity of not siding entirely with either and this arouses more or less opposition in both. Thus far there is not sufficient opposition in sight to oust

the President by either of these methods. But my diplomatic experience in three revolutions in all of which the Presidents were unseated, warns me against dogmatic prediction concerning revolution.

I have [etc.]

BENTON McMILLIN

814.00/567 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, December 6, 1921—9 a.m.

[Received 11:30 p. m.]

47. A revolution through the Army began at midnight ending five this morning overthrowing Herrera government. Generals Orellana, Lima, and Larrave head a provisional government. President Herrera prisoner in his home. All his Cabinet in military prison. About a dozen killed by police resistance. Many natives arrested. City quiet.

McMILLIN

814.00/570 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, December 7, 1921—4 p.m.

[Received December 8—12:30 p.m.]

48. Military council has called Congress to meet tomorrow to elect successor to Carlos Herrera; no indications of who will be elected. Instead of calling present Congress they assemble the Congress existing when Cabrera fell. Two Cabinet officers, many prominent citizens, still imprisoned; some shooting in streets last night. Quiet in city and country prevail. Complaint made by Unionist Party at President's precipitate capitulation. No disturbance of foreigners.

McMILLIN

814.00/587

The Minister in Guatemala (McMillin) to the Secretary of State

No. 260

GUATEMALA, December 7, 1921.

[Received December 15.]

SIR: On political conditions in Guatemala, I have the honor to make the following report:

For sometime there had been rumors that trouble against the Government was brewing but most people believed that as there

was no real oppression or grievance to justify either a revolt or great dissatisfaction, these rumors would come to naught. From time to time for two weeks reports were set afloat that on a certain day something would happen but nothing did happen. Therefore the populace came to think that these were only wild and imaginary reports. But as reported by me, in my cable No. 47 of December 6th, 9 a. m. a real revolution set in at midnight and ended at five o'clock on the sixth, with a complete overthrow of the Government.

President Herrera was put out of office by the military leaders and was held then, as he is yet, a prisoner in his own house. Two of his cabinet officers, the Minister for Foreign Affairs, Aguirre, and Escamilla were also incarcerated and are still held prisoners. At the time of my cable the news was that the other members of the cabinet were also imprisoned, but it turns out that they were either not incarcerated or have been released.

It was a revolution planned and executed by the Generals of the army and those who had formerly been generals. The intrigue with the army was so thorough that when the final hour came no part of it could be wielded by the President.

From the best information obtainable at this writing, it appears that after having gotten the army under control the Generals took such force as was necessary for their purpose and went a few minutes before midnight to the residence of President Herrera. A special guard of one hundred or so of the best soldiers known as "The Guard of Honor" have always been stationed at the President's residence and at his office which are only a few doors apart. It seems that this so called "Guard of Honor" had also been won over beforehand and made no resistance whatever. The Generals entered for an audience with the President. Promptly at twelve o'clock signal guns were heard at the different forts, located in the city and its suburbs. At this sound the Generals informed the President that he was completely in their power:—That that was the signal for the starting of the revolution and resistance was useless. They told him the only way for him to prevent the shedding of the blood of his people was to order the different commanders of the forts to make no resistance, which he did. They demanded his resignation which he wrote out addressing it to the National Assembly or Legislative Body.

There are two versions of this part of the proceeding. One that his resignation was demanded, the other that it was tendered. The former is the contention of the President, which I think the true one; the latter the insistence of the Generals. The fact that the whole transaction was a proceeding of force, is incontrovertible.

The revolution was a military affair and began and ended in less than five hours so far as the execution of it was concerned.

There was very little blood shed, only about twenty-five being killed and these mainly members of the police force of the city who, alone, resisted the program of actors.

They proceeded to select a "Military Council" to take control temporarily of the administration of the affairs of the Government, composed of the following Generals—José Maria Orellana, Chief, José Maria Lima and Miguel Larrave. These have conducted affairs to the present. Of these, General Orellana is said to be the most able and distinguished. He is a man of good education and repute. The others are not remarkable for educational qualification or distinguished ability. All were at one time or another part of the regime of Ex-President Estrada Cabrera and the movement is regarded here not only as revolutionary but as reactionary rather than progressive.

The "Military Council" has called a meeting of Congress for tomorrow with a view of electing a Chief Executive in place of Carlos Herrera. They do not call a Session of the present Congress but are calling the Congress or members of the Congress that existed at the time of Estrada Cabrera's downfall. As a foundation for this they deny the legality of the proceedings under which Carlos Herrera was elected President; deny therefore the regularity of the adoption of the new constitution, and deny the regularity and legality of Legislative proceedings since.

There is no information obtainable concerning the choice they will probably make for Chief Executive, nor as to whether they are making a Chief Magistrate of the State of Guatemala or President of the Republic of Guatemala.

I regard the whole transaction as very unfortunate for Guatemala. The people had a freedom of press and citizenship greater than they have had under any President for generations. So far as I can judge the masses of the people were content with this situation. There was complaint, it is true, against President Herrera for not being firm enough, and this was not without justification as recent events demonstrate; but it is also to be remembered that the new constitution left the President with very little power.

The city is quiet now and so far as I can hear the country was undisturbed before and is yet. It was a revolution begun and successfully concluded in the city of Guatemala. But from the pacific nature and unarmed condition of the people, there does not seem to be probability of strong resistance to the military Chieftains, who, having all the arms and army have with them absolute power.

I have [etc.]

BENTON McMILLIN

814.00/575 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, December 8, 1921—5 p.m.

51. Informally and unofficially indicate to the members of the new Government the painful impression which would be caused in the United States by any political executions, and the expectation of this Government that Mr. Herrera and his cabinet, in particular, will receive humane treatment.

HUGHES

814.00/578 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, December 9, 1921—4 p.m.

[Received December 10—11 a.m.]

50. Department's 51, December 8, 5 p.m. Have carried out instructions. Members of the new administration have pledged humane treatment to Herrera and Cabinet, and intimate that there will be no political executions but latter not pledged.

Old Congress elected General Orellana, Provisional President and Mencos, First Designado.

MCMILLIN

814.00/578 : Telegram

The Secretary of State to the Minister in Guatemala (McMillin)

WASHINGTON, December 12, 1921—5 p.m.

52. Your 50, December 9, 4 p.m.

Renewed uneasiness has been expressed as to the safety of certain members of the former cabinet, now held as prisoners. You will make clear informally to the Provisional Government the heavy responsibility which rests upon it for the safety and humane treatment of these prisoners.

HUGHES

814.00/588 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

GUATEMALA, December 16, 1921—5 p.m.

[Received 11:30 p.m.]

54. Minister of Foreign Affairs and First and Second Designados and certain other prisoners released. Escamilla only member of Cabinet held in prison. Situation improving.

MCMILLIN

814.00/595 : Telegram

The Minister in Guatemala (McMillin) to the Secretary of State

[Extract]

GUATEMALA, *December 26, 1921—3 p.m.*

[Received December 28—9:30 a.m.]

60. I find no disposition among the members diplomatic corps here to recognize provisional government. Most of them oppose it. General sentiment inclines to abide final action of the United States. Under instructions of his Government the Nicaraguan Chargé d'Affaires ignored the provisional government when sending notices to the Legations of raising the flag in commemoration of Nicaraguan independence. Costa Rica instructed her Legation against all action favoring of recognition.

Mendrano and Montufar were slated for Washington as representatives of the provisional government but departure delayed. Escamilla minister in Herrera Cabinet recently released from prison has applied to Government for passport alleging he was out of political affairs. Quiet prevails.

MCMILLIN

814.00/594 : Telegram

The Chargé in Guatemala (Curtis) to the Secretary of State

[Extract—Paraphrase]

GUATEMALA, *December 27, 1921—11 a.m.*

[Received December 28—12:10 a.m.]

61. Unquestionably the present Government, headed by former officers of Estrada Cabrera, is a purely military one. Orellana, nevertheless, seems to be a man of high character. . . .

I suggest for the Department's consideration, that the United States offer to grant recognition provided it receives in advance satisfactory assurances that (1) all members of the Assembly and late Government be granted complete political amnesty including immunity from criminal prosecution; (2) the Army be converted into police and reduced to not more than 10,000 men; (3) all artillery be destroyed and the forts about the city be dismantled; and (4) Guatemala engage an American financial agent, who shall have wide powers. The Army varies greatly in strength. It now fluctuates between twenty and thirty thousand men.

The government would be greatly benefited by the disfranchisement of the illiterate. However, there are many objections to demanding this.

CURTIS

FEDERATION OF THE CENTRAL AMERICAN REPUBLICS

(See volume I, pages 143 ff.)

**DENUNCIATION OF THE TRADE-MARKS CONVENTION OF
AUGUST 20, 1910**

(See volume I, pages 164 ff.)

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 231 ff.)

HAITI

DISCORD OVER THE EXECUTION OF THE TREATY OF SEPTEMBER 16, 1915¹

838.42/11a

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

No. 350

WASHINGTON, *September 29, 1920.*

SIR: The Department has been much concerned by the failure of the system of public instruction in Haiti to show any tangible improvement during the period of occupation. While the Treaty of September 16, 1915, does not specifically provide for the cooperation of this Government with that of Haiti in promoting education, it is evident that the obligation of the United States under the Treaty to assist in the carrying out of plans for the prosperity of the Haitian Republic comprises the duty of aiding the Haitian Government in every proper way to establish the system of public instruction on a sound foundation and to make reforms and improvements in the present method of education. One of the most creditable achievements of the American occupation of Santo Domingo has unquestionably been the reform of public instruction, and it is not thought that this Government will have fulfilled its obligations to Haiti if, as a result of the American intervention, far reaching reforms in education are not carried out.

It appears, therefore, to be highly desirable that the Haitian Government be acquainted with the earnest desire of this Government that reforms be undertaken at an early date in the existing system of public education and that provision be made in the yearly appropriations for this branch of the Government which will provide, if possible, an increase in the salaries of the teachers and the necessary equipment for the schools. It is believed that the lack of progress in education is due as largely to the lack of funds as to the absence of the necessary laws or to an inadequate system.

The Department believes that provision should at once be made for the establishment of adequate normal schools for the training of teachers; for the employment of competent inspectors; and likewise for the employment of a Technical Adviser on educational

¹ Continued from *Foreign Relations*, 1920, vol. II, pp. 760-816; for text of treaty, see *ibid.*, 1916, p. 328.

matters. The Department has given careful consideration to this question and has reached the conclusion that a detailed and careful study of the situation, by a commission established at Port-au-Prince, is required. It is deemed advisable that this commission should be composed of an equal number of Haitians and Americans and should have as one of its members a Technical Adviser to be nominated at the request of the Haitian Government by the Department of State. The Department believes that the mixed commission might well be composed of three Haitian members as follows: the Minister of Public Instruction, the Archbishop of Port-au-Prince, and a member to be nominated directly by the President, preferably a Haitian not directly connected with the Ministry of Public Instruction, but holding some official position in Haiti such as that of justice of the Court of Causation [*Cassation?*]; three American members: the American Minister, the Technical Adviser, and one of the Treaty officials to be nominated by the American Minister.

It is the opinion of the Department that this mixed commission should study the system of education now existing in Haiti in the most thorough manner, in particular along such lines as the Technical Adviser may suggest, in order that a full report with recommendations for improvements may be prepared as the result of its investigation. The commission, and in particular the Technical Adviser, should be granted special powers by the President in order that all necessary information may be obtained without difficulty from the public Departments of the Haitian Government. The commission should also be empowered to send specially appointed delegates throughout the country in order to obtain advice as to conditions in the outlying districts. The commission might well devote its attention also to the most favorable method of obtaining additional sources of revenue to be devoted exclusively to the yearly appropriations for public instruction. Upon the conclusion of these investigations the report and recommendations prepared as a result of the deliberations of the commission should be submitted to the President in order that they may receive his approval, and the report might well be referred by him upon approval to the Ministry for Public Instruction in order that so many of the recommendations contained in the report as possible may be included in the budget for Public Instruction for the fiscal year following completion of the report.

The Department desires that you bring this matter to the immediate attention of the President. It is hoped that the appointment of this commission will be favorably considered by the President and

that he will request this Government to nominate for appointment by him the Technical Adviser in educational matters. You may further express to the President this Government's sincere conviction that the investigations and report of the commission suggested would be of the greatest value to the Government of Haiti, and state to him that he may be assured of the earnest desire of the Department of State to afford him all possible assistance in connection with the progress of education in Haiti.

I am [etc.]

For the Secretary of State:
NORMAN H. DAVIS

838.51/993 : Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, *January 27, 1921—7 p.m.*

9. Department's No. 82, September 27, 6 p.m., No. 89, October 11, 6 p.m., No. 94, October 18, 6 p.m., and No. 1, January 5, 1 p.m.²

The Department is unable to understand why no reply has been received from you to above cable instructions to report to Department the modifications recommended by you and the Treaty officials interested in the laws or projects mentioned in your August 20, 11 a.m.³

It is necessary for the Department to have this report prior to arriving at a decision upon this subject, and unless you have already forwarded such report you will do so immediately by cable.

COLBY

838.044/11 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, *February 12, 1921—noon.*

[Received February 14 (?)—1:30 p.m.]

13. My 405, August 23, 1920.⁴ Department's radio 94, October 10 [18], 6 p.m.⁵ regarding laws passed in violation of the agreement of August 24, 1918.⁶ The following is the consensus of opinion of the treaty officials, in which I concur:

Law on survey.—No objection.

Law on railroads and tramways.—Engineer in Chief Public Works considers necessary redraft entire law which will require considerable time. Meantime the law to be suspended.

² No. 94 printed in *Foreign Relations*, 1920, vol. II, p. 813; the others not printed.

³ *Ibid.*, p. 776.

⁴ Not found in Department files; see the Minister's telegram no. 53, Aug. 20, 1920, 11 a.m., *ibid.*, p. 776.

⁵ *Ibid.*, p. 813.

⁶ *Ibid.*, 1919, vol. II, p. 309.

Law on mines and mining.—Engineer in Chief Public Works considers law inadequate. Utterly impossible to prepare satisfactory mining law for Haiti without extended investigation which will occupy month[s]. Meantime law suspended.

Laws on primary school teachers and manual training.—Objected to at the time by Financial Adviser for budgetary reasons. Suggest that these laws be referred to Mr. McIlhenny.

Law on ownership of real property by resident foreigners.—Objected to *in toto*, being an interpretation of the Constitution and contrary to the spirit and the letter thereof. Would discourage investments foreign capital which is absolutely indispensable to prosperity of Haiti. Must be repealed.

In the light of past experience consider indirectly [*imperative?*] article 5 of the Constitution⁷ [be] amended to give foreign residents, associations and corporations same rights as Haitians to ownership of real property, this right to end within 5 years after cessation of residence and of active operations by corporations or associations.

Copies of these laws annexed to my [despatch?] above mentioned. Full report will be mailed.⁸

BLANCHARD

711.38/169

The Haitian Minister (Blanchet) to the Secretary of State

[Translation]

WASHINGTON, March 24, 1921.

MR. SECRETARY OF STATE: In compliance with instructions received from my Government, I have the honor to deliver to your Excellency under this cover; first, an envelope containing a message addressed by the President of the Republic of Haiti to his Excellency the President of the United States, and, second, a copy of that message.

Begging your Excellency kindly to forward the envelope from the President of Haiti to its high destination, I gladly take [etc.]

A. BLANCHET

[Enclosure—Translation⁹]

President Dartiguenave to President Harding

MR. PRESIDENT: In the name of the Haitian Government and people, I take great pleasure in greeting your accession to the Presidency of the United States of America.

Some degree of reserve, as required by the rules of international courtesy, no doubt prevented us from making any show of taking

⁷ *Ibid.*, 1918, p. 487.

⁸ Not printed.

⁹ File translation revised.

sides in the contest which in November last culminated in your striking victory. But it is surely no breach of those rules to declare here that all Haitian sympathies were yours from the day when in one of your most ringing speeches of the Presidential campaign you so nobly demanded justice and kindness for the people of Haiti.

The Haitian people need justice because serious injuries have been done them which call for equitable reparation. They need kindness because the great American Nation assumed towards them the part of a protector, by which it is in honor pledged to help in bringing happiness and prosperity to its little sister of the Antilles.

The Haitians have placed their hope in you. They are firmly convinced that the administration now inaugurating under your eminent direction will open the era of cordial collaboration and effective cooperation which they have so earnestly but so fruitlessly yearned for until now.

And so I feel the utmost confidence in taking the liberty, Mr. President, of availing myself of so favorable an opportunity to draw your high attention to the Haitian problem and the urgent solutions it demands.

The act of September 16, 1915,^{9a} signed by the United States and Haiti was, as claimed by the Americans themselves, practically for the sole interests of Haiti. But through the fault of the officials nominated by the American Government to carry it out, the Haitian people arrived at the painful conviction that the convention was forced upon them not as a beneficent necessity, but as an act of violence by which others than themselves might profit. Your administration, Mr. President, will find it a very elevating mission to destroy that conviction by acts which, proving the good faith and absolute disinterestedness of the American Government, will revive the Haitians' confidence and heal the wounds sustained by their souls.

The first satisfaction which the Government and people of Haiti therefore expect from your high sense of justice is the loyal and thorough execution of the convention of 1915, so that Haiti may draw therefrom all the advantages that were solemnly promised by the United States.

These advantages may be summed up in two words: Peace and Prosperity.

The United States promised us the maintenance of internal peace, which is indispensable to the moral and economic evolution of the country. Among a people where the sentiment of national conservation is unfortunately not yet strong enough to prevent internal dissensions, the maintenance of peace demands above all that an armed force be organized.

^{9a} *Foreign Relations*, 1915, p. 449.

That armed force is at present represented in Haiti (1) by troops of the United States Marine Corps constituting what was misnamed the military occupation, and (2) by a native corps named "Gendarmerie d'Haïti" and commanded by American officers.

The Haitians unanimously desire the withdrawal of the occupation and of the exceptional rule put upon the Nation by its presence; but all those who earn their living and know that without peace there can be no possible prosperity, demand the termination of the occupation only when the *Gendarmerie* shall have been so organized as to be able to secure public order. They ask—and in this the Government joins them—that that organization be actively commenced and speedily carried to a successful end, and that in the meanwhile the occupation shall assume and maintain the character of a mere military mission, without intervening either in administrative questions or in judicial cases, and remembering under all circumstances that it is not in a conquered country, but among a friendly people, to whom it owes regard and protection.

The Government understands that two bodies charged with the duty of promoting the same end, namely, the maintenance of peace, cannot be wholly separated. But it wishes it to be remembered that the *Gendarmerie* of Haiti is a national force placed first under the orders of the President of Haiti and that it cannot be withdrawn from the necessary supervision of the Haitian Government in matters concerning its organization or the fulfillment of its duties.

I lay stress on the urgent need of a rational and speedy organization of the *Gendarmerie* in such a manner as to make it able (1) to insure public peace, and (2) to discharge effectively and efficaciously its police duties in the cities and in the country. The Government is ready to make known its ideas for the practical realization of that reform, which it deems to be of paramount importance for the future of Haiti.

Owing to the lack of cooperation with the Government, and as a consequence of the set purpose of certain commanding officers of the occupation to spurn my advice, ill-advised intervention in the internal politics of the country led to measures of violence, for which the Government itself was held responsible in the mind of the people. Those officers did not understand that there was danger in not leaving with the National Government the legitimate direction of the political affairs of the country; on the contrary, they tried to divest it of all authority and prestige, thus playing the game of some Haitian politicians. Such a mistake should not be repeated at a time when a period of great agitation is about to begin in the country in connection with the forthcoming legislative and Presidential elections. It is important for the future of Haiti that

these be held in the most straightforward manner and with complete dignity on the part of the Government and people of Haiti and on the part of the American military mission.

While from the political standpoint the lack of cooperation was attended by so many untoward consequences, from the standpoint of civil administration it led to even more unfortunate results. The Haitian people had indulged the great hope that the assistance of the United States was about to enable them to place their finances on a lasting basis and to develop their material and moral wealth through a rational development of agriculture, industries, and public instruction. I am sorry to say that nothing of consequence has been done to make a reality of that hope. Some of the high civil officials of the convention displayed in the discharge of their mission in Haiti a total disregard of the true needs of the country and a systematic contempt of the rights and duties of the Government.

They made no honest effort at trying to understand the Haitian atmosphere, so new to them because of the difference of language and manners; they did not try to understand the true needs of the people; they constantly made light of any cooperation with the Haitian officials, their purpose being at every opportunity to force their views, no matter how obviously mistaken they were. This shows a lack of tact and an absence of regard which constitute the main causes of the frequent conflicts noted in the last 5 years and account for the negative or harmful results of American intervention; and so the hopes of the Haitian people by degrees turned to discouragement, and later, among the great majority, to open animosity.

The ill effects of such a state of mind among the people are first felt by the Government. A loyal friend of the United States, convinced that close cooperation between Washington and Port au Prince, on account of the strong economic bonds that unite the two countries, is necessary, it would like to have the Haitian and convention officials work together in a frank and effective way, and thus make clear to the Haitian people the good intentions of the great American people towards them. If the convention of 1915 is not applied in its spirit, its usefulness and consequently its very existence will be questioned by Haiti, where all the objections to it but none of its advantages have been known.

In order to prevent such a failure of American action in Haiti, I do not doubt, Mr. President, that you will, with the firm will to solve it, give your most benevolent attention to the Haitian question, which, in the view of the Government, may be summed up in the following points:

1. Organization, in the shortest possible time and in accordance with the convention of 1915 and the Constitution of 1918, of a

national force able to maintain public order and to insure full protection to the citizens and full tranquillity to city and country laborers.

2. As soon as the organization is completed, withdrawal of the occupation troops which in the meanwhile will constitute a mere military mission charged with the duty of insuring peace, if necessary, in concert with the *Gendarmerie* of Haiti, but without any administrative or judicial power; hence immediate suppression of military courts and all exceptional jurisdiction for the trial of Haitian citizens.

3. Respect of the powers of the Government in what relates to the direction of the political affairs of the country; respect for the rights granted to the citizens by the Constitution and the law, under no other sanctions than those provided by the law of the land.

4. Efficacious aid given by the United States to the Haitian people towards building up their finances, developing their agriculture and industrial resources, and promoting public instruction. This assistance may be made effective through a series of measures which a careful study of the Haitian conditions and needs shall have shown to be the best.

5. In administrative affairs, constant and honest cooperation between the Haitian and convention officials, which is the only means of averting further conflicts springing necessarily from the present parallel dual action of the Government and the convention officials. A precise definition of the office and powers of the Financial Adviser, based on the letter and spirit of the convention, in order that that "Haitian officer attached to the Ministry of Finance"¹⁰ shall not continue to consider himself as the absolute master of the administration.

6. Execution of article 5 of the convention. It cannot be admitted that the Government must for its slightest disbursement continue to depend on the whim and fancy of the Financial Adviser and of the Receiver General. It must at last know how much it may have for its expenditures and have the free disposal thereof. In the 5-year life of the convention, it is hard to explain why the Financial Adviser could not carry out the obligations placed upon him by paragraph 2 of article 2 and article 4 of the convention.

7. Lastly, considering the scanty resources of the country, vest one official only with the powers and duties of Financial Adviser and Receiver General of Customs with the present salary of \$10,000 a year and one staff.

I am aware of the gravity of the international or economic problems that engross your mind, Mr. President. But the Haitian question was put before the American conscience and before the whole world by your memorable Marion speech. I am confident that it will be solved in accordance with right and justice.

With these sentiments [etc.]

DARTIGUENAVE

PORT AU PRINCE, *March 4, 1921.*

¹⁰Apparently a quotation from art. 2 of the treaty, but the word "Haitian" does not occur in either the English or the French text of that article.

838.42/16

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

No. 481

PORT AU PRINCE, April 12, 1921.

[Received April 23.]

SIR: Referring to the Department's no. 350 of September 29, 1920¹¹ regarding the cooperation of the Government of the United States with that of Haiti in promoting education in Haiti, I have the honor to report that the matter was brought to the President's attention on December 21, 1920, when I explained it in detail to His Excellency, impressing upon him its urgency.

The President expressed his satisfaction at the receipt of the communication, that he would lay the matter at once before the Cabinet, and that he hoped that he would live long enough to see the consummation of the reforms and improvements outlined.

I left with the President the Memorandum which I had translated to him, embodying the contents of the Department's instruction above mentioned.

I have the honor to enclose herewith copy and translation of the Memorandum dated March 7, 1921, received in reply to my memorandum handed to the President, to which is annexed a letter dated March 1st 1921 from the Minister of Public Education to the Minister of Foreign Affairs,¹² which explains itself.

The memorandum of March 7, was handed me by the Minister of Foreign Affairs in person, which I read in his presence. I expressed to him the regret that the reply was contrary to what I was lead [led] to hope for by His Excellency The President.

In my opinion the Haitian Laws on Education are not wanting, but what is lacking is their being put into execution.

Mr. Doret is no longer Minister of Public Education, having resigned a few days subsequent to the date of his letter to the Minister of Foreign Affairs. It is understood that Mr. Fernand Hibbert, ex-Chargé-d'affaires at Cuba, now on leave in France, is to be placed in charge of this portfolio upon his return here. It appears to me that this subject could be reopened after his installation, to the end that a technical adviser on educational matters be appointed in accordance with the method of appointment of the Treaty Officials, he to have surveillance and direction of Public Education. This, of course, would necessitate an amendment to the Treaty.

I have [etc.]

A. BAILLY-BLANCHARD

¹¹ *Ante*, p. 188.¹² Not printed.

[Enclosure—Translation ²⁵]

The Haitian Minister of Foreign Affairs (Barau) to the American Minister (Baillly-Blanchard)

MEMORANDUM

In reply to the memorandum handed on the 21st of December, 1920, by His Excellency the Minister of the United States of America to the President of the Republic, to make known, in accordance with the instructions of the Secretary of State of the United States, the fact that the Department of State was very much concerned because the system of public instruction in Haiti has failed to show any tangible improvement during the period of occupation, and that it is desirable that the Haitian Government be informed of the sincere desire of the Government of the United States that reforms be undertaken at an early date in the present system of public education, the Secretary of State for Foreign Affairs in the name of the Haitian Government has the honor to reply to the suggestions of the Department of State in conformity with the observations of the Department of Public Instruction noted in a letter of which a copy is annexed to the present note and presented at the same time:

That the Haitian Government does not believe that under the convention of 1915 the United States has any other obligation in regard to education than that of lending financial assistance to the Haitian Government for the development, not the organization, of its system of public instruction, which is based upon the most modern French system of public instruction.

That the Haitian Government expresses the desire that the Financial Adviser shall not persist any longer in refusing his approval of the increase in the salaries of the members of the teaching corps and for the acquisition of the material necessary for the schools.

That the Haitian Government affirms that the absence of progress which the Department of State believes it finds in public instruction in Haiti is due rather to the lack of funds than to the lack of laws and of adequate methods, the laws and the methods which govern Haiti giving abundant results in France, from whom they are borrowed.

That the Haitian Government believes firmly that with the laws and the present methods great results may be obtained the day when, as in Santo Domingo, the budget of public instruction shall be more important than the others.

²⁵ File translation revised.

The Secretary of State for Foreign Affairs in the name of the Haitian Government declares that the question of preparation of professors has been studied in all its aspects and there does not remain for the moment any new study to be made of it, and that the funds alone have been lacking up to the present to give it the solution that it merits.

That in consequence, it is not necessary that a mixed commission be formed to make new studies on this subject, and that furthermore, the organization of the National Council of the University dispenses with the creation of any other similar machinery.

The Secretary of State for Foreign Affairs has the mission of informing His Excellency the Minister of the United States of America that His Excellency the President of the Republic, profoundly moved by the desire expressed by the Department of State to give to the Haitian Government all possible assistance in order to promote public education in Haiti, regrets not being able to adhere to the idea of the formation of a mixed commission composed of three Haitian members and three American members, and so he will not ask the Government of the United States to propose for appointment by him the technical adviser in questions of education.

PORT AU PRINCE, *March 7, 1921.*

711.38/171

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

No. 398

WASHINGTON, *April 26, 1921.*

SIR: The Department is enclosing herewith a personal letter from the President in reply to one from the President of Haiti under date of March 4, 1921, transmitted through the Haitian Legation at Washington on March 24th.

You will transmit this letter of the President to its high destination.

I am [etc.]

For the Secretary of State
HENRY P. FLETCHER

[Enclosure]

President Harding to President Dartiguenave

WASHINGTON, *April 12, 1921.*

MR. PRESIDENT: I have received, through the Haitian Minister at Washington, the letter which you did me the honor to address to me on March 24 [4], 1921, and I appreciate very much the greeting which it conveys to me although I note with concern your statements regarding the operation of the Treaty of September 16, 1915.

It is indeed unnecessary, I feel certain, Mr. President, for me to assure you of the deep interest I take in the Haitian Republic and in matters affecting the relationship between Haiti and the United States. Consonant with this interest, I shall be happy to give careful consideration to the matters which you present with regard to the execution of the Treaty, as well as the suggestions which you make in reference thereto. I am confidently of the opinion that your Government and that of the United States will find themselves in satisfactory accord concerning the operations of the Treaty of 1915, since the policy which actuates this Government in that relationship is based upon the desire to cooperate with the Haitian Government in every way practicable for the advancement, welfare and prosperity of the Haitian Republic and its people.

Thanking you for the friendly sentiments of your communication, I avail myself [etc.]

WARREN G. HARDING

838.00/1787

The Haitian Minister (Blanchet) to the Secretary of State

[Translation ¹⁴]

The Minister of Haiti presents his compliments to His Excellency the Secretary of State, and has the honor, in compliance with his Government's instructions, to deliver to him the following note:

"The Haitian Government deems it its most imperative duty to remind the Government of the United States, as the presidential term is nearing its end, of a few provisions in the Constitution of the Republic voted by a plebiscite on June 12, 1918, and to apply for its cooperation in the measures to be taken for their enforcement so that no infringement will be made of the main object of the convention of September 16, 1915, which is to maintain order and tranquillity in the territory of the Republic.

"Articles 40, 41, 42, 43, and 44 of the Constitution map out the rule of the National Assembly. It is the National Assembly which, among other functions, elects the President of the Republic and administers to him the Constitutional oath.

"Article C of the provisional clauses of the Constitution reads:

'The first election of members of the legislative body after the adoption of the present Constitution shall take place on January 10 of an even-numbered year.

'The year shall be fixed by a decree of the President of the Republic published at least three months before the meeting of the primary assemblies.'

"In October 1919, the President of the Republic did not deem it necessary to avail himself of the right conferred upon him by the second paragraph of that article. He did not consider the moment to be favorable, as public opinion was too divided.

¹⁴ File translation revised.

"Is it necessary to recall that on the day after the convention was voted on, the legislative chambers, because of their hostile attitude, were dissolved, and that those elected in January 1917 showed such obstructive apathy in their opposition to the enforcement of the convention that they had the same fate two months after they had met?"

"It is needless to say that those measures were not provided by the Constitution of 1889 then in force, and that they were imposed by circumstances.

"Since then, under the authority of the Constitution, a Council of State, consisting of 21 members, has been exercising the legislative power.

"At the present time, although public opinion is still divided—perhaps more so—the President of the Republic should apply the rules laid down by the Constitution, by fixing the date of the forthcoming elections at January 10, 1922, if no cloud arises to darken the political horizon and threaten order in the country.

"But in order to facilitate a loyal execution of the convention, it is important to have a legislative body composed of men animated by the desire to effect a peaceful transfer of power, and not of professional politicians who afford no guarantee of morality or patriotism.

"On that account the Government must not and may not stand aloof from the election. It is a sacred duty entailed upon it to assist by honest means the candidates whom it believes apt to promote the welfare of the nation. There must be no impediment to its action as there was in the elections of January 10, 1917, and its best friends, who are also the best friends of the Government of the United States, must not be systematically ignored and opposed by the ill-informed American occupation.

"The Haitian Government therefore calls upon the Government of the United States for its earnest cooperation in the legislative elections. To its mind that cooperation must consist in joint action looking to happy results for the country, that of the Haitian Government consisting in giving by every means at its disposal aid and comfort to the candidates whom it may deem worthy of election; that of the Government of the United States, in guaranteeing order and, so far as it may be in its power, supporting those candidates.

"That policy of cooperation will end in endowing the country with legislative chambers equal to their mission, the main attribute of which is to make the Haitian Nation great and prosperous.

"Port au Prince, June 10, 1921."

A. BLANCHET

WASHINGTON, July 2, 1921.

838.00/1787

The Secretary of State to the Haitian Minister (Blanchet)

The Secretary of State presents his compliments to the Minister of Haiti and has the honor to acknowledge the receipt of his communication of July 2, 1921, with which he transmitted, by instruction

of the Haitian Government, a note addressed by that Government to the Government of the United States under date of June 10, 1921.

The Secretary of State requests that the Minister of Haiti be so good as to transmit to his Government the following reply to the note of the Haitian Government transmitted with the note of the Minister of Haiti under acknowledgment:

"The Government of the United States has given most careful consideration to the note of the Haitian Government dated June 10, 1921, in which the Haitian Government states [here follows a summary *in extenso* of the note referred to].

"In reply to this communication, the Government of the United States desires first of all to assure the Government of Haiti once more, that it is its most earnest desire to cooperate in every proper way with the Haitian Government in the promotion of the prosperity and tranquillity of Haiti. It is the firm conviction of the Government of the United States that the ends which both Governments desire so sincerely to attain, can only be gained by encouraging and supporting in every way possible the processes of stable and constitutional government in the Republic. The foundation upon which such government must rest is the holding of fair and free elections in which the electorate of Haiti, as prescribed by the Constitution, can participate without coercion of any kind. It would seem, therefore, to the Government of the United States that it would be derelict in its Treaty obligations and in its sincere friendship for the Haitian people if the American Occupation of the Republic of Haiti countenanced the holding of any elections in the Republic in which the properly qualified voters of the Republic were not permitted to cast their votes without being subject to intimidation or the exertion of improper influences and the result of which was not the freely expressed opinion of the majority of such voters.

"In the event, therefore, that the President of Haiti deems it necessary to fix the next elections for the National Legislature for the tenth of January, 1922, the Government of the United States, in accordance with its obligations under the Convention of September 16, 1915, will cooperate with the Government of Haiti in maintaining the peace of the Republic should disorder threaten, but it cannot consent, for the reasons above set forth, to the holding of elections in the Republic the result of which would be determined in any manner other than by the will of the Haitian people freely expressed."

WASHINGTON, *September 2, 1921.*

838.00/1788

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

No. 431

WASHINGTON, *September 3, 1921.*

SIR: The Department acknowledges receipt of your despatch No. 521 of July 15, 1921,¹⁵ forwarding a copy of a note received by you from the Foreign Office, dated June 10, 1921, regarding the legisla-

¹⁵ Not printed.

tive elections in Haiti in 1922, the original of which was received by the Department on July 2, from the Haitian Minister in Washington. The Department transmits herewith, for your information, a copy of its reply to the note of the Haitian Government above referred to, the original of which has been delivered to the Haitian Minister here.¹⁸

The views of the Department regarding the request of the Haitian Government to cooperate with it in securing the election of candidates to the National Legislature satisfactory to the Haitian Government are clearly expressed in its communication to the Haitian Government.

If the President of Haiti, therefore, feels it essential that Legislative elections be held on January 10, 1922, this Government, while assisting the Haitian Government to maintain order, will insist that no undue influence be exerted by the Haitian Executive to control the results of those elections. The Department recognizes the fact that present conditions in Haiti would render it improbable that any truly free elections could be held, because of the ignorance and illiteracy of the majority of the voters. It is likewise regretfully forced to the conclusion that the results of the Legislative elections, if held without the exertion of undue influence by the Haitian Executive, would probably result in the election of a National Legislature largely anti-American in sentiment. It appreciates the fact that the election of such a Legislature would render more difficult the efforts of the Government of the United States to cooperate with the Government of Haiti in pursuing a constructive policy contemplating rapid improvement in the economic and political life of the Republic.

Because of these considerations, the Department has not considered it necessary to advise the President of Haiti to decree the holding of Legislative elections on January 10, 1922, as he is authorized to do by the Constitution. In view of the special conditions now obtaining in Haiti, the Department would interpose no objection should the President of Haiti determine to abstain once more from holding the elections for the National Legislature, and thus permit the election of his successor to be undertaken by the Council of State, as it is authorized to do, in the event that no Legislative Body exists, by the transitory provisions of the present Constitution. You may so inform the President of Haiti after he has received the Department's reply to the note addressed to it by the Haitian Government under date of June 10.

I am [etc.]

CHARLES E. HUGHES

¹⁸ *Supra.*

838.00/1805 : Telegram

*The Minister in Haiti (Bailly-Blanchard) to the Secretary of State*PORT AU PRINCE, *October 5, [1921—] noon.*

[Received October 7—10:45 a.m.]

71. This Legation's number 67 reads as follows:

"September 22, 2 p.m. Department's 431 September 3 received 21st, and instructions complied with this morning in audience with the President who was very much pleased with the communication. No decree for holding legislative elections on January 10 will be issued, the Presidential election to be by Council of State.["]

BLANCHARD

838.00/1810

*The Secretary of State to the Secretary of the Navy (Denby)*WASHINGTON, *October 17, 1921.*

MY DEAR MR. SECRETARY: I am advised that Brigadier General George Richards, Paymaster of the United States Marine Corps, is proceeding shortly to Haiti for a stay of some weeks in connection with his duties as Paymaster. It has occurred to me that it would be very useful to this Department if General Richards were instructed to make a report for the confidential information of the Department of State and of the Navy Department on the present aspects of the Haitian situation, more particularly, the political aspects. I believe that the information which he will obtain on matters of interest to this Department during his approaching visit to Haiti, will be of considerable value.

If my suggestion is agreeable to you, I should be glad if the necessary instructions could be given to General Richards to prepare such a confidential report.¹⁷

Believe me [etc.]

CHARLES E. HUGHES

838.00/1815 : Telegram

*The Chargé in Haiti (Jordan) to the Secretary of State*PORT AU PRINCE, *November 21, 1921—noon.*

[Received November 22—10 a.m.]

80. General Richards requests me to report his impressions after 2 weeks local observation as follows:

"State Department's plan to effect coordination treaty and other officials correct in principle. Some elaboration in details seems nec-

¹⁷By a personal note of Nov. 16, the Secretary of the Navy informed the Secretary of State that General Richards had been instructed as desired.

essary upon which Crowder's¹⁸ advice is important. Ultimately, as marines are reduced, the chief [of the] *gendarmerie* and the brigade should be one individual thus concentrating military [functions] into one treaty official, the President's representative's functions being primarily civil. Some study is necessary of the measure of control short of dictation President's representative should exercise in view consistent hostile attitude Haitian officials toward needful reforms advocated by American Government.

As to present political conditions, ignorant peasant mass Haitians most benefited by occupation are unorganized and inarticulate, and public sentiment Haiti is opinion their spokesmen, the educated class of cities and towns of at most 1500. Save few who confess Haiti unfit self-government all are anti-American, while large majority are anti-occupation, wishing treaty changed lessening our powers without diminishing American restricting [?] and with a modified military occupation. A dwindling minority remains who would abrogate the treaty and terminate military occupation at all hazards.

There is no general change over former opinion, only difference being opinion now more openly manifested. Reasons existing political situation more apparent today to Haitian intellectuals [are] that our proper policies for Haiti's welfare are antagonistic to their caste and other privileges; also prevailing high prices are unjustly charged to our intervention, also some American officials civil military have been tactless with Haitians and Haitian officials, also political propagandists adverse to American prestige have been most active.

As to American accomplishments, we have suppressed disorder with its untold benefits [*sic*] to peasant[s], reopened old communications by rebuilding roads, constructed necessary public works and irrigation projects, eliminated fraud in customs and other administrations, performed considerable sanitary work, created public hospitals and established humane prison administration, created native constabulary, growing in efficiency. But these would all disappear were the occupation to terminate now, while their value was lessened for road building revived the *corvée* inflicting hardship on peasantry and undoubtedly furnishing one of the causes for the recent revival of disorders.

Specifically, we have failed in our treaty obligations to introduce adequate system public accounting, to ascertain the exact amount of the public debt, and to meet until recently payments on foreign debt, while the interior debts and claims [have been] continuously neglected, and there have been other failures. The principal reason for our failure to accomplish these and other necessary reforms followed lack of organization of treaty and other American officials, which furnished excellent opportunity for effective Haitian opposition to join proposed reforms. Our principal difficulty now lies in that adverse attitude of present Haitian officials and the ruling class of Haitians, whose confidence we need, as through them only can we hope to work out durable reforms.

Considering American responsibilities treaty was undoubtedly defective in its specific provisions but under its broad terms it might have been possible then, through protocol or less formal agreement with Haiti, to have mutually interpreted its general provisions to

¹⁸ Maj. Gen. Enoch H. Crowder, representative on special mission in Cuba.

include American supervision over judiciary, the school system, and to include also fields where reforms are needed but are less imperative and as to which Haitian officials seem now disposed to obstruct us, such as tax reform, internal revenue, new laws as to commerce, irrigation and publication. To secure such agreement now seems especially difficult, though favorable opportunity may possibly present itself to State Department for such an agreement in present controversies over the \$14,000,000 loan.

Specifically it seems we should not now attempt any reform in or control over the judiciary. This reform, however, lies at the bottom of our problem and should be attempted at the earliest practicable date. When the proposed new organization of administration by our treaty and other officials make[s] probable success apparent, or in other eventualities involving restored American prestige, we should attempt judiciary reform."

JORDAN

MEASURES TO RELIEVE THE FINANCES OF HAITI¹⁰

838.51/1069

The Minister in Haiti (Bailly-Blanchard) to the Acting Secretary of State

No. 446

PORT AU PRINCE, January 14, 1921.

[Received January 31.]

SIR: I have the honor to forward herewith copy and translation of a note received from the Minister of Foreign Affairs, dated December 16, regarding the payment of six months interest on the consolidated Interior Debt of Haiti.

The Financial Adviser, *ad interim*, to whom I communicated the above note has informed me that he is in accord with this project in principle, provided that ways and means be found to effect such payment.

I have the honor to request to be advised of the views of the Department in the premises in order that I may reply to the note of the Minister of Foreign Affairs.

I have [etc.]

A. BAILLY-BLANCHARD

[Enclosure—Translation]

The Haitian Minister of Foreign Affairs (Barau) to the American Minister (Bailly-Blanchard)

PORT AU PRINCE, December 16, 1920.

MR. MINISTER: The Secretary of State for Finance has informed my Department that he has reached an agreement with the Financial Adviser, *ad interim*, with a view to the payment of six months' in-

¹⁰ For previous correspondence relating to this subject, see *Foreign Relations*, 1920, vol. II, pp. 816 ff.

terest on the Interior Consolidated Debt. This measure will surely bring a relief to the terrible economic situation which we are now passing through. That is why I have the honor to communicate to Your Excellency this project of the Government previously discussed with the Office of the Financial Adviser.

I should be extremely grateful to Your Excellency if you would let me know, as soon as it will be possible for you to do so, the opinion of your Government upon this question.

I avail [etc.]

J. BARAU

838.51/1055 : Telegram

The Minister in Haiti (Baïlly-Blanchard) to the Acting Secretary of State

PORT AU PRINCE, *January 15, 1921—10 a.m.*

[Received January 16—4:10 p.m.]

5 [6]. At meeting of treaty officials, 12th, General Receiver of Customs brought up the question of present financial situation of Haiti, and submitted statements showing that the carrying out of plan as approved by the Department by its radio 95, of October 19, 7 p.m.,²⁰ results in a total deficit for October, November and December of \$503,926.23 due to the falling off in the customs receipts and the balance to the credit of the Haitian Government on December 31, after payment of budgetary expenses and supplementary and extra credits, was \$14,735.22.

The consensus of opinion of the meeting, concurred in by Admiral Knapp²¹ and myself, is that the only solution for relief of situation is to temporarily waive setting aside \$175,000 monthly for interest and amortization public debt as stipulated in protocol, October 3, 1919,²² as service of external debt, interest and amortization to September 30, 1921, is provided for by the conversion of \$136,000 monthly already set aside for October, November and December at average francs 16.50 for a dollar.

The favorable consideration Department and decision requested as soon as possible as there will be no funds to meet January expenses other than receipts during said month. Report by mail today.²³ Admiral Knapp who is expected to arrive Washington 17th will fully explain situation.

BLANCHARD

²⁰ *Foreign Relations*, 1920, vol. II, p. 842.

²¹ Rear Admiral Harry S. Knapp, Military Representative in Haiti.

²² *Foreign Relations*, 1919, vol. II, p. 347.

²³ Not printed.

838.51/1051

The Acting Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, January 17, 1921.

EXCELLENCY: I have the honor to acknowledge Your Excellency's note of December 21, 1920,²⁴ in reference to the payment of the coupons of the Haitian 5% loan of 1910, wherein you state that it appears from a report received from your Government, under date of November 28th last, that no notice was given of intention to pay those coupons on their maturity November 15th, and that the Haitian Government or its representatives took advantage of the fall caused by this failure to pay the coupons and bought in the stock market at Paris hundreds of bonds.

In this connection the Department of State has been advised by the Financial Adviser of the Republic of Haiti that no necessity exists for the Government of Haiti to give notice of its intention to pay the coupons of the loan of 1910, and therefore that Government was not at fault in not giving such notice. The Department of State also is informed by the Financial Adviser of the Republic of Haiti that in September 1920 he placed to his credit with the Farmers' Loan and Trust Company in Paris the sum of thirty-two million and some odd thousand francs, and that in October last he advised the Farmers' Loan and Trust Company to transfer one million, six hundred thousand odd francs of this amount to the Banque [de] l'Union Parisienne to the credit of A. J. Maumus, Receiver General of Customs in Haiti, for the purpose of meeting the interest coupons of the loan of 1910 due on November 15, 1920. Furthermore, having taken this step which was deemed entirely sufficient to comply with the service of the loan of 1910, the Financial Adviser of the Government of Haiti recently cabled the Farmers' Loan and Trust Company in Paris to verify the payment of these coupons and was informed by it that the amount of one million, six hundred thousand odd francs had been transferred according to his request mentioned above to the Banque [de] l'Union Parisienne early in November and that the interest upon the 1910 coupons had been paid on November 15th, the date upon which they were due.

In view of these facts, it would appear that the information upon which the report received from your Government, under date of November 28th last, was based, was without foundation in fact, and that the Government of Haiti did not take advantage of any fall in the French bond market because of a failure to pay the 1910 coupons.

²⁴ *Foreign Relations*, 1920, vol. II, p. 842.

The Government of the United States, being concerned over this unfortunate misunderstanding, would greatly appreciate it if Your Excellency would be good enough to request the Government of France to investigate into the origin thereof and would cause the results of such examination to be transmitted to the Department of State.

Accept [etc.]

NORMAN H. DAVIS

838.51/1055 : Telegram

The Acting Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, January 25, 1921—7 p.m.

7. Your urgent No. 5 [6], January 15, 10 a.m.

You are instructed to inform Receiver General that in view of the present Haitian financial situation as set forth in above cable, the Department has no objection to the temporary reduction of the monthly segregation of \$175,000.00 by the amount of \$138,771.03, releasing the latter sum for the budgetary needs of the Haitian Government. The remaining \$36,228.97 still to be segregated will provide for the service of the external debt through January 1, 1922, at 16 francs per dollar to the amount of \$24,123.19; interest on indebtedness to the bank, \$8,665.78, and the interest guaranteed to the P[laine du] C[ul-de-]S[ac] Railroad to the amount of \$3,440.00. The Financial Adviser concurs in the above.

Inform Department by telegraph at the earliest possible moment what the revenues for January amount to.

Detailed mail instructions follow.²⁵

DAVIS

838.51/1069

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

No. 384

WASHINGTON, February 10, 1921.

SIR: Replying to your despatch No. 446 of January 14, 1921, forwarding copy and translation of a note received from the Minister for Foreign Affairs, dated December 16, 1920, regarding the payment of six months' interest on the consolidated Interior Debt of Haiti, you are informed that while the Government of the United States is in accord with the Government of Haiti relative to the payment of interest on the above debt at the earliest moment prac-

²⁵ Not printed.

licable, and hence agrees in principle with the proposal of the Minister for Foreign Affairs, yet the Government of the United States is of the opinion that the present financial condition of Haiti does not warrant resuming payment of the Interior Debt at this time.

As soon as financial conditions in Haiti are satisfactorily ameliorated, which it is hoped will be in the near future, the Government of the United States will be pleased to take up this question anew with the Government of Haiti.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

838.51/1073 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, *February 11, 1921—3 p.m.*

[Received 10:40 p.m.]

11. Department's 7, January 25th, 7 p.m. Customs receipts for January amount to \$272,000.

BLANCHARD .

838.51/1076

The French Ambassador (Jusserand) to the Secretary of State

[Translation ²⁶]

WASHINGTON, *February 17, 1921.*

MR. SECRETARY OF STATE: By a note of January 17 last, Your Excellency requested me to ask the French Government to inquire into the causes of the delay, November last, in the payment of the coupon of the Haitian loan, as the Financial Adviser of the Haitian Government had, as early as October, instructed the agency of the Farmers' Loan and Trust Co. at Paris to transfer about [1,]600,000 francs to the Banque de l'Union Parisienne to meet that payment.

It appears from the inquiry that was immediately instituted that the Banque de l'Union Parisienne, which had charge of the service of that loan, conformed strictly to the instructions received by it from the Financial Adviser of the Haitian Government.

By a letter dated October 18, 1920, which arrived at Paris on November 5, Mr. McIlhenny asked the Banque de l'Union Parisienne not to begin payment of the Haitian coupon of 1910 until it had

²⁶ File translation revised.

received the express authority from Mr. Maumus, Collector General of Customs at Port au Prince. That authority did not reach the bank until November 23, so the coupons could not be paid until the 24th of November.

In order to avoid further incidents of this nature, there should be, in the opinion of my Government, which no doubt Your Excellency will share, the highest interest in having the payment of the coupons of Haitian loans made hereafter on the dates set by the contracts, or at the very least that the financial institutions in charge of the service be authorized to give notice of the time when these coupons will be paid.

Be pleased [etc.]

JUSSERAND

838.51/1100 : Telegram

The Secretary of State to the Minister in Haiti (Baïlly-Blanchard)

WASHINGTON, May 5, 1921—6 p.m.

26. Maumus from McIlhenny.

It is suggested that to meet in part budgetary payments for May, you use, with the approval of the Haitian Government, the amount set aside to repay United States Government for food advances. The amount so used to be repaid later from proceeds of loan.

HUGHES

838.51/1122

The Minister in Haiti (Baïlly-Blanchard) to the Secretary of State

No. 519

PORT AU PRINCE, July 7, 1921.

[Received July 27.]

SIR: I have the honor to forward herewith for the information of the Department, copy of a letter from the Acting Financial Adviser, dated July 2nd, 1921,²⁷ received July 5th, enclosing a translation of a letter of June 30 to the Haitian Minister of Finance,²⁷ inviting his attention to the serious financial situation and the urgent necessity of taking steps to meet it, also a copy of a letter of July 1 to the Financial Adviser outlining the policy which he proposes to follow with respect to the payment of Haitian Government expenses for July, unless instructed to the contrary.

I have [etc.]

A. BAILLY-BLANCHARD

²⁷ Not printed.

[Enclosure]

*The Acting Financial Adviser to the Haitian Government (Maumus)
to the Financial Adviser (McIlhenny), temporarily in the United
States*

[PORT AU PRINCE,] July 1, 1921.

DEAR MR. MCILHENNY: I enclose herewith a translation of a letter sent by me to the Minister of Finance under date of June 30, 1921.^{27a} Our available funds are so low that this month I am making no advance to the *Gendarmerie* until July 10, and the advances to the Sanitary Engineer and the Engineer of Haiti are being made in three payments, on July 1, 14, and 29. It is essential that definite action be taken with respect to the financial situation here without delay.

The Haitian Government has had nine months within which to take action to increase receipts or reduce expenses, and nothing has been done in either direction, nor will anything be done by the present government unless force or other compulsion is applied. The Minister of Finance, whose intentions are good enough, has not been able even to enforce the existing internal revenue laws because of the opposition of his colleagues. As you have been informed, he had an examination of the books of the electric light company and the P.C.S. railroad made to determine the amount due the Government in taxes for past years, with the view of instituting prosecutions. Nothing has been done. . . .

We are at the end of our resources here, and it is my purpose, unless I receive definite instructions from Washington to the contrary accompanied by assurance that funds will be available to meet payments, to inform the Haitian Government about July 20 (the usual date for sending through the *mandats*) that there are no funds with which to meet the expenses of the Haitian Government proper, and that the *mandats* will not be paid. I propose to pay so much of the *Gendarmerie* contract allowance as the Chief of the *Gendarmerie* certifies is required, on the ground that it is preferred under the Treaty and maintenance of public order is paramount. I also propose to pay the necessary expenses of the Sanitary Service on the ground that public health is next in importance after public order and safety. I further propose to pay such part of the expenses of the services under the Engineer in Chief as is necessary to keep ways of communication and transportation open and to maintain the public buildings and property under its supervision, and probably also will pay the expenses of the postal service under the Department of Finance. This will result in charges of discrimination against Haiti-

^{27a} Not printed.

ans, but it is the only solution that I can see. I estimate that receipts including the amount which can be used from the reserve for interest and amortization of debts, will be about sufficient to pay the above mentioned expenses. Everything else will have to be delayed until additional receipts are forthcoming from a loan or from new taxation.

I propose to suspend all Haitian Government payments, not merely a part of them, until such time as there shall be a sufficient amount available (an improbable event) with which to pay all the expenses of an entire month. To do otherwise would open the door to a form of graft prevalent here before the Occupation, when members of the government directly or indirectly bought unpaid payrolls at huge discounts and immediately had them paid at par. This practice was so prevalent and so remunerative that few payrolls were ever paid to the persons named therein. We can not afford to permit or tolerate the recurrence of such graft, and there is no way to prevent it other than to announce that none of the monthly expenses will be paid until an amount is available sufficient to meet the whole.

In this connection I am informed that the Haitian Minister at Washington, after the protest was made against the \$175,000 monthly segregation plan, advised his Government that he had been assured by the Department of State that, whatever happened, the salaries, pensions, etc., would be paid. I can not believe that any such assurance was ever authoritatively given by the Department of State, but the Haitian Government certainly thinks it has this assurance and, feeling that salaries are safe, whatever happens, has followed a drifting policy without any effort to prevent bankruptcy and apparently welcoming it as another proof that the Treaty brought nothing but evil to Haiti.

Most sincerely yours,

A. J. MAUMUS

838.51/1118: Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, August 5, 1921—5 p.m.

44. Department's telegram No. 42, July 26, 6 p.m.²⁸ [Your] Despatch July 7.

Inform Acting Financial Adviser immediately that Department does not desire that any formal announcement be made along line indicated in his letter of July 1st to McIlhenny.

If it is necessary to suspend Haitian Government payments Acting Financial Adviser must cut down on other items of payment men-

²⁸ Not printed.

tioned by him and under any circumstances he is to pay in full salaries of President, Cabinet Ministers, Legislative Council, and Supreme Court Judges. Department hopes that loan may be floated at an early day accompanied by renewed pressure on Haitian Government to enact adequate internal revenue laws, collections under which it is intended shall be under American treaty officials' control.

HUGHES

838.51/1128 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, August 10, 1921—4 p.m.

[Received August 13—10 a.m.]

56. Department's 44, August 5, 5 p.m. Instructions complied with. Acting Financial Adviser states that not receiving the advice promised in the Department's 42, July 26, 6 p.m.²⁹ and having received the following statement from the Minister of Finance (translation):

"My colleague of Foreign Relations has received letters from the Haitian Minister in Washington advising him that in an interview with Messrs. Welles³⁰ and McIlhenny he was told that measures would be taken so that there would be no hindrance to the payment for the month of July",

he agreed with the Minister of Finance that in view of the July receipts exceeding expectations viz. \$303,000, and of the transfer by the Minister of Finance of Government internal receipts amounting to \$40,000 and by using \$110,000 from the \$175,000 set aside for the July interest and amortization there would be sufficient funds to meet July expenses in full, payments were then regularly begun on August 3.

No formal announcement of his intention as expressed in letter of July 1st, 1921, was made to the Haitian Government.

Mr. Maumus requests to be advised whether Department's instructions to pay salaries President, Cabinet Ministers, Legislative Council and Judges of the Supreme Court means that they must have precedence of payment over *Gendarmerie*, Sanitary Engineer and Engineer of Haiti for August and whether the settlement as now outlined for July has the approval of the Department.

If the payments to the President and officials named have precedence over *Gendarmerie* would this not be contrary to article 5 of the treaty?

BLANCHARD

²⁹ Not printed.

³⁰ Sumner Welles, Acting Chief of the Division of Latin American Affairs, Department of State.

838.51/1128 : Telegram

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, August 17, 1921—4 p.m.

49. Your 56, August 10, 4 p.m.

Payments to President and officials named to have precedence over Sanitation and Public Works but not over Constabulary. Settlement outlined approved.

HUGHES

838.51/1152 : Telegram

The Secretary of State to the Chargé in Haiti (Jordan)

WASHINGTON, October 18, 1921—1 p.m.

57. Refer Department's 96, November 1, 7 p.m.; 104 November 16, 6 p.m.; 108, November 29, 7 p.m.; and 117, December 23, 3 p.m.; and Legation's 90, November 13, noon; 95, November 23, noon; 100, December 7, 3 p.m.; 104, December 14, 3 p.m.; 1, January 8, 9 a.m.; and despatches 428, November 17, and 429, November 24, regarding Haitian loan.³¹

You are instructed to confer with Acting Financial Adviser regarding above correspondence and regarding note hereinbelow set forth, and to request of the Minister of Foreign Affairs an audience of the President at the earliest opportunity in order that you may hand him, in company with Mr. Maumus, the following note:

"During the time which has elapsed since the receipt by the Department of State of the memorandum of the Haitian Government dated November 12, 1920,³² in which the Government of Haiti advised the Government of the United States of the conditions under which it was willing to authorize the flotation of a loan for the Haitian Government in the United States, the Government of the United States, in spite of the obstacles interposed, has not been unmindful of its treaty obligation to assist the Haitian Government in the realization of this desire, and has continued its efforts to interest American bankers in a loan for Haiti. Due to the active assistance of the Department, the Financial Adviser is now able to report two tentative loan offers, one from a group represented by the National City Company of New York and the other from a syndicate composed of Speyer and Company and Blair and Company. The offers are hereinafter summarized. Before passing to a consideration of the offers referred to, the Department of State desires to make clear to the Haitian Government that in his conferences with

³¹ Legation's telegrams nos. 1 and 104 and despatches nos. 428 and 429 not printed; Department's telegram no. 117 not printed; for the other communications mentioned, see *Foreign Relations, 1920*, vol. II, pp. 847-852.

³² Not printed; for substance, see the Legation's telegram no. 90, Nov. 13, 1920, noon, *ibid.*, p. 848.

American bankers, the Financial Adviser has adhered to the terms of issue authorized by the Haitian Government last fall and approved by the Department at that time in principle. However, due to the rise in the rate of exchange for francs, the continued accumulation of arrearages on the railroad interest guarantee and the arrearages in the debt service of the Haitian internal loans, which can no longer be paid out of any surplus revenues, the items upon which the proceeds of the loan were to be applied have increased as follows: Foreign debt from [\$]6,250,984 to approximately [\$]6,668,980; National Railroad bonds interest guarantee from [\$]1,417,500 to [\$]1,621,500; arrearages on service of internal bonds, which will now have to be paid out of proceeds of loan [\$]1,000,000; a total of [\$]1,621,996, less [\$]35,000 paid to P. C. S. Railroad out of current income. The sum of [\$]12,036,996 is therefore now indispensable to carry out the Haitian Government's previous schedule. A loan of [\$]14,000,000 at 95 would net \$13,300,000, leaving the balance remaining, after carrying out the schedule authorized by the Haitian Government, to be applied to the payment of the awards of the Claims Commission, including the payment of all remaining debts to which income is now pledged and urgent public works, which will provide for that object, the additional sum of [\$]1,263,004.

The bankers were therefore approached on the assumption that a loan for \$14,000,000 would now be necessary to cover the items included in the schedule outlined in the Haitian Government's memorandum of November 12, 1920. The sum of [\$]2,059,721 for awards of the Claims Commission, including the freeing of the national income from all remaining affectations and for public works is not excessive, (1) because of the uncertainty as to the amount of such awards; (2) the wide fluctuations in French exchange; and (3) the impetus that will be given to commerce by the spending of even the small sum that will at best be left for public works. Moreover, neither loan proposal so far made offers as much as 95 net to the Haitian Government, or even 94 net. Further fluctuations in exchange alone could very largely reduce the suggested increased margin.

A summary of the tentative offers of the National City Company group and of the Speyer-Blair syndicate, respectively, is as follows: National City, maturity, 10 years; price, 92; yield at price of sale, 8.15 per cent; collateral in 30-year 6 per cent bonds, [\$]21,000,000; sinking fund payments, [\$]250,000 semi-annually; use of sinking fund, purchase in open market at not exceeding 102½ and interest; redemption, no right of prior redemption; conversion into 6 per cent bonds, no provisions; costs of issue, no provisions; Speyer-Blair syndicate, maturity, 10 years, price 94; yield at price of sale, 7.98 per cent; collateral in 30-year 6 per cent bonds, [\$]17,500,000; sinking fund payments, [\$]291,666.67 semi-annually; use of sinking fund, purchase in open market at not exceeding 105; redemption, redeemable after 5 years at 105 and interest in amounts not less than \$1,000,000 to be drawn by lot; conversion into 6 per cent bonds, any time before maturity, at option of holder at 92½; costs of issue, to be paid by Haiti except counsel fees; both groups insist that in order to protect the market for the notes in New York the internal bonds shall be payable in Haitian gourdes at the ratio of 5 to 1. In the

opinion of the Department the Speyer-Blair offer is the more favorable of the two.

All legislative acts necessary for the full validity of the note issue and to give effect to the terms of the Protocol governing the collateral 6 per cent bonds naturally are required by both groups of bankers. When authorized negotiations are undertaken there is reason to believe that the debt service can be modified so that the annual charges for amortization and interest will not exceed \$1,271,356, making, with the service of the [\$]5,000,000 internal bonds, a total annual funded debt service of \$1,634,602.

With reference to the points raised in the note of the Haitian Government of September 7, 1921, to the Legation,³⁴ regarding the necessity for a modification of the Protocol of October 3, 1919, in case a less amount than \$40,000,000 is issued in bonds, the Department is of the opinion, after giving the matter careful consideration, that should it be determined that the loan ought to be for less than \$40,000,000, Haiti would still be obligated under the Protocol.

The Department feels certain that the Haitian Government is still of the opinion that a loan is a necessity for the welfare of Haiti for the following reasons: (1) In order that the saving of nearly two-thirds in the amount of the outstanding foreign debt of Haiti can be realized; fortunately this is still possible because of the exchange situation; (2) The improvement that will immediately occur in the economic situation of Haiti by reason of the early payment of about a million dollars of arrearages in the debt service of the internal loans of Haiti; (3) The participation of the Government in the affairs of the National Railway of Haiti that will be secured by the payment of the large sum due as arrearages of interest guaranteed on the railway bonds; (4) The present very favorable situation of the bond market in New York, that may of course not soon again present itself; finally, but most important of all for the welfare of Haiti, the opportunity the loan will present to remove at an early date all export taxes on the products of the soil of Haiti.

It is, therefore, earnestly hoped and urgently recommended by the Government of the United States that, after due consideration has been given to the above tentative loan offers, concerning which further explanations will be given if requested, the Haitian Government will cause no further delay to occur in transmitting to the Financial Adviser of Haiti, now in Washington, the necessary full powers in order that he may initiate formal negotiations with one of the groups above-mentioned for whose offer the Haitian Government may express a preference. The Haitian Government is again assured that the Financial Adviser will continue to be given all the counsel and assistance that it is possible for the American Government to give. The Department hopes that the objections heretofore expressed by the Haitian Government to Mr. McIlhenny as the negotiator of the loan will have been removed by now, but in any event it is constrained to draw the attention of the Haitian Government to the fact that the Financial Adviser is the person obviously contemplated

³⁴ Summarized in the Legation's despatch of Sept. 8, p. 229.

in the Protocol to conduct loan negotiations under the direction of the Minister of Finance and with the assistance of the American Government. As long as he continues to be an official holding office by virtue of the Treaty between the United States and Haiti, and until or unless he should be removed for cause, the American Government cannot countenance a disregard of his official standing such as would be involved in the designation of any other person to represent the Haitian Government in the matter of the loan.

In conclusion the Department of State desires to emphasize and repeat its assurance of continued interest in the welfare of Haiti and to express confidence that the Government of Haiti will acquiesce in its considered judgment and recommendations as above expressed."

Report by telegram when you have delivered note.

HUGHES

838.51/1164 : Telegram

The Chargé in Haiti (Jordan) to the Secretary of State

PORT AU PRINCE, November 10, 1921—11 a.m.

[Received November 12—1:20 p.m.]

76. My 74, November 3, 11 a.m.³⁵ Memorandum in reply received today from Haitian Government containing following points:

1st. Haitian Government considered that protocol of October 3rd, 1919,³⁶ has lapsed and that a loan cannot now be contracted under this instrument which no longer exists.

2d. That it is impossible to consent to having all the revenues of the Republic pledged for 30 years for the payment of a loan of \$14,000,000.

3d. That even if it be granted that the protocol of October 3rd, 1919, still exists the Haitian Government persists in believing that the conditions thereof being modified by the amount of the new loan it is not [*now*] necessary that the terms of a new protocol be studied.

Translation of memorandum by mail.³⁵

[JORDAN]

838.51/1152 supp. : Telegram

The Secretary of State to the Chargé in Haiti (Jordan)

WASHINGTON, November 14, 1921—6 p.m.

60. Department's October 18, 1 p.m.

You are instructed to confer further with the Acting Financial Adviser and to request of the Minister for Foreign Affairs an audience with the President at an early date in order that you may hand

³⁵ Not printed.

³⁶ *Foreign Relations*, 1919, vol. II, p. 347.

him, in company with Mr. Maumus, the following supplemental note:

“Due to the continued active assistance of the Department, the Financial Adviser has now obtained a further loan offer from the banking firm of Messrs. Lee, Higginson and Company, of New York, of which the following is a summary:

‘Subject to the approval of their Counsel as to the form and validity of the bonds and their conformity with provisions of Treaties and other diplomatic agreements between the Republic of Haiti and the United States of America, they offer 85 and interest for \$16,000,000 30 year 6 per cent Sinking Fund Gold Bonds of the Republic of Haiti to be dated November 1, 1921, and to be payable November 1, 1951; the bonds shall not be callable for 15 years, except for the Sinking Fund, the operation of which shall be sufficient to retire the entire issue by maturity. Payments into Sinking Fund to be in accordance with the schedule annexed³⁷ which provides for total annual payments, including interest and Sinking Fund of \$1,110,000 per year, which amount is increased by \$5,000 each year up to and including the 29th; the 30th year payment is \$833,645. After all revenues of the Republic exceed \$7,000,000 per annum, 25 per cent of such excess, but not more than \$250,000 a year, shall be used as a market fund to buy bonds of the issue up to par; payments for the Sinking Fund shall be used to buy and retire bonds at prices up to par; if not procurable below par, they shall be drawn at par to the extent of funds available from Sinking Fund; after 15 years the Government of Haiti shall have the right to pay off the entire loan at par and interest upon reasonable notice.

As in the case of the two previous offers transmitted, the bankers require that all legislative acts necessary to give full effect to the terms of the Protocol shall be enacted. Among these requirements the most important is one enacting that if upon the expiration of the Treaty of September 16, 1915, and of any extension thereof,³⁸ bonds of this present issue, or other bonds issued in pursuance of said Treaty shall still be outstanding, the payment of interest and the amortization of such bonds shall continue to be a first charge upon all the internal revenues of Haiti, and a second charge upon the customs revenues of Haiti next in order after the payment, first, of salaries, allowances and expenses of the officer or officers duly to be appointed by the President of Haiti upon nomination by the President of the United States, which officer or officers shall be appointed to control the collection and allocation of the hypothecated revenues aforesaid, so as to make certain that adequate provision shall be made for the amortization and interest of the loan, all as contemplated by Article VIII of the Protocol of October 3, 1919.

It is understood that the issue of bonds will be free of all Haitian taxes.

³⁷ Not transmitted with this telegram.

³⁸ For the text of the treaty, art. XVI of which provides that it shall remain in force 10 years, see *Foreign Relations*, 1916, p. 328; for the additional act of Mar. 28, 1917, changing the term of the treaty to 20 years, see *ibid.*, 1917, p. 807.

The bankers further state that they have recommended the sale of 6 per cent bonds by the Republic of Haiti because they believe that a 6 per cent bond can be successfully marketed at the present time, and that thus Haiti's credit will be established in the markets of the world on a much higher plain than if 7's and 7½'s are sold. The bankers also state that this advantage can be gained by Haiti at no greater net cost over a period of 30 years than if 10 year 7½'s are sold now at 95 and when they mature 20 year 6's at 92, the best prices, in their opinion, at which these might be sold, provided market conditions at that time happen to be satisfactory. In either case the cost of the money would be practically 7.23 per cent over the entire period, assuming maturity of bond issue at 100. Attention is also invited by the bankers to the fact that interest and Sinking Fund charges will be lower on an issue of \$16,000,000 than the larger amount required as collateral under the 10 year note plan. Moreover, \$300,000 additional cash proceeds are obtained under the present plan.

The present offer also has the advantage over the 10 year note plan of concluding the loan in one transaction thus eliminating considerable expense and further negotiations at a later date between the two Governments and various groups of bankers.'

The Department has given careful study to the offer above outlined and is of the opinion that it is the most favorable thus far received, both for the reasons given by the bankers, and because the probabilities appear to be greater that the world's money markets will not offer a better rate at the end of 10 years for 6 per cent 20 year bonds than 92.

If the 6 per cent 20 year bonds could be issued at more than 92 in 10 years the issue of short term notes is preferable, if not, it is preferable to issue 6 per cent bonds at the present time at 85. However, in view of previous financial history of periods following great wars, and in view of the great debts of all the principal countries and the great demand for capital for reconstruction, the probabilities seem to be against an important reduction in the rate of interest within the next ten years. Moreover, no offer has yet been made for the 10 year notes at as high a price as 95.

The offer herewith transmitted is stated by the bankers to be conditional upon acceptance thereof being received by them on or before November 19, 1921, and also upon the fulfillment on or before that date of the terms and conditions they have specified. They state that an early date for acceptance is fixed by them owing to the uncertainty of market conditions; that, however, if the various conditions cannot be accomplished within the time specified and their offer is nevertheless the most acceptable of those under consideration by the Government of Haiti, their offer may be provisionally accepted with the expectation that it will be renewed by the bankers when all the conditions have been complied with, unless there should be a substantial change in conditions materially affecting, in their opinion, the marketability of the bonds."

838.51/1164 : Telegram

The Secretary of State to the Chargé in Haiti (Jordan)

WASHINGTON, November 18, 1921—6 p.m.

61. Your 76, November 10, 11 a.m., Department's 60, November 14, 6 p.m.

Department had already considered with great care point 1 raised by Haitian Government based upon the period of time mentioned in Article VI of the Protocol and had come to the definite conclusion that the non-performance of the undertaking of the Haitian Government with reference to the issuance of bonds within the time mentioned did not relieve it of its obligation, in the premises, at the option of the other party to the Protocol. The bankers also were willing to waive the point raised by the Haitian Government requiring only that the point be covered by reference in the legislative act giving effect to Article VIII of the Protocol.

It is possible that point 2 raised by Haitian Government is due to a misunderstanding. The pledge of both the customs and internal revenues required by all the bankers so far approached and provided in the Protocol during the life of the bonds is not an affectation of specific revenues in the sense of former Haitian legislation, but merely a provision creating a first charge upon them so that only such portion[s] of them as may be required by the public debt service are to be set aside. There would be no objection to incorporating in the law above mentioned carrying out Article VIII of the Protocol a provision that the officer or officers appointed by the President of Haiti upon nomination by the President of the United States shall allocate to the debt service first the necessary portion of the customs revenues and then, in case the customs revenues should prove insufficient, the necessary amount from the internal revenues; even with a gradual removal of the export taxes it is possible that for a time the customs revenues might prove to be insufficient.

With regard to point 3 raised by the Haitian Government, the Department can only repeat what was stated in its telegram 57, October 18, 1 p.m., namely, that in its considered opinion the Protocol would not require modification because of the amount of any loan that may be issued if that amount is within the maximum fixed by the Protocol. In case, however, the Haitian Government wishes to insist upon this point the Department is of opinion that the point could be covered by a provision in the proposed law twice mentioned above to the effect that the right is reserved to issue the balance of the loan if it should be deemed necessary at a later day.

You will seek a further audience with the President in the company of the Receiver General urging as a reason the desirability of an early decision on the loan matter and you will present the above considerations to him in the form of an informal memorandum based upon your outline of the Haitian memorandum received by you November 10th,³⁹ promising at the same time a fuller reply to the Haitian memorandum in case it is found necessary upon its receipt and in case the President of Haiti does not prior to that time decide in favor of authorizing the Financial Adviser to enter into immediate definite loan negotiations.

HUGHES

838.51/1176: Telegram

The Chargé in Haiti (Jordan) to the Secretary of State

PORT AU PRINCE, *December 6, 1921—11 a.m.*

[Received December 8—10:45 a.m.]

87. Department's 60, November 14, 6 p.m., and 61, November 18, 6 p.m. Instructions complied with. In company with Mr. Maumus I called on the President this morning delivering to him the note containing the Lee, Higginson offer and an informal memorandum in answer to the memorandum of Haitian Government outlined in my 76 of November 10, 11 a.m. At the same time I informed the President that the Department had expressed a desire to have an early decision in the matter. The President stated that it would be given immediate decision without discussion, reply sent during this week. He stated also the representatives of neutral countries had expressed a desire to be represented on the Claims Commission⁴⁰ in the same manner as the French and English are supposed to be represented. He thought that this would be cumbersome and also unjust to Haiti as these countries expected their representatives and expenses to be paid by the Haitian Government which arrangement would be an unjust burden on the depleted Treasury of the Government. He stated that he had replied to these people that they should address themselves to the United States Government regarding this matter. He seemed to be in a very receptive mood and apparently has waived the question of prescription of the protocol.

JORDAN

³⁹ Summarized in the Chargé's telegram no. 76, Nov. 10, p. 217.

⁴⁰ For papers relating to this subject, see pp. 224 ff.

838.51/1184a : Telegram

The Secretary of State to the Chargé in Haiti (Jordan)

WASHINGTON, December 20, 1921—6 p.m.

72. Financial Adviser has shown Department letter from Banque Nationale stating that Minister of Finance has advised of inability of Haitian Government to pay at maturity on December 31st amount due on note of approximately \$1,800,000 and of unwillingness of bank to agree to payment in installments. You will immediately call to the attention of the Haitian Government through the usual channel the additional compelling reason presented by this maturity for an immediate decision in favor of floating a loan and the unfavorable impression with regard to the credit of Haiti that the plea of inability to meet the obligation at its maturity will create if not recalled in the face of the favorable loan offers from banks now before the Haitian Government for consideration.

HUGHES

838.51/1187 : Telegram

The Chargé in Haiti (Jordan) to the Secretary of State

PORT AU PRINCE, December 28, 1921—4 p.m.

[Received January 3, 1922—10:10 a.m.]

92. Department's 60, November 14, 6 p.m.; 61, November 18, 6 p.m.; 63 [62], November 19, 6 p.m.⁴¹ Minister of Foreign Affairs this afternoon handed me a reply for transmission stating that the Haitian Government still believes that legally the protocol of October 3rd, 1919, has expired but that the difficulty may be [overcome by?] inserting certain clauses in the loan law. The Haitian Government proposes to embody 13 provisions covering the policy of claims commission, the jurisdiction of the commission, the interior debt, and other points of the protocol. These provisions are too lengthy to be sent by radio and will be forwarded by first available mail.

The reply further states the Speyer [and National City offers?] are not justified and national bonds offered [*bonds in two series?*] are not to be considered but that the Government is disposed to accept the Lee, Higginson offer provided the modifications above mentioned are embodied in the loan law and under reserve of [propositions?] allowing more active [*favorable?*] rate of emission.

JORDAN

⁴¹ No. 62 not printed.

838.51/1185a: Telegram

The Secretary of State to the Chargé in Haiti (Jordan)

WASHINGTON, December 29, 1921—1 p.m.

73. Inform Haitian Government that Haitian Minister has communicated to it [*the Department*] contents of cable recently received by him indicating that Haitian Government considers loan indispensable. Extremely important that authorization to Financial Adviser to accept one of loan offers be cabled at once prior to January 1st because of maturity of Banque Nationale note and desirability of avoiding protest of note.

You will endeavor to obtain an immediate definite favorable answer and briefly cable result without delay. Your naval wireless messages usually 4 days in transmission.

HUGHES

838.51/1186: Telegram

The Chargé in Haiti (Jordan) to the Secretary of State

PORT AU PRINCE, December 29, 1921—10 p.m.

[Received December 30—9:55 a.m.]

93. Department's 72, December 20, 6 p.m. and 73, December 29, 1 p.m. Haitian Minister of [Finance] states through Minister of Foreign Affairs that Haitian Government is prepared to pay note in question and will request from the bank for the purpose, the statutory loan of \$600,000 held by bank in accordance with article 15 of bank concession and \$500,000 in the hands of the bank in conformity with article 8 of the transaction signed at Washington July 10, 1916.⁴²

JORDAN

838.51/1186: Telegram

The Secretary of State to the Chargé in Haiti (Jordan)

WASHINGTON, December 31, 1921—1 p.m.

74. Your 93, December 29, 10 p.m., does not reply to that part of Department's December 29, 1 p.m., relating to the loan. Department again instructs you to inform Haitian Government that Department regards it as imperative that authorization to Financial Adviser to

⁴² *Foreign Relations*, 1916, p. 358.

accept most favorable loan offer be cabled without further delay. You will use best endeavors in company with Mr. Maumus to obtain immediate favorable answer. Cable result.

HUGHES

838.51/1191 : Telegram

The Chargé in Haiti (Jordan) to the Secretary of State

PORT AU PRINCE, January 14, 1922—11 a.m.

[Received January 16—10:32 a.m.]

4. My number 93, December 29, 6 [10] p.m. I was subsequently informed by the Acting Financial Adviser that the statement of the Minister of Finance, that the Haitian Government was in a position to pay the note provided the bank placed at its disposal the \$600,000 stipulated in the statutory loan bank contract of 1910 and states that [*sic*] sum of \$500,000 provided for in the agreement between bank and Haitian Government signed at Washington July 10, 1916, which would leave still due on the note an amount of about \$860,000, cannot be considered as a true statement for the reason that the Government has no available funds to pay the \$860,000 much less the full amount of the note \$1,780,000. The Minister of Finance based his statement on the supposition that the account of interest and amortization could be used for that purpose and that he would seek to obtain authority from the State Department to do so. This account having already been drawn against to the extent of \$110,000 per month from January to September, 1921, leaves available only about \$250,000. Mr. Maumus has written full explanatory letter to Mr. McIlhenny.

JORDAN

EFFORTS TO CONSTITUTE THE HAITIAN CLAIMS COMMISSION "

438.41R54/5

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, July 29, 1921.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of July 2, 1921,⁴⁴ with regard to the claim against the Haitian Government made by Messrs. Roberts Dutton and Com-

⁴³ For previous correspondence relating to the Claims Commission provided for in the protocol of Oct. 3, 1919, see *Foreign Relations*, 1920, vol. II, pp. 827 ff.; for the text of the protocol, see *ibid.*, 1919, vol. II, p. 347.

⁴⁴ Not printed.

pany, which, on instruction from Your Excellency's Government you again bring to my attention.

In replying specifically to the question of this claim, I have the honor to state that the matter has been referred to the Financial Adviser of the Haitian Government for his opinion, and upon receipt of his response a further note will be addressed to Your Excellency.

In general relation, however, to the question of the settlement of claims against the Government of Haiti, I have the honor to inform Your Excellency that the Government of the United States has decided that the moment is now opportune for the constitution of the Haitian Claims Commission as provided for in the Protocol of October 3, 1919, between the Republic of Haiti and the United States. The understanding arrived at between Your Excellency's Government and the Government of the United States in respect to the composition of the Committee to pass upon the claims of British subjects, as set forth in Your Excellency's note of January 31, 1920,⁴⁵ and May 12, 1920,⁴⁶ and the replies of this Department thereto of May 6, 1920,⁴⁷ and May 19, 1920,⁴⁸ respectively, provide that during the consideration of British claims the Haitian Claims Commission shall be composed of one member nominated by the Minister of Finance of Haiti, one member nominated by the Secretary of State of the United States and the third member, a British subject, to be nominated by the Financial Adviser to the Government of Haiti, after consultation with the British Embassy in Washington, all of the above to be appointed by the Government of Haiti.

Article IX of the Protocol of October 3, 1919, provides that each member of the Claims Commission shall receive eight thousand dollars gold per annum for salary as well as two thousand dollars gold per annum as expenses. In this regard it should be noted that the member designated after consultation between the British Embassy and the Financial Adviser to the Government of Haiti is to serve only during the time when the claims of British nationals are under consideration by the Commission, and this temporary member is to submit his resignation to the President of Haiti at the expiration of this period in order that the Government of Haiti may appoint another member to sit on the Commission for the consideration of the claims of nationals of other Governments.

To the end that the Commission may be constituted at an early date, I have the honor to request that Your Excellency give the subject your present consideration, and that I be advised as soon as Your

⁴⁵ Not printed.

⁴⁶ *Foreign Relations*, 1920, vol. II, p. 829.

⁴⁷ *Ibid.*, p. 828.

Excellency's Embassy is prepared to consult with the Financial Adviser respecting the selection of the British subject who is to serve as the third member of the Claims Commission during the consideration of British claims.

For the information of Your Excellency's Government, I deem it pertinent to state that an understanding similar to the one noted above has been arrived at with the Government of France⁴⁸ upon the question of adjudication of the claims of French citizens against the Republic of Haiti and a note has been addressed to the French Ambassador upon this subject substantially the same as this communication to you,⁴⁹ advising the Government of France that in view of the fact that French nationals have the greatest claims against the Republic of Haiti, these claims will be given precedence and will be adjudicated as soon as the Claims Commission has been constituted with a French citizen sitting as a third member during the consideration of French claims. Immediately upon the conclusion thereof the French member will resign and the British member will be appointed for the consideration of the claims of British nationals.

Accept [etc.]

CHARLES E. HUGHES

438.00/121a

*The Secretary of State to the French Ambassador (Jusserand)*⁵⁰

WASHINGTON, July 29, 1921.

EXCELLENCY: Pursuant to the understanding which was reached between your Government and the Government of the United States and expressed in the Department's memorandum of October 29, 1920,⁵¹ and your reply thereto of December 14, 1920,⁵² relative to the composition of a claims commission to adjudicate the claims of French nationals against the Government of Haiti in accordance with the provisions of the Protocol of October 3, 1919, between the United States and Haiti, I have the honor to inform you that this Government believes it expedient and opportune to initiate at once the selection of the Claims Commission. Under the arrangement agreed upon, the Claims Commission for the adjudication of the claims of French nationals against the Government of Haiti, excepting certain claims specifically exempted by the above mentioned and other pertinent correspondence, is to be composed of one member

⁴⁸ See *Foreign Relations*, 1920, vol. II, pp. 829 ff.

⁴⁹ *Infra*.

⁵⁰ Through an inadvertence, this note was addressed to Ambassador Jusserand, but the Prince de Béarn et de Chalais, Counselor of Embassy, was Chargé d'Affaires *ad interim* on this date.

⁵¹ *Foreign Relations*, 1920, vol. II, p. 829.

⁵² *Ibid.*, p. 833.

nominated by the Minister of Finance of Haiti, one member nominated by the Secretary of State of the United States, and a third member to be designated by the French Government and nominated by the Financial Adviser of the Haitian Government, all three members so nominated to be appointed by the Government of Haiti.

In view of the foregoing, I beg you to request your Government to designate the person whom it wishes nominated by the Financial Adviser to the Government of Haiti and to advise this Department of his name for transmission to the Financial Adviser. I also ask that in conveying this information to your Government you apprise it of the earnest desire of the Government of the United States that the Claims Commission be constituted and take up its duties at an early date, passing in the first instance upon the claims of French nationals. It is assumed that the person to be designated by the Government of France will be a French citizen resident elsewhere than in Haiti, since it is likely that anyone there resident would not bring the necessary unprejudiced viewpoint to the consideration of the questions at issue, and would therefore not be an acceptable member of the Claims Commission.

Article 9 of the said Protocol of October 3, 1919, provides that each member of the Claims Commission will receive eight thousand dollars gold per annum for salary and two thousand dollars gold per annum for expenses. In this connection it may be noted that, according to the understanding mentioned, the member to be designated by the Government of France is to serve only during the time when claims of French nationals are under consideration, and he is to submit his resignation to the President of Haiti at the expiration of this period in order that the President of Haiti may appoint another member to sit on the Commission for the consideration of claims other than French.

Simultaneously with the despatching of this note, this Government is requesting the Government of Haiti to instruct its Minister of Finance to designate the member to be nominated by him,⁵³ and the Department of State is now considering the choice of a member for its nomination. In addition, the Department of State is advising the British Ambassador of this action taken and is asking him to request his Government to designate a member of the Commission to be nominated by the Financial Adviser for the consideration of the claims of British subjects to take place immediately after the consideration of the French claims has been concluded.

Accept [etc.]

CHARLES E. HUGHES

⁵³ The instruction to the Minister in Haiti directing him to present this request was not sent until Aug. 8; see *infra*.

438.00/123

The Secretary of State to the Minister in Haiti (Baillly-Blanchard)

No. 424

WASHINGTON, August 8, 1921.

SIR: You are instructed to inform the Haitian Government in writing textually as follows:

"The Government of the United States believes the time has come for the establishment of the Claims Commission provided for in the Protocol between Haiti and the United States of October 3, 1919. Despite the fact that at the present moment it appears that the Government of Haiti is not in a position to pay the claims which the Commission might validate, in the opinion of this Government a most useful purpose would be served by constituting the Haitian Claims Commission and having it proceed with its business of examination into the claims presented to it.

"It is to be hoped that the Government of Haiti may have succeeded in arranging the loan it desires to make by the time the Claims Commission has rendered its decisions, but in any event, the Haitian Government will have satisfied the claimants at least to the extent of acknowledging or refusing to acknowledge the claims presented to the Commission.

"The Government of the United States is communicating with the Governments of France and Great Britain, advising them that this Government believes it expedient and opportune to initiate the selection of the Claims Commission, and is requesting these Governments to suggest a third member of the Claims Commission, who shall be nominated by the Financial Adviser of the Haitian Government for appointment along with the other two members by the Government of Haiti. Under this procedure, and in accord with the Protocol of October 3, 1919, the Commission as constituted will consist of one member nominated by the Minister of Finance of Haiti, one member nominated by the Secretary of State of the United States, and a third member, described above, to be designated by the particular foreign government and nominated by the Financial Adviser, who will in effect be the representative of the particular government on the Commission.

"In requesting the respective Governments to announce their designations, this Government has informed them that the members so to be designated are to serve only during the time in which the claims of the particular nationals against the Government of Haiti are under consideration, and that these temporary members are to submit their resignations to the President of Haiti at the expiration of this period in order that the President of Haiti may appoint whatever third member the Financial Adviser may nominate for consideration of the claims of nationals of other governments.

"In addition to the nationals of the Governments of France and Great Britain, and excepting Germany for the time being, the claims of other nationals are so relatively insignificant that the United States Government hopes for the sake of economy to be able to persuade the Governments of the other nationals to permit their claims to be adjudicated by the Commission when sitting for the consideration of either the French or the British claims. An effort

in this direction will shortly be made and the Government of Haiti will be informed of the result thereof.

"This Government desires in conclusion to express the hope that the Minister of Finance of Haiti will shortly make his nomination in order that the Commission may be constituted in the near future."

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

438.00/124

The French Chargé (Béarn) to the Secretary of State

[Translation ⁵⁴]

WASHINGTON, August 27, 1921.

SIR: In reply to Your Excellency's note of July 29 last and with reference to mine of the 10th instant,⁵⁵ I have the honor to inform Your Excellency that the Government of the Republic has just designated M. René Delage, consul of France, formerly Chargé d'Affaires of France at Port au Prince, to represent it on the court of arbitration that is to pass upon the French claims against the Haitian Government.

In bringing the appointment to Your Excellency's knowledge, I should be extremely obliged to you if you would kindly let me know on what date the United States Government would wish Mr. Delage to arrive at Port au Prince and if you would kindly confirm the impression gathered from Your Excellency's note above referred to that the salary and allowance to be paid by the Haitian Government to the French representative will run from the day of his arrival to that of his departure.

Be pleased [etc.]

BÉARN

438.00/126

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

No. 537

PORT AU PRINCE, September 8, 1921.

[Received September 22.]

SIR: In compliance with the Department's No. 424 of August 8, 1921, received August 25, 1921, regarding the establishment of the Claims Commission provided for in the Protocol between Haiti and the United States of October 3, 1919, I informed the Haitian Government in writing textually as instructed, by a note under date of August 25.

⁵⁴ File translation revised.

⁵⁵ Not printed.

I have the honor to enclose copy with translation of the note dated September 7, 1921,⁵⁶ received in reply from the Minister of Foreign Affairs.

The attention of the Department is particularly invited to the following points in Mr. Barau's note:

1. Paragraph 2. It is maintained that the Protocol of October 3, 1919 is based upon a loan of 40 millions and to establish the Claims Commission before the loan is made would be making the principal follow the accessory; that for any loan other than for forty millions there must be a new Protocol, as the Protocol of October 3, 1919, foresees a control of the revenues of the Republic of Haiti during 30 years, and in agreeing to execute it in part, it is binding Haiti for this period which was only determined for a loan of 40 millions.⁵⁷

2. Paragraph 3. Mr. Barau states that the Haitian Government considers as just the arrangements arrived at between the United States and France and Great Britain regarding the composition of the Commission, but makes no mention that the nomination of the third member shall be made by the Financial Adviser.

Finally Mr. Barau states that in case a new Protocol is made, the Haitian Government may accept the arrangements as outlined.

I have [etc.]

A. BAILLY-BLANCHARD

438.00/124

The Secretary of State to the French Chargé (Béarn)

WASHINGTON, September 15, 1921.

SIR: I have received your note of August 27, 1921, in which you state that the Government of the Republic has just designated M. René Delage, Consul of France, formerly Chargé d'Affaires of France at Port-au-Prince, to represent it on the Claims Commission that is to pass upon the French claims against the Government of Haiti. You request in your note of August 27 to be informed on what date my Government would wish Mr. Delage to arrive at Port-au-Prince and to receive confirmation of the impression gathered from my note of July 29, last, that the salary and allowance to be paid by the Haitian Government to the French representative will run from the day of his arrival to that of his departure.

In reply to your inquiry, this Department interprets the language of the Protocol of October 3, 1919, establishing the Claims Commission, copy of which is herewith enclosed,⁵⁸ to mean that the afore-

⁵⁶ Not printed.

⁵⁷ For the Department's reply to this point, see the fifth paragraph of the note quoted in the telegram of Oct. 18 to the Chargé in Haiti, p. 214, and also the Secretary's telegram, no. 61, Nov. 18, p. 220.

⁵⁸ *Foreign Relations*, 1919, vol. II, p. 347.

mentioned salary and allowance will run from the date of the arrival of the French representative until his departure from Port au Prince upon the conclusion of his service on the Commission. The date on which it will be desired that the French representative shall arrive at Port au Prince for the assumption of his duties on the Commission will be communicated to you as soon as it has been ascertained.

Accept [etc.]

CHARLES E. HUGHES

438.41R54/8

The British Ambassador (Geddes) to the Secretary of State

No. 892

WASHINGTON, December 3, 1921.

SIR: I have the honour, upon instructions from my Government, to invite reference to the note which you were so good as to address to me on October 13th, 1921,⁵⁹ stating that the Government of Hayti has not yet appointed the member to be nominated for the Haytian Claims Commission by the Haytian Secretary of State for Finance, and that this Commission therefore cannot yet be constituted.

I have the honour to observe that it would be very agreeable to His Majesty's Government if the United States Government could see their way to urge the Haytian Government to hasten a settlement of this matter. Apart from the desirability, on general grounds, of securing an early settlement of the questions involved, I am instructed to draw attention to the great inconvenience which would be caused by a delay necessitating the sitting of the Commission in Hayti during the next hot season.

I have [etc.]

A. C. GEDDES

438.41R54/8

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, December 21, 1921.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 3rd instant, with reference to the delay in the constitution of the Haitian Claims Commission, caused by the failure, up to the present time, of the Haitian Government to appoint the member to be nominated by the Haitian Secretary of State for Finance.

In reply to your observation that it would be very agreeable to His Majesty's Government if the United States Government could

⁵⁹ Not printed.

see their way to urge the Haitian Government to hasten a settlement of this matter, it affords me pleasure to say that the flotation of a loan by private bankers is now under negotiation between this Government and the Haitian Government,⁶⁰ and that a successful outcome of these negotiations, which is confidently hoped for, will presumably result in the immediate formation of the Claims Commission.

Accept [etc.]

For the Sec[retar]y of State:

HENRY P. FLETCHER

438.00/130: Telegram

The Chargé in Haiti (Jordan) to the Secretary of State

PORT AU PRINCE, *January 13, 1922—11 a.m.*

[Received January 14—4:35 p.m.]

2. The French Minister has received from the Haitian Government a note regarding the composition of the Claims Commission in which it is stated that it is the desire of the Haitian Government that each government be charged with the payment of the arbiter named by it. The French Minister this morning requested me to inform the Department that his Government is unwilling to pay the salary or expenses of the arbiter who shall represent French claimants.

JORDAN

438.00/130: Telegram

The Secretary of State to the Chargé in Haiti (Jordan)

WASHINGTON, *January 24, 1922—5 p.m.*

7. Your 2, January 13, 11 a.m., Department's 424, August 8, 1921, your 537, September 8, 1921.

You will state informally to the Minister for Foreign Affairs that the suggestion of his Government to the French Minister, communicated to the Department at the latter's request, is not acceptable to this Government, in view of the assumption in the suggestion that the matter of the organization of the Claims Commission is not governed by the Protocol of October 3, 1919. You may advise the French Minister of this instruction.

HUGHES

⁶⁰ See pp. 214 ff.

LIQUIDATION OF GERMAN PROPERTY SEQUESTERED DURING
THE WAR⁶¹

338.6253/2

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

No. 402

PORT AU PRINCE, August 7, 1920.

[Received September 14.]

SIR: Referring to this Legation's radio No. 41 of July 22 [25], 9 A.M.⁶² and in compliance with the Department's cable instruction No. 54 of July 29, 6 P. M.,⁶² I have the honor to forward herewith copy of the project of law⁶² on the organization in Haiti of the "Office of Compensation" provided for by Section III, Part X of the Treaty of Peace signed at Versailles on the 28th of June 1919, which was submitted to this Legation by the Haitian Government in accordance with the agreement of August 24, 1918,⁶³ and which, after careful examination, was returned to the Foreign Office with the approval of the Legation.

Subsequently, under date of July 17, the Minister of Foreign Affairs informed the Legation that the Council of State had passed the above law but had added two new articles thereto, copies of which are herewith enclosed.

These two articles not appearing to this Legation to be in accordance with the provisions of the Treaty of Peace, I requested that the law be not promulgated pending receipt of instructions from the Department in the premises.

I enclose copies of the correspondence on the subject exchanged between the Legation and the Foreign Office.⁶²

I have [etc.]

A. BAILLY-BLANCHARD

[Enclosure—Translation⁶⁴]

*Articles 14 and 15 of the Project of Law for the Establishment of a
Clearing Office*

ARTICLE 14. Since the Clearing Office is to pass only upon individual debts standing between Germans and Allied nationals settled in Haiti, the owners of property in custody shall immediately be reinstated in possession of their property or paid the proceeds of the liquidations already effected as soon as—

- (1) The expenditures of the Public Treasury for the internment of former enemies shall have been repaid;

⁶¹ See *Foreign Relations*, 1918, supplement 2, pp. 359 ff.

⁶² Not printed.

⁶³ *Foreign Relations*, 1919, vol. II, p. 309.

⁶⁴ File translation revised.

- (2) The debts chargeable to them under article 296 and its annexes, and article 297, 2d paragraph of section (b), and 4th paragraph of section (h), of the Treaty of Peace shall have been settled.

ARTICLE 15. Owners of property in custody who may desire to resume business in Haiti shall be afforded every facility to do so by conforming to the laws of the country.

The Haitian Government, however, will use every means of public order at its disposal to recover from them the quota charged to them by the Clearing Office on the amount of damages due from the German Government to Haitians as provided by sections (1), (2), and (3) of annex I to article 232 of the Treaty of Peace.

Those who may wish to leave the country shall not be permitted to avail themselves of the provisions contained in article 297, paragraph 4 of section (h), except after full settlement of their personal debt and the share on the amount of claims preferred against Germany by Haitian citizens that shall have been charged against them by the Clearing Office or Reparation Commission.

338.6253/2

The Acting Secretary of State to the Minister in Haiti (Bailly-Blanchard)

No. 379

WASHINGTON, January 25, 1921.

SIR: The Department has received your despatch, No. 402, of August 7, 1920, enclosing a copy of the project of law for the organization in Haiti of the "Office of Compensation", provided for by Section 3, Part 10, of the Treaty of Peace signed at Versailles on the 28th of June, 1919, which was submitted to the Legation by the Haitian Government in accordance with the agreement of August 24, 1918, and which was returned to the Foreign Office with the approval of the Legation.

You also enclosed copies of two new articles added to the project and passed by the Council of State, and copies of the correspondence between the Legation and the Foreign Office, and you ask for the instructions of the Department in the premises.

Examination of these articles in connection with the Treaty of Peace seems to indicate that they fail to accord with that Treaty in the provision of Article 14 of the proposed law that the expenditures of the Haitian Government in connection with the internment of its former enemies shall be repaid from the property of enemies. The rights of Haiti with respect to charges against such property would seem to be limited by paragraph 4 of the annex to Part X

of the Peace Treaty which does not provide for any charge on account of the expenses of internment.

Furthermore, by the proposed law, Haiti is apparently purposing to adopt the debt section under the optional provisions in the Peace Treaty and yet return property not needed to pay Haitian claims. In view of the following provisions of Articles 297 (*h*) (I) of the Treaty she would appear to be without authority to make such an arrangement:

“As regards Powers adopting Section III and the Annex thereto, the said proceeds and cash assets shall be credited to the Power of which the owner is a national, through the Clearing Office established thereunder; any credit balance in favour of Germany resulting therefrom shall be dealt with as provided in Article 243.”

Article 243 reads as follows:

“The following shall be reckoned as credits to Germany in respect of her reparation obligations:

(*a*) Any final balance in favour of Germany under Section V (Alsace-Lorraine) of Part III (Political Clauses for Europe) and Sections III and IV of Part X (Economic Clauses) of the present Treaty;

(*b*) Amounts due to Germany in respect of transfers under Section IV (Saar Basin) of Part III (Political Clauses for Europe), Part IX (Financial Clauses), and Part XII (Ports, Waterways and Railways);

(*c*) Amounts which in the judgment of the Reparation Commission should be credited to Germany on account of any other transfers under the present Treaty of property, rights, concessions or other interests.

In no case, however, shall credit be given for property restored in accordance with Article 238 of the present Part.”

It is not stated by you in your despatch whether the Haitian Government gave the notice contemplated in the following provision of Article 296 (*e*), but if such notice was not given the debt section of the Treaty could not be adopted.

[“(*e*) The provisions of this Article and of the Annex hereto shall not apply as between Germany on the one hand and any one of the Allied or [*and*] Associated Powers, their colonies or protectorates, or any one of the British Dominions or India on the other hand, unless within a period of one month from the deposit of the ratification of the present Treaty by the Power in question, or of the ratification on behalf of such Dominion or of India, notice to that effect is given to Germany by the Government of such Allied or Associated Power or of such Dominion or of India as the case may be.”

If the proposed law were to be promulgated as it stands it appears to the Department, as stated above, that it would conflict with the

Treaty of Peace. The Department cannot, therefore, approve of the proposed law of the Haitian Government if the two additional Articles 14 and 15 are included.

I am [etc.]

NORMAN H. DAVIS

338.6253/2a : Telegram

The Acting Secretary of State to the Minister in Haiti (Baillly-Blanchard)

WASHINGTON, June 25, 1921—3 p.m.

31. In instruction 284, September 10, 1919,⁶⁵ and subsequent instructions, Department called Legation's attention to claims of American citizens against German firms in Haiti and pointed out that in certain particulars Haitian Government appeared to be misconstruing provisions of Treaty of Versailles relating to application of proceeds of sequestered property to claims against Germany or German nationals. Under Treaty, Haitian Government evidently has right to retain and liquidate property German nationals within its territory and to hold property for payment of (1) claims of Haitian citizens in respect of damage to their property within German territory; (2) debts owing them by German nationals in Germany; and (3) claims growing out of acts committed by German Government or German authorities since July 31, 1914, and before Haiti entered war. In view interest of American citizens in adjustment of accounts with concerns under sequestration in Haiti, Department is anxious to obtain early, complete information regarding disposition of sequestered property. Endeavor obtain such information, including particularly information whether Mixed Tribunal has been established by Haiti and Germany to pass on claims for damages to Haitian property in Germany; whether within month after ratification treaty Haiti gave notice of adoption of debt section referred to in paragraph (e), Article 296, and if so, whether clearing office for settlement of debts has been established; and whether any Allied or Associated Power has made any arrangement with Haiti pursuant to paragraph (f), Article 296, for adjustment debts of its nationals. You will understand that United States, since it is not party to Treaty of Versailles, is not in position to make such an agreement. It would seem to Department that, if Haitian nationals have no claims for damages to Haitian property in Germany or for debts owing them by German nationals in Germany, Haiti could promptly restore property sequestered or, even if certain claims

⁶⁵ Not printed.

exist, could settle them and be able to restore certain quantities of property, so that American and other creditors would be able to adjust accounts with German concerns. Department desires you take this matter up appropriately by interview or otherwise, with view to obtaining full information promptly. Telegraph report.

FLETCHER

338.6253/4 : Telegram

The Minister in Haiti (Baillly-Blanchard) to the Secretary of State

PORT AU PRINCE, July 5, 1921—1 p.m.

[Received July 7—2:30 p.m.]

39. Department's 31, June 25th, 3 p.m., received garbled [on] June 27th, corrections received from Department July 1st, finally deciphered July 5th. Negotiations in progress with the Haitian Government regarding liquidation sequestered German property for the past two months. Finally a project of law was submitted by the Foreign Office, a synopsis of which is as follows:

Article 1. [There] is hereby repealed law of November 1918 ordering the liquidation of German sequestered property.

Article 2. The amounts realized from the liquidated property are reserved, first, to amounts disbursed by Haitian Government for internment and repatriation of Germans; second, to the payment of claims provided for in paragraph 4, annex of section 4, of part 10 of the Treaty of Peace; third, to the settlement of pecuniary obligations provided for in article 296 of the Treaty of Peace and which form part of the audit of the [Office of] Verification and [Compensation], the above amounts to be determined by the Minister of Justice; fourth, to payment of the claims existing against German firms. The Sequestrators-Liquidators are charged with this category of payment which must be made in accordance with the laws of the *code de commerce*.

Article 3. The balance of the proceeds of liquidated property shall revert to their owners upon the order of the Minister of Justice.

Article 4. Restitution of the unliquidated property, books, documents, commercial papers shall be made by the Minister of Justice directly to the chiefs of the German firms or to their authorized representatives.

Under this law, claims 1, 2, and 3 of article 2 are to be paid *pro rata* from the proceeds belonging to the firms which are solvent and the same as regards the pecuniary obligations provided for in article 296 of the Treaty of Peace as concerns the Germans residing in Germany.

Under article 1 the liquidation to cease at once and under article 4 the unsold movable and immovable property is to be returned to the

German owners from whom the Allied nonresident creditors may seek settlement of their claims, there being no available funds belonging to said firms to settle such claims as provided for in paragraph 4, article 2. The liquidation of German sequestered property has not been completed because of want of authorization from the Minister of Justice. After conferring with my British and French colleagues modification to this project of law was submitted to the Foreign Office to the end that liquidation which had been suspended be completed in order that the claims of Allied creditors may be settled from the proceeds thereof in accordance with paragraph 4 of article 2, which modification was refused by the Minister of Foreign Affairs who, in a subsequent conference held at his request with my two colleagues and myself on July 1st, insisted that the liquidation should begin at once and that the Allied creditors should look to the German firms for the settlement of the claims under the Haitian laws.

Instructions respectfully solicited by cable.

BLANCHARD

338.6253/4 : Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, July 12, 1921—5 p.m.

34. Your 39, July 5, 1 P.M.

Telegram is garbled. Department is not at all clear whether interests of American creditors are protected on terms of equality with other creditors, nationals of Haiti and other Allied Powers. It considers rights of American creditors should not be disregarded in connection with disposition of assets of German debtors taken over by public trustees. Your telegram contains no answers to following specific questions in Department's 31, June 24 [25], "whether Mixed Tribunal has been established by Haiti and Germany to pass on claims for damages to Haitian property in Germany; whether within month after ratification treaty Haiti gave notice of adoption of debt section referred to in paragraph (e), Article 296, and if so, whether Clearing Office for settlement of debts has been established; and whether any Allied or Associated Power has made any arrangement with Haiti pursuant to paragraph (f), Article 296, for adjustment debts of its nationals."

As stated in Department's instruction 379, January 25, unless Haiti within one month of ratification of treaty gave notice of adoption of Article 296 debt section could not be adopted.

As pointed out in that instruction, Department considers use of sequestered property for expenses of internment and repatriation of Germans not warranted by treaty.

Department awaits telegraphic report to clear matters referred to in this telegram before instructing you further.

HUGHES

338.6253/5 : Telegram

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

PORT AU PRINCE, July 20, 1921—noon.

[Received July 22—10:19 a.m.]

44. Department's July 12th, 5 p.m. According to the project of law the Haitian creditors are to be paid out of the liquidated funds of those German firms who are solvent. Not so with the American or other Allied creditors who must look to the German firms for settlement of their claims after the unliquidated property shall have been returned to them. The Haitian German Mixed Arbitral Tribunal provided by section 6 of the Treaty of Peace on the request of the British Government was in due time constituted in London; this tribunal will judge the differences which are within its jurisdiction by the terms of the Treaty of Peace.

In conformity with paragraph *e* of article 296 on June 7th, 1920, the Haitian Government charged its Minister at Paris to notify the German Government through the intermediary of the Swiss Legation, charged with Haitian interests at Berlin, that the Haitian Government adhered to article 296 of the Treaty of Peace and that there would be created at Port au Prince the Office of Verification and of Compensation.

By decree of November 22, 1920, in conformity with the law of September 20, 1920, the Haitian Office of Verification and of Compensation was created. The [members] of the commission have already made their report to the Haitian Government. All claims presented were transmitted to the German Office of Debts at Berlin as soon as they were presented. The German Office had named a representative, Mister Helmcke, near the Haitian Office.

The representatives of Belgium, Great Britain and France had asked the Haitian Government to agree by virtue of paragraph *f* of article 296 of the Treaty of Peace to apply the provisions of this article to their nationals established in Haiti. In spite of the affirmative reply of the Haitian Government no agreement has been concluded.

BLANCHARD

338.6253/5 : Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, July 29, 1921—11 a.m.

43. Your 44, July 20, noon.

Assuming your construction of *projet* of Haitian law is correct, Department apprehensive American creditors will be unable obtain settlement just claims unless given opportunity for settlement of claims out of property held by Haitian authorities. Department considers Haitian Government could in manner consistent with treaty provisions properly allow satisfaction claims against creditors whose property is held by an official in nature of a public trustee. Since assets of debtors have been taken over by authorities, it seems just a debtor [*creditor*] should at least be able to enforce claims against particular assets of his creditor [*debtor*] under sequestration. If claims are settled in this manner, agreements under paragraph (f), Article 296 might be unnecessary. Department does not desire you make any representations alone or jointly with British or French urging liquidation of property not needed for payments of claims and transmission of proceeds such liquidation to Reparation Commission.

HUGHES

338.6253/6 : Telegram

The Secretary of State to the Minister in Haiti (Bailly-Blanchard)

WASHINGTON, August 13, 1921—2 p.m.

47. Department's 43, July 29, 11 a.m.

Department informed that British and French representatives in Haiti have acquiesced in provisions proposed Haitian law authorizing return certain sequestered property to German firms, and that assent from you is desired in order law may be put into operation. Department presumes you have taken no action respecting this particular matter, but would like to receive report concerning present status adjustment of claims.

HUGHES

338.6253/10

The Minister in Haiti (Bailly-Blanchard) to the Secretary of State

No. 534

PORT AU PRINCE, September 3, 1921.

[Received September 22.]

SIR: Referring to my radio No. 53 [55] of August 10—2 P.M.,⁶⁶ I have the honor to forward herewith for the information of the Department, copy with translation, of the project of Law on Liqui-

⁶⁶ Not printed.

dition of Sequestered German Property which was communicated to me by the Foreign Office and which, after agreement with the Minister of Foreign Affairs, was returned with the modifications which are indicated in Red on the copy above mentioned.

The law as modified was passed by the Council of State and promulgated in the Official Gazette *Le Moniteur* of August 6, 1921, of which a copy is herewith enclosed.

I also enclose two extracts,^{66a} with translation, from the daily paper *Le Matin* of August 30, 1921: (3) notice from the Sequesters-Liquidators that the time for filing claims will expire on October 6, 1921; (4) a notice from the Sequesters-Liquidators regarding the time at which the claimants or their representatives must present themselves at their office for the verification and admission of their claims.

I have [etc.]

A. BAILLY BLANCHARD

[Enclosure—Translation 67]

*Revised Project of Law for the Liquidation of German Property*⁶⁸

DARTIGUENAVE, President of the Republic,

In view of article 55 of the Constitution;⁶⁹

In view of the decree declaring war against the German Empire dated July 12, 1918;

In view of the law of July 22, 1918, fixing certain consequences of the state of war;

In view of the decree of July 24, 1918, ordering the sequestration of German firms;

In view of the law of November 13, 1918, ordering the liquidation of enemy firms;

In view of the decree of December 10, 1918, relative to the liquidation of enemy firms;

In view of the approval by the Council of State sitting in National Assembly June 2, 1920, of the Treaty of Peace signed at Versailles June 28, 1919, between the Allied and Associated Powers, on the one part, and Germany, on the other part;

Considering that by virtue of paragraph (b) of article 297 of the Treaty of Peace it is optional for the Allied and Associated Powers

^{66a} Not printed.

⁶⁷ File translation revised.

⁶⁸ Passed by the Council of State Aug. 2, 1921; promulgated Aug. 4, 1921. The deletions made by the American Minister in the draft transmitted to him by the Haitian Foreign Office are indicated by canceled type; his substitutions and additions are printed in *italics*.

⁶⁹ For text of Constitution, see *Foreign Relations*, 1918, p. 487.

to retain and liquidate the property, rights, and interests belonging to German nationals;

Considering that by virtue of paragraph (h) of article 297 of the Treaty of Peace the product of the liquidations effected in the states which do not participate in the reparations to be paid by Germany must be paid directly to the proprietors, under reservation of the rights of the Reparation Commission;

Considering that the Republic of Haiti is in the category of the states which do not participate in the reparations to be paid by Germany;

Considering that the sums already realized from the liquidation of the properties, rights, and interests belonging to the German nationals suffice to pay the pecuniary obligations mentioned in the Treaty of Peace;

And that it is therefore proper to discontinue the liquidation;

Upon the proposal of the Secretary of State for Foreign Affairs and Justice;

And upon the advice of the Council of the Secretaries of State,

HAS PROPOSED:

ARTICLE 1. ~~There is repealed the law of November 13, 1918, ordering the~~ The liquidation of the sequestered German firms *is suspended*.

ARTICLE 2. The sums realized from the properties already liquidated are reserved:

- (1) For the costs disbursed by the Haitian Government for the internment and repatriation of certain Germans;
- (2) For the payment of claims provided for in paragraph 4 of the annex of section IV of part X of the Treaty of Peace;
- (3) For the settlement of the pecuniary obligations provided for in article 296 of the Treaty of Peace and which form a part of the function of the Office of Verification and Compensation.

The total of these sums shall be fixed by the Secretary of State for Justice.

- (4) For the payment of the claims existing against German firms. The Sequestrators-Liquidators are charged with this category of payment which must be made according to the rules ~~outlined by the code of commerce of common law~~.

The sums to be reserved for the two first categories of payment shall be drawn pro rata from the sums belonging to the firms which are solvent, and the same rule shall apply to the pecuniary obligations mentioned in article 296 of the Treaty of Peace, as regards Germans residing in Germany.

ARTICLE 3. The balance of the sums proceeding from the liquidated properties shall be paid directly to their owners on the order of the Secretary of State for Justice.

ARTICLE 4. The restitution of properties not liquidated, as well as books, documents, business papers, etc., shall be made by the Secretary of State for Justice directly to the heads of the German firms or to their authorized representatives, *without prejudice to the rights that the creditors may have against the insolvent sequestered German firms through objections lodged within 60 days from the promulgation of the present law.*

ARTICLE 5. The mission confided to the Sequestrators-Liquidators shall terminate within ~~30~~ 60 days following the promulgation of the present law. They shall deposit with the Department of Justice all the books and documents of the liquidation, their accounts, and a report indicating the details of their administration.

A special commission composed of five members shall be charged with the auditing and verification of all the books and documents of the liquidation and of the accounts of the Sequestrators-Liquidators.

This commission may receive statements and observations from interested parties within a term of 2 months. Its report must be turned in within a term of 3 months counting from the date of its constitution.

A sum of \$7,500 ~~drawn from the liquidation~~ shall be allowed to the members of this commission. *This sum shall be drawn from the sequestered firms which are solvent.*

ARTICLE 6. The Secretary of State for Justice, after the receipt of the report of the commission and after the auditing and verification of the accounts of the Sequestrators-Liquidators, shall, if the latter are found correct according to the documents, facts, and circumstances, refer them to the Council of the Secretaries of State, who shall authorize him to discharge the Liquidators.

In default of notification of a refusal of discharge to the Liquidators for cause, within the 30 days which shall follow the deposit of the report of the special commission, the Liquidators shall be acquitted of their charge in full right.

ARTICLE 7. No suit for liability other than that which the State may have to bring shall be accepted by the courts against the Sequestrators-Liquidators relative to the execution of the mandate which has been entrusted to them in conformity with the laws and decrees.

ARTICLE 8. The present law abrogates all laws or provisions of law which are contrary to it, and shall be executed at the diligence of the Secretary of State for Foreign Affairs and Justice.

BOUNDARY DISPUTE WITH THE DOMINICAN REPUBLIC

(See volume I, pages 228 ff.)

HONDURAS

TERMINATION OF THE SERVICES OF THE AMERICAN FINANCIAL ADVISER¹

815.51/426 : Telegram

The Chargé in Honduras (Spencer) to the Secretary of State

TEGUCIGALPA, April 18, 1921—8 a.m.

[Received 11:10 p.m.]

98. The Minister of Finance notified Young Saturday² that it had been determined to discontinue his work April 30th. This is surprising as the President has lately manifested increased zeal for reforms. On Thursday he agreed to appoint good personnel to the Commission of Public Credit, accepted the project of Young for its plan operations, and asked him to supervise its labors. Also, at suggestion of the President, Young has made plans for surprise visit to north coast to inspect customhouses.

The President explained to Young that the Minister of Finance had urged discontinuance of the work because of economy but said that question was still open and arranged further conference with Young Tuesday after return from the country.

Real motive seems to be desire of Minister of Finance and others to prevent carrying out of reforms that threaten to abolish abuses in which they are personally interested. Last month the President undertook to get rid of Minister of Finance, who is extremely unpopular, by giving him 3 months vacation but he has declined to make use of it being backed by Minister of War and others and is still in charge. The President is embarrassed by difficult political conditions and the Government is divided into factions. He is influenced by one group and then by another.

I shall endeavor, if deemed desirable, to prevent discontinuance of financial reform[s] in view of great importance of their continuance until it is possible to pay debt and other obligations. Probability of satisfactory outcome would be increased if the Department should deem it proper to authorize special representations. Please cable instructions.

SPENCER

¹ For papers relating to the appointment of Arthur N. Young as Financial Adviser to the Government of Honduras, see *Foreign Relations*, 1920, vol. II, pp. 872 ff.

² Apr. 16.

815.51/426 : Telegram

The Secretary of State to the Chargé in Honduras (Spencer)

WASHINGTON, April 20, 1921—7 p.m.

14. Your 98, April 18, 8 a.m.

In case, after the further conference between Young and the President reported by you as arranged for Tuesday, the Honduran Government still seems disposed to dispense with Doctor Young's services as financial expert you are directed to arrange immediately for an interview with the President and to express to him the sincere regret with which the Department would look upon a final decision on its part to discontinue the work so auspiciously begun by Doctor Young and with such promise of great credit for the administration of President Lopez Gutierrez. You may add that the evidence given by the Honduran Government by means of the reception so far accorded by it to the recommendations of Doctor Young that it was about to give serious attention to the necessity of instituting rigid economies and strict supervision over public expenditures and to lay the foundation for adjustment of the internal and external debts of Honduras was extremely gratifying to this Government but that a termination at this time of the employment of Doctor Young would indicate a decided change of attitude on the part of the Govt of Honduras and an indifference to these important reforms which this Gov't could not help but note.

You may present the substance of this telegram in the form of a written memorandum. Keep Department closely advised of developments and of action taken by you.

HUGHES

815.51/427

The Chargé in Honduras (Spencer) to the Secretary of State

No. 114

TEGUCIGALPA, April 27, 1921.

[Received May 17.]

SIR: With reference to my telegram of April 18, 8 A.M., number 98, and the Department's telegraphic instruction number 14 of April 20, 7 P.M., in reply thereto, on the subject of the termination of Dr. Young's services as financial expert to the Honduran Government, I have the honor to report that I took the first opportunity to comply with the instruction above mentioned.

The President was on a trip to the country from April 19 until April 23, last, the cable arriving at the Legation on the afternoon of April 21st. Upon the President's return to the capital Saturday afternoon, April 23rd, I visited him by appointment and discussed the subject of Dr. Young's services and the new side of the question

which had arisen from the note of the Minister of Finance informing Dr. Young that his services would not be required after April 30, 1921. I left with the President a memorandum, copy of which I have the honor to enclose.³

The President has not yet replied to the memorandum although I have been reliably informed he is giving the matter his attention and has brought it up for discussion at two Cabinet meetings. I expect his reply in the very near future and shall cable its import to the Department.

I was told in the strictest confidence by the President's confidant and brother, don Antonio Lopez, the Honduran Minister to Washington, now on leave in Tegucigalpa, that the National Congress, having passed the budget practically identical to the one proposed by Dr. Young, now felt that his services were not required as before. The appointment by the President of three prominent citizens to the newly formed Committee of Public Credit, which will have charge of expenditures with a particular view to economies, has also been brought forward as a reason for dispensing with Dr. Young's services. His contract ended January 11, last, and has not been renewed as yet in spite of numerous requests on his part.

Economy is the watchword of the hour, and the feeling is general that a salary of one thousand dollars gold a month for Dr. Young, in addition to one hundred and fifty dollars gold for his stenographer with the extras of his office, is an expense to the Government which now is no longer warranted by the work which Dr. Young can offer in return. A member of the Cabinet enjoys a salary of three hundred and seventy dollars a month, and the President of the Republic but five hundred, and while Congressmen did not mind engaging a financial expert for a contract of six months at one thousand dollars a month, they agree with the popular opinion that it is an unnecessary national expense to continue longer, especially in view of the fact that now there is not the advantage to be gained as formerly from any advice Dr. Young may offer.

I have [etc.]

WILLING SPENCER

701.1511/128

The Chargé in Honduras (Spencer) to the Secretary of State

No. 125

TEGUCIGALPA, May 14, 1921.

[Received June 7.]

SIR: I have the honor to inform the Department that don Antonio Lopez, the brother of the President of Honduras, left Tegucigalpa yesterday to return to Washington to resume his duties as Minister of Honduras.

³ Not printed.

Before leaving, don Antonio called at the Legation and discussed at great length the financial problems of Honduras, of which he has made an exhaustive study. He is prepared to take up the questions in all their details with the Department immediately upon his return, with a view, I think, of making a loan in the United States and coming to some agreement with American bankers for the appointment of a fiscal agent.

Dr. Young's contract expired on January 11th, last, and has been renewed until July 31st, next, on which date the new budget proposed by the National Congress, and on which Dr. Young did much work, will go into effect with its many financial reforms.

The President has expressed himself as very appreciative of Dr. Young's services, but stated to me again as late as this morning, that he does not intend to avail himself of Dr. Young's services after July 31st, next.

In many ways I regret to have to report this to the Department, as Dr. Young has done excellent work during his year in Honduras, but I am forced to state that in view of the practically unanimous opposition he has created it seems better not to "protest" the ending of his contract at this time. . . .

I have [etc.]

WILLING SPENCER

815.51/437: Telegram

The Chargé in Honduras (Spencer) to the Secretary of State

TEGUCIGALPA, August 26, 1921—10 a.m.

[Received 6:35 p.m.]

114. Department's telegram 26.⁴ Young contract terminated, he will report to the Department September 15.

SPENCER

815.51/439

The Chargé in Honduras (Spencer) to the Secretary of State

No. 192

TEGUCIGALPA, August 27, 1921.

[Received September 13.]

SIR: With reference to former despatches on the subject of the American financial adviser, Dr. Arthur N. Young, particularly my despatch No. 114 of April 27, 1921,⁵ in which I reported that President Lopez Gutierrez, while expressing himself as greatly satisfied with Dr. Young's work, had nevertheless decided to terminate his

⁴ Not printed.

⁵ Reference should be to the Legation's despatch no. 125, May 14, p. 246.

employment on July 31, last, at which time, namely August 1, the new budget drawn up by Dr. Young and passed by the National Congress would go into effect, I have the honor now to report that by mutual agreement between the President and Dr. Young, the services of the latter will be discontinued after the end of this month, and that Dr. Young intends to proceed directly to the United States and to report to the Department of State. This was cabled in my No. 114 of August 26, last.

It is a cause for regret that the work of Dr. Young could not have continued longer, but he leaves after thirteen months of continuous service during which he has led the Government to make many necessary economies, has put the accounting system on a much sounder basis, has instituted the Commission of Public Credit, and above all has accomplished the writing on the statute books of an excellent budget, which if adhered to, will result in saving from 50,000 to 100,000 monthly, and the formation of a reserve fund for other admirable purposes.

The President is grateful to Dr. Young for his services. . . .

I have [etc.]

WILLING SPENCER

FEDERATION OF THE CENTRAL AMERICAN REPUBLICS

(See volume I, pages 143 ff.)

BOUNDARY DISPUTE WITH GUATEMALA

(See volume I, pages 231 ff.)

BOUNDARY DISPUTE WITH NICARAGUA

(See volume I, pages 234 ff.)

HUNGARY

TREATY BETWEEN THE UNITED STATES AND HUNGARY ESTABLISHING FRIENDLY RELATIONS, SIGNED AUGUST 29, 1921

711.64119/42

The Commissioner at Budapest (Grant-Smith) to the Under Secretary of State (Fletcher)

BUDAPEST, *April 16, 1921.*

[Received May 19.]

DEAR FLETCHER: In the press telegrams relative to the possibility of a state of peace being declared by the United States with the countries of Central Europe, Hungary has not, thus far, been specifically mentioned—only Germany and Austria. I presume of course that Austria is used generically to include Hungary, and that the omission of the latter is due to economy on the part of the press service. At the same time the Hungarians scan these messages with interest and anxiety, and the late Foreign Minister called my attention to it some weeks ago. Yesterday a subordinate of the Ministry called to say on behalf of Count Bánffy, the new Minister for Foreign Affairs that he hoped that Hungary would not be overlooked when our Government came to take action in the matter.

Although I feel that there is no occasion for disquiet on their part, I venture to bring it to your attention.

Sincerely Yours,

U. GRANT-SMITH

711.64119/--: Telegram

*The Secretary of State to the Commissioner at Budapest
(Grant-Smith)*

WASHINGTON, *July 9, 1921—3 p.m.*

291. You are authorized to transmit to Count Nicholas Banffy the following private and confidential message from Mr. John Pelenyi:¹

In the course of a private call, the Secretary of State told me today informally that it would be entirely agreeable to the American Government if our Government were to express its readiness to guarantee, by act of the Hungarian Parliament, all rights and privileges accruing to the United States by virtue of the Trianon Treaty.

¹ Counselor of the Hungarian Legation at Washington after Jan. 11, 1922.

My personal impression is that such course might obviate necessity on America's part to ratify Trianon Treaty *tel quel* and require merely drafting of short treaty of peace.

The Secretary of State stated further that he hopes that he will be able to make a statement concerning resumption of diplomatic relations shortly, no steps on our side to be taken till then. Pelenyi.

HUGHES

711.64119/-: Telegram

*The Secretary of State to the Commissioner at Budapest
(Grant-Smith)*

[Paraphrase]

WASHINGTON, July 9, 1921—6 p.m.

292. Refer to note from Pelényi to Bánffy, transmitted in Department's number 291, July 9. You are permitted, at your discretion, to state to the Government of Hungary that the peace resolution² is a clear expression of the Congress that those rights, advantages, and interests must be secured to the United States of America, and that our Government will not conclude any treaty that does not secure those rights, etc. You may indicate clearly that the matter of resuming diplomatic relations, which lies within the discretion of the President, and additional steps in regard to the relations between the two countries, will depend largely on the attitude of the Government of Hungary on this subject.

Department is instructing Dresel³ to send text of peace resolution to you.

HUGHES

711.64119/1: Telegram

*The Commissioner at Budapest (Grant-Smith) to the Secretary
of State*

BUDAPEST, July 18, 1921—1 p.m.

[Received July 22—10:52 a.m.]

305. Your telegram number 291, July 9, 3 p.m.; 292 July 9, 6 p.m. The Minister for Foreign Affairs states that the Hungarian Government are prepared to accept the stipulations recited in the peace

² Joint congressional resolution, approved July 2; see telegram no. 1231, July 5, to the Commissioner at Berlin, p. 3.

³ Ellis Loring Dresel, Commissioner at Berlin.

resolution either by declaration of the National Assembly, countersigned by the governor, or by special treaty, or by both. They are very desirous that the United States should be represented on the Reparations Commission but are especially anxious to avoid bringing up Trianon Treaty as such even though modified again before the Parliament. The peace resolution received from Dresel marked for confidential information has been handed unofficially to the Minister for Foreign Affairs. The National Assembly is expected to adjourn shortly.

GRANT-SMITH

711.64119/1 : Telegram

*The Secretary of State to the Commissioner at Budapest
(Grant-Smith)*

WASHINGTON, July 23, 1921—3 p.m.

306. Your 305, July 18th, 1 p.m.

You may state to Minister of Foreign Affairs that this Government would welcome declaration by National Assembly, without reservations, that the stipulations recited in Peace Resolution July 2nd with respect to rights, privileges and interests of the United States are accepted. This could be stipulated by agreement between the two governments to same effect. This agreement can be succinctly framed and proper authority be telegraphed to you for execution on behalf of this Government.

Think it advisable that National Assembly should act at once if such action is either necessary or will give assurance of execution of agreement by Hungarian Government. Do not wish to rely solely on Resolutions but should have appropriate agreement promptly. Such agreement will probably be in form of treaty subject to Senate's approval. Prefer that there should be nothing in this agreement except that United States shall have all rights, interests and advantages stipulated in Peace Resolution July 2nd. Purpose is to secure beyond question benefits of Treaty of Trianon, although not ratified by the United States, and should prefer explicit reference to that Treaty in interest of definiteness unless Hungarian Government desires simply to mention Peace Resolution which refers to it.

To avoid delay, my desire is that this agreement should be limited to this subject. Upon its ratification diplomatic relations will be established. Subsequently the two governments may undertake

negotiations for any additional agreements that may be found to be desirable. You may in your discretion use this information in discussion with Foreign Minister.

HUGHES

711.64119/2: Telegram

The Commissioner at Budapest (Grant-Smith) to the Secretary of State

BUDAPEST, July 27, 1921—10 a.m.

[Received 1:55 p.m.]

307. Your telegram number 306, July 23, 3 p.m. The Hungarian Minister of Foreign Affairs proposes to draft resolution accepting full stipulations of peace resolution and acknowledging all privileges, rights, interests of the United States of America and its nationals "with all the circumstantial dispositions concerning those rights et cetera as stipulated in the Treaty of Trianon." I am urging against reservations. They desire phrase to preserve such advantages as accrue to Hungary in Trianon Treaty on ground that Joint Resolution does not accord them and might also be interpreted as making greater concessions than that instrument. Instructions requested.

GRANT-SMITH

711.64119/2: Telegram

The Secretary of State to the Commissioner at Budapest (Grant-Smith)

[Paraphrase]

WASHINGTON, July 28, 1921—8 p.m.

310. Commission's telegram No. 307, July 27. You are instructed to say to Minister for Foreign Affairs that the Government of the United States strongly opposes inserting any reservations in proposed resolution. Department is unable to perceive any reason why reservations should be inserted. Inasmuch as Hungary has ratified Trianon Treaty she is entitled to all rights accruing therefrom. This Government desires to see friendly relations restored as quickly as possible, but as an essential condition thereto it should, beyond all question, be entitled to the enjoyment of the rights and advantages set forth in the resolution of Congress. As stated in your telegram no. 305, July 18, 1 p.m., the Government of Hungary is prepared to accept the stipulations recited therein.

Department deems it very important that the resolution should not embrace reservations. If necessary, you may state definitely that if Hungary insists upon reservations, the continuance of negotiations would be prejudiced.

HUGHES

711.64119/7: Telegram

The Commissioner at Budapest (Grant-Smith) to the Secretary of State

BUDAPEST, August 1, 1921—noon.

[Received August 5—3:35 p.m.]

308. Please telegraph via Embassy Paris phraseology preferred for proposed treaty giving alternative wordings in order of preference. The Hungarians will aim to have it so phrased that the United States will recognize herself subject to the same limitations and bound by the same obligations in regard to rights, privileges, indemnities, reparations, advantages, as those signatories who have ratified the Trianon Treaty. Hoping to profit by our mollifying influence they desire evidently to draw us into full participation in obligations including mechanism of enforcement.

GRANT-SMITH

711.64119/8: Telegram

The Commissioner at Budapest (Grant-Smith) to the Secretary of State

BUDAPEST, August 12, 1921—3 p.m.

[Received August 13—8:50 p.m.]

311. National Assembly passed unanimously this morning the following resolution, translation:

“Hungarian National Assembly herewith accepts in full and without reservation the contents of the peace resolution of the United States Senate and House of Representatives, dated July 1st, 1921, and approved by the President of the United States July 2nd, 1921, as far as they refer to Hungary.”

The National Assembly then formally authorized the Government to enter into negotiations with the U.S. for the negotiation of a separate treaty on the basis of the joint note [*resolution?*] and the Trianon Treaty.

Early instruction is requested relating to the precise terms text for the proposed agreement.

GRANT-SMITH

711.64119/8 : Telegram

*The Secretary of State to the Commissioner at Budapest
(Grant-Smith)*

[Paraphrase]

WASHINGTON, August 17, 1921—5 p.m.

315. Commission's telegram number 311, August 12, 3 p.m. Inasmuch as the Hungarian National Assembly has passed resolution agreeing to grant the United States rights, advantages, and interests under the Trianon Treaty in accordance with the peace resolution, and has authorized the Government to enter into peace negotiations, Department is cabling text of proposed treaty between the United States and Hungary and your full power and authority to sign on behalf of the Government of the United States.⁴ I regard it as inadvisable to stipulate in this instrument either the specific rights, advantages, and privileges which the United States claims, or the rights, limitations, or conditions in Hungary's favor. Such a procedure would amount to an attempt to place in the instrument a commentary on the Trianon Treaty. That is not the intention of this Government. All that is required, I believe, is a simple agreement, stating in effect that the United States is granted those rights which are set forth in the peace resolution, with particular reference to those parts of the Trianon Treaty which through the instrument now under consideration the United States is willing to accept.

You are instructed to check carefully, for possible errors, the sections of the Trianon Treaty to which reference is made in article 2, paragraph 1, of the proposed treaty. If there appears to be any error in enumeration, you will immediately advise Department. You are instructed to insert sections 3 and 4 of the peace resolution as they appear in the *Congressional Record*, Friday, July 1, 1921, pp. 3454-3455.⁵ You will observe that sections 1, 2, and 6 are omitted.

Until the treaty is signed the Department considers it inadvisable to issue any statement for publication with reference either to the previous correspondence or to the text of the treaty itself. Prior publication would only provoke harmful discussions, and it is the aim of the United States to arrive as soon as possible at a stage where diplomatic relations can be resumed. Having this in mind you should deliver the treaty to the Minister for Foreign Affairs as soon as possible. The treaty as proposed has been drafted carefully with the object of meeting present exigencies, and the Foreign Office should view it in that light. When the treaty is signed, it

⁴The Department's telegram no. 316, Aug. 17, containing text of the proposed treaty (identical with the text signed Aug. 29, *infra*), is not printed.

⁵*Congressional Record*, vol. 61, pt. 4, p. 3299.

can be presented for ratification, and on its coming into force there can be a resumption of diplomatic relations. Thereafter other negotiations, if deemed advisable, can be entered upon.

The text of the proposed treaty and the authorization of the President empowering you to sign on behalf of the United States were mailed to you via the American Embassy at Paris on August 16.

A similar treaty has been forwarded to Germany. Consequent upon representations from the Government of Germany certain minor alterations of the text were made, which alterations, according to that Government, rendered the treaty more acceptable. These alterations have been incorporated in the proposed treaty with Hungary.

HUGHES

Treaty Series No. 660

Treaty between the United States of America and Hungary, Signed at Budapest, August 29, 1921^o

THE UNITED STATES OF AMERICA AND HUNGARY:

CONSIDERING THAT the United States, acting in conjunction with its co-belligerents, entered into an Armistice with Austria-Hungary on November 3, 1918, in order that a Treaty of Peace might be concluded;

CONSIDERING THAT the former Austro-Hungarian Monarchy ceased to exist and was replaced in Hungary by a national Hungarian Government;

CONSIDERING THAT the Treaty of Trianon to which Hungary is a party was signed on June 4, 1920, and came into force according to the terms of its Article 364, but has not been ratified by the United States;

CONSIDERING THAT the Congress of the United States passed a Joint Resolution, approved by the President July 2, 1921, which reads in part as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

"That the state of war declared to exist between the Imperial and Royal Austro-Hungarian Government and the United States of America by the joint resolution of Congress approved December 7, 1917, is hereby declared at an end.

"SEC. 4. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its

^oRatification advised by the Senate, with reservations, Oct. 18, 1921; ratified by the President, Oct. 21, 1921; ratified by Hungary, Dec. 12, 1921; ratifications exchanged at Budapest, Dec. 17, 1921; proclaimed, Dec. 20, 1921.

nationals any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 3, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Saint Germain-en-Laye or the Treaty of Trianon, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any Act or Acts of Congress; or otherwise.

"SEC. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals which was, on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said Governments respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government, or its agents, or the Imperial and Royal Austro-Hungarian Government, or its agents, since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce and industrial property rights, and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America."

Being desirous of establishing securely friendly relations between the two Nations;

Have for that purpose appointed their plenipotentiaries;

The President of the United States of America, U. Grant-Smith, Commissioner of the United States to Hungary, and Hungary, Count Nicholas Banffy; Royal Hungarian Minister for Foreign Affairs;

Who, having communicated their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I

Hungary undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations or advantages specified in the aforesaid Joint Resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the Treaty of Trianon which the United States shall fully enjoy notwithstanding the fact that such Treaty has not been ratified by the United States. The United States, in availing itself of the rights and advantages stipulated in the provisions of that Treaty, will do so in a manner consistent with the rights accorded to Hungary under such provisions.

ARTICLE II

With a view to defining more particularly the obligations of Hungary under the foregoing Article with respect to certain provisions in the Treaty of Trianon, it is understood and agreed between the High Contracting Parties:

(1) That the rights and advantages stipulated in that Treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in Parts V, VI, VIII, IX, X, XI, XII and XIV.

(2) That the United States shall not be bound by the provisions of Part I of that Treaty, nor by any provisions of that Treaty including those mentioned in paragraph (1) of this Article, which relate to the Covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations, or by the Council or by the Assembly thereof, unless the United States shall expressly give its assent to such action.

(3) That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, Part IV and Part XIII of that Treaty.

(4) That, while the United States is privileged to participate in the Reparation Commission, according to the terms of Part VIII of

that Treaty, and in any other commission established under the Treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

(5) That the periods of time to which reference is made in Article 364 of the Treaty of Trianon shall run, with respect to any act or election on the part of the United States, from the date of the coming into force of the present Treaty.

ARTICLE III

The present Treaty shall be ratified in accordance with the constitutional forms of the High Contracting Parties and shall take effect immediately on the exchange of ratifications which shall take place as soon as possible at Budapest.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in duplicate in Budapest, this 29th day of August, 1921.

[SEAL]

U. GRANT SMITH

Commissioner of the United States to Hungary

[SEAL]

COUNT NICHOLAS BÁNFFY

Royal Hungarian Minister for Foreign Affairs

[RATIFICATION BY PRESIDENT HARDING, CONTAINING SENATE
RESERVATIONS]

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, That whereas a Treaty between the United States of America and Hungary to restore the friendly relations existing between the two nations prior to the outbreak of war, was concluded and signed by their respective plenipotentiaries at Budapest on August 29, 1921, a true copy of which Treaty, in the English language, is word for word as follows:

[Printed above.]

And Whereas, the Senate of the United States, by their resolution of October 18, 1921, (two-thirds of the Senators present concurring therein) did advise and consent to the ratification of the said Treaty, subject to the understanding, made a part of the resolution of ratification, "that the United States shall not be represented or participate in any body, agency or commission, nor shall any person represent the United States as a member of any body, agency or commission in which the United States is authorized to participate by

this Treaty, unless and until an Act of the Congress of the United States shall provide for such representation or participation"; and subject to the further understanding, made a part of the resolution of ratification, "that the rights and advantages which the United States is entitled to have and enjoy under this Treaty embrace the rights and advantages of nationals of the United States specified in the Joint Resolution or in the provisions of the Treaty of Trianon to which this Treaty refers";

Now, therefore, be it known that I, Warren G. Harding, President of the United States of America, having seen and considered the said Treaty, do hereby, in pursuance of the aforesaid advice and consent of the Senate, ratify and confirm the same and every article and clause thereof, subject to the understandings hereinabove recited.

IN TESTIMONY WHEREOF, I have caused the seal of the United States to be hereunto affixed.

Given under my hand at the City of Washington, the twenty-first day of October, in the year of Our Lord one thousand [SEAL] nine hundred and twenty-one, and of the Independence of the United States of America the one hundred and forty-sixth.

WARREN G HARDING

By the President:

CHARLES E. HUGHES

Secretary of State.

[Treaty Series No. 660, published by the Department of State, includes, as an appendix to the text of the treaty establishing friendly relations between the United States and Hungary, the text of parts V, VI, VIII, IX, X, XI, XII, and XIV of the Treaty of Trianon, signed June 4, 1920.]

701.6411/orig. : Telegram

The Commissioner at Budapest (Grant-Smith) to the Secretary of State

BUDAPEST, December 17, 1921—8 p.m.

[Received December 18—6:58 a.m.]

355. Hungarian Minister for Foreign Affairs asks *agrément* to Count Laszlo Szechenyi as Minister to the United States.

GRANT-SMITH

123 Sm 61/183a : Telegram

*The Secretary of State to the Commissioner at Budapest
(Grant-Smith)*

WASHINGTON, December 20, 1921—6 p.m.

354. By the exchange of ratifications December 17, 1921, and by Executive Proclamation December 21 [20], 1921, diplomatic relations between the United States of America and Hungary may be resumed.

You are instructed to request your provisional recognition as Chargé d'Affaires pending arrival letters of credence as Chargé d'Affaires *pro tempore*.

As soon as you have been received, you will advise the Department thereof and request the Foreign Office to recognize the diplomatic secretaries of your staff and, as Military Attaché, Major Henry W. T. Emlin, Acting General Staff. Also request temporary recognition, pending issuance of exequaturs, following consular appointments: Edwin C. Kemp, Consul in charge at Budapest, Digby A. Willson, Vice Consul, Walter S. Reineck, Vice Consul.

When you have been recognized by the Hungarian Government inform consuls and direct them to function and to take over any furniture, archives and other American Government property which may still be in the hands of Spanish Consuls in charge of American interests.

Arrangements are being made with the Spanish Government for the return, upon request, of all United States Government property held by the diplomatic and consular representatives of Spain in Hungary. Inform Consuls.

HUGHES

701.6411/orig. : Telegram

*The Secretary of State to the Commissioner at Budapest
(Grant-Smith)*

WASHINGTON, December 23, 1921—3 p.m.

355. Your 355, December 17, 8 p.m.
Szechenyi acceptable as Minister to this Government.⁷

HUGHES

⁷ Count Széchenyi presented his letters of credence Jan. 11, 1922.

123 Sm 61/184 : Telegram

The Chargé in Hungary (Grant-Smith) to the Secretary of State

BUDAPEST, *December 30, 1921—10 p.m.*

[Received January 3, 1922—1:43 p.m.]

1. Your 354, December 21 [20], 6 p.m. I have been granted provisional recognition by the Hungarian Government as Chargé d'Affaires as from December 26th.

GRANT-SMITH

123 Sm 61/185 : Telegram

The Chargé in Hungary (Grant-Smith) to the Secretary of State

BUDAPEST, *January 24, 1922—8 p.m.*

[Received January 25, 10:35 a.m.]

5. Letter accrediting me as Chargé d'Affaires erroneously refers to "Republic of Hungary". Minister for Foreign Affairs has consented to accept it provisionally until the receipt of letter referring to "Kingdom of Hungary".

GRANT-SMITH

123 Sm 61/185

The Secretary of State to the Chargé in Hungary (Grant-Smith)

WASHINGTON, *February 2, 1922.*

SIR: The Department acknowledges the receipt of your telegram No. 5 of January 24 and, agreeably to the request therein made, sends you herewith a new letter of credence⁸ amended so as to refer to the Government of Hungary as the "Government of the Kingdom of Hungary" instead of "the Government of the Republic of Hungary". A copy of this letter of credence is also enclosed for the files of your Mission.

I am [etc.]

For the Secretary of State:

ROBERT WOODS BLISS

⁸ Not printed.

703.5263/99

The Secretary of State to the Chargé in Hungary (Grant-Smith)

No. 532

WASHINGTON, *March 10, 1922.*

SIR: The Department has received your No. 61 of January 31, 1922,⁹ in which you report that the Spanish Consul in Budapest has informed you of the receipt by him of instructions from the Spanish Legation at Vienna to turn over to you such property of the United States Government as he may have in his possession and which he received and held in connection with the exercise of good offices for the Government and citizens of the United States during the war. You urge the advisability of expressing the thanks of this Government to all Spanish diplomatic and consular officers in the Central Empires or elsewhere who were in charge of American interests during the war.

In this relation there is enclosed for your information a copy of an instruction of January 21, 1922 to the American Ambassador at Madrid together with a copy of a letter from the President to the King of Spain expressing the thanks and appreciation of the Government and people of the United States on account of the services rendered by Spanish officials in looking after American interests in Germany and Austria-Hungary during the late war.¹⁰

I am [etc.]

For the Secretary of State:

ROBERT WOODS BLISS

⁹ Not printed.

¹⁰ Enclosures not printed.

JAPAN¹

CORRESPONDENCE BETWEEN THE UNITED STATES AND THE ALLIED GOVERNMENTS RELATING TO THE ISLAND OF YAP

8621.01/58a : Telegram

*The Secretary of State to the Ambassador in Great Britain (Davis)*²

WASHINGTON, November 9, 1920—4 p.m.

1136. During the recent sessions of the Communications Conference³ some question has arisen in regard to the disposition of the Island of Yap by the Supreme Council. It has been contended that this Island was included in the islands north of the Equator which were offered by action of the Supreme Council of May 7, 1919, under mandate to Japan.⁴ It was the clear understanding of this Government that for reasons vitally affecting international communications, the Supreme Council at the previous request of President Wilson, reserved for future consideration the final disposition of the Island of Yap in the hope that some agreement might be reached by the Allied and Associated Governments to place the Island under international control and thus render it available as an international cable station. For this reason it is the understanding of the Government that the Island of Yap was not included in the action of the Supreme Council on May 7, 1919.

In order to avoid misunderstanding on this point, you are instructed to read the foregoing to the Minister of Foreign Affairs and to leave a copy with him.

COLBY

8621.01/59 : Telegram

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

LONDON, November 17, 1920—6 p.m.

[Received 10:22 p.m.]

1629. Your 1136, November 9, 4 p.m. Following note dated November 16 just received from Foreign Office.

“With reference to the memorandum as to the Island of Yap which was left at the Foreign Office on the 11th instant by a mem-

¹ See also pertinent subjects under China and Russia.

² The same to the diplomatic representatives in France, as no. 1625, Italy, as no. 213, and Japan, as no. 417 (file nos. 8621.01/49b, 58b, and 49a).

³ See *Foreign Relations*, 1920, vol. 1, pp. 107 ff.

⁴ Minutes of the Supreme Council, May 7, 1919, 4:15 p.m.: “The following decisions were reached:— . . . German Islands North of the Equator. The mandate shall be held by Japan.” (Peace Commission file no. 180.03401/149.)

ber of your staff, I have the honor to remind Your Excellency that all the islands in the Pacific north of the Equator formerly in the possession of Germany, including the Island of Yap, were by decision of the Council of Four included in the mandate to be given to Japan. This decision is dated May 7th, 1919 and has been published. President Wilson was himself present on that occasion. An examination of the minutes of that meeting discloses no record of his having made any reservation when the decision was taken, although it is on record that, when the Japanese claim to Yap had been discussed on previous occasions, the President had declared in favor of internationalizing the island.

2. In these circumstances I have the honor to inform Your Excellency that it does not appear to be open to His Majesty's Government to regard the decision of May 7, 1919 as other than definitive.

I have the honor to be, etc. (Signed) Lancelot Oliphant."

DAVIS

8621.01/60: Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, November 19, 1920—9 p.m.

[Received November 19—3:21 p.m.]

598. Your 417, November 9, 4 p.m.⁵ My 585, November 12, 5 p.m.⁶ I have just received the following memorandum marked "Confidential" from Foreign Office, dated today:

"The Department of Foreign Affairs of Japan has the honor to acknowledge the receipt of a memorandum of the United States Embassy under date of the 12th instant relative to the status of the Island of Yap.

According to the definite understanding of the Japanese Government the Supreme Council of May 7th, 1919, came to a final decision to place under the mandate of Japan the whole of the German islands north of the Equator. The decision involves no reservation whatever in regard to the Island of Yap.

For the above-mentioned reasons the Department of Foreign Affairs begs to inform the United States Embassy that the Japanese Government would not be able to consent to any proposition which, reversing the decision of the Supreme Council, would exclude the Island of Yap from the territory committed to their charge."

BELL

⁵ See footnote 2, p. 263.

⁶ Not printed.

8621.01/59 : Telegram

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

WASHINGTON, December 4, 1920—noon.

1199. For the Ambassador, for transmission to the Foreign Office.

I have transmitted to my Government your note of November 17th [16th]⁷ in reply to the memorandum submitted by me on the 11th of November regarding the island of Yap, to which my Government has directed me to reply as follows:

There would appear to be no difference of opinion with regard to the reservations made by President Wilson and Mr. Lansing with respect to the island of Yap during various discussions of the Supreme Council and the Council of Foreign Ministers at the Peace Conference. For clearer understanding of the issue as to whether, on the part of the United States, it was agreed that all the ex-German islands in the Pacific north of the equator should be allotted to Japan, your attention is drawn to the following facts:

On April 21st,⁸ at the meeting of President Wilson, Messrs. Lloyd George and Clemenceau—President Wilson, in reporting his conversation of that morning with Baron Makino and Count Chinda,⁹ stated among other things that he had reminded the Japanese delegates that it had been understood that Japan was to have the mandate for the islands in the north Pacific, although he had made a reserve in the case of the island of Yap, which he considered should be international.

At the meeting of Foreign Ministers held on April 30th, 1919, at 3 p.m., in a discussion relating to cables, Mr. Lansing stated that there was a relevant question which he would like on future occasion to discuss, namely, whether in the interests of cable communications it would not be desirable that the island of Yap be internationalized and administered by an international commission in control of cable lines, and that he merely raised the question, although not on the agenda, in order to give warning that the question was in his mind and that he would propose it for discussion at a later time. He suggested that it was not necessary to maintain that all the islands should have the same status but that the island of Yap should be held to constitute a special case. Baron Makino took the position that the status of the island of Yap should be decided before

⁷ See telegram no. 1629, Nov. 17, 1920, from the Ambassador in Great Britain, p. 263.

⁸ 1919.

⁹ Baron (later Viscount) Nobuaki Makino and Viscount (later Count) Sutemi Chinda, Japanese delegates to the Peace Conference.

the question of cables, Mr. Balfour¹⁰ replying that while the status of the island was a matter of great importance he did not think that the question of cables could be deferred, as it must be settled in time for the treaty with Germany; Germany could be required to give up all title to the island, and its status thereafter could be discussed among the Allies.

At a meeting on May 1st, held in Mr. Pichon's¹¹ room, President Wilson stated that as the cable lines across the Pacific passed through the island of Yap, which thus became a general distributing center for the lines of communication for the north Pacific, Yap should not pass into the hands of one power. In the meeting of May 6th, in the discussion regarding the allotment of mandates in the Pacific, Mr. Lloyd George expressed his understanding that the Japanese should receive a mandate for *certain* islands north of the equator. According to the record, President Wilson consented in principle to this, with an explanatory statement that with respect to mandates the policy of the "open door" would have to be applied, and that there must be equal opportunities for the trade and commerce of other members of the League. The island of Yap, having been previously cited as a special case for particular future consideration was not intended to be included among the "certain islands" designated as available to Japan under mandate. This seems obvious as Yap appears to have been the only island north of the equator in regard to the disposition of which there had existed any difference of opinion. There is no indication in the minutes of any further discussion with regard to this island. There is attached, as an appendix to the minutes of the meeting of May 7th, 4:15 p.m., a memorandum which obviously purported to be a codification of the agreement reached in the meeting of May 6th with reference to the north Pacific islands. Upon this we understand is based the assertion that Yap was assigned under mandate to Japan. Even this, however, does not expressly include all the islands in this particular category, although the qualifying word "certain" is omitted. According to the minutes of this meeting there was no discussion whatever on May 7th in respect to mandates. The minutes quoted the memorandum with the statement, merely, that "the following decisions were reached". The erroneous publication of such a decision of which this Government was not aware would not validate it. The President recollects no proposal offered in this meeting to change the decision of May 6th and is certain he agreed to no variance of the original proposition. He understood it was generally agreed that the island of Yap had been previously excluded and reserved for future determination in connection with the consideration of cable communications. In view of the President's reiterated objections to the inclusion of Yap in the mandate territories to be assigned to Japan, it is rather striking that the minutes of May 7th do not include any discussion whatever regarding Yap which would have been most natural had the President been prevailed upon to recede from his previous firm position. It is most logical that the withdrawal of the previously recorded objections would have been noted or at least that the decision would have been drafted in more specific

¹⁰Arthur James Balfour, British Secretary of State for Foreign Affairs, to October 1919.

¹¹Stephen Pichon, French Minister of Foreign Affairs to Jan. 18, 1920.

language. It would seem clear that the President acted on the assumption that the island of Yap was not intended to be included in the decisions of May 6th and 7th.

It should also be noted that President Wilson, on August 19, 1919, before the Senate Committee on Foreign Relations made the following statement when questioned concerning the status of the island of Yap:

"It is one of the bases and centers of cable and radio communication on the Pacific, and I made the point that the disposition, or rather the control, of that island should be reserved for the general conference which is to be held in regard to the ownership and operation of the cables. That subject is mentioned and disposed of in this Treaty and that general cable conference is to be held."

This statement evidences the understanding of the President, and it is interesting that though wide publicity was given to the President's declaration at the time no comments were received by this Government from any nation indicating a contrary opinion. Furthermore, attention is called to the fact that the draft mandate covering the ex-German islands north of the equator,¹² submitted to the meeting of the Heads of Delegations on December 24, 1919, contemplates that there may be a question as to what islands north of the equator should be allocated under mandate to Japan. Article 3 reads as follows:

"If any dispute should arise as to whether any particular island is or not covered by the above mandate the matter shall be submitted to the Council of the League of Nations whose decision shall be final."

The draft was not accepted, primarily on account of objections raised by the Japanese, which, however, did not relate to this particular provision. The point is cited merely as indicating an understanding that definite agreement had not yet been reached as to the final disposition of *all* the islands north of the equator.

It might also be observed that, assuming for the sake of argument the conditional allocation to Japan, the terms of the mandate have not been accepted by Japan or even as yet approved by the principal interested powers or the League of Nations. In such case it would appear that until the island is accepted under mandate upon terms approved by the powers concerned the status of temporary occupation must exist, which, in the circumstances, does not signify a vested interest in the island, and which admits of present determination of the conditions or terms of authority, control and administration.

I am directed by the President to inform you that the Government of the United States cannot agree that the island of Yap was included in the decision of May 7th or in any other agreement of the Supreme Council. And in addition that as the island of Yap must form an indispensable part of the international communications it is essential that its free and unhampered use should not be limited or controlled by any one power. Even on the assumption that the island of Yap should be included among the islands held under mandate by Japan, it is not conceivable that other powers should not have free and unhampered access to, and use of, the island for the landing and operation of cables. This is a right which the United States would be disposed to grant upon any of its unfortified islands which may be essential for such purposes.

¹² For texts of draft mandates of Dec. 17, 1920, see vol. I, pp. 99 ff.

The Government of the United States expresses the hope that the above statements of fact will convince the British Government of the correctness of the position of the United States with respect to the mandate over the island of Yap; and also that the British Government will concur in the view of the United States that even if Yap should be assigned under mandate to Japan all other powers should have free and unhampered access to the island for the landing and operation of cables.

DAVIS

8621.01/61a : Telegram

*The Acting Secretary of State to the Ambassador in France (Wallace)*¹³

WASHINGTON, December 6, 1920—5 p.m.

1674. For the Ambassador referring our 1625 November 9, 4 p.m.¹⁴ For transmission to the Foreign Office.

I have the honor to refer to my communication of November [12] setting forth the views of my Government relative to the status of the island of Yap. I have received instructions to bring to your attention certain additional considerations with reference to this same matter, from which may be obtained a better understanding of the position of my Government.

[Here follows, *mutatis mutandis*, the communication to the British Government contained in telegram no. 1199, December 4, 1920, to the Ambassador in Great Britain, beginning with the words "There would appear."]

Transmit above to Rome as Department's 233 for delivery *mutatis mutandis* to Foreign Office referring Department's 213 to Rome November 9.¹⁴

DAVIS

8621.01/46a : Telegram

The Acting Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, December 6, 1920—6 p.m.

442. For the Ambassador, for transmission to the Foreign Office.

I have transmitted to my Government your memorandum of November 19th¹⁵ in reply to the memorandum submitted by me on the 12th of November regarding the island of Yap, to which my Government has directed me to reply as follows:

¹³ See last paragraph for instructions to repeat to Rome as no. 233.

¹⁴ See footnote 2, p. 263.

¹⁵ See telegram no. 598, Nov. 19, from the Chargé in Japan, p. 264.

[Here follows, *mutatis mutandis*, the communication to the British Government contained in telegram no. 1199, December 4, 1920, to the Ambassador in Great Britain, beginning with the words "There would appear." In the paragraph beginning "I am directed" the words "for such purposes" are inserted after the words "free and unhampered use".]

DAVIS

8621.01/61 : Telegram

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

PARIS, December 6, 1920—5 p.m.

[Received 8:34 p.m.]

1982. Referring to Department's no. 1625, November 9th, 4 p.m.,^{15a} and my 1917, November 13th, 8 p.m.,¹⁶ regarding disposition of Island of Yap. Following is text of note received today from Foreign Office under date of 1st instant:

"By a note under date of the 12th instant [*ultimo*], the United States Embassy was good enough to inform the Ministry for Foreign Affairs of the views of the American Government in the question of the Island of Yap, which gave rise to discussion during the Communications Conference at Washington. The American Government understands that at the request of President Wilson the Supreme Council intended reserving the final disposition of that island on account of its importance as regards international telegraphic communications, and that consequently the Island of Yap is excluded from the mandate conferred upon Japan over the islands north of the Equator.

It is indeed true that at the meeting of May 1st, President Wilson manifested the desire that the Island of Yap should be placed under a special regime, but this desire was not reiterated during the subsequent meetings, in particular that of May 2nd, when it was decided that Germany would have to waive all claims to the three Tsingtao cables in favor of Japan. Moreover, there were no reservations to the decision of the Supreme Council of May 7th, relative to the colonial mandates, attributing to Japan mandate over the islands north of the Equator.

Under these conditions it seems that the mandate conferred upon Japan covers the Island of Yap as well as the other islands north of the Equator."

WALLACE.

^{15a} See footnote 2, p. 263.

¹⁶ Not printed.

8621.01/61 : Telegram

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

WASHINGTON, December 11, 1920—8 p.m.

1692. Your 1982, December 6th, 5 p.m.

Refer statement therein that President's desire regarding Yap not reiterated during meeting of May 2d. Supplementing Department's 1674, December 6th, which answers rest of French note received by you December 6th, inform Foreign Office this Government considers question of disposition of Tsingtao cables, which do not touch the island of Yap, irrelevant to internationalization of that island, and can perceive no reason for their reaching conclusions regarding our position about Yap from our not having brought up its discussion during meeting of May 2d.

DAVIS

8621.01/64

*The Ambassador in Italy (Johnson) to the Acting Secretary of
State*

No. 255

ROME, December 28, 1920.

[Received January 19, 1921.]

SIR: Referring to the Department's telegraphic instruction No. 233 of December 6th, five p.m.,¹⁷ I have the honor to report that I duly transmitted to Count Sforza the Department's communication setting forth the views of the American Government relative to the status of the Island of Yap, and have received the reply enclosed.

I have [etc.]

ROBERT UNDERWOOD JOHNSON

[Enclosure—Translation]

*The Italian Minister of Foreign Affairs (Sforza) to the American
Ambassador (Johnson)*

Uff. IIA.-53245/282

[ROME, December 24, 1920.]

MR. AMBASSADOR: I have the honor to acknowledge the receipt of Your Excellency's Note No. 232 [233] of December 10th relative to the question of the Island of Yap.

I have not failed to take into careful examination all that is set forth therein, and I hasten to inform you that the Italian Govern-

¹⁷ See footnote 13, p. 268.

ment, as I have already communicated to the Japanese Embassy, will be very glad to interest itself in order that this question—of which it recognizes all the importance—may reach an equitable solution which will reconcile the various claims of the Powers interested.

Accept [etc.]

SFORZA

8621.01/55 : Telegram

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

LONDON, January 7, 1921—noon.

[Received 6:35 p.m.]

18. Your 1199, December 4, 12 noon. Following note from Foreign Office received this morning dated January 5th:

“As Your Excellency is doubtless aware, all the “C” mandates granted under the Treaty of Versailles have now been formally approved by the Council of the League of Nations, and the mandate for the ex-German islands in the Pacific north of the Equator has been conferred upon Japan in accordance with the recorded and published decision of the Supreme Council of May 7th, 1919.

In these circumstances I can only assume that the question of the grant of cable rights on the Island of Yap will be brought by the United States Government, if they so desire, before the Cable Conference when it resumes its sittings, or that the matter will form the subject of direct negotiation between the United States and Japanese Governments.”

DAVIS

8621.01/37 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, February 19, 1921—6 p.m.

[Received February 20—11:32 a.m.]

124. Following is English translation of a note, dated February 18, from the Foreign Office received today, which is to take the place of the note of the 7th instant quoted in my number 99, February 11, 6 p.m.¹⁸

“The Embassy of the United States was good enough to inform the Minister for Foreign Affairs on the 10th and 14th¹⁹ December last of the point of view of the American Government in regard to the question of the Island of Yap.

The resolution of the 7th May, 1919, attributed to Japan without reserve a mandate over the islands of the Pacific to the north of the

¹⁸ Not printed.

¹⁹ See telegrams no. 1674, Dec. 6, 1920, and no. 1692, Dec. 11, 1920, to the Ambassador in France, pp. 268 and 270, respectively.

Equator. This mandate was confirmed the 17th December last by the Council of the League of Nations.

Nevertheless, at the commencement of the sitting of the 1st of May, 1919, President Wilson declared that the Island of Yap should not be in the possession of one power. At the close of the same sitting Mr. Lansing reverted to this question. Baron Makino, who was present at this sitting, declared that his Government had taken certain dispositions and had made arrangements to regulate the status of the island but he did not refuse to permit the question raised by President Wilson and Mr. Lansing to be placed in discussion.

It seems that there might be developing [therein] elements for the resumption of a conversation between the United States and Japan with regard to this question.

The French Government for its part would be glad if this conversation might lead to a satisfactory result and it has so informed the Japanese Government. Signed Briand."

Copy by next pouch.

WALLACE

8621.01/46: Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, February 27, 1921—2 p.m.

[Received 10:54 p.m.]

80. Your 442, December 6, 6 p.m. Following note dated February 26th and marked confidential received today from Minister for Foreign Affairs:

"I have the honor to acknowledge the receipt of your note of the 10th December last on the status of the Island of Yap in reply to the memorandum of the Imperial Department of Foreign Affairs, dated the 12th [19th] November last,²⁰ and to state candidly herewith the opinion of the Imperial Government on the views of the Government of the United States propounded in this said note.

In support of the argument advanced by the Government of the United States the following points are enumerated in your note: first, that in the course of the various discussions in the Supreme Council and the Council of Foreign Ministers at the Peace Conference (namely at the meeting of the Supreme Council on April 21st, 1919 and at the meeting of Foreign Ministers on April 30th and on May 1st, 1919^{20a}) the President and Mr. Lansing, the then Secretary of State of the United States, respectively, gave utmost despatch [*utterance*] to a view that the Island of Yap should be internationalized or that it should not pass into the hands of any one power; next, that at the meeting of the Supreme Council held on May 6th 1919, Mr. Lloyd George employed the words "certain islands" in giving expression to what he understood to be the territories to be

²⁰ See telegram no. 598, Nov. 19, 1920, from the Chargé in Japan, p. 264.

^{20a} The Council of Ten met on May 1.

committed to the charge of Japan; and lastly, that according to the minutes of the meeting of the Supreme Council of May 7th, 1919, no discussion took place on that day in respect to mandates and that although there exists a memorandum appended to the minutes of the meeting of May 7th which purports to be a codification of the agreement reached at the meeting of May 6th with reference to the North Pacific islands such memorandum does not expressly include all the islands in the North Pacific. Of the meetings referred to it must be noted that the Imperial delegates were not present at the meeting of the Supreme Council of April 21st, May 6th and May 7th and in consequence the Imperial Government have no means of ascertaining what views were expressed by the American delegates at those meetings. Assuming however that President Wilson did in fact give utterance at those meetings to such views as are ascribed to him this cannot warrant the United States Government as against the Imperial Government in going beyond asserting as a fact that President Wilson or Mr. Lansing gave it as his opinion before the Supreme Council and the Council of Foreign Ministers at some time previous to May 1st, 1919, that the Island of Yap should be internationalized or that it should not pass into the hands of any one power. In the opinion of the Imperial Government such a fact argues in no way in favor of the contention of the American Government that the Island of Yap stands outside the islands that it was decided should be held under the mandate by Japan unless they can establish at the same time the further fact that the representations of President Wilson and Mr. Lansing were accepted by the Council and the latter decided to exclude Yap from the mandatory territories assigned to Japan. In order to maintain successfully therefore that the Island of Yap is not included in the mandatory territories assigned to Japan the Imperial Government consider it necessary for the American Government to prove not merely the fact that the particular line of views was stated at the meetings but also that the meeting decided in favor of those views. Further, in this same connection the Imperial Government would point out that views expressed by the delegates previous to arriving at a decision are not necessarily to be interpreted as reservations naturally attached to the decision. It follows that the question whether the Island of Yap is excluded from the mandatory territories assigned to Japan must be judged from the decision of May 7th by which the mandatory powers and their mandatory territories were for the first time and at the same time finally decided upon and it must be concluded that whatever utterances may have been made previous to that date were only preliminary conversations that took place before the decisions were reached and in themselves possess no such cogency as to qualify the meaning or limit the application of the decisions. This conclusion is the more irrefutable since the Imperial delegation never expressed their agreement whether at any meeting of the councils or elsewhere with the above-stated views of President Wilson or of Mr. Lansing. Furthermore Viscount, then Baron, Makino announced distinctly his disagreement with them at the meeting of Foreign Ministers held on April 30th, 1919.

2. A view is advanced further in the note under reply that if Yap was meant to be included among the islands assigned under the

mandate to Japan then the decision of May 7th, 1919 should have been drafted in more specific language than is the case. In the opinion of the Imperial Government, however, it is more in accordance with sound principles of interpretation to say that the fact should have been set down with especial clearness if exclusion were meant as an exception always requires to be stated definitely [*expressly*]. To assert that the fact of nonexclusion should have been specifically mentioned in a decision of this kind could only be regarded as an extraordinary and even an unreasonable contention with which no one would be likely to concur.

It must also be remembered that if a decision in favor of the exclusion of the Island of Yap—a question of grave concern to Japan and one on which the Japanese delegation invariably maintained a firm attitude—had really been made, as it is implied by the argument of the United States Government, at the meeting of May 7th at which Japan was not represented it could not but have been regarded as an act of entirely bad faith. It is therefore inconceivable to the Imperial Government that such a decision could have been reached at a meeting at which no Japanese delegation was present. Since the decision under consideration says on the one hand "German Islands" and on the other does not make any exception of Yap, the Imperial Government regard it as perfectly clear that the ex-German Pacific islands north of the Aleutians [*Equator*] with no exception whatever all belong to the mandatory territories allocated to Japan. Nor are the Imperial Government alone and unsupported in their interpretation of the decision for they are in receipt of authentic information that the Governments of Great Britain and France being of the same opinion as the Japanese Government on the matter made statements to that effect in their replies to the American note in November last.²¹ If the decision incorporated in the memorandum appended to the minutes for May 7th be one which was really reached at the meeting on the meeting [*sic*] of the Supreme Council held on May 6th as represented in the note under reply then the inevitable conclusion will be that inasmuch as the meeting held on the latter date, *id est* May 6th, was that of the Heads of Delegations of the United States, Great Britain, and France, the contention of the American Government is tantamount to saying that President Wilson by himself arrived at an understanding which differed from that of all others present, a conclusion difficult to understand.

Again a reference is made to the use of words "certain islands" by Mr. Lloyd George at the meeting of the Supreme Council held on May 6th 1919 tending to prove the exclusion of the Island of Yap. Granting for the sake of argument that the words "certain islands" occur in the minutes for May 6th the use of such a phrase is perfectly natural and easy to understand without supposing it to refer to the exclusion of Yap. There are other islands in the South Pacific north of the Equator which did not belong to Germany and it does not appear how better Mr. Lloyd George could succinctly describe the islands to be allotted to the Japanese mandate in that region than

²¹ See telegrams no. 1629, Nov. 17, 1920, from the Ambassador in Great Britain and no. 1982, Dec. 6, 1920, from the Ambassador in France, pp. 263 and 269, respectively.

as "certain islands." "Certain" is a word which is far from approbation [*appropriate*] to mean "all but one" and had he had the exclusion of a single island such as Yap in mind he would have been almost sure to have explicitly mentioned it. Seeing that the British Government adopts the interpretation that it was decided at that time that all the ex-German Pacific islands north of the Equator were to be assigned under the mandate to Japan it is obvious that in employing the words Mr. Lloyd George cannot have intended to signify the exclusion of Island of Yap.

To sum up, since in a matter of such a grave nature as the establishment of mandatory territories only what appears on the face of the decisions should be accepted as authoritative, the Imperial Government cannot agree in giving an extraordinary and unusual interpretation to the decision on a vague ground that certain thoughts and intentions not expressed in the text thereof existed in the mind of the delegate of one power only.

3. The decision of May 7th, 1919, was made public on the following day, the 8th. If the published text of the decision differed in sense from what was understood by the Government of the United States to be its meaning the latter should have and would naturally have been expected to have entered an immediate protest. No such step was taken however at the time and the Imperial Government fail to understand the reason why the American Government should have allowed more than a year and a half to pass by before electing to question the decision. The note under reply refers to the fact that President Wilson's statement before the Senate Committee on Foreign Relations on August 19th, 1919, called forth no comment by any nations and points to this absence of contrary opinion as amounting to evidence to prove that no power found anything in the President's view to which it could take exception. The Imperial Government are quite unable to follow contentions of this kind. In the one case we [have the] publication of an international agreement in which the American representative participated whereas the other was essentially a pure domestic affair. As to the former, in case the published text would be found to differ from what was understood by one party it was encumbered [*incumbent*] upon him forthwith to lodge a protest and have the errors if any rectified. In the latter case however no third power is called upon to make any refutation or correction and consequently the fact that there was no nation which took it upon itself to make any adverse comment has no bearing whatever on the matter under consideration.

4. On the strength of article 3 of the [obsolete draft] mandate covering ex-German islands in the Pacific north of the equator submitted to the Supreme Council on December 24th, 1919, it is contended in the note under reply that no definite agreement had yet been reached as to the final disposition of all the ex-German islands in Pacific north of the Equator. The Imperial Government would point out that this article was intended solely to provide a means of settlement in view of any dispute that may arise as to boundaries or the assignment of lands. Such provisions were by no means confined to the particular draft in question but there were also found similar provisions in all original draft mandates covering other territories which were simultaneously submitted to the same meeting.

If the American contention in this connection is to be upheld it must needs follow that all the mandatory territories are liable to be honey-combed by exceptions or exclusions. But such a conclusion is wholly at variance with facts and cannot be thought by anyone to be convincing. Consequently the reference made to it in the note under reply tends in the opinion of the Imperial Government in no way to strengthen the contentions of the United States Government.

5. In the concluding part of the note under reply it is observed that even on the assumption that the Island of Yap should be included among the islands held under the mandate by Japan it is not conceivable that other powers should not have free and unhampered access to and use of the island for the landing and operation of cables. If this observation is put forth irrespective of the fact that the island is within the mandatory territory then the question seems to be one which should be freely settled by the nation which has the charge of the place, namely, Japan. If this meaning be however that owing to the nature of the mandate the island should have its doors kept open the Imperial Government would draw attention to the [fact that?] at the meeting of the Commission on Mandates held on July 8th, 1919, Colonel House opposed Count Chinda's claim that the same equal opportunities for commerce [and] trade should be guaranteed in territories belonging to the C class as in those belonging to the B class. In view of the position thus taken by the American delegate the Imperial Government feel obliged to state that in their opinion the American Government cannot with justice contend for the open door in the C class territories at least as against Japan and to inform the United States Government at the same time that they cannot consider themselves bound in any way to recognize the freedom of other nations in the manner insisted upon by the American Government in regard to the landing and the operation of cables even in places where the principle of the open door is to be guaranteed.

I have the honor to request you to be so good as to transmit to your Government the views of the Imperial Government as above stated.

[I am] et cetera. Signed. Count Uchida, Minister for Foreign Affairs."

BELL

8621.73/29

Memorandum by Mr. Norman H. Davis²² of a Conversation with the Japanese Ambassador (Shidehara)

WASHINGTON, March 17, 1921.

The Ambassador said he desired to understand clearly just what my previous proposal had been regarding the disposition and operation of the ex-German cables in the Pacific. I told him my suggestion had been: (1) that the ownership of the cable from Guam

²² Under Secretary of State to Mar. 7, 1921. The memorandum was received in the Department of State as an enclosure to Mr. Davis's letter of Mar. 18, 1921, to the Secretary of State (not printed).

to Yap should be ceded to the United States; (2) that the cable from Yap to Menado be ceded to Holland in settlement of all Dutch interests in the three cables; and (3) that the Yap-Naba-Shanghai cable be ceded to Japan.²³

That the above division should be made upon the understanding that the owners of the three respective cables would then have complete control of the operation of their cables at both ends; that the United States and Holland should not only operate their cables at Yap but that there should be no supervision, control or tax imposed, and every right extended to the employees who might reside at Yap. Furthermore, that a satisfactory traffic arrangement should be made whereby the Yap-Naba-Shanghai cable could be used for service through to China which might be desired by the Guam-Yap line.

The Ambassador then wished to know if Japan consented to the above arrangement whether that would satisfy all the demands of the United States in respect to Yap and these cables. I replied that this would only meet our demand regarding these specific ex-German cables, but not our demands regarding the status of the Island of Yap. He asked what else we would want. I reiterated our position that Yap should not go to any single Power; that it should be internationalized, at least for cable purposes, and that the United States had never consented to the assignment of Yap under mandate to Japan, nor to the terms of the mandate under which Japan should hold the mandate over any of the German Islands north of the Equator. I then told him it was unfortunate that his Government should contend that the Government of the United States, even on a technicality, had ever consented to Japan having the mandate over Yap, because such a contention could not prosper and it would merely result in the Japanese Government being charged by its opponents with giving in to the United States. I reiterated what I had previously told him that President Wilson had specifically and officially stated that he never consented to such a mandate, and, assuming for the sake of argument that the alleged decision of May seven might be construed as conferring upon Japan the mandate over Yap, this necessarily would have been subject to subsequent agreement as to the terms of the mandate, and that this Government has never consented to such terms without which there can be no definitive agreement.

The Ambassador then said he was very anxious to get this matter settled, and agreed that the longer it was delayed the more difficult it will be. He therefore wondered if a compromise could not be reached whereby we would consent to Japan having the mandate over Yap upon conditions which would satisfy our desires regarding

²³ For the agreement relating to the operation of the Yap-Naba-Guam cable, see pp. 307-313.

cable facilities. He said his Government must necessarily consider public opinion, and would wish to avoid the appearance of being forced to give in to the United States. I said that I might be inclined to recommend that the island be internationalized but that Japan have the nominal mandate over Yap as agents of the interested powers, upon conditions, however, which would in fact internationalize the island; that the island should not be fortified and nothing done which would in any way interfere with cable communications, and that the United States, Holland, and any other Power should have free access to the island for the landing and operating of cables without any supervision, control or tax on the messages or properties. After considerable discussion he said that he was not authorized to make any such proposal by his Government, but that he thought it would be easier for his Government to agree to such an arrangement provided it could be presented to the Diet in such a way as to avoid being criticised for giving in to the United States, and that it occurred to him that this could be done if we would consent to Japan having the right to land and operate cables on some American island, such as we had agreed with England and Italy. I told him the best way to do this would be for Japan to join with England and Italy and the United States in the agreement reached by the delegates of the three latter countries in the Cable Conference for a recommendation to the respective Governments to the effect that any unfortified island owned by such Governments might, upon application, be used for the landing of a cable by one of the other three Governments. He thought this would not suit the purposes as his Government would not like to enter into such a general arrangement. I told him we would not consent to any such stipulation in connection with a settlement of the Yap controversy, because this might be considered as a *quid pro quo* for a concession from Japan which we do not for a moment admit that Japan alone has the right to grant or refuse. He said he was quite willing to have two distinct agreements, and not link this with Yap. I told him that I would be glad to recommend any reasonable arrangement which would assist his Government in meeting our views regarding Yap, but that as far as the Secretary of State could go, if willing to do so, would be to recommend a reciprocal arrangement for the granting of a permit to Japan, as he would to any other Power, and by Japan to the United States, to land and operate a cable on an unfortified American or Japanese island, but without any relation to Yap. The Ambassador said that Japan is made up of islands. He said he would communicate further with his Government, and I told him I would have a talk with the Secretary of State

and ascertain if he would be inclined to go even so far as I had indicated.

The California Japanese question was then raised.²⁴ I told the Ambassador I was under the impression that the Secretary of State had not as yet had an opportunity to study the recommendations of Ambassador Morris regarding a settlement of this question,²⁵ and that I did not know what his position would be in the matter. I also said, however, that if this question regarding Yap is settled satisfactorily and out of the way it would undoubtedly make it easier for the Secretary of State to deal with the California question in accordance with the views which he may take after a study of the question.

N[ORMAN] H. D[AVIS]

8621.01/46 : Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, April 2, 1921—5 p.m.

61. Your 80, February 27th, 2 P.M.

You are instructed to deliver the following note to Minister for Foreign Affairs, referring to his note of February 26, in answer to note of this Government of December 10, in regard to the status of the Island of Yap, stating:

“The Government of the United States finds itself unable to agree with the contention of the Japanese Government that in order to maintain the position of the Government of the United States with respect to the Island of Yap, it is necessary for this Government, ‘to prove not merely the fact that the particular line of views was stated at the meetings’ of the Supreme Council, but also that the Supreme Council ‘decided in favor of those views.’ If it is meant that the United States could be bound without its consent by the action of the Supreme Council, the contention is deemed by this Government to be inadmissible, and on the other hand the United States has never assented to the mandate purporting to embrace the Island of Yap.

In view of the frequent references in the note of the Japanese Government to what is termed the decision of the Supreme Council, this Government deems it appropriate to state the fundamental basis of its representations and the principles which in its view are determinative. It will not be questioned that the right to dispose of the overseas possessions of Germany was acquired only through the victory of the Allied and Associated Powers, and it is also be-

²⁴ For papers relating to this subject, see pp. 319-349.

²⁵ See the concluding section of the communication of Jan. 25, 1921, from the Ambassador in Japan, temporarily in the United States, to the Acting Secretary of State, p. 323.

lieved that there is no disposition on the part of the Japanese Government to deny the participation of the United States in that victory. It would seem to follow necessarily that the right accruing to the Allied and Associated Powers through the common victory is shared by the United States and that there could be no valid or effective disposition of the overseas possessions of Germany, now under consideration, without the assent of the United States. This Government must therefore point out that as the United States has never vested either the Supreme Council or the League of Nations with any authority to bind the United States or to act on its behalf, there has been no opportunity for any decision which could be deemed to affect the rights of the United States. It may also be observed that the right accruing to the United States through the victory in which it has participated could not be regarded as in any way ceded or surrendered to Japan, or to other nations, except by treaty, and that no such treaty has been made.

The fact that the United States has not ratified the Treaty of Versailles cannot detract from rights which the United States had already acquired, and it is hardly necessary to suggest that a treaty to which the United States is not a party could not affect these rights. But it should be noted that the Treaty of Versailles did not purport to secure to Japan or to any other nations any right in the overseas possessions of Germany save as an equal right therein should be secured to the United States. On the contrary, Article 119 of the Treaty of Versailles provides: 'Germany renounces in favour of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions.' It will not be questioned that one of the 'Principal Allied and Associated Powers' in whose favor Germany renounces her rights and titles is the United States. Thus, not only could the position of the Government of Japan derive no strength from the Treaty of Versailles or from any discussions preliminary thereto, but the terms of that treaty confirm the position of the Government of the United States.

Further, the draft Convention relating to the Mandate for the German concessions in the Pacific Ocean, north of the Equator, which was subsequently proposed, proceeded in the same view, purporting on behalf of the United States as one of the grantors to confer the mandate upon Japan, thus recognizing the right and interest of the United States and the fact that the proposed action could not be effective without the agreement of the United States as one of the Principal Allied and Associated Powers.

As the United States did not enter into this Convention, or into any treaty, relating to the subject, this Government is unable to understand upon what grounds it was thereafter attempted to confer the mandate without the agreement of the United States. It is manifest that the League of Nations was without any authority to bind the United States, and that the confirmation of the mandate in question, and the definition of its terms, by the Council of the League of Nations in December 1920, cannot be regarded as having efficacy with respect to the United States.

It should be noted that this mandate not only recites Article 119 of the Treaty of Versailles, to the effect that 'Germany renounced in favour of the Principal Allied and Associated Powers all her

rights over her oversea possessions, including therein the groups of islands in the Pacific Ocean, lying north of the Equator', but also recites that 'The Principal Allied and Associated Powers agreed that in accordance with Article 22, Part I, (Covenant of the League of Nations) of the said Treaty, a Mandate should be conferred upon His Majesty the Emperor of Japan to administer the said islands and have proposed that the Mandate should be formulated' as set forth. While this last quoted recital, as has already been pointed out in previous communications by this Government, is inaccurate in its terms, inasmuch as the United States as one of the Principal Allied and Associated Powers had not so agreed and proposed, the recital again recognizes the necessity of the participation of the United States in order to make the proposed disposition effective.

As, in the absence of any treaty with the United States relating to the matter, there was no decision on May 7, 1919, binding the United States, it is deemed to be unnecessary again to examine the brief minute of the meeting of the Supreme Council on that date. It may, however, be proper to say that the minute of this meeting, although obviously without any finality, could not properly be construed without due regard to the other proceedings of the Supreme Council and without taking account of the reservations which President Wilson had already made in the previous meetings of the Supreme Council on April 22nd [21st], April 30th and May 1st, 1919. The attitude of President Wilson is sufficiently shown by the following statement which he made to the Department of State on March 3, 1921:

'I beg to return the note received yesterday from the Japanese Government, which I have read, in relation to the proposed mandate covering the Island of Yap.

My first information of a contention that the so-called decision of May 7, 1919, by the Council of Four assigned to Japan a mandate for the Island of Yap, was conveyed to me by Mr. Norman Davis in October last. I then informed him that I had never consented to the assignment of the Island of Yap to Japan.

I had not previously given particular attention to the wording of the Council's minutes of May 7, 1919, which were only recently called to my attention. I had on several occasions prior to the date mentioned, made specific reservations regarding the Island of Yap and had taken the position that it should not be assigned under mandate to any one power but should be internationalized for cable purposes. I assumed that this position would be duly considered in connection with the settlement of the cable question and that it therefore was no longer a matter for consideration in connection with the peace negotiations. I never abandoned or modified this position in respect to the Island of Yap, and I did not agree on May 7, 1919, or at any other time, that the Island of Yap should be included in the assignment of mandates to Japan.

As a matter of fact, all agreements arrived at regarding the assignment of mandates were conditional upon a subsequent agreement being reached as to the specific terms of the mandates, and further, upon their acceptance by each of the Principal Allied and Associated Powers. The consent of the United States is essential both as to assignments of mandates and the terms and provisions of the mandates, after agreement as to their assignment or allocation.

The consent of the United States, as you know, has never been given on either point, as to the Island of Yap.'

Apart from the expressed purpose of President Wilson in relation to the Island of Yap, inasmuch as the proceedings of the Supreme Council on May 7, 1919, did not, and in the nature of things could

not, have finality, this Government is unable to perceive any ground for the contention that it was the duty of this Government to make immediate protest with respect to the so-called decision of May 7, 1919, and certainly it cannot be said that an omission to do so operated as a cession of its rights. It may be added, however, that when the matter was brought to the attention of this Government in connection with the Conference on Communications in October last, this Government informed the Government of Japan and other Governments, (by notes of November 9, 1920²⁶) that it was the understanding of this Government that the Island of Yap was not included in the action of May 7, 1919. Its position was subsequently stated at length.

It is a cause of regret to this Government, that after and despite this protest, there should have been any attempt to pass upon drafts of mandates purporting to deal with the Pacific Islands including Yap, and that a mandate should have been approved, or attempted to be put into effect, which, while purporting to be made in the name of the United States, was without the assent of the United States. This Government trusts that this action, which it must assume was taken under a misapprehension, will be reconsidered.

In particular, as no treaty has ever been concluded with the United States relating to the Island of Yap, and as no one has ever been authorized to cede or surrender the right or interest of the United States in the Island, this Government must insist that it has not lost its right or interest as it existed prior to any action of the Supreme Council or of the League of Nations, and cannot recognize the allocation of the Island or the validity of the mandate to Japan.

In this view, this Government deems it to be unnecessary at this time to consider the terms of the so-called "C" mandates, or the discussion with respect thereto.

This Government, as has been clearly stated in previous communications, seeks no exclusive interest in the Island of Yap and has no desire to secure any privileges without having similar privileges accorded to other Powers, including, of course, Japan, and relying upon the sense of justice of the Government of Japan and of the Governments of the other Allied and Associated Powers, this Government looks with confidence to a disposition of the matter whereby the just interests of all may be properly conserved."

You are also instructed to inform the Japanese Government that a similar note is being sent simultaneously to the Governments of Great Britain, France and Italy,²⁷ and that, in view of the widespread interest in the subject and the public attention that it has

²⁶ See telegram no. 1136, Nov. 9, 1920, to the Ambassador in Great Britain, p. 263.

²⁷ The note to the Japanese Minister of Foreign Affairs, beginning with the words "It will not be questioned" in the second sentence of the second paragraph, was repeated, on the same date, to the diplomatic representatives in France (no. 188), Great Britain (no. 187), and Italy (no. 51), with instructions to "deliver the following note to the Foreign Office." (File nos. 862i.01/84a, 84b, 84c.)

already received, the notes will be made public here as soon as they have been delivered to the respective Foreign Offices. Please promptly report when delivery has been made.

HUGHES

8621.01/95 : Telegram

The Ambassador in France (Wallace) to the Secretary of State

PARIS, April 9, 1921—noon.

[Received 4: 55 p.m.]

241. Your 188, April 2, 5 p.m.²³ Below is a translation of the reply from the Foreign Office signed "Briand" just received.

"I have the honor to acknowledge the receipt of the letter dated the 4th of this month by which Your Excellency was good enough to transmit to me a memorandum from the Department of State relative to the status of the Island of Yap.

Since this memorandum was sent simultaneously to the Governments of Great Britain, Italy and Japan it cannot be answered until after an understanding has been reached between the Governments of the four interested powers at the time of the next meeting of the Supreme Council of the Allies.

I wish, however, to inform Your Excellency at once that when this question comes before the Supreme Council the representatives of France will broach the examination thereof with the greatest desire to find a solution which will give every satisfaction to the United States.

As Your Excellency knows the Government of the Republic has already done all in its power to lend its aid to the American Government in this matter. By a note dated February 18, after having noted that the decision of May 7, 1919, made no reserve concerning the mandate attributed to Japan over the islands of the northern Pacific, my Department pointed out to your Embassy that nevertheless President Wilson and Mr. Lansing had formulated in the course of a former meeting in the presence of the representative of Japan categorical reservations concerning the Island of Yap, that Baron Makino had not objected, that the question raised by the representatives of the United States should be placed in discussion and that consequently the Japanese Government was cognizant of the American reservations. The note concluded that thus there were elements for a resumption of conversations between the United States and Japan which the Government of the Republic would be happy to see result in a satisfactory conclusion.

This note was communicated on the same day to the Embassy of Japan at Paris and Your Excellency was good enough to express to my Department your great satisfaction at this communication by giving the assurance that it would be particularly appreciated at Washington. Signed Briand, Paris, April 7, 1921."

²³ See the preceding footnote.

The note of February 18th above referred to was transmitted to you by my telegram number 124, February 19, 6 p.m.²⁹

Upon my inquiry at the Foreign Office as to when the Supreme Council will next meet I am informed that no definite date has been set.

WALLACE

8621.01/117½

Memorandum of a Conversation between the Secretary of State and the British Ambassador (Geddes), April 12, 1921

[Extract]

The British Ambassador stated that he called to say a personal word; that he spoke not as an Ambassador but as an individual. . . .

The Ambassador then said that the reply of his Government to our note on Yap would probably be that the British Government was bound by its agreement with Japan in 1916 to favor the awarding of the islands in the north Pacific to Japan. The Ambassador said that when they were pressed with the submarine attacks, an agreement had been made with Japan in 1916 that Japan should have the north Pacific islands and that no matter what the consequence might be, his Government, he was sure, would feel that it was bound to stand by this agreement. The Ambassador said that he had talked this matter over fully on his recent trip and he assumed these views which then obtained were still held.

The Secretary said that he could not but regard such an answer as most extraordinary. The Secretary asked what was up for discussion in May 1919 if the matter had already been decided. Were they going through a form of discussion or was there an open question? If there was no question open, why was any reliance placed upon the minute of May 7, 1919; and if there was a question open, how could it be regarded as decided by reason of a prior agreement?

The Secretary asked if President Wilson was acquainted with this agreement. The Ambassador said that Mr. Balfour had given him a copy when he was here. The Secretary asked if Mr. Balfour had called President Wilson's attention to it. The Ambassador said he did not know as to that, but he understood it was left with a number of papers. The Ambassador stated, however, that President Wilson knew of it when he reached Paris.

²⁹ Ante, p. 271.

The Secretary said that he did not recall that the minutes of the proceedings of the Council of Four showed any suggestion that such an agreement had been made, which, from the standpoint of Great Britain, had decided the matter.

The Ambassador said that of course the agreement only had the effect of binding Great Britain; and that it was still open for the United States to come to an agreement with Japan. The Secretary then said that as he understood the Ambassador, it meant that if the United States agreed with Japan, Japan was to have the islands; and if it did not agree, Japan was still to have the islands; that he could not understand what was to be the purpose of the agreement if the matter had already been decided.

The Ambassador then said that the United States had agreed that Japan should have the islands. The Secretary remarked that it would seem that there were two positions which should be considered separately. If the United States had agreed that Japan should have the islands, it was quite unnecessary to consider the engagement of 1916 between Great Britain and Japan; the position of this Government was that the United States had not so agreed, and it was only on the assumption that there was no such agreement on the part of the United States that the Secretary understood that it was the disposition of the British Government to invoke, as against the position of the United States, this engagement of 1916. The Secretary concluded that the latter position could not be supported by the contention that the United States had agreed.

The Ambassador asked the Secretary to consider the position of his Government; that it had entered into this agreement with Japan in good faith and that it felt bound to carry it out. He asked what else it could do. The Secretary asked what was the position of the British Government with reference to the Treaty of Versailles? Did not the Treaty of Versailles necessarily have the effect of voiding any prior and inconsistent arrangement? Was it possible that anything that was done under the Treaty, no matter what equality of participation the Treaty itself provided for, was to be done upon the basis of agreements which had been previously made? The Secretary pointed out that if it had been the purpose to carry out this earlier agreement with Japan, the Treaty of Versailles should have stated that by virtue of the agreement between Great Britain and Japan, the islands in the north Pacific were allocated to Japan. Instead of this, however, the Treaty provided that Germany renounce her right and title in favor, not of Japan, but of the principal Allied and Associated Powers. The Secretary was unable to see how proceedings taken under this Treaty would be taken in the view that Japan already was entitled to the Island of Yap.

The Ambassador said that the position was simply that Japan was entitled to Great Britain's votes, but that it remained for the United States to express its agreement, and thereupon the Secretary again stated that that brought the question back to the inquiry whether the United States had agreed; that if the United States had agreed, that ended the matter; but that if it had not agreed, the position of this Government was that the Island could not be disposed of without its assent. The Secretary felt that it should be remembered, without the slightest disposition to exaggerate, the part that America played in obtaining the victory. It was only fair to say that the British Government would not be discussing the disposition of the Islands in the north Pacific if America had not entered the war and had not aided in obtaining the victory. In fact, if America had not participated in the war and enabled the Allies to win the victory, there would be nothing now to discuss. The Secretary said it seemed very extraordinary to him that when, after the victory had been won, the opportunity had thus been created for the disposition of the overseas possessions of Germany, and when the United States merely asked for an equal opportunity where her interests were involved, she should be informed that Great Britain was powerless to give her any support in her contention because of a prior agreement with Japan.

The Secretary said that he thought the British Government should seriously consider the effect of such a position upon public opinion in America; that the Secretary believed the reaction would be immediate. The Secretary added that he was proceeding in the view that cooperation between this Government and Great Britain was most important in the interests of the world, and that he looked for the most friendly disposition in endeavoring to settle the problems that we had to face; but little progress could be made in this direction if the American people got the idea that Great Britain made some engagement with Japan,—before we entered the war, and inconsistent with the Treaty of Versailles,—the basis for resisting the very modest request of the United States, as the only benefit she desired for herself was an equal participation in those opportunities important to the United States which had accrued to the Allied and Associated Powers through the common victory.

The Ambassador said that his Government was fully alive to the possible effect upon public opinion in America and that they were able to make the very shrewd guess of what our reply would be, but that they thought they had no alternative, and that no matter what the consequences they must abide by their agreement with Japan—at least, he added, unless Japan could be persuaded to admit the contention of the United States.

8621.01/126

*The Italian Embassy to the Department of State*³⁰[Translation³¹]

Italy is fully convinced that the United States are not asking for any privilege in the Island of Yap which is not equally granted to every other nation, including Japan. Italy is also convinced that the United States intend to protect their interests in the Island of Yap with full consideration for the interests of other nations.

Italy therefore has not hesitated to harmonize its language with the declaration contained in the last part of the note of the United States of the 5th instant,³² concerning the equality of rights of the mandatories in the exercise of all the mandates. Italy wishes and trusts that the just rights of everybody concerned be recognized always and everywhere, in the Island of Yap as well as in every other place and circumstance, with perfect equality and justice.

Italy seconded the Anglo-French proposal which confided the study of the Yap question to the Juridical Committee and the Conference of the Ambassadors in Paris, and she now expects that the Conference will pronounce itself impartially in such way as to eliminate every possibility of disagreement and to conciliate all conflicting interests.

Italy is particularly glad whenever the moral policies of the two Governments and the material interests of the two nations agree in such a way as to put Italy and the United States in a position to cooperate towards the attainment of the common end, which consists in the realization of an era of serene peace and prosperity for the civilized world.

**NEGOTIATIONS FOR A TREATY BETWEEN THE UNITED STATES
AND JAPAN RELATING TO CERTAIN PACIFIC ISLANDS FOR-
MERLY IN GERMAN POSSESSION**

8621.01/141½

*Memorandum of a Conversation between the Secretary of State and
the Japanese Ambassador (Shidehara), June 3, 1921*

[Extract]

(3) The Ambassador brought up the question of Yap.³³ He said that his Government had instructed him to ascertain more definitely what was the American position. He referred to the fact that the

³⁰ Handed to the Secretary of State by the Italian Ambassador, Apr. 29, 1921.

³¹ File translation revised.

³² See footnote 27, p. 282.

³³ For previous correspondence concerning Yap, see pp. 263 ff.

mandate covered other islands north of the Equator, and inquired whether the United States claimed an interest in these islands.

The Secretary stated that the principle was of general application to all the overseas possessions of Germany, and that there was no reason why the United States should be denied an equal participation. The Secretary, however, said that while he would maintain this general principle, if it were contested, still the United States had no desire to advance the principle for the purpose of obtaining territory or of increasing its possessions, but merely for the purpose of protecting its interests so that wherever it is important, there should be no denial of equality of opportunity through any exclusive use by any of the other Powers of the possessions which formerly belonged to Germany. The Secretary said he did not see upon what grounds it could be maintained, after we had entered the war and participated in obtaining the victory, that those associated with us should attempt to deprive us of equal privileges in what were German possessions wherever we had interests to safeguard. The Secretary said that so far as the other islands north of the Equator were concerned, he was not advised that we had any interest with respect to which we desired to make representations, but that Yap was in a strategic position and that we should have the same rights and privileges there that were enjoyed by the other Powers.

The Ambassador reviewed the proceedings of the Supreme Council and stated that after a good deal of discussion the islands, including Yap, had been awarded to Japan without any reservations whatever; that Great Britain had the better of the bargain, as they got the islands south of the Equator, and the islands north of the Equator were mostly small and of little consequence; that there had been no protest against the decision for over a year and then the United States had made its protest; that the fact that the islands had been allocated to Japan was known to the people of Japan and that it would produce a very painful impression if it appeared that, as a result of a protest made long after, Japan was asked to give up what was regarded as already hers; that to do this would be humiliating to Japan and that the people of Japan would not permit it.

The Secretary stated that he did not care to make any suggestion as to the policy which Japan should adopt to its own interests, but that he could not refrain from saying that if, when the question had been brought up, Japan had recognized the fact that the United States had not asked for an acre of land as a result of the war, and, finding that there was an interest in Yap by reason of its advantages for the purpose of communication, Japan [had?] frankly stated its desire that the United States should have equal participa-

tion in that island, it would have created a most friendly feeling throughout the United States; . . .

The Ambassador seemed to give assent to this view, but stated that the people of Japan had been led to believe that the island was theirs and they could not take a contrary view. The Secretary said that he agreed that the opinion of the people of the two countries should always be considered in adjusting their relations, but that it should not be forgotten that the people of the United States were a unit—however divided they might be in other questions—in insisting that they should have equal opportunity in the German possessions which came to the victorious Powers; that wherever one might go through the country he would find not the slightest division of sentiment upon this point, and that the Ambassador's Government must consider not only the opinion of the people of Japan but the opinion of the people of this country, in suggesting a settlement.

The Ambassador said the first question was with regard to the ex-German cables; that he supposed that an agreement could be made with respect to their division; that, for example, the line from Yap to Guam could go to the United States and that other lines could be divided in a fair manner. The Secretary said that the question did not relate merely to existing cables but to all future rights and not alone to cables but to radio stations and all methods of communication. The Ambassador said that so far as radio was concerned, Guam, which was only two hundred miles away, would serve the United States just as well as Yap. The Ambassador inquired whether the United States would be satisfied if it had rights for existing and all future cables that it might want to lay. He said that the claim had been made that the islands should be internationalized for cable purposes; that this might be arranged but that if the United States pressed for anything more, it would be extremely difficult.

The Secretary said that if there was anything that the islands could be used for aside from cables, he saw no reason why the United States should not have its equal opportunity for such a use. He asked the Ambassador whether Japan desired to fortify the island. The Ambassador said that Japan did not. . . .

The Secretary said the type "C" mandate made the mandated territory part of the territory of the mandatory and that the United States could not consent to having Japan, as a sovereign power in possession of the territory, granting or withholding such licenses as it might see fit as a sovereign to grant or withhold; that the United States desired that whatever Power or Powers had administration of the island, their authority should be subject to the equality of right, and administration should be maintained under suitable terms which would assure the maintenance of the privileges, not as those

granted by a sovereign power which was in possession of the islands, but as privileges in which all the Powers were entitled to share and subject to the exercise of which the island was administered.

The Ambassador again asked whether the United States would be satisfied if an attempt were made to internationalize the islands for cable purposes, and again suggested that his Government might be willing to go that far. The Secretary repeated that there should be equality in the enjoyment of all privileges afforded by the island, but that if these were secured, he thought there would not be any trouble with regard to a suitable arrangement for the civil administration; that this Government had no desire to humiliate Japan; that it was not intent upon mere questions of form of procedure provided the interests of the United States were conserved in substance, and that he felt that after a full consideration of what uses the island served, there should be no difficulty in arriving at an agreement with respect to the manner of administration.

The Secretary suggested that the Ambassador should prepare a memorandum which could be submitted informally, stating the proposition which he would like to have discussed; that the Secretary would go over the memorandum and make informally such counter suggestions as might occur to him; and that after the matter had been threshed out in this way the Governments could respectively make such representations as they thought best. The Ambassador stated he would prepare such a memorandum.

8621.01/145½

Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador (Shidehara), June 18, 1921

[Extract]

Re: Yap. The Ambassador stated that, following the suggestion that he should present a confidential and informal memorandum giving his views as to the basis of settlement of the Yap controversy, he had two memoranda to present,³⁴ (1) with respect to the general question of Yap, and (2) with respect to the existing cables. He asked the Secretary to read them. The Secretary did so, and then stated that he would take the matter under consideration; that he was at a loss to understand why communication by radio had been excluded. The Ambassador said that it was of no practical consequence inasmuch as this Government had full opportunity for radio communication at the Island of Guam. The Secretary said that

³⁴ Memoranda from the Japanese Embassy to the Department of State, received June 18, *infra*.

there might be a break in the cable between Yap and Guam and that the wireless station at Yap might be used to bridge the distance; that however much or little the radio station at Yap might be used, he could not see why we should not have an equal opportunity and facility for the purpose. The Secretary said that a cable was a mere instrument of communication; that the substantial thing was the communication itself, and that as the island appeared only to be of importance with respect to the communication, he would think that it ought to be available to all nations alike for all purposes of communication whether by cable or otherwise. The Secretary asked the Ambassador to think it over further and said that in the meantime he would give the Ambassador's memoranda careful study.

8621.01/144½

The Japanese Embassy to the Department of State ³⁵

(Tentative draft)

It is agreed that the United States shall have free access to the Island of Yap on the footing of entire equality with Japan or any other nation, in all that relates to the landing and operation of the existing Yap-Guam cable or of any cable which may hereafter be laid by the United States or its nationals.

8621.73/38

The Japanese Embassy to the Department of State ³⁵

(Tentative draft)

1. The Yap-Shanghai cable to be assigned to and owned by Japan; the value of said cable to be credited by Japan to Germany in the reparation account conformably with the provisions in Part VIII, Section I, Annex VII of the Treaty of Versailles.

2. The Yap-Guam cable to be assigned to and owned by the United States; the value of said cable to be likewise credited by the United States to Germany.

3. The Yap-Menado cable to be assigned to and owned by The Netherlands, in full and final satisfaction of all claims of the Netherland Government and its nationals respecting their interests in the German-Netherland Telegraph Company.

4. Each country to operate both ends of the cable which it owns under the foregoing plans of allocation.

³⁵ Handed to the Secretary of State by the Japanese Ambassador, June 18.

5. Arrangements to be made among Japan, the United States and The Netherlands for the regulation of their connecting cable services at Yap.

6. Japan to lay a cable between Naba and Shanghai, which is to be connected with the existing Yap-Naba section, so as to establish Yap-Naba-Shanghai services; the means of connection between the Yap-Naba section and the Naba-Shanghai section to be determined by Japan, having in view the promotion of facilities of communication.

7. The Shanghai end of the Yap-Naba-Shanghai cable to be brought in to the Japanese Telegraph Office at Shanghai, which will undertake the receiving and delivery of messages passing over said cable; provided, however, that with regard to messages emanating from or destined to the Great Northern Telegraph system, suitable arrangements will be made between the Japanese Telegraph Administration and the Great Northern Telegraph Company for the transmission of such messages.

8. The operation by the United States or by The Netherlands of its own cable at Yap to be free from all taxation or control at the hands of the local authorities.

9. The Principal Allied and Associated Governments jointly to communicate with The Netherlands, China and the Great Northern Telegraph Company, in order to secure the necessary consent of each of these parties to the terms of the present arrangement in which such parties are respectively interested.

8621.01/154½

Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador (Shidehara), August 19, 1921

The Secretary handed to the Ambassador the annexed memorandum which was read and amplified merely by emphasizing different points of the text. The Ambassador called attention to the fact that he had left two memoranda, one containing the quotation on the first page of the annexed memorandum, and the other relating to the allocation of the German cables. The Secretary said that there was no objection to the allocation of the German cables in the manner suggested, provided other matters were satisfactorily adjusted.

Referring to the final paragraph on page 3 of the memorandum, the Ambassador asked whether it was proposed to have a convention before there was a communication with the Netherlands, China and the Great Northern Telegraph Company, as stated in paragraph 9 of the memorandum of the Japanese Ambassador, which was quoted.

The Secretary said that he was not attaching first importance to any matter of procedure; that in view of the position taken by the United States in the Yap note, he supposed that it would be desirable that the legal situation should be cleared up; that this could appropriately be done by a Convention between the Principal Allied and Associated Powers in whose favor Germany had renounced her title and interest in the Island of Yap; that it seemed desirable that this Convention should contain the provisions regarding the privileges of communication, etc., and proceed along the lines of the attached memorandum; and that having entered into this Convention there would be proper communication or if desired an agreement with the Netherlands, China and the Great Northern Telegraph Co. in the sense of the paragraph to which the Ambassador referred. Referring to sub-division A of the first paragraph of the first page of the memorandum, the Ambassador asked whether reference was made to those who would be employed and who would reside on the Island in connection with the cable station; that is, whose residence there would be pertinent to the operation of the cable.

The Secretary said that he supposed that in view of the characteristics of the Island there was no prospect of any commerce and that there was no danger of any influx of Americans to live in such a climate where there was no trade and nothing to be produced. It was assumed that no one would go there for residence except in connection with the cable operation, but that it was advisable that there should be no unnecessary restriction; in other words that there should be no basis for a claim on the part of Japan to regulate the number of employees or the number of persons who would be accorded the right of residence. The Secretary thought that in view of the conditions which obtained at Yap, the right of residence and acquisition of property could be freely accorded without restriction. The Ambassador said that he understood that all this related to the operation of cables and the Secretary said also that he assumed that that was the business which would lead to the residence of Americans upon the Island.

The Ambassador referred to Sub-Division F; that is the provision on page 2 of the memorandum, with respect to taxes, port, harbor or landing charges, etc. to be exacted. The Ambassador asked with respect to taxes upon income and property of foreigners who might be on the Island, but who had nothing to do with the cable. The Secretary referred to the population, saying that he understood there were about 100 foreigners of whom 70 were Japanese and repeated that he did not understand there was any investment there that amounted to anything or any lucrative employment. On further inquiry from the Ambassador as to taxes and the broad statement as to property, persons or vessels to which the Ambassador seemed to attach considerable importance, in view of the possibility that those other than Japanese

might reside on the Island and be in business there apart from cable operation, the Secretary said that he desired to safeguard two points:

(1) that there should be no burden upon the operation and use of the cables and what was so pertinent thereto, the establishments and residences necessary, the furnishing of supplies for those resident or employed and the repairs, etc.; and

(2) that in addition to the freedom of the cable establishments and operations, there should be no discriminatory exactions of any sort.

The Secretary called particular attention to radiotelegraphic service and the reasons therefor, amplifying the statements contained in the memorandum in this regard but in the same sense. The Ambassador expressed no objection to this.

The Ambassador, however, did not commit himself, but requested an opportunity for consideration and took the memorandum with him.

[Annex]

The Department of State to the Japanese Embassy

WASHINGTON, [August 19, 1921.]

MEMORANDUM

Tentative draft submitted by Japanese Ambassador has the following:

"It is agreed that the United States shall have free access to the Island of Yap on the footing of entire equality with Japan or any other nation, in all that relates to the landing and operation of the existing Yap-Guam cable or of any cable which may hereafter be laid by the United States or its nationals."

Comments:

First. It is understood that this would involve and that the formal agreement would include

(a) Rights of residence without restriction; and rights of acquisition and enjoyment and undisturbed possession, upon a footing of entire equality with Japan or any other nation or their respective nationals of all property and interests, both personal and real, including lands, buildings, residences, offices, works and appurtenances.

(b) No permit or license to be required for the enjoyment of any of these rights and privileges.

(c) Each country to be free to operate both ends of its cables either directly or through its nationals including corporations or associations.

(d) No cable censorship or supervision of operation or messages.

(e) Free entry and exit for persons and property.

(f) No taxes, port, harbor or landing charges, or exactions, either with respect to operation of cables or to property, persons or vessels.

(g) No discriminatory police regulation.

Second. Radiotelegraphic Service. It is recognized that the Japanese Government should maintain wireless (radiotelegraphic) service between Yap and Japan, and also that it may be impractical to maintain more than a single wireless station upon the Island of Yap without an impairment of efficiency through mutual interference.

On the other hand, the equality of right with respect to all electrical communication should be recognized and the same rights and privileges should be accorded to the United States and its nationals with respect to radiotelegraphic service as with respect to cables.

It would be agreeable, however, to have an agreement that so long as the Japanese Government should maintain on the Island of Yap an adequate radiotelegraphic station, cooperating effectively with the cables and with other radio stations on ships and shore, without discriminatory exactions or preferences, the exercise of the right to establish radiotelegraphic stations at Yap by other governments or nationals should be suspended.

The memorandum as to the allocation of cables submitted by the Japanese Ambassador contains the following:

"9. The Principal Allied and Associated Governments jointly to communicate with The Netherlands, China and the Great Northern Telegraph Company, in order to secure the necessary consent of each of these parties to the terms of the present arrangement in which such parties are respectively interested."

Comment:

First. There should be an appropriate convention between the Principal Allied and Associated Powers to embody the above provisions. Such convention should also contain suitable provisions relating to administration, such as are found in Articles 3, 4 and 5 of the mandate purporting to have been granted on behalf of the Principal Allied and Associated Powers, but to which the United States has not agreed. It should also contain provisions for extradition and expropriation of property.

8621.01/173

The Japanese Embassy to the Department of State

MEMORANDUM

1. On the subject of the rights, privileges and exemptions to be enjoyed by the United States or its nationals in the Island of Yap, the Japanese Government are happy to find that the Comments made by the Secretary of State in his Memorandum of August 19, under the first heading, from (a) to (g) inclusive, and under the second heading relative to radiotelegraphic service, are substantially acceptable to Japan: it being understood that such rights, privileges and exemptions therein indicated are intended to refer only to those that are essential to the service of electrical communication in the Island.

2. As a due and practical course of procedure to be followed in the actual situation for an early adjustment of this phase of the problem, it is submitted that a Convention or Agreement be concluded between Japan and the United States, providing for the right of the United States to have free access to the Island of Yap for purposes of electrical communication on the line suggested in the Memorandum of the Japanese Ambassador of June 18, and assuring further the rights, privileges and exemptions bearing on the same subject as indicated in the Comments under the first and second headings of the Memorandum of the Secretary of State of August 19.

3. The Japanese Government proceed on the assumption that upon these rights of the United States being recognized by Japan, there will be no objection on the part of the American Government to the assignment to Japan of the Mandate for the Island of Yap or for any of the former German possessions in the Pacific lying north of the Equator. It is the desire of the Japanese Government that this understanding be recorded either in the proposed Convention or Agreement to be concluded, or in supplementary Notes to be exchanged, between the two Governments.

4. With regard to arrangements for the disposition of the former German cables in the Pacific, it is well understood that such arrangements cannot, in the nature of things, take effect without common accord of all the Five Powers. The Japanese Government are therefore prepared to agree that a Convention or Agreement be concluded among the Five Powers, embodying in substance the terms of adjustment suggested in the Memorandum of the Japanese Ambassador of June 18, (from Paragraph 1 to Paragraph 9 inclusive, of the Memorandum).

5. Reference is made in the concluding paragraph of the Memorandum of the Secretary of State of August 19, to the need of provisions for extradition and expropriation of property. It would seem that the question of extradition will be covered by the existing Extradition Convention between Japan and the United States³⁷ which is naturally to apply to the Island of Yap. With regard to the question of expropriation, if the suggestion is intended to establish exemption, from the process of expropriation, of all American property used for purposes of electrical communication in the Island, the Japanese Government will be ready to agree to such an exemption. Again, if it is contemplated that the Government or telegraph companies of the United States, in establishing their station of electrical communication on the Island, may find it necessary to resort to expropriation proceedings in order to procure land or other property required for such purposes, the Japanese Government will be willing

³⁷ Extradition treaty of Apr. 29, 1886, and supplementary extradition convention of May 17, 1906, Malloy, *Treaties*, vol. I, pp. 1025 and 1039, respectively.

to give an assurance that they will offer every possible facility and co-operation in placing the needed property at the disposal of the United States. In any case, neither the question of extradition nor that of expropriation is likely to give rise to actual difficulties, and the Japanese Government would prefer omission in the proposed Convention or Agreement, of provisions for these matters which are apparently of little practical importance, and which call for considerations of involved legal technicality.

WASHINGTON, *September 8, 1921.*

8621.01/173

The Secretary of State to the Japanese Ambassador (Shidehara)

MEMORANDUM

1. The Secretary of State has the honor to acknowledge the receipt of the Memorandum of the Japanese Ambassador under date of September 8, and is gratified to find that the comments in the Secretary's Memorandum of August 19, under the first heading, from (a) to (g) inclusive, and under the second heading relative to radiotelegraphic service, upon the Memorandum of the Japanese Ambassador of June 18, 1921, are substantially acceptable to Japan, it being understood that the rights, provisions and exemptions indicated in those comments are intended to refer only to those that are essential to the service of electrical communication in the Island of Yap.

2. The United States has not sought privileges in the Island of Yap to the exclusion of the other Principal Allied and Associated Powers; it is recognized however that, although the United States has not agreed to the Mandate to Japan, the others of those Powers have given their assent thereto; and in the absence of representations from these Powers, which might be taken to indicate a contrary view, in answer to the identic note addressed to them by this Government in April last,³⁸ there is no ground for objection to the making of a Convention or agreement between Japan and the United States with respect to the Island of Yap, as stated in Paragraph 2 of the Japanese Ambassador's Memorandum of September 8, 1921.

3. With respect to the other islands or former German possessions in the Pacific lying north of the Equator, comment is made below, in paragraph 6.

4. It is recognized that arrangements for the disposition of the former German cables in the Pacific should be made by a convention or agreement to be concluded among the five Principal Allied and Associated Powers.

³⁸ See telegram no. 61, Apr. 2, 1921, to the Chargé in Japan, p. 279.

5. It is understood that the existing extradition conventions between Japan and the United States will apply to the Island of Yap, but it is deemed advisable to insert a clause to this effect in the proposed convention between Japan and the United States.

With respect to the question of expropriation, it is understood that the American property and facilities for the purpose of electrical communication in the Island will be exempt from the process of expropriation. In order, however, that needed property and facilities for such communication may be had, it is desired that, if they cannot be otherwise obtained, the Japanese Government shall agree to use its power of expropriation for this purpose. It is assumed, in the light of the fact that such action would be for the purpose of carrying out the agreement between Japan and the United States, that it could be regarded as a public purpose with respect to Japan; and that there will be little difficulty in agreeing upon a proper clause to that effect in the proposed convention.

6. There remain for consideration the questions which relate to the other islands in the Pacific, lying north of the Equator, which were formerly possessed by Germany.

The assumption that there will be no objection on the part of the United States to the assignment to Japan of a mandate for these islands is true in a qualified sense, that is, there will be no objection in case an agreement is reached with respect to the additions to, or qualifications of, the Mandate, which are deemed necessary to give suitable protection to the interests of the United States. Appropriate provisions to cover these points may be incorporated in the same Convention which will contain the proposed stipulations as to Yap. The points deemed to be important are these:

(a) As the United States is not a member of the League of Nations or a party to the Mandate, there should be a general provision in the Convention that the United States should have the benefit of the engagements set forth in the Mandate.

(b) In Article 5 of the Mandate, reference is made to "nationals of any State, member of the League of Nations." There should be suitable provision in the Convention that missionaries who are nationals of the United States should have similar privileges. In the same Article, it is stated that the privileges of missionaries are "for the purpose of prosecuting their calling." There is some ambiguity in this, and in order to protect the philanthropic and educational work of missionaries it is suggested that schools should be mentioned as in Article 8 of the British "B" Mandate for German East Africa.

(c) The Secretary of State has proposed that provisions similar to those of Article 7 of the British "B" Mandate for East Africa should be inserted in all "A" and "B" Mandates, prohibiting monopolistic concessions by the Mandatory or the monopolizing of natural re-

sources by the Mandatory itself; and considers that the same principle should apply to all "C" Mandates. While he is not at liberty to waive that principle, he nevertheless feels that, in view of the paucity of existing or potential economic resources in the former German Islands north of the Equator, there would appear to be no occasion to insist upon the insertion in the Convention of any provision expressly making this principle applicable to these Islands.

(d) It is desired that there should be contained in the Convention a statement that the treaties between the United States and Japan now in force should apply to the mandated islands, and that, in view of the special provisions of the terms of the Mandate, the citizens and vessels of the United States should have free access to all waters of the mandated territories save as it may from time to time be necessary to close temporarily any place or port to quarantined vessels.

(e) It is also desired that there should be a provision that vested American property rights will be maintained and respected.

The mandate in its present form could easily be recited in the Convention, and the provisions indicated above might thereafter be inserted in appropriate clauses of the Convention.

It is understood that the administration by Japan of the mandated islands will be subject to the Convention with the United States, and that the terms of the Mandate which are recited in the Convention and of which the United States is to have the benefit will not be modified without the express consent of the United States. It is also desired that, as the United States is not a member of the League of Nations, a report will be made to the United States similar to that which is to be made by Japan to the Council of the League of Nations, as provided in Article 6 of the Mandate.

WASHINGTON, *September 15, 1921.*

8621.01/174

The Japanese Embassy to the Department of State

1. Under heading (b) of Paragraph 6 of the Memorandum of the Secretary of State dated September 15, on the question of Yap, a suggestion is made that the provisions relating to missionaries in the proposed Convention or Agreement between the United States and Japan should contain express reference to schools as in Article 8 of the British "B" Mandate for German East Africa. It is presumed that it will be agreeable to the American Government to embody in such provisions a clause similar to that which is found in Article 8 of the British "B" Mandate above mentioned, recognizing the right of the Mandatory "to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control."

2. Under heading (*d*) of Paragraph 6 of the same Memorandum, it is stated that "the citizens and vessels of the United States should have free access to all waters of the mandated territories save as it may from time to time be necessary to close temporarily any place or port to quarantined vessels." It is presumed that this proposal is not intended to deny the universal practice prohibiting the loading or unloading of cargo by vessels engaged in foreign trade, except at specified ports of entry which are opened to foreign commerce and in which customs authorities are established.

WASHINGTON, September 22, 1921.

800.01 M 31/93b

The Secretary of State to the Japanese Ambassador (Shidehara)

MEMORANDUM

1. The Secretary of State is in full accord with the suggestion (in the first paragraph of the Memorandum of the Japanese Ambassador of September 22nd) that the provisions relating to missionaries in the proposed Convention between the United States and Japan should contain, in addition to express reference to schools as in Article 8 of the British "B" Mandate for East Africa, a clause similar to that which is found in the concluding paragraph of the same Article 8. The Secretary of State suggests, so as to meet both points, that the second and third paragraphs of Article 8 of the British "B" Mandate for East Africa should be incorporated in the proposed Convention, as follows:

"Missionaries of all such religions shall be free to enter the territory, and to travel and reside therein, to acquire and possess property, to erect religious buildings, and to open schools throughout the territory.

"The Mandatory shall, however, have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control."

2. In regard to the interpretation of the provision granting free access to all waters of the mandated islands, the Secretary is happy to state that he concurs in the construction proposed (in the second paragraph of the Memorandum) so far as is necessary to safeguard the collection of the customs revenues. It is therefore suggested that, when the Convention shall be signed, the clause providing that "the citizens and vessels of the United States should have free access to all waters of the mandated territories save as it may from time to time be necessary to close temporarily any place or port to quarantined vessels", shall be clarified by an exchange of notes setting forth the understanding that this provision in the Convention should

be construed to mean that, at those ports or islands where there are no Japanese Customs officials, American vessels may load or unload cargo only under such reasonable regulations as the Japanese Government may enact for the purpose of assuring the due collection of the customs revenues from the trade so conducted.

WASHINGTON, September 28, 1921.

800.01 M 31/94

The Japanese Embassy to the Department of State

MEMORANDUM

1. In continuation of the subject relating to the Island of Yap and to the other mandated islands lying north of the Equator, the Japanese Government have carefully considered the Memorandum of the Secretary of State dated September 15, 1921, and are gratified to note that the positions of the two Governments on the subject are now brought considerably closer to each other.

2. With regard to Paragraph 5 of the Secretary's Memorandum under review, the Japanese Government have no objection to the insertion, in the proposed American-Japanese Convention, of a clause to the effect that the existing Extradition Conventions between Japan and the United States shall apply to the Island of Yap. They are further ready to agree that they will use their power of expropriation to secure to the United States needed property and facilities for the purpose of electrical communication in the Island, if such property or facilities cannot otherwise be obtained. It is understood that the location and area of land to be so expropriated shall be arranged each time between the two Governments, according to the requirements of each case.

3. Nor have the Japanese Government any objection to the proposals contained under headings (a) and (b) in Paragraph 6 of the Secretary's Memorandum, respecting provisions securing to the United States the benefit of the engagements set forth in the Mandate, and also guaranteeing certain privileges of missionaries.

4. Turning to the proposals under heading (d) of the same Paragraph with regard to the applicability of all existing treaties between Japan and the United States, and to the right of American citizens and vessels to have free access to all waters of the mandated territories, the Japanese Government are of the opinion that the acceptance of such proposals will practically lead to the recognition, in essential particulars, of the principle of equal opportunity for all nations. It will virtually imply that foreign nationals and vessels shall have access, on the same terms as Japanese, to the territories and

territorial waters committed to Japan's charge. Japan is ready and willing to agree to the application of the principle of equal opportunity to the territories under her Mandate, provided that the other Mandatories of C class shall likewise agree to extend equal treatment to all nations in the territories under their respective Mandates. She feels that she cannot in fairness be called upon, independently of the rest, to accept the arrangement by which the principle in question is to be put into effect only in her mandated territories, while it is denied in other territories of C Mandates.

5. It is proposed in the last Paragraph of the Memorandum of the Secretary of State that the terms of the Mandate which are to be recited in the proposed Convention between the United States and Japan, and of which the United States is to have the benefit shall not be modified without the express consent of the United States. The Japanese Government understand it to be the meaning of this proposal that nothing contained in the new American-Japanese Convention shall be affected by any modification which may be made in the terms of the Mandate recited in the Convention, unless and until such modification shall have been expressly consented to by the United States. They are prepared to accept the insertion of a provision in this sense.

6. Finally the Secretary's Memorandum suggests that Japan shall make an annual report to the United States similar to that which she is to make to the Council of the League of Nations. It is presumed to be the intention of the American Government to make a similar suggestion to all the Mandatories, and the Japanese Government, while fully appreciating American points of view, do not feel themselves at liberty at this moment to enter into any binding engagement in the matter, apart from and in advance of other nations similarly placed. They are quite willing to take up the question with all the Powers interested; but having regard to the desirability of an early conclusion of the proposed American-Japanese Convention, they desire that specific reference to the question of annual report regarding the Mandate will be withheld in the Convention.

WASHINGTON, *October 17, 1921.*

800.01 M 31/94

The Department of State to the Japanese Embassy

MEMORANDUM

While noting with pleasure that the memorandum of the Japanese Embassy under date of the 17th instant, in reference to the island of Yap and other mandated islands north of the Equator, indicates a concurrence in other respects with the views of the American Gov-

ernment, it is nevertheless noted with regret that there is an important divergence with respect to the two points hereinafter set forth.

1. In paragraph 4 of the Embassy's memorandum it is indicated that the Japanese Government finds difficulty in accepting the proposal that the existing treaties between the United States and Japan should apply to the islands over which Japan seeks to exercise a mandate, as it would "practically lead to the recognition, in essential particulars, of the principle of equal opportunity for all nations"—a principle which Japan would be ready and willing to apply, provided that other Class "C" mandatories should adopt the same principle.

The Government of the United States cannot but feel that this view rests upon a confusion between two ideas which, whatever their points of similarity, are essentially distinct. The question of equality of opportunity is not in fact at issue. Save as the interests of the United States may be involved, it is not for this Government to discuss the terms or the effect of the understanding upon which Japan accepted the mandate of December 17, 1920, for the islands north of the Equator; nor does this Government feel warranted in expressing any opinion as to the view, implied in paragraph 4 of the memorandum, that other nationalities might become entitled to such advantages in the islands as are claimed by this Government by virtue of its treaties with Japan. The Government of the United States can view the question only in the light that, being itself one of the Principal Allied and Associated Powers from which Japan is to derive the right of administration, it cannot consent that in treating these islands for the purpose of administration as integral portions of the territories of Japan, the Japanese Government should deny to the United States such benefits of the reciprocal treaty provisions between the two countries as would have accrued to this Government in the event of the islands having been acquired by Japan independently of any American interest in the title thereto.

The Government of the United States therefore finds itself constrained to reiterate the desire, expressed in paragraph 6 (*d*) of the Secretary's memorandum of September 15 last, that there should be contained in the proposed Convention a statement that the treaties in force between the United States and Japan should apply to the islands in question, and that the citizens and vessels of the United States should have free access to all waters of the mandated territories save as it may from time to time be necessary to close temporarily any place or port to quarantined vessels—this clause to be clarified, if desired by the Japanese Government, by such an exchange of notes as was suggested in paragraph 2 of the Secretary's memorandum of September 28 last, setting forth the understanding that

this provision should be construed to mean that, at those ports or islands where there are no Japanese customs officials, American vessels may load or unload cargo only under such reasonable regulations as the Japanese Government may enact for the purpose of assuring the due collection of the customs revenues from the trade so conducted.

2. In paragraph 6 of the Embassy's memorandum it is requested that specific reference to the question of transmitting to the Government of the United States an annual report regarding the mandate be withheld in the Convention, the Japanese Government not feeling itself at liberty to enter into any binding engagement in the matter apart from and in advance of other nations similarly placed. While it may be remarked that it is, as surmised in the Embassy's memorandum, the intention of this Government to make a similar suggestion to all the mandatories, the American Government cannot perceive that the settlement of that point, rather than any of the other matters concerning the mandate which the Japanese Government has found appropriate for adjustment in the present direct negotiations between the United States and Japan, should require reference to the other mandatory Powers.

Inasmuch therefore as the Japanese Government has indicated its acceptance of the principle that the United States should have the benefit of the engagements set forth in the Mandate, the Government of the United States thinks it proper that, in the event of its assenting to the administration by the Japanese of the islands in accordance with the terms of the Convention it should be placed in a position not inferior to that of the other Principal Allied and Associated Powers which under the terms of the mandate are to receive an annual report submitted through the Council of the League, by having addressed to it by the Japanese Government a duplicate of such report.

WASHINGTON, *October 18, 1921.*

8621.01/158½

*The Japanese Embassy to the Department of State*⁴⁰

The American and Japanese Delegations⁴¹ to invite the British Delegation to a joint conference in order to discuss the following points relating to C. Mandates:

(1) Application to such mandated territories of all existing treaties to which the Mandatories are parties; also recognition of the

⁴⁰ Marginal note by the Chief of the Division of Far Eastern Affairs, Department of State: "Handed to Secretary by Mr. Saburi, of Japanese Embassy, December 2, 1921—File. MacM[urray]."

⁴¹ Presumably the delegations to the Conference on the Limitation of Armament, which opened at Washington Nov. 12, 1921.

right of foreign nationals and vessels to have free access to all waters of such territories.

(2) Submission to the United States of a duplicate of an annual report to be made by the Mandatories to the Council of the League of Nations.

8621.01/158½

The Secretary of State to the Japanese Ambassador (Shidehara)

Referring to the Japanese Memorandum of December 2nd, the Secretary of State suggests that there would seem to be no occasion for a meeting of the Japanese and American Delegations with the British Delegation for the purpose of conferring upon matters heretofore dealt with directly between the American and Japanese Governments, and which there would appear to be no reason for bringing before the Conference at this time. The Secretary of State would have no objection to taking up these points with representatives of the British Government if this seemed to be advisable, but it would appear that the British Government has no interest in the matters relating to the islands in question which remain for consideration by the American and Japanese Governments and can easily be adjusted between them.

Before taking up the points in the Japanese Memorandum of December 2nd, the Secretary of State desires to state his understanding upon two matters which are not specifically mentioned, but as to which there would appear to be no difference of opinion: (1) the insertion in the proposed convention of a provision that vested American property rights will be maintained and respected, to which reference is made in the Secretary's Memorandum of September 15th; and (2) the inclusion of the second and third paragraphs of Article 8 of the British "B" Mandate for East Africa, mentioned in the Secretary's Memorandum of September 28th. It is assumed that the suggestions heretofore made by the Secretary of State regarding these items are acceptable.

Coming then to the two points presented in the Japanese Memorandum, the Secretary of State would make the following comments:

1. The situation of the islands south of the Equator is not analogous to that of the islands in question. The United States has no commercial treaties which apply to Australia and New Zealand, and the information in its possession leads it to the belief that Japan has none. There can be no question regarding the extension of any existing American or Japanese treaties to mandated islands south of the Equator. The sole issue between the United States and Japan, in-

volved in the proposal to recognize in the mandated islands the treaties existing between the two countries, is whether the treaty obligations of the Japanese Government are to be deemed less binding in the islands in question, which are to be under the administration of Japan, than in the territories which it possesses in full sovereignty.

Assuming that American nationals and vessels may be assured of the usual comity in visiting the harbors and waters of the islands in question, the United States will not insist upon any special arrangement upon the matter, if the treaties of the United States with Japan are recognized as applicable to these islands. Should it be desired by the Japanese Government, the Secretary of State would be willing to give a note, at the time of the signing of the Convention, stating that if in the future the United States should have occasion to make any commercial treaties applicable to Australia and New Zealand, it would seek to obtain such an extension of them as would include the islands south of the Equator.

2. With respect to the annual report, there would seem to be no reason why the United States should not receive a duplicate, as proposed. While the United States is not a member of the League of Nations, it is to be hoped that the Japanese Government will recognize that this Government is no less entitled to consideration than are the members of the League.

WASHINGTON, *December 5, 1921.*

8621.01/158

The Japanese Ambassador (Shidehara) to the Secretary of State

MEMORANDUM

In reply to the Memorandum of the Department of State dated December 5, 1921, on the subject of mandated islands north of the Equator, the Japanese Ambassador has been authorized by his Government to make the following communication:

(1) The Japanese Government are now ready to apply to the Japanese mandated islands north of the Equator all the existing commercial treaties between Japan and the United States. On the other hand, availing themselves of the offer contained in the Memorandum of the State Department under review, they desire that, at the time of the signing of the proposed Convention, the Secretary of State may be so good as to give a note stating that if in the future the United States should have occasion to make any commercial treaties applicable to Australia and New Zealand, it would seek to obtain an extension of such treaties to the mandated islands south of the Equator.

(2) The Japanese Government are much gratified to note that the United States will not insist upon any special arrangement in the matter of the freedom of access, by American nationals and vessels, to the harbors and waters of the Japanese mandated islands. They are quite willing, on their part, to extend to American nationals and vessels the usual comity in visiting such harbors and waters, it being assumed that it is not the intention of the American Government to include this assurance in the new Convention.

(3) The Japanese Government are further prepared to undertake, as suggested by the American Government, that they shall transmit to the United States a duplicate of the annual report to be made to the League of Nations regarding the mandate. In accepting the suggestion, they hope that it will be agreeable to the Secretary of State to embody in his proposed note, mentioned in Paragraph (1) of the present Memorandum, a statement setting forth the intention of the American Government, indicated in the second paragraph of the Memorandum of October 19 [18], to make a similar suggestion to all the Mandatories.

With regard to the question of insertion in the contemplated Convention (a) of a provision assuring protection of American vested property rights, and (b) of clauses analogous to the second and third paragraphs of Article 8 of the British "B" Mandates for East Africa, the Japanese Ambassador is happy to confirm the understanding mentioned in the Memorandum of the State Department of December 5, that the suggestions heretofore made by the Secretary of State in the matter are acceptable to the Japanese Government.

Embracing this opportunity, the Japanese Ambassador permits himself to add an expression of his profound gratification in the thought that the long pending question relating to the island of Yap and other mandated islands north of the Equator has thus been satisfactorily adjusted.

WASHINGTON, December 12, 1921.

**AGREEMENT BETWEEN THE UNITED STATES AND JAPAN FOR
THE PROVISIONAL OPERATION OF THE NABA-YAP-GUAM
CABLES**⁴⁵

8621.73/15

The Japanese Embassy to the Department of State

MEMORANDUM

Dislocation has recently taken place in the existing Tokio-Bonin cable at a point near the Bonin Islands, making the duplex system unworkable. Telegraphic service between Japan and the United

⁴⁵ For papers relating to the status of the Island of Yap, see pp. 263-307.

States has thus been seriously impaired. The repairing is urgently needed, especially in view of the coming Conference at Washington,⁴⁶ but owing to unfavorable conditions of weather, it has been found impossible to commence the work before April or May next. As a purely provisional measure to secure communication between Japan and the United States in this anomalous situation, it is now proposed to make use of the Naba-Yap-Guam cable on the following terms:—

1. Until the Tokio-Bonin cable shall have been properly repaired, the Naba-Yap-Guam cable is to be used as its auxiliary line for transmission of messages between Japan and the United States.

2. The work of repairing the Tokio-Bonin cable is to be undertaken immediately upon the improvement of atmospheric conditions in April or May next.

3. The Yap end of the Yap-Guam cable is to be worked by the Japanese Telegraph Administration, and the Guam end by the Commercial Pacific Cable Company as before the war.

4. Particulars relating to the telegraph service are to be directly arranged between the Japanese Telegraph Administration and the Commercial Pacific Cable Company.

5. It is understood that the present arrangement is entirely without prejudice to any ultimate arrangement which may be reached with regard to the disposition and working of the former German cables radiating from Yap.

WASHINGTON, *September 15, 1921.*

8621.73/15

The Secretary of State to the Japanese Ambassador (Shidehara)

The Secretary of State refers to the memorandum of September 15, 1921, with regard to the provisional use of the Naba-Yap-Guam cables, pending the repair of the dislocation which has recently taken place in the existing Tokyo-Bonin cable at a point near the Bonin Islands, which was left by His Excellency the Japanese Ambassador with the Secretary of State and in the desire to meet the wishes of the Japanese Government in the matter, has the honor to suggest that the temporary operation be arranged on the following terms:

1. Pending the repair of the Tokyo-Bonin cable, which shall be undertaken immediately upon the improvement of atmospheric conditions in April or May next, the Naba-Yap-Guam cables shall be used as auxiliaries to the Tokyo-Bonin-Guam cable for the transmission of messages between Japan and the United States.

⁴⁶ Conference on the Limitation of Armament, Washington, Nov. 12, 1921-Feb. 6, 1922.

2. The Naba and Yap ends of the cable are to be operated by the Government of Japan and the Guam end by the Government of the United States.

3. Particulars relating to the cable service are to be arranged directly between the two Governments or between their representatives or agents in charge of the operation of the cables, subject to the approval of the two Governments.

4. The cables shall be operated for the financial account of the five Principal Allied and Associated Powers. In accounting for such operation, the income, after deducting operating expenses, shall be apportioned in accordance with the final disposition to be made of the cables.

5. The consent of the Governments of Great Britain, France, and Italy to the use of the cables, as herein provided, shall be secured.

6. The present arrangement may be terminated upon thirty days notice by either Government to the other.

7. In the event that by joint agreement service should be resumed over the Yap-Menado cable, there shall be joint operation at Yap.

8. The present arrangement is entirely without prejudice to any ultimate agreement which may be reached with regard to the disposition and working of the former German cables radiating from Yap.

WASHINGTON, *September 28, 1921.*

8621.73/16a

The Secretary of State to the Japanese Ambassador (Shidehara)

The Secretary of State, referring to his interview with the Japanese Ambassador this morning, has the honor to state that he is willing to agree to the elimination of Paragraph 7 of his Memorandum of September 28, 1921, with regard to the provisional use of the Naba-Yap-Guam cables, upon the understanding that the elimination of this paragraph shall be deemed to be without prejudice to the making of proper arrangements for the resumption of the service of the Yap-Menado cable, if such resumption shall be desirable, including in that event the operation by the United States of the Yap end of the Yap-Guam cable and suitable arrangements to cover through services at Yap; and also upon the understanding that the said temporary arrangement pending repair of the Tokyo-Bonin cable shall not be deemed to be a reason for postponing the completion and carrying out of the arrangements contemplated by the memoranda which have been exchanged between the Secretary of State and the Japanese Ambassador relating to the Island of

Yap⁴⁷ and the permanent disposition of the former German cables in the Pacific and other matters.

If this is confirmed by the Japanese Ambassador, the Secretary of State will at once communicate with the Governments of Great Britain, France and Italy with respect to the terms of the temporary arrangement as to the use of the Yap-Naba-Guam cable, inviting their concurrence.

WASHINGTON, *October 6, 1921.*

8621.73/16

The Japanese Embassy to the Department of State

MEMORANDUM

The Japanese Government are gratified to learn of the willingness of the Secretary of State to agree to the elimination of Paragraph 7 of his Memorandum of September 28, 1921, setting forth the terms of the provisional use of the Naba-Yap-Guam cables for the transmission of messages between Japan and the United States. They are happy to confirm the understanding on which the elimination of said Paragraph is agreed to by the Secretary of State, as indicated in his Memorandum of October 6. At the same time, the Japanese Government understand on their part that the use of the Naba-Yap-Guam cables contemplated in the present arrangement is only a provisional measure of emergency called for by the unusual congestion of traffic, especially in view of the forthcoming Washington Conference, and that any arrangement which may later be proposed for the resumption of the service of the Yap-Menado cable, pending ultimate agreement on the disposition and working of all the former German cables radiating from Yap, will likewise be of a provisional nature for a similar purpose.

WASHINGTON, *October 12, 1921.*

Executive Order No. 3600, December 24, 1921, Providing for the Provisional Use of the Naba-Yap-Guam Cables

Whereas it is desirable, owing to interruption of the Tokyo-Bonin cable, to provide for the provisional use of the Naba-Yap-Guam cables in view of the importance of rapid communication between Washington and Tokyo on account of the Conference now in session, and

⁴⁷ *Ante*, pp. 287 ff.

Whereas the Governments of the United States and Japan have consented to the temporary operation of the Naba-Yap-Guam cables on the following conditions:

"1. Pending the repair of the Tokyo-Bonin cable, which shall be undertaken immediately upon the improvement of atmospheric conditions in April or May next, the Naba-Yap-Guam cables shall be used as auxiliaries to Tokyo-Bonin-Guam cable for the transmission of messages between Japan and the United States.

"2. The Naba and Yap ends of the cable are to be operated by the Government of Japan and the Guam end by the Government of the United States.

"3. Particulars relating to the cable service are to be arranged directly between the two Governments or between their representatives or agents in charge of the operation of the cables, subject to the approval of the two Governments.

"4. The cables shall be operated for the financial account of the five Principal Allied and Associated Powers. In accounting for such operation, the income, after deducting operating expenses, shall be apportioned in accordance with the final disposition to be made of the cables.

"5. The consent of the Governments of Great Britain, France, and Italy to the use of the cables, as herein provided, shall be secured.

"6. The present arrangement may be terminated upon thirty days notice by either Government to the other.

"7. The present arrangement is entirely without prejudice to any ultimate agreement which may be reached with regard to the disposition and working of the former German cables radiating from Yap."

Whereas the consent of the Governments of Great Britain, France and Italy, mentioned in Paragraph 5 of the above stated conditions, has been obtained;⁴⁸

Whereas the Yap-Guam cable was formerly owned and operated by the Deutsche-Niederlandische Gesellschaft, of Cologne, Germany, and by the Treaty of Versailles and the Treaty of Peace between the United States and Germany, signed August 25, 1921,⁴⁹ the German Government renounced on her own behalf and on behalf of her nationals in favor of the Principal Allied and Associated Powers all rights, titles or privileges of whatever nature in these cables, and negotiations had been carried on, though not yet concluded, with regard to them; and

Whereas the Island of Guam was placed by Executive Order, dated December 23, 1898, under control of the Navy Department, and the Guam end of the cable was sealed during the war upon instructions issued to the Governor of Guam,

Now, therefore, in consideration of the public interest and the urgent need for the temporary use of the Naba-Yap-Guam cables,

⁴⁸ Correspondence not printed.

⁴⁹ *Ante*, p. 29.

the Secretary of the Navy is hereby authorized to make, on behalf of the Government of the United States, the necessary arrangements for the operation of the Guam end of these cables, as provided in Paragraph 3, of the above stated conditions, with a view to reestablishing communication over the aforesaid cables as promptly as possible.

WARREN G. HARDING

8621.73/16

The Secretary of State to the Japanese Ambassador (Shidehara)

The Secretary of State presents his compliments to His Excellency the Japanese Ambassador, and begs to refer to the memorandum from the Japanese Ambassador to Mr. Hughes dated September 15; the memoranda from the Secretary of State to the Japanese Ambassador dated September 28 and October 6; and the memorandum from Baron Shidehara to Mr. Hughes dated October 12, 1921 upon the subject of the provisional use of the Naba-Yap-Guam cables for the transmission of messages between Japan and the United States; as well as to informal conferences which have taken place recently between representatives of the Navy Department and of the Japanese Government, in this regard.

The Secretary of State is informed that as a result of these discussions the conferees are agreed that the Guam end of the Naba-Yap-Guam cables be operated temporarily by the Commercial Pacific Cable Company for the United States Government and that the Yap and Naba ends be operated temporarily by the Japanese Government.

The through commercial rate between San Francisco and Japan will be four francs eighty centimes.

On westbound commercial traffic the Commercial Pacific Cable Company will retain its own proportion of tolls (four francs per word), pay the Navy Department (for the account of the five principal Allied and Associated Powers) 38 centimes per word for Guam-Yap-Naba cable tolls, and pay the Japanese Administration for their proportion, 42 centimes per word, which covers charges for delivery to any point in Japan.

On eastbound traffic the Japanese Government will retain its own proportion of tolls (42 centimes per word), retain 38 centimes per word for the account of the five principal Allied and Associated Powers, and pay the Commercial Pacific Cable Company four francs per word plus forwarding charges from San Francisco to destination in the United States.

The Commercial Pacific Cable Company will account with the Japanese Administration in accordance with recognized procedure for handling cable accounts, and render a monthly report to the Navy Department of the traffic handled over these cables.

The Government rates and press rates over the Guam-Yap-Naba route should be the same as over the present route. The reduction, on account of Government and press rates, in the amount due the Navy on westbound traffic and that due the Japanese Government on eastbound traffic for the account of the five principal Allied and Associated Powers, will be calculated proportionately.

The Secretary of State would be pleased to be informed by Baron Shidehara whether the foregoing is in conformity with his understanding of the agreement arrived at as a result of the informal conferences above mentioned.⁵⁰ In the event that such is the case, Mr. Hughes will hasten to advise the Secretary of the Navy thereof.

WASHINGTON, *January 30, 1922.*

INTEREST OF THE UNITED STATES IN A RENEWAL OF THE ANGLO-JAPANESE ALLIANCE⁵¹

741.9411/118a : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Harvey)*⁵²

WASHINGTON, *June 22, 1921—3 p.m.*

353. For your information only.

The following statement was given out at the Department of State today:

"In view of a despatch of the Associated Press, with respect to the renewal of the Anglo-Japanese Alliance, published this morning to the effect that 'It is understood that the State Department has been kept fully informed of the plans of the British Government, and that it has been given assurances that in the renewal of the treaty every precaution will be taken to guard against the inclusion of anything inimical to American rights,' it is deemed proper to say that the State Department is not informed with respect to the plans of the British Government and has received no assurances in the matter.

"This statement is made to avoid the receiving by the American public of a false impression that the Department has been kept cognizant of the progress of the negotiations."

HUGHES

⁵⁰The Japanese Ambassador confirmed the understanding in a memorandum of Feb. 4 (file no. 862i.73/28).

⁵¹Continued from *Foreign Relations*, 1920, vol. II, pp. 679-686.

⁵²The same to the Chargé in Japan, as no. 98.

741.9411/140½

Memorandum of a Conversation between the Secretary of State and the British Ambassador (Geddes), June 23, 1921

[Extract ⁵⁴]

Anglo-Japanese Alliance. . . . the Ambassador said that his Government was so taken up at present with the Imperial Conference that he supposed they had little time to think of anything else; that he thought it unlikely that any decision would be reached for some time with respect to a renewal of the treaty; that in all probability, while he could not speak definitely for his Government upon the point, the existing treaty would continue for another year and that a notice might be given by the British Government to Japan before July 13, 1921, to that effect; that this would give an opportunity for discussing modifications and determining what action should be taken. The Ambassador stated that there was really nothing more to say with regard to the present state of the negotiations, that he was speaking to the Secretary informally merely to advise him of what was going on, and that really nothing had yet been determined, and that in saying this he, of course, did not desire to close the matter if there was anything the Secretary desired to say in relation to it.

The Secretary said that he had no desire to make any formal representations with regard to a matter which was plainly one between Great Britain and Japan, but that the Ambassador probably was aware that the American people took a very deep interest in the matter. The Secretary said that he was speaking in a personal way and informally; that he thought, as he looked into the future, that there was only one serious source of difficulty in the Far East; that the United States was a cordial friend of Japan and that there were no questions between the United States and Japan which in the Secretary's opinion could not be solved; that this Government had very clear policies in the Far East which had been frequently stated, and he supposed and hoped that Great Britain and the United States had the same view as they appeared to have the same interests; that the policy of this Government had embraced what had been called the "Open Door" policy and the integrity of China, and now in view of existing conditions also embraced the integrity of Russia; that, if the Secretary could speak freely in an informal and confidential way, he felt that if Great Britain and Japan had any arrangement by which Great Britain was to support the special interests of Japan, the latter might be likely, at the instance of the militaristic party, to be led to

⁵⁴ For portion of this memorandum which deals with Mexico, see p. 433.

take positions which would call forth protests from this Government, and that in making such representations this Government might find itself virtually alone; that the making of such representations might be called for by American opinion and yet might be met with considerable opposition in Japan, leading to a state of irritation among the people in both countries; that such a condition of affairs would be fraught with mischief; that if it were true that the policies of Great Britain in the Far East were like our own there should be cooperation between Great Britain and the United States, and it should be possible for the United States to find complete support on the part of Great Britain in their maintenance and execution; that this was not an attitude antagonistic to Japan, but would be in her interests as in the interests of the peace of the world.

The Ambassador said that he was very much interested in what the Secretary said and he was particularly struck with the statement that cooperation would not be antagonistic to Japan and he wondered if it would be possible to have cooperation with Japan,—that is, on the part of the three nations. The Secretary said that he did not think the American people would approve any alliance with any nation or any agreement that could be interpreted as an alliance; that what the Secretary meant by cooperation was the having and maintaining common policies; that if we were agreed in policy there would be no difficulty as to the manner of cooperation in furthering the principles which we held in common.

The Ambassador then asked whether the Secretary would have any objection to his sending a communication to his Government of the substance of what the Secretary had said. The Secretary said that of course what he had said he had meant, and the views he had expressed were the views he held, but that if the Ambassador intended to communicate them to his Government with the idea of their being used to formulate at this time a definite policy, he would like to give the matter further consideration and would advise the Ambassador later; that of course so far as the Secretary had expressed himself with regard to the general question of the renewal of the treaty, he had not the slightest objection to the Ambassador's communicating those views to his Government if he desired to do so.

The Secretary also told the Ambassador that he had been advised that a resolution for the recognition of the Irish Republic would be introduced in Congress; that the resolution in the Secretary's opinion would not pass but that it would be debated; that undoubtedly in the debate any relation between Great Britain and Japan could be seized upon by the enemies of Great Britain as indicating an attitude of dis-

regard of what were believed to be the interests of this country, and would be made the most of, while action on the part of Great Britain indicating a desire to support the policy in the Far East to which this Government was committed, would give great aid and comfort to those who were opposing such a resolution.

741.9411/141½

Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador (Shidehara), June 30, 1921

The Japanese Ambassador stated that he had called merely to present a proposed statement which he desired to make public, with respect to the renewal of the Anglo-Japanese Alliance, in case the Secretary had no objection; that his Government had instructed him not to publish it if there was objection. The Ambassador then handed the attached statement to the Secretary who read it. The Secretary said that he would not undertake to interpose any objection to the publication of the statement; he would like to have it clearly understood that the statement if made public by the Ambassador was to be made exclusively on his own responsibility and not with the concurrence of this Government; this Government did not desire to make any statement regarding the publication or to assume any responsibility whatever in the matter. With this understanding the Secretary had no objection.

[Annex]

*Statement by the Japanese Ambassador (Shidehara)*⁵⁵

Negotiations looking to the renewal of the Anglo-Japanese Alliance have not yet begun. In the meantime, a campaign seems to be actively at work misrepresenting the possible effect of the Alliance upon the United States. By no stretch of the imagination can it be honestly stated that the Alliance was ever designed or remotely intended as an instrument of hostility or even defense against the United States.

The Anglo-Japanese Alliance, in its history for nearly twenty years, has twice been renewed. In each case, the fundamental policy underlying it has remained unchanged. It aims permanently to preserve and to consolidate the general peace of the Far East. The original Agreement of 1902, in line with that policy, was calculated

⁵⁵ The statement appeared in the *New York Times* of July 4, 1921.

to localize any war which might be forced upon either Contracting Party in defense of its defined interests or vital security. It was made when China was under menace of foreign aggression; and the United States, showing the utmost friendliness towards both parties to the Alliance, viewed the compact with sympathy and approval.

In 1905, when the Alliance was renewed and revised to meet the changed conditions that followed the Russo-Japanese war, no thought occurred to the statesmen of either country that the United States might possibly become a potential enemy of either, and for that reason, and that alone, no provision was inserted taking so remote a contingency into consideration.

The Alliance was again revised in 1911, and Article IV of that Agreement contains the following provision:

“Should either High Contracting Party conclude a treaty of general arbitration with a third Power, it is agreed that nothing in this Agreement shall entail upon such Contracting Party an obligation to go to war with the Power with whom such treaty of arbitration is in force.”

This provision, in its relation to the United States, has often been made the subject of conflicting interpretations. To a practical mind, however, the circumstances which led up to its inclusion should at once serve to remove all doubt regarding its significance. The idea of revising the Alliance in 1911 was conceived primarily with the object of facilitating the negotiations which were known to be then in progress between London and Washington for the conclusion of a general arbitration treaty. Neither Japan nor Great Britain has ever contemplated, under the Alliance, any *casus foederis* prejudicial or inimical to the interests of the United States; and any plan designed to remove the possibility of an armed conflict between the United States and Great Britain was of course agreeable to Japan. It was in pursuance of this policy that the quoted provision of Article IV was adopted.

The same policy inspires Japan as strongly today as ever before. It has not, in any degree, been affected by the fact that the Anglo-American general arbitration treaty⁵⁶ failed to secure the approval of the United States Senate. Nor is it practically necessary to carry on the legal analysis of the question as to whether the Peace Commission Treaty, signed and ratified by the United States and Great Britain in 1914,⁵⁷ should be construed as a general arbitration treaty within the meaning of Article IV of the Anglo-Japanese Agreement. For, apart from that question, it was already well understood at the

⁵⁶ Signed Aug. 3, 1911; for text, see S. Doc. 98, 62d Cong., 1st sess., p. 47.

⁵⁷ *Foreign Relations*, 1914, p. 304.

time of negotiating the existing Agreement that the Alliance should in no case be directed against the United States.

In explanation of Japan's attitude, Count Uchida, the Japanese Foreign Minister, made the following statement to the Budget Committee of the Japanese House of Representatives on February 4, 1921.

"As far as I understand, when Article 4 of the treaty (Anglo-Japanese Alliance) was inserted, the United States was specifically in mind, and therefore, as a practical matter, the question whether the general arbitration treaty mentioned in Article 4 has been ratified by the United States Senate or not makes no particular difference. In other words, looking at the matter from a broad point of view, we can safely say that already at the time of the conclusion of the treaty (Anglo-Japanese Alliance) it was understood that there should be no application of this treaty to the United States."

Japan is naturally anxious to strengthen the ties of friendship and loyal co-operation between herself and the British Empire, which she regards as of the utmost importance to the stability of the Far East. At the same time, it is the firm and fixed determination of Japan to permit nothing to hamper her traditional relations of good will and good understanding with the United States. She is satisfied that these two affiliations are in no way incompatible, but, on the contrary, complementary and even essential to each other.

Charges have sometimes been made that the Alliance tends to encourage aggressive designs on the part of Japan in China. If this were the case, it would be contrary to the preamble of the Agreement, which provides for,

"The preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China."

Japan fully realizes that any such venture of aggression would be not only hopeless of attainment but destructive of her own security and welfare. She sincerely wishes for China an early achievement of peace, unity and stable government. She desires to cultivate her relations with that country along the path of mutual respect and helpfulness. Her vast commercial interests alone, if for no other consideration, point unmistakably to the wisdom of such a policy. This is a basic principle of the Anglo-Japanese Alliance. In no adverse direction has the Alliance ever exerted its influence.

741.9411/145 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

Tokyo, July 12, 1921—6 p.m.

[Received 10:18 p.m.]

243. My 232, July 6, 6 p.m.⁵⁸ Foreign Office issues following:

"With reference to the notification of July 8th, 1920, which the Governments of Great Britain and Japan jointly made to the League of Nations⁵⁹ on the subject of the Anglo-Japanese Alliance agreement the two Governments further addressed to the League the following joint notification under the date of July 7th.

'Whereas the Governments of Great Britain and Japan informed the League of Nations in their joint notification of July 8th, 1920, that they recognized the principles that if the Anglo-Japanese Alliance agreement of July 13th, 1911, is continued after 1921, it must be in a form which is not inconsistent with the Covenant of the League; they hereby notify the League, pending further action, that they are agreed that if any situation arises whilst the agreement remains in force in which the procedure prescribed by the terms of the agreement is inconsistent with the procedure prescribed by the Covenant of the League of Nations then the program [*procedure*] prescribed by the said Covenant shall be adopted and shall prevail over that prescribed by the agreement.'

BELL

CONVERSATIONS AT WASHINGTON REGARDING ALLEGED DISCRIMINATIONS AGAINST JAPANESE NATIONALS IN THE UNITED STATES⁶⁰

811.5294/230

The Japanese Embassy to the Department of State

MEMORANDUM

The Alien Land Law recently adopted in California through the initiative process came into force on December 9, 1920. In so far as it concerns the position of aliens ineligible to American citizenship, it is obviously calculated to add to the rigor and acerbity of discrimination characterizing the cognate statute of 1913.⁶¹

It will be recalled that the California enactment of 1913 gave rise to a formal protest of the Japanese Government,⁶² as being in its manifest intent repugnant to all principles of fairness and justice,

⁵⁸ Not printed.⁵⁹ See telegram no. 364, July 26, 1920, from the Chargé in Japan, *Foreign Relations*, 1920, vol. II, p. 685.⁶⁰ For previous correspondence concerning Japanese nationals in the United States, see *ibid.*, vol. III, pp. 1 ff.⁶¹ Act of May 19, 1913, of the State of California, *ibid.*, 1913, p. 627.⁶² See *ibid.*, pp. 629 ff., and 1914, pp. 426 ff.

and disregarding of the letter as well as the spirit of the existing treaty between Japan and the United States.⁶³ These objections apply to the new law of 1920 with still greater force and cogency, and the Japanese Government are unable to conceal from themselves the sad disappointment with which they view the adoption of that measure. They are moreover apprehensive that California, by such acts of glaring discrimination against Japanese, has blazed a wrong trail in legislation, with consequences which it is difficult to foresee.

They however desire to assure the American Government of their unwavering faith in the supreme importance which they attach to the maintenance of the traditional relations of good understanding between the two nations. While fully realizing the gravity of the difficulties, both actual and potential, consequent upon the California enactments under review, the Japanese Government are confident that, if approached in the spirit of good will and mutual accommodation, the whole problem is susceptible of a satisfactory adjustment consistent with honor and true interests of both countries.

Believing that those views are shared by the American Government, they are gratified that frank and exhaustive discussions of an informal character have been in progress between Ambassador Morris and Ambassador Shidehara at Washington, with the acquiescence of their respective Governments, in an earnest effort to compose the difficulties in question. It is the sincere desire of the Japanese Government that these discussions will soon be brought to a happy conclusion, and that both Governments will be able forthwith to examine and approve plans of adjustment to be recommended by the two Ambassadors.

In the meantime, the development and final outcome of the pending discussions are being looked forward to with confidence in Japan. It is hoped that the American Government will appreciate the degree of forbearance exercised by the Japanese people, no less than by the Japanese Government, in the presence of keen dissatisfaction over the unfortunate legislation in California.

WASHINGTON, *January 3, 1921.*

811.5294/234a

The Acting Secretary of State to the Chargé in Japan (Bell)

No. 419

WASHINGTON, *January 7, 1921.*

SIR: Referring to the Department's telegram of January 6,⁶⁴ there is enclosed herewith for your information a copy of the memorandum of protest filed by the Japanese Embassy.⁶⁵

⁶³ Treaty of Feb. 21, 1911, *Foreign Relations*, 1911, p. 315.

⁶⁴ Not printed.

⁶⁵ *Supra.*

This memorandum is purely formal in its character and was, the Department understands, filed by the Embassy so that there would be on record a statement from the Japanese Government in regard to the action taken by the State of California at the last election. It is not intended to affect in any way the conversations which are still in progress between Ambassadors Morris and Shidehara.

I am [etc.]

For the Acting Secretary of State:

ALVEY A. ADEE

811.5294/233 : Telegram

The Chargé in Japan (Bell) to the Acting Secretary of State

TOKYO, January 8, 1921—3 p.m.

[Received January 8—10:20 a.m.]

11. Your 5, January 6, 5 p.m.⁶⁸ Vice-Minister for Foreign Affairs has just informed me that his Department has as yet received no copy of memorandum and that any communication Shidehara has made to you on the subject must have been on the lines of the general instruction he has received from his Government. These were to the effect that he was to lodge no formal protest regarding California land law as such a course might tend to prejudice the successful outcome of the negotiations now in progress which the Japanese Government hoped would come to a successful issue, but to make clear to our Government that in not making a forward [*formal*] protest the Japanese Government was not letting the matter go by default but wished to reserve its liberty of future action.

If Shidehara has exceeded his instructions and lodged a formal protest please telegraph text, otherwise please send text first pouch.

BELL

811.5294/230

The Department of State to the Japanese Embassy

MEMORANDUM

The Department of State has received the memorandum of the Japanese Embassy dated January 3, 1921, in regard to the alien land law adopted by the State of California through the vote upon the initiative petition at the general election in November last.

The memorandum refers to the correspondence that took place between the Japanese Embassy and the Department of State in 1913

⁶⁸ Not printed.

and 1914, reiterates the objections which the Imperial Government raised against the land law adopted by the Legislature of California in 1913, and states that those objections apply to the new law of 1920 with still greater force and cogency.

It will be recalled that in the correspondence which took place in 1913 and 1914 the Department of State took the position that the question at issue could not be considered as one of legal right accruing to the Japanese Government by virtue of the stipulations of the existing treaty of 1911, inasmuch as all reference to the subject-matter in controversy—namely the right of ownership in real property—had been by mutual consent omitted from that treaty, upon the express understanding, embodied in a formal exchange of notes between the Japanese Ambassador and the Secretary of State,⁶⁷ that such rights should be regulated and determined within the territories of either party by its own laws. This Government remains firm in the conviction expressed by it at that time, that nothing in the treaty affords a basis for the contention that the California land legislation is in violation either of the letter or the spirit of any treaty obligations which this Government has assumed towards the Government of Japan.

It was furthermore maintained by this Government, in the correspondence of 1913 and 1914, that in so far as concerns any legal rights claimed by individual Japanese subjects by virtue of the stipulations of the treaty, there was and is at all times available a recourse to judicial determination of such injuries to private rights and interests as might be contended to have been suffered in consequence of the legislation adopted by the State of California. It was pointed out that such recourse to judicial determination of rights is the procedure contemplated by our laws, and normal to the institutions and traditions of this country, in which it is customary for citizens and aliens alike to seek through the action of the courts the determination and protection of their rights under the constitution, treaties, and other laws of the land. Yet so far as the Department of State has been made aware, no case involving this issue has been adjudicated by any of the higher courts since the original California land law of 1913 went into effect. In view of this fact, the Department of State cannot but feel that Japanese subjects resident in California can scarcely have found in the operation of that statute such occasion for complaint on the ground of violation of their treaty rights, as had been alleged by the Japanese Government.

Such being the case, this Government is constrained to reiterate the view that, so far as concerns any question of bare legal right

⁶⁷ Notes dated Feb. 21, 1911, *Foreign Relations*, 1913, p. 626.

based upon the provisions of the treaty, the judicial determination of those rights should in accordance with general international practice be made a condition precedent to any further discussion of the matter through diplomatic channels.

Pending such a determination of the purely legal aspects of the question, however, the Government of the United States is not unmindful of the feeling with which the Japanese Government and people have viewed the enactment of measures which they esteem to be discriminatory in character; and fully sharing with the Government of Japan the consciousness of the supreme importance to be attached to the maintenance of the traditional relations of good understanding between the two nations, this Government is with like forbearance envisaging the difficult problem of which one aspect is presented by the question of the ownership of land in California, and looks hopefully to the possibility of a satisfactory adjustment consistent with the honor and true interests of both nations. To this end, the Department of State has authorized the strictly informal conversations now in progress between Ambassador Morris and Ambassador Shidehara, and will be prepared to consider carefully and sympathetically any suggestions which they may find occasion to submit as a basis for negotiations with a view to meeting the larger questions of policy which have been presented.

WASHINGTON, *January 18, 1921.*

811.5294/350

The Ambassador in Japan (Morris), on Detail in the Department of State, to the Acting Secretary of State

WASHINGTON, *January 25, 1921.*

SIR: I have the honor to submit a report on the informal discussion which you authorized me to undertake with Baron Shidehara, the Japanese Ambassador, covering the questions of Japanese immigration to the United States and the alleged discrimination against Japanese aliens resident in California. In order to understand the scope and object of these discussions, it would seem advisable briefly to state the immediate circumstances and the successive steps which led up to the conference.

On March 13, 1920, the Minister of Foreign Affairs informed me at Tokyo that, according to a report which he had received from the Japanese Consul General at San Francisco, there was a movement on foot in California to legislate against the Japanese by means of a direct initiative at the ensuing November election. I reported this conversation to the Department by cable under date of March 16.⁶⁸

⁶⁸ Not printed.

It appears that the Department had no further information on the subject until March 23, when the Japanese Ambassador handed in a memorandum on the subject.⁶⁹ . . .

The delivery of this memorandum was followed by a number of conversations between the Ambassador and the Department. The conversations were necessarily of a general character as the text of the proposed legislation was not available at that time. In May, 1920, Messrs. McBean and Lynch, President and Vice President respectively of the San Francisco Chamber of Commerce, came to Washington and presented their views to you, giving the first authentic information which had been received from any citizens of California. They were of the opinion that the petition, then being circulated and a copy of which they presented, would receive the necessary signatures and that the legislation thus initiated would be adopted by popular vote in November. Their prediction was correct. On December 9, 1920, the Governor of California informed the Department that the measure had been adopted at the polls by a vote of 668,483 to 222,086, that it would go into effect on December 10, and that it was his duty and intention to enforce it.⁷⁰ This initiative legislation contemplates two fundamental purposes:

- (1) To prevent entirely the leasing of agricultural lands by aliens not eligible to citizenship;
- (2) To inaugurate a system to prevent all evasions of the prior legislation of 1913, which was designed to prohibit the ownership of land by aliens ineligible to citizenship.

Messrs. McBean and Lynch urged the Department seriously to consider the situation with a view to devising some method which would assure a final solution of the recurrent agitation on the Pacific Coast.

In the meantime, I had been instructed to leave my post, about the middle of May, and to return to the United States for consultation with the Department. I reached Washington in June, and was authorized to proceed to California to confer personally and informally with citizens of that State with a view to ascertaining the facts underlying the Japanese agitation. You were in San Francisco early in July and, as you will recall, we conferred at considerable length with prominent men of all groups.

Upon our return to Washington, we found a letter from the Governor of California,⁷¹ addressed to you, enclosing a report from the California State Board of Control. This letter and report dated June 19, had reached Washington while you were in California, and

⁶⁹ Not printed.

⁷⁰ *Foreign Relations*, 1920, vol. III, p. 20.

⁷¹ *Ibid.*, p. 2.

had been acknowledged during your absence. The letter and report clearly reflected the feeling in the State, and the determination of California to enact further legislation against land holding by Oriental peoples.

On July 22, I had an interview with Baron Shidehara and I took occasion to express to him fully and frankly the personal view I had formed as a result of my visit to California. I submitted to you a memorandum of this conversation⁷³ and was authorized by you to make a careful study of the various papers on file with the Department covering previous negotiations with the Japanese Government.

On August 28th, you conferred personally with Ambassador Shidehara;⁷⁴ in reply to his persistent representations of the seriousness of the issue raised by the proposed California legislation, as well as the prior legislation of 1913, you suggested that he seek authorization from his Government to confer unofficially and informally with me in the hope that we might succeed in reaching a fundamental solution of this perplexing problem for submission to and consideration of our respective governments. On September 11, the Ambassador advised the Department that he had permission to proceed with the informal negotiations as suggested,⁷⁵ and we commenced our conversations on September 15 last, and have continued them at frequent intervals until the present time. (The written record covering these successive steps and the memoranda of the several conversations are herewith submitted and marked R. S. M. Exhibit A.⁷⁶)

Before proceeding to submit for your consideration the comments and conclusions suggested by my study of the questions involved and by my conversations with Baron Shidehara, I submit herewith a brief summary of our Government's previous negotiations in reference to Japanese immigration and to alleged discrimination against Japanese aliens resident in the United States.

(1) *History of the Japanese immigration question*

The regulation of Japanese immigration to the United States appears first to have become a question between the two countries in 1892, when a number of Japanese were excluded at the port of San Francisco on the ground that they were contract laborers, and as such ineligible to admission. This action caused considerable newspaper comment in Japan, and was the occasion of informal discussions between the American Minister and the Japanese Foreign

⁷³ *Foreign Relations*, 1920, vol. III, p. 12.

⁷⁴ See memorandum of the Secretary of State, Aug. 28, 1920, *ibid.*, p. 14.

⁷⁵ Not printed.

⁷⁶ Not found in Department files.

Office.⁷⁷ The discussions resulted in the issuance of instructions by the Japanese Government to local provincial officials to exercise greater care in the granting of passports, and to refuse them to persons who were proceeding to the United States under contract or under such circumstances as would lead to the inference that they were or might be contract laborers entering in violation of the American immigration laws.

On February 21, 1894, Edwin Dun, then Minister at Tokyo, informed the Secretary of State that he had been approached by the Minister for Foreign Affairs in regard to the negotiation of a new treaty. The Minister for Foreign Affairs had stated to him that negotiations were under way with the British Government and that he would like to take up the matter with the American Government simultaneously with a view to securing the abolition of extraterritoriality and the conclusion of treaties with all countries which would be reciprocal in all features.

The Secretary of State replied to this despatch on June 11, 1894, that the draft of the treaty which had accompanied Mr. Dun's despatch had been carefully considered, especially that feature which embodied reciprocal rights of residence and travel which was apparently a new proposition. The Secretary further stated that

"this Government has at no time sought extension of residential privileges [for its citizens] throughout Japan. The offer to open the empire to foreigners has come from Japan itself on condition of the surrender of extraterritorial rights under existing treaties, and the United States have shown their friendly regard for Japan by their willingness to consider that offer. The proposition now advanced, that Japanese subjects shall be secured reciprocal rights of unrestricted residence in the foreign country appears to be a new claim engrafted [up]on the former proposal. Moreover, it has not been possible for the President to ignore the fact that the policy of the United States evinced by our legislation during recent years has not favored unrestricted immigration."

The Secretary added that the Japanese Minister in Washington had given him a draft of the new treaty, but that the Minister had been informed that the reciprocal feature might cause the treaty to fail in the Senate. The United States, however, was in sympathy with the desire of Japan for absolute national autonomy. On July 31, the Secretary wrote to Mr. Dun that the obstacles to the conclusion of the Japanese proposal for a new treaty were domestic merely involving the marked tendency of our national policy in regard to labor immigration.

⁷⁷ The correspondence exchanged in 1892 and 1894, referred to in this and succeeding paragraphs, was not printed in the *Foreign Relations* volumes for those years.

In the meantime, the Japanese Minister in Washington had, on June 28, 1894, written to the Secretary of State urging the opening of negotiations for the new treaty, stating that it was vital to Japan. This note was followed on July 19, by a similar note enclosing a draft of the treaty which the Japanese Government proposed to make the basis of negotiations. This draft contained a clause in Article I providing for full mutual rights of residence and travel, as well as a phrase in Article II stating that the treaty provisions

“do not in any way effect [*affect*] the special laws, ordinances and regulations with regard to trade, police and public security in force in each of the two countries and applicable to all foreigners in general.”

These two provisions appear to have been the stumbling block to the speedy conclusion of the treaty which was so much desired by Japan, as the Japanese Minister seems to have had numerous conferences with the Secretary of State without reaching a definite agreement. On October 20, 1894, the Japanese Minister informed the Secretary of State that the Japanese Government was willing to alter the last paragraph of Article II so as to include the American proposal in regard to the regulation of immigration, but with an added phrase which made such regulation applicable to all foreigners in general, and it was not until November 18, that the Japanese Minister accepted the American draft of the treaty of 1894 which definitely made the immigration of laborers a matter for domestic legislation in the following terms:

“It is, however, understood that the stipulations contained in this and the preceding Article do not in any way affect the laws, ordinances and regulations with regard to trade, the immigration of laborers, police and public security which are in force or which may hereafter be enacted in either of the two countries.” (Last paragraph, Art. II.)

Japanese immigration was comparatively light in the years immediately succeeding the ratification of the Treaty of 1894,⁷⁸ and the rights then reserved to pass exclusion legislation were not exercised by the Congress. The annexation of Hawaii in 1898, and the creation of a territorial government there in 1900 had the effect of allowing members of the large Japanese colony in the Islands to proceed to the Pacific Coast without interference. Japanese immigration to the Islands had for some years previous to annexation been governed by a law of supply and demand under a contract system. While this practice ceased after annexation, it was found that Japanese laborers resident in Hawaii were removing to the United States and though

⁷⁸ Malloy, *Treaties*, vol. I, p. 1028.

the Japanese Government had issued instructions prohibiting labor emigration to the United States and Canada from Japan, large numbers of Hawaiian Japanese continued to arrive in California. After their arrival in the United States, they sent for their parents, wives and children in Japan, thereby increasing the Japanese population on the Continent.

In 1906 and 1907, about the time of the San Francisco School troubles and riots, (the reports of which were greatly exaggerated), the question of Japanese immigration from Hawaii to the United States was taken up with the Japanese Foreign Office. A great deal had been made of what really were minor incidents, for the damage to Japanese property was settled by the City of San Francisco for \$450, and the School Board rescinded its action, permitting Japanese children of school age to attend the ordinary public schools. The action debarring them seems to have been taken originally during the scarcity of accommodations following the fire, and because a good many of them came from outside the city.

The Japanese contention in the correspondence that ensued was that they had already stopped the emigration of laborers to the United States, that those who went to Hawaii went with passports limited to the Islands, and that if they subsequently went to the mainland, they went of their own accord, and were not under the control of their Government when they did so.

After some discussion on this point, there was inserted in the Immigration Law of 1907,⁷⁹ a provision permitting the President to refuse admission to immigrants to Continental United States whose passports entitled them to proceed only to our Insular possessions or to the Canal Zone. This feature of our immigration law is in force today. On February 23, 1907, the Japanese Foreign Office assured the American Ambassador that the Imperial Government

"have no intention of canceling or modifying the order now in force under which no passports are granted to either skilled or unskilled [Japanese] laborers for the mainland of the United States other than settled agriculturists, farmers owning or having an interest or share in their produce or crops,"

and added that

"the existing practice of inserting in all labor passports the destination of the laborers"

should, in view of American legislation,

"obviate the necessity of [adopting] additional measures."

⁷⁹ 34 Stat. 898.

This arrangement, however, was not found to give satisfaction, as the number of Japanese immigrants continued to increase instead of decrease, and our Ambassador was instructed to impress this fact upon the Japanese Foreign Office. After negotiations extending over some months, the Japanese Government finally acceded to what is generally known as "The Gentleman's Agreement" by which it voluntarily undertook:

- (1) To exercise great care in issuing passports and to warn the applicants therefor of the consequence of making false representation and the fraudulent use of passports.
- (2) Not to issue passports to laborers, skilled or unskilled, except to those who have been domiciled in the United States, or to the families of such persons.
- (3) Temporarily to suspend all further emigration to Hawaii (new emigration).
- (4) To refuse further applications made by parties who had evaded the limitations placed upon the issuance of passports, such refusal to apply also to the families of the parties mentioned.
- (5) To undertake the establishment of a system of registration (Consular registration in the United States); failure to register, however, not to involve the forfeiture of residential rights.

An arrangement was also made for exchange of emigration statistics.

As American labor had never been employed in the Hawaiian sugar industry to any extent, and no competition could result, and in view of the long standing relations existing, the Japanese Government desired to have Hawaii excluded from the scope of the discussion regarding emigration to the United States.

The Japanese Government, however, undertook, at the time the questions were under discussion to stop all further emigration of laborers to those Islands, except in the cases of returning wives and children of those already resident, and not to depart from the policy of prohibition (of emigration) without ascertaining through an American official source the labor conditions prevailing in the Islands and the need thereof.

The Japanese Government stated at the time these negotiations were proceeding, its intention to regulate emigration to foreign territory adjacent to the United States. Emigration to Canada is regulated by an agreement with that country, the details of which have not been published, concluded about the same time as our agreement. Emigration to Mexico is controlled by administrative regulations of much the same character as those obtaining in regard to the United States. These various arrangements were finally completed and became effective in the latter part of 1908, and their im-

mediate result was a large reduction in the number of Japanese arrivals in the United States. The figures are significant: in 1907, 12,888 Japanese immigrants entered the United States; in 1908, the number had fallen to 8,340; and in 1909, had decreased to 1,596, and it was not until 1913 that an examination of the statistics revealed the fact that arrivals were again exceeding departures and that relatively large numbers of Japanese women of the laboring class were coming to the United States as the wives of Japanese laborers in this country. These women were married to their husbands by the process which obtains in Japan of being registered upon the husband's *koseki*, or family register, as his wife, after which they were able to obtain passports to proceed to America. Under the provisions of "The Gentleman's Agreement" such a form of proxy marriage which would enable emigrant women commonly known as "Picture Brides" to come to the United States had not been contemplated at the time the Agreement was made. This apparent evasion of the spirit if not the letter of the Agreement was the subject of serious criticism on the Pacific Coast and immediately upon the conclusion of the Armistice it was brought earnestly to the attention of the Japanese Government. As a result the Japanese Government undertook to discontinue the issuance of all passports to "Picture Brides" and notice of this action was given in a formal note from the Japanese Embassy, dated December 13, 1919.⁸⁰ The note, and accompanying memorandum, stated that the Japanese Government intended to discontinue the issuance of this class of passports after the last day of February, 1920. As passports are good for six months, it is probable that numbers of these "Picture Brides" continued to arrive in the United States until the end of August last.

(2) *History of alleged discrimination*

The question of discrimination against Japanese residents in the United States appears never to have arisen until after the earthquake and fire in San Francisco in 1906. During the reconstruction period following that disaster, a riot occurred in which some Japanese were injured and a restaurant belonging to a Japanese subject was partly destroyed. At the same time an effort was made by the San Francisco School Board to segregate Japanese in the elementary schools and have them attend a school especially designated for pupils of the Mongolian race. These efforts were greatly resented by the Japanese generally and were made the subject of diplomatic representations by the Japanese Government which, combined with the

⁸⁰ *Foreign Relations*, 1919, vol. II, p. 419.

immigration question, were the subject of the arrangements of 1908 already referred to. A short *résumé* of attempts to enact alleged discriminatory legislation prior to 1911 will be found in Exhibit B, Part III.⁸¹

In 1911, a bill was introduced in the Legislature of California to prohibit the ownership of land by aliens ineligible to citizenship, but its passage was withheld at the suggestion of the Federal Government. In 1913, however, the bill was again introduced, and despite the efforts of the President and the Secretary of State, it was placed upon the statute books.⁸² It deprived aliens ineligible to citizenship of the right to own land except in so far as such right was guaranteed by treaty, but granted them the right to lease agricultural land for a period of three years.

This law was the subject of extended diplomatic correspondence with the Japanese Government during the years 1913 and 1914. The first note from the Japanese Embassy was dated May 9, 1913, to which the Department replied on May 19.⁸³ On June 4, following, the Japanese Embassy filed a note with an *aide-memoire* in support of their position and the Department replied with a note and *aide-memoire* on July 16.⁸⁴ To this an answer was received from the Japanese Embassy on August 26, in the form of a copy of a telegram which the Embassy had received from the Minister for Foreign Affairs in Tokyo.⁸⁵ In this correspondence the Japanese contend that they are discriminated against because the law as enacted by the Legislature of California makes use of a political distinction to deprive them of property rights and because it also places them in a disadvantageous position compared with other aliens. The enactment is referred to as being without historical parallel in discriminating against the subjects of a friendly power as compared with the nationals of other countries, some of whom have no treaty relations whatever with the United States. The Department of State in its replies has relied upon the wording of the Treaty of 1911.⁸⁶

After the exchanges of notes above referred to no further formal correspondence took place for nearly a year, as efforts were made in the meantime to adjust the difficulty in California by means of a treaty or convention. This project was withdrawn by the Japanese Government and on June 10, 1914, the Japanese Ambassador filed a

⁸¹ Not found in Department files.

⁸² Act of May 19, 1913, of the State of California, *Foreign Relations*, 1913, p. 627.

⁸³ *Ibid.*, pp. 629 and 631.

⁸⁴ *Ibid.*, pp. 632, 635, 641, and 645. The Japanese *aide-memoire* referred to was dated July 3, 1913.

⁸⁵ *Ibid.*, p. 651.

⁸⁶ *Ibid.*, 1911, p. 315.

copy of a telegram which he had received from the Minister for Foreign Affairs⁸⁷ stating that the Japanese Government desired to resume the correspondence which had been interrupted in 1913. In replying to this note the Department of State on June 23, 1914,⁸⁸ requested a detailed answer to the Department's note and *aide-memoire* of July 16, 1913. The reply asked for was made by the Japanese Ambassador on November 25, 1914.⁸⁹ This note remains unanswered and is the last formal communication between the two Governments on the Alien Land Law adopted in California in 1913. The problems growing out of the great war were so pressing and immediate that further consideration of this question was left in abeyance.

There has been, however, since the passage of the Act of 1913, considerable discussion as to the legal validity of this legislation, and also as to whether under a proper interpretation of our naturalization laws it would apply to persons of the Japanese race. It has been the contention of some able lawyers that the legislation of 1913, and the initiative legislation of 1920 are both invalid as offending against the provisions of the American-Japanese Treaty of 1911, and also as being contrary to the provisions of the Fourteenth Amendment.

Some years ago, Ambassador Guthrie⁹⁰ filed with the Department of State a carefully prepared brief⁹¹ in support of the unconstitutionality of the California Act of 1913. Only recently a case has arisen in the Federal Courts in California which raises definitely this issue. The case appears in the docket of the Southern Division of the United States District Court of the Northern District of California as *Robert H. Strahan, complainant, versus Howard B. Hanvey and Virginia C. Hanvey, defendants*. The case has been argued in the District Court and the constitutionality of the California legislation of 1913 has been affirmed in a *pro forma* opinion of the District Judge presiding. I understand that an appeal has been perfected directly to the Supreme Court of the United States, and that the case appears on the docket as No. 645.⁹²

The California legislation of 1913 has also been attacked on the ground that under a proper interpretation of our present naturalization laws, persons of the yellow race are eligible to citizenship. There is admittedly some ambiguity in the provisions of the naturalization law, and some years ago a test case was instituted by a

⁸⁷ *Foreign Relations*, 1914, p. 426.

⁸⁸ *Ibid.*, p. 427.

⁸⁹ *Ibid.*, p. 428.

⁹⁰ George W. Guthrie, Ambassador in Japan, 1913-17.

⁹¹ Not printed.

⁹² 257 U. S. 668.

Japanese alien resident in Hawaii to determine this question. This case is now before the Supreme Court of the United States on appeal, and appears on the docket of the United States Supreme Court as *Takao Ozawa versus the United States*, No. 20.⁹³ It has been reached for argument on several occasions, but each time has been postponed by agreement of counsel, or on the request of appellant. Should the contention of the appellant prevail, the question of discrimination under the California Acts would be disposed of as persons of the yellow race would then be eligible to citizenship.

Thus the situation remained until the Spring of 1920. There had been recurrent agitation from time to time against the growth of Japanese communities in California, and early in 1919 an effort was made to force a special session of the State Legislature to consider more drastic laws with a view to ending their activities in land and agriculture, but the action was postponed pending the conclusion of the Peace Conference.

To meet this growing demand, the Governor of California, in the Autumn of 1919, directed the State Board of Control to conduct an investigation of the Oriental population and their activities in the State, and announced that he would not call a special session of the Legislature to consider further alien land legislation until the report was filed.

The agitation continued, however, and in the Spring of 1920, an initiative petition was filed. The circulation of this petition was the immediate cause of my conferences with the Japanese Ambassador.

After the adoption of the initiative legislation by the voters of California at the November election the Japanese Embassy on January 3, 1921, filed a memorandum complaining of the action of the State of California and referring to the correspondence between the two Governments in 1913 and 1914. To this the Department replied on January 18 reaffirming the position it had taken in the correspondence of seven years ago. The text of the last two communications follows:

[Here follow the texts of the memorandum of January 3, 1921, from the Japanese Embassy, and the Department's reply of January 18, 1921, printed on pages 319 and 321 respectively.]

Thus the formal record stands at this date.

Turning now to the subject matter of the informal conferences, the object of these conferences was a frank discussion of the issue thus raised in the hope that we might find some common ground of agreement and adjustment which we could submit for the consideration of our respective governments. The extent of the discussion will appear

⁹³ 260 U. S. 178.

from the following brief headings of the subjects which we considered:

Part one. Immigration

- I Treaty provisions in regard to rights of Japan's citizens to enter the United States.
- II Terms of Gentlemen's Agreement.
- III Practice of Japan's Government under Gentlemen's Agreement.
- IV Alleged Defects of the Gentlemen's Agreement.
- V Proposed Remedies.

Part two. Japanese citizens resident in the United States

- I Rights conferred by Provisions of Treaty.
- II Actions of Japanese residents in the United States.
- III Suggested action to prevent alleged discrimination.
- IV Dual Citizenship.

At the conclusion of each conference a brief memorandum was made setting forth the substance of the views expressed and suggestions offered. The memoranda are found in the section marked "R.S.M. Exhibit A",⁹⁴ already referred to. It was expressly stipulated that these views and suggestions were purely personal and were in no sense binding upon our respective Governments to which, however, they would be submitted for consideration and criticism. This permitted a freedom of expression otherwise impossible, and it was our hope that through such frank and informal conversations we might reach some plan of settlement which would meet the issues which were a continuing cause of friction between our peoples.

It is not my intention to review the details which we discussed during the conferences. They are fully set forth in the memoranda of our meetings; but I shall endeavor, as briefly as possible, to state **certain conclusions** which I have reached as a result of the discussions, and the inferences which I have drawn from them, and then submit, for your consideration, suggestions looking to a possible solution of the questions involved.

CONCLUSIONS

The provision of the Treaty of 1894 with Japan which made the immigration of laborers a subject for regulation by domestic legislation was deleted in 1911 when the Treaty was revised. This deletion was consented to in consideration of an undertaking on the part of the Japanese Government⁹⁵ to continue the restrictions upon the emigration of laborers to the United States which were inaugurated in

⁹⁴ Not found in Department files.

⁹⁵ See the declaration annexed to the treaty of Feb. 21, 1911, *Foreign Relations*, 1911, p. 319.

1908, and which are popularly referred to as the "Gentlemen's Agreement". The character of these undertakings has been previously referred to and is set forth in full in Exhibit A.⁹⁶ (Conference of September 28, 1920.)

The "Gentlemen's Agreement" has, in my judgment failed to effect the purpose for which it was devised. In the first place, the Agreement itself allowed far too many exceptions. While providing against the immigration of laborers, it permitted the issuance of passports for the parents, wives, children, and even adopted children of laborers already resident in the United States. I am convinced that immigrants and resident Japanese have abused the privileges granted under these exceptions. How extensive this abuse has been is a disputed question, but the official immigration figures supplied by the Department of Labor, (See Exhibit C,)⁹⁶ show that from 1909 to 1919 inclusive, 51,370 Japanese immigrants entered the United States. It was hoped at the time the "Gentlemen's Agreement" was concluded that it would result in a gradual reduction of the number of immigrant laborers—that the number returning to Japan would exceed the number entering. The hope has not been realized, and the figures show that from 1913, (the first year for which exact figures are available), until and including 1919, the increase of Japanese arrivals over departures, totals 18,044 for Continental United States alone. These figures do not allow for those who have entered surreptitiously, and this suggests what I believe to be the fundamental defect of the Gentlemen's Agreement. It provides no method by which the Government of the United States can exercise any effective control at the ports of entry. This creates an anomalous and dangerous situation. It gives rise to suspicion and resentment among our own people and to exaggerated and unjust charges of bad faith. All the evidence I have been able to examine indicates that the Japanese Government has endeavored in the face of considerable pressure to carry out the letter of the Agreement. But I submit it is almost too much to expect that any Government will enforce rigorously against its own people a self-denying regulation which is wholly in the interest of another people. It should not be required to do so. I, therefore, conclude that no amendments to the present "Gentlemen's Agreement" will be effective that do not include some provision for its legal enforcement at our own ports. This can be done and still retain the form of the "Gentlemen's Agreement". The Japanese Government is most sensitive in the matter of racial discrimination. It would keenly resent the passage by our Congress of an exclusion law similar to the Chinese Exclusion Act. But my conferences with

⁹⁶ Not found in Department files.

Baron Shidehara have convinced me it would not seriously object to the enforcement by our Federal Government of discriminatory measures imposed by the Japanese Government on its own people. This distinction which may appear somewhat subtle to us is vital to the Japanese people. For centuries, the Japanese Government has enforced rigid regulations controlling, and even totally prohibiting, emigration from Japan. It would find little difficulty in continuing such regulations and our Government should enforce them vigorously at our ports and in our territory. This we can not do effectively under the present arrangement. The "Gentlemen's Agreement" is not the law of our land, and it is extremely difficult for our Government to deport surreptitious entrants or persons who have secured passports in Japan by misrepresentation or fraud. They can only be dealt with under the provisions of our general immigration laws. These difficulties could be overcome and at the same time the appearance of discrimination avoided if a new agreement included an understanding with Japan that our Government would take the necessary legislative action to make the agreement effective at our ports and within our territory.

The experience of the past ten years raises the question of whether Japanese immigrants and their descendants can ever wholly assimilate into our social and political life. Attached and marked Exhibit C-2⁸⁸ are the figures of the Census for 1920 which the Census Bureau kindly prepared in advance for this report. These figures show that at present the total Japanese population in the Pacific Coast States is 91,332; of this number, 70,196 are in California; 4,022 are in Oregon; 17,114 are in Washington. They are grouped largely in certain centres; they are highly organized among themselves and have little contacts with the other people in the communities where they dwell. They hold strongly to their racial, religious, and national ideals. In general, they show, as yet, little, if any, tendency to assimilate. Our Western States, where the Japanese population largely centers, will find it a hard task to make these alien communities an integral part of their social and political life. It will, in my judgment, prove an impossible task if new arrivals in any number are permitted to continue. The situation calls for total exclusion and this, I think the Japanese Government appreciates. As the result of my experience in Japan and of my conferences with Baron Shidehara, I am convinced that the Japanese Government is prepared in good faith to meet our wishes in regard to the total exclusion of immigrant laborers provided we can avoid the appearances of racial discrimination, but asks that at the same time some method be devised to meet the discrimination against Japanese aliens resident

⁸⁸ Not found in Department files.

in California. The alleged discrimination is based on the two California enactments of 1913 and 1920.

The act of 1913 divided aliens into two classes on the basis of eligibility to citizenship. Aliens eligible to citizenship under the laws of the United States were permitted to acquire, possess, enjoy, transmit and inherit real property, or any interest therein in the same manner and to the same extent as citizens of the United States except as otherwise provided by law. Aliens other than those eligible to citizenship or companies or corporations in which they held a majority interest were allowed only those rights in real property which were granted by treaty. They were, however, permitted to lease agricultural lands for three years. The law also provided that aliens not eligible to citizenship could not inherit property which they could not legally acquire by purchase. Property acquired in violation of the act escheated to the state.

The act of 1920 which was adopted at the last general election kept the same classification of aliens, and defined their rights in the same manner as the previous enactment, but deleted the provision of the law of 1913 which allowed aliens not eligible to citizenship and companies and corporations in which they held a majority interest to lease lands for agricultural purposes. The law also provided that an alien other than one eligible to citizenship could not act as the guardian of such portion of the estate of a minor citizen of the United States as consisted of real property which the guardian himself was legally incapable of acquiring in his own right. This prohibition of guardianship extended to corporations or companies which could not under the terms of the law acquire real property.

The provision in regard to guardianship was inserted in the act of 1920 because it was found that aliens ineligible to citizenship were purchasing land in the names of their children born in the United States. The objection of the Japanese Government to this legislation is stated in the note of the Japanese Embassy of January 3rd, 1921, as follows:

"It will be recalled that the California Enactment of 1913 gave rise to a formal protest of the Japanese Government as being in its manifest intent repugnant to all principles of fairness and justice and disregarding of the letter as well as the spirit of the existing Treaty between Japan and the United States. These objections apply to the new law of 1920 with still greater force and cogency and the Japanese Government are unable to conceal from themselves the sad disappointment with which they view the adoption of that measure."

The objection thus stated is based on two grounds: *First* the illegality of the legislation as in defiance of our treaty obligations with Japan and *Second* its essential unfairness and injustice which,

(to quote further from the note of January 3rd, 1921) "by such acts of glaring discrimination against Japanese, has blazed a wrong trail in legislation with consequences which it is difficult to foresee".

In regard to the legal validity of the California Legislation of 1913 and 1920, I can see no sound answer to the argument contained in the note of our Government to the Japanese Ambassador under date of July 16, 1913.⁹⁹ In reply to the contention of the Japanese Government that the California Land Act of 1913, violated the provisions of our Treaty of 1911 with Japan the Department of State said:

"The treaty to which your excellency's note refers is that which was signed at Washington on February 21, 1911, by Mr. Knox, Secretary of State, representing the United States, and by Baron Uchida, your immediate predecessor, representing the Imperial Government.

"This treaty was based upon a draft presented by the Imperial Government. In Article I of this draft there is found the following clause:

"3. They [the citizens or subjects of the contracting parties]¹ shall be permitted to own or hire and occupy the houses, manufactories, warehouses, shops, and premises which may be necessary for them, and to lease land for residential, commercial, industrial, manufacturing and other lawful purposes.

"It will be observed that in this clause, which was intended to deal with the subject of real property, there is no reference to the ownership of land. The reason of this omission is understood to be that the Imperial Government desired to avoid treaty engagements concerning the ownership of land by foreigners and to regulate the matter wholly by domestic legislation.

"In the treaty as signed the rights of the citizens and subjects of the contracting parties with reference to real property were specifically dealt with (Art. 1) in the stipulation that they should have liberty "to own or lease and occupy houses, manufactories, warehouses, and shops", and "to lease land for residential and commercial purposes". It thus appears that the reciprocal right to lease land was confined to "residential and commercial purposes", and that the phrases "industrial" and "other lawful purposes", which would have included the leasing of agricultural lands, were omitted.

"The question of the ownership of the land was, in pursuance of the desire of the Japanese Government, dealt with by an exchange of notes in which it was acknowledged and agreed that this question should be regulated in each country by the local law, and that the law applicable in the United States in this regard was that of the respective States. This clearly appears from the note of Baron Uchida to Mr. Knox of February 21, 1911,² in which, in reply to an inquiry of the latter on the subject, Baron Uchida said:

⁹⁹ *Foreign Relations*, 1913, p. 641.

¹ Brackets which appeared in Mr. Bryan's note of 1913 have been restored by the editor; the phrase therein enclosed was evidently Mr. Bryan's interpolation.

² *Foreign Relations*, 1913, p. 626.

"In return for the rights of land ownership which are granted Japanese by the laws of the various States of the United States [of which I may observe, there are now about 30,]^{2a} the Imperial Government will by liberal interpretation of the law be prepared to grant land ownership to American citizens from all the States, *reserving for the future, however, the right of maintaining the condition of reciprocity with respect to the separate States.*

"In quoting the foregoing passage I have italicized the last clause for the purpose of calling special attention to the fact that the contracting parties distinctly understood that, in conformity with the express declaration of the Imperial Japanese Ambassador, the right was reserved to maintain as to land ownership the condition of reciprocity in the sense that citizens of the United States, coming from States in which Japanese might not be permitted to own land, were to be excluded from the reciprocal privilege in Japan.

"From what has been pointed out it appears to result, first, that the California statute, in extending to aliens not eligible to citizenship of the United States the right to lease lands in that State for agricultural purposes for a term not exceeding three years, may be held to be beyond the measure of privilege established in the treaty, which does not grant the right to lease agricultural lands at all; and secondly, that, so far as the statute may abridge the right of such aliens to own lands within the State, the right has been reserved by the Imperial Government to act upon the principle of exact reciprocity with respect to citizens of the individual State. In a word, the measure of privilege and the measure of satisfaction for its denial were perfectly understood and accepted. ["]

I therefore conclude that viewed merely in its legal aspects the Japanese Government has no just ground of complaint. In the matter of naturalization our Government has seen fit to select those whom it is willing to admit to American citizenship. Of this action no Japanese subject can legally complain. In the matter of land owning or leasing the State of California has enacted certain discriminatory legislation which does not violate any of the solemn Treaty obligations of our Federal Government.

If these conclusions are sound, as I believe they are, it follows that the contention of the Japanese Government rests on the second ground of protest and involves a question of policy and not of law. In order to determine this question of policy it is necessary to analyze briefly the exact character of the contention as I understood it after my very frank conversations with Ambassador Shidehara. In the first place it should be noted that the Japanese Government is not protesting because Japanese aliens resident in the United States are ineligible to American citizenship. It could hardly file a formal protest because its citizens were not permitted to expatriate themselves. It does regret and deplore this policy of our Government

^{2a} See footnote 1.

and wishes that as an act of friendship and evidence of racial equality the policy might be modified. But it would undoubtedly claim for itself and does concede to other States the inherent right of a sovereign State to determine those whom for one reason or another it is willing to admit to the privileges of citizenship. Nor is the Government of Japan asking for its citizens resident among us any greater rights than those conceded to other aliens. It accepts and in its own domestic legislation has often acted upon the principle that any nation has the right to impose reasonable restrictions upon the property rights of foreigners who choose to live and pursue their occupations within its borders. It is to be noted therefore in the second place that the Japanese Government is not, in any way questioning the right of our Government to pass, subject only to its Treaty obligations, any legislation it may see fit concerning the admission or residence of foreigners among us. It is true that by the Treaty of 1911 Japanese were granted full rights of admission to and residence in our country. But this right was granted, as I have previously pointed out, only upon the express understanding that the Japanese Government would continue voluntarily to limit emigration as provided in the "Gentlemen's Agreement" of 1908. It is to be noted therefore in the third place that the Government and people of Japan are not clamoring for the removal of any of the present restrictions on Japanese immigration. On the contrary as already stated the Japanese Government appreciates the necessity of amending the "Gentlemen's Agreement" in order to make it more effective.

It will thus be seen that the Japanese contention is confined entirely to the alleged discrimination among aliens which the California legislation imposes on the ground that it is unjust and unfair to pick out a particular group of aliens who are under certain political disabilities and deprive them of rights which all other aliens are permitted to enjoy. The formal protests if I have analyzed them correctly present to our Government this single question of policy: In the larger view of our relations with the Orient and with Japan in particular is it wise to classify aliens in regard to their property rights on the basis of their eligibility to citizenship?

The Executive Department of our Government has consistently maintained that such State legislation is unwise, impolitic and dangerous.

In 1909 among certain bills introduced in the California Legislature, which were regarded as anti-Japanese in character, was one designed to prevent all aliens from holding title to real estate in California. In commenting on this proposed legislation Mr. Root then Secretary of State said: "To the extent of owning or hiring land for agricultural purposes, so far as Japan is concerned, it is

clearly competent for the State of California to enact its own laws and it is gratifying to observe that it is the purpose of this bill to make these laws general as to aliens."

Commenting on this memorandum President Roosevelt said: "To this memorandum I have little to add. The United States Government has no objection to the enactment of a law in California as regards the rights of aliens to hold real estate, provided that the suggestions of the Secretary of State are complied with as contained in the above memorandum. Such a law would not be in any substantial respect different from similar laws that have been passed in other states."

The legislation proposed in 1909 failed of passage but in 1911, Senator Sanford of the State Senate of California introduced a bill which provided that aliens ineligible to citizenship should be deprived of the right to own land. Senator Larkins at the same time introduced a bill depriving all aliens of the right to own land.

In a letter to the Governor of California commenting on these bills, Senator Knox, then Secretary of State, said: "It may be observed that Section one of the bill introduced by Senator Sanford is open to the charge of discrimination against certain classes of aliens, a criticism not to be fairly made against Section one of the bill introduced by Senator Larkins."

Both of these bills failed of passage but in 1913 a bill was again introduced in the Legislature of California depriving aliens ineligible to citizenship of the right to own land. On this occasion, Mr. Bryan, then Secretary of State made a personal visit to California and submitted more fully the views of President Wilson as expressed in the following telegram to the Governor of California:

"I speak upon the assumption, which I am sure is well founded, that the people of California do not desire their representatives—and that their representatives do not wish or intend—in any circumstances to embarrass the government of the United States in its dealings with a nation with whom it has most earnestly and cordially sought to maintain relations of genuine friendship and good will, and that least of all do they desire to do anything that might impair treaty obligations or cast a doubt upon the honor and good faith of the nation and its government.

"I therefore, appeal with the utmost confidence to the people, the governor and the legislature of California to act in the matter now under consideration in a manner that cannot from any point of view be fairly challenged or called in question. If they deem it necessary to exclude all aliens who have not declared their intention to become citizens from the privileges of land ownership, they can do so along lines already followed in the laws of many of the other states and of many foreign countries, including Japan herself.

"Invidious discrimination will inevitably draw in question the treaty obligations of the government of the United States. I register

my very earnest and respectful protest against discrimination in this case, not only because I deem it my duty to do so as the chief executive of the nation, but also, and the more readily, because I believe that the people and the legislative authorities of California will generously respond the moment the matter is frankly presented to them as a question of national policy and of national honor. If they have ignored this point of view, it is, I am sure, because they did not realize what and how much was involved."

In spite of the views of the President and the Department of State the legislation of 1913 was enacted and became the subject of vigorous diplomatic protest by the Japanese Government,—a protest renewed even more vigorously in the memorandum of the Japanese Ambassador dated January 3rd, 1921, after the adoption by the people of California of the Initiative Act of 1920.

In seeking a solution of the question presented by the considered action of the State of California and the protest of the Government of Japan I would respectfully submit the following general considerations:

1. It appears to me that there can be no reasonable doubt of the deep feeling of resentment which has been roused among the people of Japan by the California legislation. It touches both their racial feeling and their national pride. It would in my judgment be a serious mistake to treat this feeling lightly or to attribute its existence to political propaganda or diplomatic agitation. It is far deeper than that and carries with it an angry sense of injustice and humiliation.

2. As previously noted the attitude of the Executive branch of our Federal government has been one of consistent opposition to legislation of the character enacted in California. A careful reading of the record on file in the Department clearly demonstrates that this opposition has been based on the fundamental conviction that such legislation was discriminatory and therefore unjust and unfair. Americans of such differing temperaments and views as Presidents Roosevelt, Taft and Wilson are united in the expression of this conviction. But thus far the Federal Government has advised and counseled but has not been called upon to act.

3. The Federal Government has, quite naturally, hesitated to act. Only the most serious considerations would impell it to exercise its powers in contravention of the expressed will of a sovereign state and particularly when the rights immediately involved relate to the ownership of land within the State.

4. Nor should we ignore the earnest convictions of the people of California. They are determined if possible to prevent the further increase by immigration of the Japanese population and also to protect their land from further Japanese ownership. Personally I

sympathize with these objects but cannot escape the conclusion that the method adopted by the State of California to accomplish them will prove ineffective. This feature was pointed out by the San Francisco Chamber of Commerce. In a letter to the Chairman of the Asiatic Exclusion League dated May 17, 1920, the Chamber refused to support the initiative on the ground that it would probably not be the means of removing any Japanese from the soil, because the Japanese would make crop contracts, and continue as numerous in the fields as they were at the time the letter was written. I also think that by ignoring larger considerations of public policy, racial discrimination will seriously threaten our country's best interests on the Pacific and in the Far East. It is not within my province to dwell upon these interests. You are in a better position to appreciate and value them. But of one thing I am convinced. If we would conserve these interests and exercise the influence in the Orient which our position and resources justify, we must as far as is compatible with our own national safety avoid actions which are certain to create among the people of Japan feelings of deep resentment and antagonism—feelings which may easily spread to other Asiatic peoples having commercial relations with us. This can only be done as I view it, by keeping clearly in mind the distinction between the prohibition of further Japanese immigration and discriminatory legislation against those Japanese aliens who are already lawfully resident in the United States.

The Japanese Government is prepared to cooperate in effectually prohibiting further immigration. If this is accomplished and if as a result no more Japanese immigrants are permitted to enter or settle in the United States the problem is narrowed to the limited number of those Japanese aliens already here and who are not eligible to American citizenship. In one generation this entire class will have disappeared and there will remain only persons of Japanese blood born in the United States who will be American citizens under the provisions of our Constitution. It seems therefore, unnecessarily harsh and short sighted to deprive this generation of Japanese aliens of rights which their children will possess and which are enjoyed by other aliens. There is a further consideration: if we wish to assimilate into our national life the Japanese born here, we can do nothing that would more effectively defeat that purpose than to discriminate unfairly against resident aliens of that race.

The above considerations have led me to the general conclusion which I respectfully submit, that no solution of this question can be reached which does not provide for a prohibition of Japanese immigration in effect as drastic as the present Chinese exclusion law and

which does not further guarantee to Japanese aliens resident here the same rights without discrimination as are accorded under our laws, to other aliens. Having reached this general conclusion I now submit for your comment and criticism and as a possible basis of formal negotiations with the Japanese Government the following recommendations which Ambassador Shidehara and I have agreed on as the result of our extended conferences.

First. *In the matter of Japanese immigration* we recommend that in place of the present "Gentlemen's Agreement" the following method of prohibition be adopted by our Governments:

An undertaking by the Japanese Government which would be incorporated in a formal note substantially to this effect:

"Sir: Under instructions from my Government, I have the honor to communicate to you, herewith enclosed, a copy of the instructions, in English translation, which have just been issued to the competent Japanese authorities embodying the rules adopted in Japan with regard to passports for the Continental United States and Hawaii.

"These rules are to come into effect on 1921. It is to be understood that all passports already issued, or to be issued, shall be valid, provided that the persons holding such passports have left or shall have left Japan within six months from the dates of their respective passports.

"I am further authorized by my Government to inform you that passports to be issued under the new rules in question shall contain description of the objects for which their holders intend to travel to, or reside in the Continental United States or Hawaii.

"Accept, Sir, the renewed assurances, etc.

DRAFT OF REGULATIONS

"ARTICLE I. Passports for the Continental United States and Hawaii shall be issued only to persons coming under any of the following categories:

- (a) Government or public officials, or persons of a similar status.
- (b) Students.
- (c) Business men, merchants, office clerks, travelers, professional people including physicians, authors, teachers, clergymen, artists and actors, and other persons who are not engaged in any manual or mechanical work.

"It is understood that persons classed under category (a) aforesaid shall include their families and domestic servants, and that passports may also be issued to the families and domestic servants of persons classed under category (c) aforesaid, in cases calling for special consideration.

"ARTICLE II. Independently of the restrictions contained in the preceding Article, passports may be issued or permission given for proceeding to the Continental United States or Hawaii, to those persons who have been previously lawfully resident therein and who have temporarily returned to Japan but have not been staying in Japan for a period exceeding one year.

“Passports may likewise be issued for proceeding to Hawaii, to the wives and children of those persons who have been lawfully resident therein.

“ARTICLE III. Applications under category (b) of Article I shall be required to present statements of their *curricula vitae* and to specify in the applications names of the schools to which they desire to be admitted and the course of learning which they intend to pursue, upon arrival in the Continental United States or Hawaii.

“ARTICLE IV. Applicants under category (c) of Article I shall be required, except when they are of distinguished status and career, to present statements of their *curricula vitae*, and to specify in the applications the business or profession in which they intend to engage in the Continental United States and Hawaii.

“ARTICLE V. Passports shall not be issued to persons under categories (b) and (c) of Article I, unless they possess sufficient means to give reliable sureties in order to insure their not becoming laborers, while remaining in the Continental United States and Hawaii.

“Nor shall passports be issued to persons under category (b) of Article I, who have not completed their secondary education.

“ARTICLE VI. When the Governors of Prefecture receive applications for passports for the Continental United States or Hawaii, they shall examine the reputation, career, financial standing and other qualifications of the applicants, and shall, before taking action, communicate with the Director of the Commercial Bureau of the Ministry of Foreign Affairs, setting forth their proposed action on the application.

“Such procedure may be dispensed with in case of those applicants under the provisions of Article II, who hold valid certificates issued by the competent Consular Officers of Japan testifying to their qualifications under said provisions.

“ARTICLE VII. If any persons, after having arrived in the Continental United States or Hawaii, have been persuaded in good faith to change the objects of their travel or residence, specified in their passports, and if such change is not of a nature to make the persons unfit to obtain passports in accordance with the foregoing provisions, the competent Diplomatic or Consular Officers of Japan may, upon their application, certify to the change in the specified objects of their travel or residence.

“Such certificates of the Diplomatic or Consular Officers of Japan shall be either embodied in or affixed to the passports.”

A further note from the Japanese Government advising our Government that the terms of the first note could be made public and that it would not deem objectionable any legislation which provided that:

“In the cases of those countries who under their own laws or regulations issue only limited passports for the emigration of their nationals to the United States or the territory of Hawaii which passports designate the status of the holder and the object or purpose for which he emigrates, the President is hereby empowered to authorize by executive order the deportation of any national of such country who may hereafter enter or remain in the United States for any objects or purposes contrary to the express provisions or conditions of such limited passport.”

The two notes would in my judgment accomplish these objects: They would cure the defects as previously pointed out in the present "Gentlemen's Agreement" by prohibiting hereafter the entrance of wives, children or parents of any Japanese aliens, now resident in the United States. They would prevent the reentry of persons resident who had remained away from this country for a period of more than one year. They would require every passport issued by the Japanese Government for emigration to the United States to show on its face the object of the holder's visit. Finally they would make it possible for our Government without offence to a friendly nation to deport any one who attempted to enter or who remained here for any purpose contrary to that stated on the face of the passport. I am fully convinced that this method would in its operation prove as satisfactory as any exclusion legislation by Congress and would avoid the offense which legislation by Congress would give to the Japanese people.

Second. *In the matter of discriminatory legislation* we recommend the execution by our governments of a supplementary treaty substantially in the following form:

"The President of the United States of America and His Majesty the Emperor of Japan, being desirous of still further strengthening the relations of cordial friendship and good understanding which have so happily existed unbroken between their respective countries, and believing that a clearer establishment and definition of certain rights of the citizens or subjects of each country within the territory of the other will contribute to such a result, have resolved to conclude for that purpose a convention supplemental to the Treaty of Commerce and Navigation of February 21, 1911, between the two countries, and have named as their Plenipotentiaries:

The President of the United States of America;

His Majesty the Emperor of Japan;

Who, have [having?] communicated to each other their respective full powers which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

Japanese subjects lawfully resident within any State or Territory of the United States shall enjoy, in each such State or Territory under the respective local laws thereof or under the general legislation of the United States, the same rights without discrimination as are accorded by such laws to the citizens or subjects of other countries with regard to the exercise of industries, occupations, or other lawful pursuits, or with regard to the acquisition, possession, enjoyment, disposition, transmission, or inheritance of any real or personal property, or any interest therein, other than public lands, either Federal or State.

Reciprocally, citizens of the United States of America, lawfully resident in the Japanese Empire, shall enjoy the same rights without discrimination as are accorded to the citizens or subjects of other countries under any laws or ordinances of Japan with regard to the exercise of industries, occupations, or other lawful pursuits, or with regard to the acquisition, possession, enjoyment, disposition, transmission, or inheritance of any real or personal property, or any interest therein, other than public lands.

It is understood that the words 'the citizens or subjects of other countries' as used in this article shall include all aliens who have not yet duly and finally acquired the nationality of either Contracting Party.

ARTICLE II

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the Emperor of Japan, and the ratifications shall be exchanged at the City of Washington. The Convention shall take effect from the date of the exchange of ratifications, and it shall continue in force along with the said Treaty of February 21, 1911, and shall terminate in the manner prescribed by Article XVII thereof.

In witness whereof, the respective Plenipotentiaries have signed the present convention in duplicate and have thereunto affixed their seals.

Done at the City of Washington the _____ day of _____ in the nineteen hundred and twenty-first year of the Christian Era, corresponding to the _____ day of the _____ month of the tenth year of Taisho.

.
""

In submitting the above treaty I do so with the greatest hesitancy. My investigations have convinced me personally that the only thoroughly satisfactory method to provide against discriminatory treatment of Japanese aliens would be by Congressional action granting peoples of the Yellow race the privilege of naturalization. I wish that the Congress might feel justified in taking such action. Its effect as I have already pointed out elsewhere would be limited to one generation, and yet in so doing, we would totally change the existing spirit of irritation and resentment which now characterizes our contact with the Orient. We would remove from the peoples of China and Japan the stigma that is placed upon them in thus removing the racial discrimination, and we could the more vigorously enforce restrictions on immigration as an economic protection to our own people. As early as 1906, President Roosevelt seeing as he did so clearly throughout his entire public life the international value of the closest friendship and understanding with Japan, in

his annual message to Congress³ said: "I recommend to the Congress that an act be passed specifically providing for the naturalization of Japanese who come here intending to become American citizens". I recognize, however, that this is a question which properly belongs to the legislative department of our Government, and I mention it merely to emphasize my belief that the Treaty as submitted is not a permanent or fundamental solution of the issue, although it will allay the present increasingly acute conditions.

Referring then to the proposed Treaty as a temporary measure of relief, I submit the following comments:

The object sought to be attained by the Treaty provisions is as far as practicable to prevent the discrimination as between aliens as applied by the California legislation and now seriously threatened in several other States. Ambassador Shidehara urged strongly a most favored nation clause which would confer on Japanese aliens such rights as might be enjoyed by the citizens or subjects of the most favored nation through legislation or through Treaty provision. He submitted for my consideration the proposed draft of a treaty prepared by Ambassador Chinda in 1913. To this suggestion I could not agree as I felt it unwise to incorporate by reference in this supplemental treaty any and all rights which might be conferred by special legislation or by treaty on the aliens of other countries. My effort has been so to word this Convention as to meet directly and definitely the issue raised by the California legislation as enacted or as suggested in regard to calling or occupation. The Treaty if executed would, I believe, nullify a large portion of the California legislation, but it would probably not affect that part dealing with land holding corporations. It would, however, permit individual Japanese aliens to own land in California so long as other aliens enjoyed the privilege. I confess that I have found unexpected difficulty in the wording of the Treaty in an endeavor to express accurately its limited intent. My agreement with Ambassador Shidehara is not limited to the form submitted, and I could respectfully ask from you the most careful and critical scrutiny of the wording of the draft presented. May I in conclusion express my grateful appreciation of the continued assistance I have received from Mr. Neville of our Consular Service, whose wide knowledge of the record of previous negotiations has been invaluable; from Mr. MacMurray, Chief of the Far Eastern Division; from Mr. Nielsen, Solicitor of the Department of State; from Mr. McClatchy of California for valuable data, most helpful in my conversations with Ambassador Shidehara, and from my friends the Honorable Thomas J. O'Brien, former Ambassador to Japan, and Honorable

³ Message of Dec. 3, 1906, *Foreign Relations*, 1906, pt. 1, p. vii.

Paul S. Reinsch, former Minister to China, who have been most generous in useful suggestions.

Ambassador Shidehara has been earnest in his efforts to find some common ground on which our minds can meet. I know he represents the wish and purpose of his Government, and I am confident that if the plan here presented should prove unacceptable to you, he will be prepared to discuss in this same friendly spirit any other suggestions which may be offered.

I have [etc.]

ROLAND S. MORRIS

**TERMINATION OF ACQUIESCENCE BY THE UNITED STATES IN
JAPANESE PASSPORT REGULATIONS FOR THE SOUTH MAN-
CHURIA RAILWAY ZONE⁴**

894c.111/17: Telegram

*The Acting Secretary of State to the Chargé in Japan (Bell)*⁵

WASHINGTON, January 3, 1921—6 p.m.

3. Under date of October 25th the Legation at Peking informed the Department by telegraph⁶ that the British Legation had stated that its instructions permitted it to join the American Legation in nearly identic notes to the Japanese Minister and Chinese Foreign Office, stating that it could no longer acquiesce in application of Japanese passport regulations. The Department instructed the Legation at Peking⁷ that while similar independent action by the British Legation would be welcome, it did not feel that joint action would be desirable. The American Minister was instructed to explain this to the British Legation and separately to inform the Japanese Minister that this Government believed that reasons for continuance of temporary wartime passport inspection on Japanese railways in China had now ceased. On November 2, 1920, the American Legation duly informed the Japanese Legation⁸ of this Government's views in this matter and stated that it was taking steps to inform American Consuls of the withdrawal of the American acquiescence in the further application of these regulations. The Japanese Minister informed the American Legation that he had referred the matter to his Government and that he did not know whether the Japanese Government would consent. The Japanese

⁴Continued from *Foreign Relations*, 1920, vol. III, pp. 33-42.

⁵The same in substance, Jan. 3, 7 p.m., to the Ambassador in Great Britain (no. 4) with the following instructions: "You may bring the above to the attention of the British Foreign Office for its information, in case it desires to take similar action."

⁶*Foreign Relations*, 1920, vol. III, p. 39.

⁷Telegram of Oct. 28, 1920, *ibid.*, p. 40.

⁸See telegram of Nov. 6, 1920, from the Minister in China, *ibid.*, p. 40.

Minister took the stand that the American Government had not assented to the regulations but was merely informed of them. This Government of course cannot assent to the stand taken by the Japanese Minister as it does not concede that the Japanese Government has ever been granted the right to scrutinize the passports of American citizens within Chinese territory. At the request of the Japanese Minister the American Legation deferred notification to American consuls. The Department is informed however that the Legation has not as yet received any reply from the Japanese Legation to its communication of November 2nd. The Department deeming that sufficient time has passed for this matter to have received the consideration of the Japanese Government, is authorizing the American Legation to notify Consuls in China that American acquiescence in the temporary regulations for the control of passports on Japanese railway lines in China is withdrawn on and after January 15, 1921. You may bring above to the attention of Japanese Foreign Office for its information.

DAVIS

894c.111/17: Telegram

The Acting Secretary of State to the Minister in China (Crane)

WASHINGTON, January 3, 1921—6 p.m.

1. Your 432 [434], December 14, 6 p.m.⁹

You may notify Consuls that on and after January 15, our temporary acquiescence in Japanese passport control on railways under Japanese supervision is withdrawn. In view of request of Japanese Minister for postponement of this notification you should inform him of your action in this matter stating that this Government of course is unable to acquiesce in his contention that it did not assent to these regulations inasmuch as this Government does not concede that the Japanese authorities have been granted any right to scrutinize the passports of American citizens in Chinese territory.

With reference to your 343 of October 25, 5 p.m.¹⁰ You should inform your British colleague of the action which you have taken in this matter.

DAVIS

⁹ *Foreign Relations*, 1920, vol. III, p. 41.

¹⁰ *Ibid.*, p. 39.

894c.111/19 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 6, 1921—5 p.m.

[Received January 6—1:45 p.m.]

8. Your 1, January 3, 6 p.m. Japanese Minister informed January 5 as follows:

"I am in receipt of instructions from my government to notify the interested American consuls that on and after January 15, 1921, the American Government's temporary acquiescence in the application to American citizens in the South Manchurian railway zone of certain passport regulations of the Japanese Government made temporarily expedient by the conditions of the war is withdrawn.

I am furthermore directed to state that the American Government is unable to acquiesce in the view which you expressed to me orally that the American Government did not assent to these regulations but was merely informed of them inasmuch as my government does not consider that the Japanese authorities have been granted any right to scrutinize the passports of American citizens in Chinese territory."

Following instructions sent consuls today:

"Circular 50. You are informed that on and after January 15th, 1921, the acquiescence of the American Government in the application to American citizens in the South Manchurian railway zone of certain passport regulations of the Japanese Government made temporarily expedient by the conditions of the war is withdrawn."

Does your expression "temporary acquiescence in Japanese passport control on railways under Japanese supervision is withdrawn" and "passports of American citizens in Chinese territory" include Shantung and Antung Railways?

CRANE

894c.111/19 : Telegram

The Acting Secretary of State to the Minister in China (Crane)

WASHINGTON, January 8, 1921—4 p.m.

10. Statements quoted in last sentence of your telegram 8, January 6, 5 p.m., refer to Shantung and Antung Railways.

DAVIS

894c.111/21 : Telegram

The Minister in China (Crane) to the Acting Secretary of State

PEKING, January 12, 1921—5 p.m.

[Received January 12—11:08 a.m.]

22. Your 10, January 8, 4 p.m. To avoid any possible ambiguity I suggest addressing following note to Japanese Minister :

“ I have the honor to state in amplification of my note[s] of November 2nd and January 5th that the discontinuance after January 15th of my Government's acquiescence in the application to American citizens of certain passport regulations of the Japanese Government applies equally to the Mukden-Antung railway and the Shantung railway outside of the leased territory.”

Does Department concur?

CRANE

894c.111/25

The Ambassador to Great Britain (Davis) to the Acting Secretary of State

No. 4089

LONDON, January 19, 1921.

[Received February 2.]

SIR: I have the honor to acknowledge the receipt of the Department's telegraphic instruction No. 4 dated January 2[3], 7 p.m.,¹¹ in regard to the acceptance by foreign governments of the Japanese passport regulations in China and to transmit herewith copy of a note No. F 86/70/10 dated January 13, 1921, which I have received from the Foreign Office in this connection.

I have [etc.]

JOHN W. DAVIS

[Enclosure]

The British Secretary of State for Foreign Affairs (Curzon) to the American Ambassador (Davis)

No. F 86/70/10

His Majesty's Secretary of State for Foreign Affairs presents his compliments to the American Ambassador and has the honour to thank His Excellency for his communication of the 6th instant with regard to the acceptance by foreign Governments of the Japanese passport regulations in China.

¹¹ See footnote 5, p. 349.

The latest report received from His Majesty's Legation at Peking on the subject is dated October 26th last when Mr. Clive¹² telegraphed that in accordance with his instructions he was joining with his American colleague in making representations to the Japanese Minister on the subject. At that time the French Minister had not so far received his instructions.

Earl Curzon is now telegraphing to Sir B. Alston¹³ informing him of the action decided upon by the State Department and that the instructions to American Consuls in China will take effect as from January 15th.

[LONDON] *January 13, 1921.*

894c.111/21: Telegram

The Acting Secretary of State to the Minister in China (Crane)

WASHINGTON, *January 20, 1921—7 p.m.*

32. Your 22, January 12, 5 p.m.

Department approves note. Repeat text to Tokyo advising of Department's approval.

DAVIS

894c.111/27

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

No. 4134

LONDON, *January 23, 1921.*

[Received February 15.]

SIR: With reference to the Department's telegraphic instruction No. 4. dated January 3, 7 p.m.,¹⁴ and to my despatch No. 4089 of January 19th, 1921, in regard to passport control exercised by the Russian and Japanese Governments on the Chinese Eastern and South Manchuria Railways, I now have the honor to transmit herewith copies, in triplicate, of a further Note No. F.256/70/10 dated January 27th, 1921, which I have received from the Foreign Office^{14a} in this connection.

¹² Robert H. Clive, British Chargé in China, July 1-Dec. 9, 1920.

¹³ British Minister in China.

¹⁴ See footnote 5, p. 349.

^{14a} Not printed.

The Foreign Office state that in consequence of renewed representations made by the American Minister at Peking, a statement has been made by the Japanese Minister that from February 1st, 1921, the passport regulations will be withdrawn for all foreigners in the zone of the South Manchurian Railway, exclusive of the Leased Territory, where passports will continue to be examined at the frontier stations. The Foreign Office add that a communication in this sense will shortly be addressed to the Diplomatic Body at Peking.

I have [etc.]

JOHN W. DAVIS

894c.111/33 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, April 28, 1921—11 p.m.

[Received April 28—8:01 a.m.]

168. Your 113, April 13, 4 p. m.¹⁵ Tsinanfu replies, . . . as regards passport regulations, passports now being required only entering and leaving leased territory, also Americans not questioned on Shantung railway outside leased territory.

CRANE

FATAL SHOOTING OF LIEUTENANT WARREN H. LANGDON, U. S. NAVY, BY A JAPANESE SENTRY AT VLADIVOSTOK, JANUARY 8, 1921

361.1123 L 25/- : Telegram

The Consul at Vladivostok (Macgowan) to the Acting Secretary of State

VLADIVOSTOK, January 10, 1921—10 a.m.

[Received 10:23 a.m.]

4. Referring to shooting Lieutenant Langdon, Japanese consul general has just called to express his profound regret for the sad occurrence. I expressed appreciation and stated I would advise United States Government and Richardson.¹⁶

Resolution by the consular corps Wednesday protesting against the Japanese practice of halting foreigners in the streets and other-

¹⁵ Not printed.

¹⁶ Capt. Louis C. Richardson, commanding the U. S. S. *Albany*.

wise exercising police authority has been suggested. In view of the fact Caldwell joined consular corps appeal to the Japanese Army to protect foreigners in the suburbs inside city limits, I would appreciate Department's instructions urgently. After I took charge availed first opportunity in conversation with colleagues to disassociate myself from Caldwell's action and since then such appeals have been avoided altogether, in accordance with instructions October 19 [20], 2 p.m.^{16a} . . .

MACGOWAN

361.1123 L 25/8

The Japanese Ambassador (Shidehara) to the Acting Secretary of State

WASHINGTON, January 13, 1921.

SIR: I have the honor to inform you that the Japanese Government have learned with deep concern and regret of the deplorable incident which took place at Vladivostock on January 8 at about 4 a.m. resulting in the death of Lieutenant Langdon of the United States Navy. The Japanese sentry involved in the case is now under trial by court-martial and the whole subject is receiving close and prompt attention. In the meantime, I have been directed by my Government to express to the Government of the United States their sincerest condolences on the sad death of the American officer.

Accept [etc.]

K. SHIDEHARA

361.1123 L 25/11a : Telegram

The Acting Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, January 13, 1921—6 p.m.

11. Please deliver to the Foreign Office a note to the following effect:

“By the instructions of my Government I have the honor to invite your attention to the serious and regrettable incident which occurred at Vladivostok on January 8, 1921, and which resulted in the death of Lieutenant W. H. Langdon, an Engineer officer on board the U. S. S. *Albany* now at that port. From the reports that have reached the Department of State, it appears that Lieutenant Lang-

^{16a} *Foreign Relations*, 1920, vol. III, p. 526. From despatch no. 782, Mar. 14, 1921, from the Chargé in Japan, it appears that Consul Caldwell did not participate in any request to the Japanese military authorities for the protection of foreigners.

don was returning to his ship, using a hand lamp. When he reached a spot opposite the Japanese Division Headquarters, the sentry ran across the street and halted him. After informing the sentry that he was an American he proceeded on his way when he was shot in the back by the sentry, the ball passing out at the left side of his chest. This wound ultimately caused his death.

The essential facts are clear and would seem to be undisputed. An American Naval officer, in full uniform, was shot in the back and killed by a Japanese military sentry on foreign soil over which Japan exercises no jurisdiction, and on which Japanese have no rights superior to those of other aliens who may be there. The Government of the United States is convinced that the Government of Japan will make prompt and suitable reparation for the utterly unjustified action of the Japanese sentry. If this were an isolated instance of misdirected activity, it might be possible to regard it as no more than a deplorable incident without particular significance. It is, however, unfortunately the fact that reports received by the American Government indicate that this is merely the most serious of a number of like cases of interference with American citizens in portions of Siberia where Japanese troops are stationed. The Japanese forces there have apparently assumed supervision and control which would be justified only in a land over which their government exercised sovereignty and which cannot but result in irritations and misunderstandings.

While the Government of the United States does not underestimate the possibilities of disorder which are latent in the present disturbed political conditions in Eastern Siberia, it is more than ever persuaded that the continued presence of large numbers of foreign troops on Russian soil tends only to inflame these conditions and retard the efforts of the Russian people to attain a more ordered and efficient form of government which will grant to all foreigners full and adequate protection. . . ."

A copy of the above is being handed to Japanese Ambassador.

Repeat to Vladivostok and communicate as you find most convenient to Admiral Gleaves.

DAVIS

361.1123 L 25/14 : Telegram

The Consul at Vladivostok (Macgowan) to the Acting Secretary of State

VLADIVOSTOK, January 15, 1921—7 p.m.

[Received 7:59 p.m.]

12. Department's telegram of January 13, 7 p.m.¹⁷ On January 8, 4 a.m., Langdon descended steep icy sidewalk on the west side Peter the Great Street, using hand lamp continuously. When he was opposite headquarters Japanese eleventh division on the east side of the street, a Japanese sentry ran across street asked, "American?". Langdon answered affirmatively, proceeded. Sentry fired at about 6

¹⁷ Not printed.

feet with rifle apparently from the position charge bayonet. Ball ranged upwards, emerging above the heart. Langdon turned around, fired revolver twice, proceeded to ship.

Foregoing paraphrase of first statement of Langdon. Later on he declared he had halted until he answered in the affirmative.

He was fully conscious when he made this statement and never used any alcohol. Front overcoat has a very great hole.

All of the high ranking Japanese army, naval officers have called *Albany* expressed regret, sorrow, offered every assistance. Japanese Minister of War telegraphed condolence through the *Mikasa*.

The Japanese at first said the sentry stated that Langdon advanced toward sentry box, shot first. At the court of inquiry sentry said that Langdon remained on the walk, that he pursued Langdon and fired first. Board of investigation and court of inquiry comprising Japanese exclusively, no others being present, was held at the request of Richardson. Final report sentry was that he ran across street, called halt thrice, but that Langdon did not halt, that the sentry took position three steps in front Langdon charge bayonet and then Langdon stopped, shifting lamp to his left hand groped with the right hand in his overcoat that the sentry took the position for action and asked "Russian or American", that he was very excited and fired rifle by accident but did not intend to shoot Langdon but to seize lamp and accompany Langdon to guard and ascertain who it was, that Langdon fired two or three revolver shots after he fired.

It is thus established that the sentry left his post and molested officer in uniform who was proceeding orderly along the street.

Memorial service is to be held next Tuesday at the Y. M. C. A. Embassy informed.

MACGOWAN

361.1123 L 25/8

*The Acting Secretary of State to the Japanese Ambassador
(Shidehara)*

WASHINGTON, *January 17, 1921.*

EXCELLENCY: I have the honor to acknowledge and to thank you for your note of the 13th instant by which you inform me that the Japanese Government have learned with deep concern and regret of the deplorable incident which took place at Vladivostok, resulting in the death of Lieutenant Langdon of the United States Navy from a gun shot fired by a sentry of the Japanese Army, and by direction of your Government, express to the Government of the United States their condolences on the death of this American officer. You inform me at the same time that the Japanese sentry involved in the case is now under trial by court-martial and that the whole subject is receiving close and prompt attention.

Reserving to the Government of the United States all its rights in the matter, I have the honor to inform you that this Government receives in the spirit in which they were tendered the condolences of the Japanese Government and takes this occasion to avow its confidence that the Japanese Government will take all such measures as are appropriate to the seriousness of the case.

Accept [etc.]

NORMAN H. DAVIS

361.1123 L 25/15 : Telegram

The Chargé in Japan (Bell) to the Acting Secretary of State

TOKYO, January 17, 1921—6 p.m.

[Received January 17—9:35 a.m.]

27. I have just received a despatch dated January 12th from the consul at Vladivostok stating that he is informed by captain of the *Albany* that on two occasions 5 or 6 weeks ago Richardson was himself halted by Japanese sentries and threatened by them with bayonets. Further, that on three occasions since shooting of Langdon officers and men of the *Albany* have been halted and threatened by Japanese sentries. One incident reported occurred January 8th when Ensign Scott and two marines whom Richardson had sent to look for Langdon's pistol were surrounded by 10 Japanese soldiers in position of charge bayonets and held thus for 8 minutes during part of which time a Japanese officer was present.

There is nothing in the consul's despatch to indicate that any protest had been lodged with the Japanese military authorities in respect of these incidents.

BELL

361.1123 L 25/- : Telegram

The Acting Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, January 24, 1921—5 p.m.

20. Repeat to Vladivostok the following reply to its telegram No. 4, January 10, 10 a.m.

"This Government has not recognized that, since the liquidation of the joint expedition for the assistance of the Czechs, the Japanese forces have been maintained in Siberia for any save the immediate purpose of affording such protection to the lives and property of Japanese residents as their Government has considered temporarily necessary. This Government has not itself requested or expected, nor is it aware of any request or expectation on the part of other Governments, that the Japanese forces should undertake a mandate to protect the interests of other nationalities or assume any degree of control over the persons or property of other nationalities in Siberia. The Department therefore approves your action in dis-

sociating yourself from the appeal of the local consular body for Japanese protection of foreigners and desires that you make clear this Government's position to your colleagues and to local authorities. You may also in your discretion give out for publication a statement to the same effect."

DAVIS

361.1123 L 25/28 : Telegram

The Chargé in Japan (Bell) to the Acting Secretary of State

TOKYO, January 25, 1921—4 p.m.

[Received January 25—3:43 p.m.]

38. Your 11, January 13, 6 p.m. I have just received the following note from Minister for Foreign Affairs, dated today, marked confidential.

"I have the honor to acknowledge the receipt of your note number 530, dated the 15th instant, which you were good enough to bring me under instruction from your Government concerning the regrettable incident which occurred at Vladivostok on the 8th instant, resulting in the death of Lieutenant Langdon, an engineer officer on board the United States Steamship *Albany*.

The Japanese Government is deeply pained that such an unfortunate incident should have happened at all. In particular they are profoundly grieved that the incident has led to the death of a gallant officer of the United States. Accordingly they have immediately given instructions to the Japanese Ambassador at Washington to tender to the United States Government the expression of the most sincere condolence of the Japanese Government. At the same time they lost no time in charging the commander in chief of the Japanese troops at Vladivostok to make promptly a thorough and impartial inquiry into the matter and they confidently believe that a satisfactory settlement will be reached at no distant date.

As regards the question of preventing any recurrence of such incidents in future the commander in chief of the Japanese troops at that port is giving his most sincere attention to it and is adopting suitable measures for that purpose."

I have not repeated to Vladivostok.

BELL

361.1123 L 25/34a : Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, February 9, 1921—5 p.m.

28. Langdon Case.

You will take occasion to explain orally to the Foreign Office that this Government expects an early detailed reply to the note which you delivered in accordance with Department's telegram 11 January 13, 6 p.m.

It has been pointed out to the Japanese Ambassador here that the longer the status of the case is left in doubt, the more opportunity there is for misunderstandings and inaccurate public statements. The Department is having difficulty, in the face of insistent inquiries on the part of the press, in restraining adverse comment and unfriendly criticism. If reports are true, there is a growing effort in some quarters in Japan to arouse sentiment on behalf of the sentry. This Government fears that unless in the very near future the Japanese Government is in a position to effect a fair and satisfactory adjustment of this case it is likely to become a chronic source of irritation to the detriment of American-Japanese relations.

Concretely, it is expected that the sentry will be punished and proper reparation made for Langdon's death and that effective steps will be taken to prevent similar occurrences in future.

COLBY

361.1123 L 25/37 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, February 21, 1921—7 p.m.

[Received February 21—5:50 p.m.]

74. My 66, February 14, 6 p.m.¹⁸ I have received following note dated today from the Minister for Foreign Affairs:

“Referring to my note of number 2 dated January 25¹⁹ relative to the unfortunate incident which occurred at Vladivostok, I have the honor to state that the matter has since been subjected to the most thorough and exhaustive examination at the court martial held at Vladivostok according to which it has been established that the action of the sentry in question was entirely due to certain shortcomings in the orders he had received and he has therefore been acquitted according to the provisions of the military laws.

In consequence the Imperial military authorities have taken the following measures against his superior officers based on their having issued inaccurate orders:

1. Major General Nishihara general commanding the Japanese garrison in Vladivostok to be removed from the active list on account of his misinterpretation of the barrack-service regulations thus giving occasion for the recent grave occurrence. He is therefore deprived not only of the commandship of the garrison but of the honorable position of a brigade commander which he has hitherto held.

¹⁸ Not printed.

¹⁹ See telegram no. 38, Jan. 25, 1921, from the Chargé in Japan, p. 359.

2. Barrack officer (a major) to be subjected to the punishment of 'kinshin' (to be confined to his room and not to have any outside communication) for 30 days.

3. Assistant barrack officer (a lieutenant) to be subjected to 'kinshin' for 20 days.

4. Regimental commander to be subjected to 'kinshin' for 20 days.

5. Company commander to be subjected to 'kinshin' for 7 days.

The commander in chief of the Japanese expeditionary force paid a visit to the United States Steamship *Albany* and expressed to the commanding officer of the ship his sense of regret at the occurrence of the incident.

As regards preventive measures against any recurrence of a similar event in future, the Japanese command at once gave orders to the heads of the various troops at Vladivostok to exercise stricter care to prevent such events which fact was duly communicated by that command to the commanding officer of the United States Steamship *Albany* on the 20th ultimo.

In communicating the above to you for transmission to your Government I beg to request you to be so good as to convey to the American Government the expression of deep regret on the part of the Japanese Government at the occurrence of this sad event and I trust that the Government of the United States will fully appreciate the sincere spirit in which the Japanese Government have acted in dealing with this most unfortunate incident."

In handing me the above note the Vice Minister for Foreign Affairs stated he wished to make it quite clear that his Government placed the entire blame for the unhappy affair on the sentry's superior officers for having issued improper orders. The sentry himself acted only as might have been expected under such orders and the punishment which has been inflicted upon him, 30 days imprisonment, was in the nature of a disciplinary measure because of his having made false statements to the court of inquiry and not for having shot Lieutenant Langdon. Vice Minister added the verbal assurances on behalf of his Government that General Nishihara would never receive another command in the Japanese Army. He said also that a question would probably be asked of the Minister of War regarding this affair at tomorrow's Diet session and if so the Minister would make a statement of the tenor of the above note.

Hanihara also vouched for [*vouchsafed?*] the information that Captain Richardson of the *Albany* has stated to the Japanese military authorities at Vladivostok that he personally considered the action of the Japanese authorities as satisfactory. I contented myself with observing that I found no mention in the note of rep-

aration and intimated that my Government might have further views to communicate on this point.

From a telegram received this afternoon from Admiral Strauss²⁰ I learn that the Japanese officers confined to barracks are Major Ishikawa, Captain [*Colonel*] Horiuchi, Lieutenant Imoto and another captain name undecipherable.

BELL

²⁰ Rear Admiral Joseph Strauss, U. S. N., commander in chief of the Asiatic Fleet, from February 1921.

LIBERIA

SIGNATURE AT WASHINGTON OF THE LOAN PLAN FOR THE REORGANIZATION OF LIBERIAN FINANCES¹

882.51/1227 : Telegram

The Minister in Liberia (Johnson) to the Acting Secretary of State

MONROVIA, *January 8, 1921—8 a.m.*

[Received January 9—4:51 a.m.]

1. Referring to Legation's 80, October 27, 11 a.m.,² and 86, November 17, 11 [3] a.m.,³ Note dated January 5th, 1921, from Liberian Secretary of State [states] that the Legislature of Liberia having granted the President authority to proceed to the United States with plenary powers to reach a definite agreement with the Government of the United States, [the mission] has been [reconstructed]. President King will replace Secretary of State Edwin Barclay but [with] Associate Justice F. E. R. Johnson and Honorable John L. Morris as other two members, and Gabriel L. Dennis has been added to the mission as its secretary.

Mission will sail from Monrovia on or about January 21st.⁴

Cable report being prepared relative to some extraordinary developments here in connection with American loan plan and decision of President to head mission to the United States. This report will be cabled at earliest possible moment.

JOHNSON

882.51/1808

Memorandum by the Third Assistant Secretary of State (Bliss)

[WASHINGTON,] *April 1, 1921.*

President King of Liberia, at his own request, called this morning at 11:30 and I talked with him at some length. I pointed out that the recent investigation instituted by the Senate regarding loans to European countries, which included the proposed loan to Liberia,

¹ For previous correspondence concerning loan plan, see *Foreign Relations*, 1920, vol. III, pp. 49 ff.

² *Ibid.*, p. 100.

³ *Ibid.*, p. 105.

⁴ The mission left Monrovia for the United States Jan. 28 (file no. 882.51/1232).

and which investigation was initiated after the Liberian Commission had left Monrovia, had greatly complicated the question which brought President King to the United States; that the Treasury Department did not feel at this time justified in consummating the loan, even should a loan agreement plan be reached with the Commission. I further said that the State Department was actively engaged in the matter in an endeavor to reach a means of finding a method whereby it would be justified in beginning discussion with the Liberian Commission, but that it might be necessary to await the opening of Congress for submitting the question for the consideration of the Legislature. I also pointed out the disinterested desire of the American Government, as the nearest friend of Liberia, to be of every assistance to that country, because of our friendship for Liberia since its foundation and the desire to see the colored people succeed in the experiment which they had undertaken nearly a century ago. I expressed my personal regret that it had not been possible to enter immediately upon the arrival of the Commission into a discussion of the loan agreement and assured him that I was very much in hopes that the matter could be speedily adjusted as soon as the situation permitted of an exchange of views. President King said that he understood the situation and that while he too regretted it he was not unmindful of the difficulties which were presented, but that he was very much in hopes that it would be possible for the Commission and representatives of this Government to begin preliminary conversations with a view, if possible, of reaching a tentative agreement to be consummated without delay upon the loan being made available. He also asked to know whether the American Government would give its approval to Liberia making a loan with private banking and commercial interests in case the Government did not make the loan. To the first point I told him that it was a matter which would have to be given further consideration, and that his suggestion would have my earnest consideration, and that with regard to the second point it seemed unnecessary to cross that bridge until it had been reached, but that of course a private loan would depend for approval by the American Government on the persons who offered to advance Liberia any money.

He left with me a memorandum on various questions of detail concerning Liberia.

I talked with him regarding the climate of Liberia and had him describe to me at length the visit to Monrovia during the war of the German submarine; and assured him on parting that I wished him to consider that he could come to me at any time to discuss matters informally and unofficially which interested him and Liberia.

R[OBERT] W[OODS] B[LISS]

882.51/1342

President King to the Third Assistant Secretary of State (Bliss)

WASHINGTON, May 27, 1921.

MY DEAR MR. SECRETARY: Your visit to us early after our arrival in this City and the observations which you were kind enough to make touching the probable delay there would be in the matter of your Government considering and determining the question of the Loan Credit, were highly appreciated. I was not unaware of the delicate situation involved in the act of transition of Administrations. It was never felt, however, that the utmost period of waiting would exceed one month.

Agreeably to your Department's pointed suggestion through your Legation at Monrovia that I should head the Liberian Mission,⁵ and impelled, too, by an intense desire to see the plans of my Administration for economic and industrial improvements put into operation at the earliest possible moment, I have come to the United States hoping to thereby accelerate the labours of the Mission from all angles. My stay in this Country, however, is now becoming alarmingly protracted and the duties of my Government at home urgently require my presence. In these circumstances, I feel obliged (although with no feelings of impatience) to earnestly request your good office in bringing to an early decision the subject matter of my mission.

Meanwhile, I avail myself of this occasion to reiterate my feelings of profound appreciation for the keen interest, which I have reason to believe, your Government will continue to manifest in the security and welfare of Liberia.

I am [etc.]

C. D. B. KING

882.51/1298½

Memorandum by the Secretary of State of a Conversation with the British Ambassador (Geddes), June 29, 1921

Liberian Loan. The British Ambassador inquired as to the present status of the Liberian Loan negotiations. The Secretary gave him the information stating that the Department was convinced that the loan should be made; that the President had approved the recommendation and that the matter was before Congress so that the authority which was needed could be given. The Ambassador said that he understood that the French had been approached for a loan and the British interests had also been approached; that he was

⁵ *Foreign Relations*, 1920, vol. III, p. 104.

informed that the French were agreeable to the idea; that the British were unwilling that the French should make the loan alone and that if the French went ahead the British would make representations in order to secure participation; that the British were entirely satisfied to have this Government proceed, but that British interests (private interests) were contemplating advancing the money and did not understand why they should not have the financial opportunity that was offered.

The Ambassador wanted to know if the Secretary would give him an assurance that the loan would be made by this Government. The Secretary said that he expected that the loan would be made but that he could not give an absolute assurance as it was the opinion of the Department that in view of the lapse of time and the changed conditions, an authorization by Congress was needed.

The Ambassador asked if he could inform his Government that this Government would regret the taking up of negotiations abroad while the matter was pending here. The Secretary replied that he could do so; that this Government would regret any negotiations of the Liberian Government for a loan as long as it was under consideration by this Government.

882.51/1303a

The Secretary of State to the Minister in Liberia (Johnson)

No. 121

WASHINGTON, August 10, 1921.

SIR: Reports have reached the Department that rumors are being circulated in Liberia to the effect that the delay in taking action in the matter of the proposed Government Loan to Liberia has been due to the fact that the personnel of the Liberian Delegation sent to the United States is displeasing to this Government.

These rumors have no foundation in fact, and you may take such action as the situation may seem to you to warrant to contradict them.

For your information, it may be said that the restrictions placed on the extension of further credits, under the Defense and Security Act of 1917, were deemed, on the inauguration of the present Administration, to have made it impossible to consummate the Loan with the original credit made available in 1920. Consequently, the question of securing the required funds from Congress has had to be taken up anew. There is enclosed herewith a copy of the communication addressed by the Secretary of State to the President, under

date of July 29, 1921, reviewing briefly the course of the negotiations in the case, explaining their present status, and recommending the extension of the loan of five million dollars sought by the Liberian Government. The President has, in turn, communicated the Secretary's recommendation with his approval, to Congress. The information contained in the communication to Congress has been made public through the medium of the press in the United States.

You are authorized to make the contents of the enclosed letter known in Liberia either publicly or privately, as you may deem best.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

[Enclosure]

*The Secretary of State to President Harding*⁶

WASHINGTON, July 29, 1921.

THE PRESIDENT: I beg to submit the following considerations with respect to the proposed loan to the Republic of Liberia.

An examination of the course of the negotiations produces the conviction that commitments have been made by this Government which impose a moral obligation to make the loan. The negotiations were had, and proceeded to the point of an announced commitment, at a time when the broad authority conferred in connection with the prosecution of the war was adequate to the consummation of the plan, and the fact that this authority may not be deemed longer to exist, while making it impossible to proceed without Congressional sanction, does not, in my judgment, change the fact that assurances were given which should be made good.

The history of the negotiations, as they appear from the information at my command, may be stated as follows:

Liberia being at war with the enemies of the United States, a loan credit of five million dollars was extended by the Secretary of the Treasury on September 9, 1918,⁷ under the authority of the Act of April 24, 1917, "To Authorize an issue of bonds to meet expenditures for the national security and defense, and for the purpose of assisting in the prosecution of the war, to extend credits to foreign govern-

⁶ Filed separately under file no. 88251/1299b.

⁷ See note of Sept. 9, 1918, from the Assistant Secretary of the Treasury, *Foreign Relations*, 1918, p. 537.

ments, and for other purposes." On September 12, 1918,⁸ the Government of Liberia was notified of the opening of this credit and negotiations were initiated covering the terms, service and general purposes of the loan. The Loan Plan drawn up was intended to safeguard the money so advanced by American administration of expenditures and collection of revenues, and also to provide for repayments of all moneys due other foreign creditors, which would mean their withdrawal from participation in the financial and other public affairs of Liberia. The governments interested were advised of the opening of this credit. The Loan Plan for various reasons was not submitted to the Liberian Government until June 15, 1920, and the Liberian Legislature requested certain modifications. It was clearly understood, both by the Liberian Government and by the Government of the United States, at that time, that there was no question of a withdrawal of the offer of the money already promised, the time when the credit should be made available merely depending on a satisfactory agreement as to details of administration.

Relying on the assurance that the United States was ready to enter into a definite agreement, the President of Liberia came to Washington sometime ago with other Plenipotentiaries to conclude the negotiations. In anticipation of this journey and at the request of this Government, the Liberian Government gave to him and his associates full and necessary authority to conclude the Loan Plan, and, since that time, it is understood they have been prepared to sign an agreement providing for the necessary administrative measures adequately to secure the loan.

It should also be pointed out, in appreciating the moral obligation of this Government, that the Republic of Liberia, which had her origin largely through the efforts of American citizens, and at various times has sought the aid and counsel of this Government, decided, upon the entrance of the United States into the war, to make common cause with this country and the Allies against Germany. It was largely in consequence of this participation that the economic situation of Liberia was imperiled and that her Government was compelled to make appeal for financial aid. It was in these circumstances that Liberia was assured that the United States, her traditional friend, who had been generous in assistance to the other Nations fighting against Germany, would come to her relief.

In view of these circumstances and of the obligation to which they give rise, to which we cannot fail to be sensitive, I need not dwell upon the fact that the extension of this loan is highly important from the standpoint of the proper protection and promotion of

⁸ See telegram of Sept. 12, 1918, to the Chargé in Liberia, *Foreign Relations*, 1918, p. 537.

American commercial interests on the West coast of Africa. The advantages which will accrue to our people are not to be ignored, although in the presence of the considerations already mentioned, they need not be detailed or stressed.

In conclusion, permit me to observe that, apart from any question of our obligation or of any benefits accruing to ourselves, our people have always been especially interested in the welfare of Liberia because of the close relation which its prosperity may be deemed to have to all that pertains to the advancement of the negro race. The Republic of Liberia has been fostered through American interest, and at this critical time in her history we have opportunity to give a practical expression of our continued solicitude and by coming to her aid in this severe exigency to promote permanent relations of the closest friendship.

Respectfully,

CHARLES E. HUGHES

882.51/1322

The British Ambassador (Geddes) to the Secretary of State

No. 699

WASHINGTON, *September 16, 1921.*

MY DEAR MR. SECRETARY: It will be within your recollection that I spoke to you towards the end of June on the subject of the Liberian loan. On that occasion you were good enough to tell me that a bill to authorise this loan was shortly to be introduced into Congress with the full support of the Administration.

I should be very grateful if you could now let me know how the matter stands and what is the prospect of the loan being sanctioned in the near future.

Believe me [etc.]

A. C. GEDDES

882.51/1322

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, *September 29, 1921.*

MY DEAR MR. AMBASSADOR: I beg to acknowledge receipt of your letter of September 16, 1921, making inquiry as to the present situation respecting the Liberian Loan and the prospect of the Loan being sanctioned in the near future.

In reply I am glad to say that since our conversation, towards the end of June, the Administration has taken steps to bring about a conclusion of this matter as promptly as possible.

On July 29th the President formally requested the Congress to consider, in connection with the observations of the Secretary of

State relative to the entire situation, the question of granting a loan to the Republic of Liberia. I take pleasure in enclosing herewith printed copies of the communications in which the question of the proposed Loan to Liberia was referred to the Congress by the President.

I beg to say in conclusion that the Administration continues to give its full support to the loan proposal and hopes that congressional action in keeping with the suggestions of the President may be taken as soon as other pressing questions now pending are out of the way.

I am [etc.]

CHARLES E. HUGHES

882.51/1332

The Assistant Secretary of State (Dearing) to President King

WASHINGTON, *October 27, 1921.*

MY DEAR MR. PRESIDENT: I have received your letter of October 27, 1921,⁹ in which you inform me that the Loan Plan, as redrafted, has your approval and that you are now prepared for the formal signing thereof.

It is therefore respectfully requested that the members of the Liberian Plenary Commission come to the Department of State tomorrow, Friday, October 28, 1921, at four-thirty p.m. in order that they, in conjunction with the Secretary of State, may sign the Loan Plan and the supplementary Depository Agreement.

I remain [etc.]

FRED MORRIS DEARING

Treaty Series No. 195A

Agreement of October 28, 1921, for the Reorganization and Rehabilitation of Liberian Finances

WHEREAS the Government of Liberia has undertaken a reorganization and rehabilitation of its finances, and

WHEREAS the President of the United States of America has recommended to the Congress of the United States the enactment of a Joint Resolution whereby the Secretary of the Treasury is authorized on behalf of the United States to establish a credit of \$5,000,000.00 with the Treasury of the United States for the Government of Liberia, subject to the approval of the President of the United States and in conformity with an appropriate arrangement made under his direction, to enable the Government of the United States

⁹ Not printed.

to assist the Government of Liberia in such reorganization and rehabilitation:

The two Governments, subject to the passage and approval of the aforesaid Joint Resolution of Congress, have agreed upon an arrangement for that purpose in the following terms:

ARTICLE I

The Government of Liberia shall request the Secretary of the Treasury of the United States to make to the Government of Liberia against the credit of \$5,000,000.00 above mentioned, the following advances for the purposes hereinafter set forth against the duly executed obligations of the Government of Liberia as provided in the present Plan, and shall also request the President of the United States to designate the members of a Financial Commission of Liberia, hereinafter referred to as the Financial Commission, to be appointed and to serve as hereinafter provided. The head of the Financial Commission shall be known as the Financial Commissioner of Liberia, hereinafter referred to as the Financial Commissioner. The words "United States Loan" wherever used herein shall mean all advances, collectively, which the Secretary of the Treasury of the United States may make to the Government of Liberia under the aforesaid Joint Resolution of the Congress of the United States, or pursuant to the present Plan. Wherever the term "United States gold" is used in the present Plan, such term shall be understood as meaning gold coin of the United States of America of or equal to the standard of weight and fineness existing at the date of the present Plan.

The advances which shall be requested by the Government of Liberia, shall be as follows:

1. \$30,000, or such less amount as shall be sufficient to enable the Government of Liberia to repay the advances heretofore made to it by the Secretary of the Treasury of the United States under the Act of September 24, 1917, known as "Second Liberty Bond Act", as amended and supplemented, and the interest thereon.

2. The amounts, as certified by the Financial Commission, as of March 31 and September 30 of each of the five fiscal years of the Government of Liberia, ending on or before September 30, 1926, by which all revenues and receipts of the Government of Liberia for the half fiscal year ending on each of said dates, other than advances from the United States Treasury, and any surplus funds held by or for the Government of Liberia, shall be less than the aggregate amount for such half fiscal year of

- (a) the costs and expenses of such collection, application and administration by the Financial Commission of the revenues and receipts collected by the Financial Commission.

- (b) the current administrative expenses of the Government of Liberia, in accordance with the budget and appropriation Acts of the Government of Liberia, prepared and enacted as hereinafter provided in the present Plan;

For the purpose of ascertaining the amount of any such advance to be made by the Treasury of the United States, the total expenditures by the Government of Liberia for any fiscal year, stated in paragraphs (a) and (b) above, shall not, in any event, be reckoned at a sum greater than \$560,000.00.

Should there be, after the expiration of said five fiscal years ending September 30, 1926, need to guarantee the expenditures stated in paragraphs (a) and (b), a new arrangement for that purpose shall be made between the Government of Liberia and the Government of the United States.

3. \$233,000, or such less amount as shall be sufficient to enable the Government of Liberia to pay its Internal Funded Debt, and the interest due thereon.

4. \$350,000, or such less amount as shall be sufficient to enable the Government of Liberia to pay its Internal Floating Debt.

5. \$1,650,000, or such less amount as may be necessary for the purpose of enabling the Government of Liberia to purchase or redeem all of its bonds now issued and outstanding, representing the 5% Sinking Fund Gold Loan, due July 1, 1952, under the Agreement for Refunding Loan dated March 7, 1912, between the Republic of Liberia, of the first part, and J. P. Morgan and Company, Kuhn, Loeb and Company, The National City Bank of New York, and First National Bank of New York, acting for themselves and for Robert Fleming and Company, Banque de Paris et des Pays Bas, M. M. Warburg and Company, and Hope and Company, and for others, of the second part, including such payments of interest, costs of notices and other payments or deposits, as well as payments which may be due from the Government of Liberia under the Fiscal Agency Agreement dated March 7, 1912, between the Republic of Liberia, of the first part, and The National City Bank of New York, of the second part, as shall be necessary to terminate all obligations of the Government of Liberia under all of said Bonds or under the Agreement for Refunding Loan or the Fiscal Agency Agreement above mentioned, as shall entitle the Government of Liberia in accordance with the terms of said Agreement to the cancellation and destruction of all said bonds held by the Fiscal Agents in the sinking fund mentioned in said agreements. Advances for this purpose shall be made at such times and in such amounts as shall be determined by the Secretary of State of the United States. It is understood that the

Secretary of State of the United States may determine the best method for acquiring part or all of the aforesaid Bonds but in no event shall more than par and accrued interest be paid therefor.

6. Such amounts as may be necessary to enable the Government of Liberia to make improvements in transportation and communication facilities, sanitation, and other public works, in accordance with plans which shall have received the approval of the Financial Commission.

A statement of all proposed public works to be undertaken during any fiscal year of the Government of Liberia, including the amounts to be expended thereon, shall, after consulting the Secretary of the Treasury of Liberia, be prepared by the Financial Commission, and submitted to the Secretary of the Treasury of Liberia to be included in the annual Budget, hereinafter mentioned. Any item or items of said statement of proposed public works to which objection may be made by the Government of Liberia shall be referred to the Secretary of State of the United States, together with such comments thereon as the Government of Liberia and the Financial Commission may desire to make, and the opinion of the Secretary of State of the United States on the item or items at issue shall be invited. Such opinion, when given, shall be binding alike on the Government of Liberia and the Financial Commission.

Advances under clauses 2, 3 and 4 of this Article shall be made at such times, in such amounts and for such purposes as shall be agreed upon between the Government of Liberia and the Secretary of State of the United States. Requests for advances under clauses 3 and 4 shall be made in certificates issued by the Secretary of the Treasury of Liberia, stating the amounts of the advances desired, the names of the creditors to be paid, the amounts to be paid them, that such indebtedness is a valid debt of the Government of Liberia, the circumstances of the creation of such debt and that the amounts proposed to be paid by the Government of Liberia in discharge thereof are the lowest amounts for which the Government of Liberia can justly settle the debt. Advances under clause 6 of this Article shall be made at such times, in such amounts and for such purposes as shall be specified by the Financial Commission. Requests for advances under clause 6 shall be made in certificates issued by the Secretary of the Treasury of Liberia, countersigned by the Financial Commissioner, stating the amounts of the advances desired, the goods or services for which the advances are required, and that such goods or services have been delivered or rendered, or shall have been delivered or rendered, by the dates respectively on which advances are so requested to be made, or that payment in respect thereof in the amounts requested will be due on such dates

under a contract therefor made with the approval of the Financial Commission.

7. An advance of an emergency nature of \$348,000, or such less amount as may be required in order to enable the Government of Liberia to begin the immediate execution of the present Plan; such advance to be deposited with the Fiscal Agent at the disposal of the Financial Commissioner who shall withdraw not more than \$80,000 thereof for the traveling expenses of the members of the Financial Commission, and for their salaries while in transit; not more than \$8,000 thereof for stationery and office supplies of the Financial Commission, and not more than \$260,000 thereof to permit the immediate undertaking of public works, and the purchase and shipment to Liberia of the necessary equipment therefor. This advance shall be made and accounts for expenditures thereunder shall be rendered in keeping with the general provisions of the present Plan and, as soon as it is possible to do so, the advance shall be incorporated with the regular transactions under the proper provisions as set forth in clauses 2 and 6 of Article I of the present Plan. Requests for advances under this clause shall be made in certificates issued by the Secretary of the Treasury of Liberia, countersigned by the Financial Commissioner, stating the amounts of the advances desired and the purpose for which the advances are required.

ARTICLE II

Advances shall be made pursuant to the present Plan against delivery of obligations in a form approved by the Secretary of the Treasury of the United States in a corresponding amount and bearing interest at the rate of five per cent per annum. Such obligations shall be executed by a person duly authorized by the Government of Liberia to execute them in its name and on its behalf. The form and execution of such obligations shall be satisfactory to the Secretary of State of the United States and the Secretary of the Treasury of the United States. At any time the Government of Liberia shall at the request of the Secretary of the Treasury of the United States exchange for any of its obligations of said Government held by the United States Treasury, whether acquired in accordance with the provisions of the present Plan or otherwise, an equal aggregate face amount of other obligations duly executed in the name of the Government of Liberia in such form and denominations as shall be agreed upon by the Government of Liberia and the Secretary of the Treasury of the United States.

Advances made under the present Plan shall be paid in the United States to such Fiscal Agent as shall be designated by the Secretary of State of the United States and appointed by the Government of

Liberia. Said Fiscal Agent shall be authorized by the Government of Liberia to receive such advances on its behalf and in its name and to dispose thereof.

All advances so paid to the Fiscal Agent shall be used for the purposes for which such advances shall be made under the present Plan and the Fiscal Agent shall be directed to remit to the Depository hereinafter mentioned, in Liberia, except as hereinafter provided, all funds advanced in accordance with requests made under clauses 2, 3, 4 and 6 of Article I of the present Plan, in so far as the advances so requested shall be necessary for use in Liberia. To the extent that advances so requested are required for use in the United States, the Fiscal Agent shall be directed to apply such advances to payments in the United States for which payments they shall have been requested. If to any certificate above mentioned requesting an advance, shall be added the certificate of the Financial Commissioner, that he has in his hands in an amount specified in such certificate, funds, which under the terms of the present Plan, he is bound to remit to the Secretary of the Treasury of the United States, and request is made by the Financial Commissioner that the Secretary of the Treasury of the United States credit the corresponding amount in dollars as interest or principal upon obligations of the Government of Liberia, acquired and held by the United States under the provisions of the present Plan, as the case may be, the Secretary of the Treasury of the United States shall credit the amount in accordance with such request and charge such amount as an advance to the Government of Liberia under the provisions of the present Plan. Upon receipt by the Financial Commissioner of advice from the Secretary of the Treasury of the United States that such sum has been credited in accordance with his request, the corresponding amount shall be deposited with the Depository to be applied as an advance from the Secretary of the Treasury of the United States, made in accordance with the certificate of the Secretary of the Treasury of Liberia. The Government of Liberia shall, on the first day of each quarter, pay to the Secretary of the Treasury of the United States an amount equal to the interest accrued and unpaid up to the end of the preceding quarter on advances made to the Government of Liberia by the Secretary of the Treasury of the United States pursuant to the present Plan, to be applied as hereinafter set forth. The Government of Liberia shall at the same time also pay to the Secretary of the Treasury of the United States on account of the principal of such advances one-half of the remainder of all revenues and receipts of the Government of Liberia, after the payments as they arise, of all costs and expenses of the collection, application and administration of said revenues and receipts includ-

ing (1) the salaries of the Financial Commissioner and his American Assistants; (2) the salaries of the employees of the revenue service, both customs and internal; (3) costs and expenses of maintaining a Frontier Force; and (4) any other necessary expenses connected with the collection, application and administration of the Assigned Revenues and Receipts, hereinafter mentioned, and after the setting aside of such sums as may be necessary to enable the Government of Liberia to pay as they become due the current administrative expenses of the Government—but not in any one year to exceed the sum provided for current administrative expenses of the Government as included in the budget and appropriation Acts of the Government of Liberia, prepared and enacted as provided in the present Plan—and the payment of interest on advances made by the Secretary of the Treasury of the United States, as above mentioned.

The obligations representing advances made by the Government of the United States to the Government of Liberia shall be payable in United States gold and shall be exempt, both as to principal and interest, from all taxes already established by or within the Republic of Liberia or that may in future be established by or within the Republic of Liberia by any authority.

ARTICLE III

The advances made by the Government of the United States to the Government of Liberia shall constitute a direct liability and obligation of Liberia, which pledges its good faith and credit for the punctual payment of the principal and interest of such advances, and undertakes to incorporate in its annual budget of expenditures each year an amount which shall be sufficient to meet in full, for such year, all amounts required for, or incident to the service of such advances.

The term, "service of the United States Loan", wherever used herein, shall be deemed to include the payment of all amounts which under the obligations at any time representing the United States Loan or under the present Plan the Government of Liberia undertakes or may undertake, or is, or may be required to pay in connection with the United States Loan, and whether for interest payments or on account of principal—hereinafter called "Redemption Payments"—or expenses.

For the purposes of the present Plan, the expenses incident to the service of the United States Loan shall include the remuneration and expenses of the Depositary and of the Fiscal Agent and the cost of remittances from the United States to Liberia, and from Liberia to the United States, as the case may be, of funds for any of the purposes of the present Plan, including the cost of shipping coin and currency to Liberia from the United States.

ARTICLE IV

The principal and interest of the United States Loan and the Redemption Payments and all other amounts required for, or incident to, the service of the United States Loan shall be and are hereby secured as a charge, on all customs revenues payable to the Government of Liberia on and after the day on which the aforesaid Joint Resolution of the Congress of the United States is approved, whether such customs revenues arise from duties imposed on imports or exports; on all revenues receivable on and after said date from the rubber tax, headmonies and postal revenues; and on all other revenues and receipts of the Government of Liberia from whatever source arising on and after said date, and all sums which are now or which may hereafter become due and payable to the Government of Liberia arising out of claims which now exist or shall hereafter arise against individuals, associations, corporations, or Governments, or otherwise, and on any property of aliens who were enemies of the Republic of Liberia during the recent war, or the proceeds of the sale of such property, which property or proceeds may be lawfully retained by the Government of Liberia—hereinafter called collectively the “Assigned Revenues and Receipts”. The Government of Liberia grants, assigns and transfers the Assigned Revenues and Receipts and all thereof as security for the United States Loan.

ARTICLE V

The Government of Liberia further engages:

1. That, for the purpose of securing the United States Loan, the control during the life of the United States Loan of the collection, application and administration of all the Assigned Revenues and Receipts in accordance with the present Plan shall be vested in the Financial Commission, the administration of which shall be under the direction and control of the Financial Commissioner or during his absence of the next ranking member of the Financial Commission. The Financial Commission shall be composed of a Financial Commissioner at a salary of \$15,000.00 per annum, a Deputy Financial Commissioner at \$10,000.00 per annum, an Auditor at \$6,000.00 per annum, three Administrative Assistants of Class I at \$6,000.00 per annum to be assigned respectively as Controller General of Customs, Commissioner General of the Interior and Director General of Sanitation; ten Administrative Assistants of Class II at \$4,000.00 per annum, to be assigned respectively as follows: three Controllers of Customs, three District Commissioners, two Technical Advisers (roads and ports), an Accountant, and an Agricultural Adviser; and two Administrative Assistants of Class III at \$3,000.00 per annum, to be assigned respectively

as follows: one Postal Revenue Officer and one Clerk Assistant. All members of the Financial Commission shall be designated by the President of the United States, to serve during his pleasure, and shall be appointed by the President of Liberia. The Administrative Assistants shall be under the direction and supervision of the Financial Commission which shall be organized and function according to methods of procedure to be approved by the Secretary of State of the United States.

The Financial Commissioner, the Deputy Financial Commissioner, and such other members of the Financial Commission as may be charged with the collection, application or administration of monies under the provisions of the present Plan shall give adequate bond. All premiums on bonds executed by the aforesaid officials shall be considered a part of the expenses of the Financial Commission.

The Deputy Financial Commissioner or such other member of the Financial Commission as the Secretary of State of the United States may designate shall act as Legal Counsellor. Should any action be filed in the courts of Liberia which may in any way affect the resources of Liberia or the collection, application and administration of the Assigned Revenues and Receipts, the Attorney-General, the Financial Commissioner, and the Legal Counsellor shall immediately confer for the purpose of determining the course which shall be followed with reference to the aforesaid action. The members of the Financial Commission shall be granted by the Government of Liberia such immunity, in so far as they may be subjected to arrest or to civil or criminal process of the Liberian courts, as shall leave them unimpeded and unembarrassed in the discharge of their official duties, except in instances wherein the President of Liberia and the Financial Commissioner agree that this immunity shall be waived.

The Auditor, for the purposes of designation, appointment and payment of salary and allowances and removal shall be considered as a member of the Financial Commission, but his functions and authority shall be derived from the Act of the Legislature of Liberia approved August 2, 1917, and such other pertinent legislation as now exists or may hereafter be enacted.

All Liberian officials who may be appointed by the Government of Liberia to serve in connection with the collection, application and administration of the Assigned Revenues and Receipts shall serve under the Financial Commission. Any such official may be suspended for cause, without pay, by the Financial Commissioner, who may also temporarily fill vacancies thus created, until such vacancies are filled by regular appointment. The Government of Liberia shall consult

with the Financial Commissioner before appointing officials to serve under the Financial Commission.

The Secretary of the Treasury of Liberia and the Financial Commission shall co-operate to bring order and system into the finances of the Government of Liberia. The Financial Commission shall prescribe for the Republic of Liberia and for any sub-division thereof or general or local governmental authority therein, such methods, rules and regulations for the collection, application and administration of the Assigned Revenues and Receipts as it may deem necessary and the Government of Liberia shall fix penalties not inconsistent with the constitution and laws of Liberia for the violation of such rules and regulations as the Financial Commission may prescribe. Only the Financial Commissioner as such is authorized to communicate directly with any official or branch of the Government of Liberia, but by agreement between the Government of Liberia and the Financial Commissioner any other member of the Financial Commission may be authorized to correspond directly with any official of the Government of Liberia with whom he may have business.

2. That to assure the collection of the Assigned Revenues and Receipts and the enforcement of the laws, rules and regulations pertaining thereto, the Government of Liberia, upon the request of the Financial Commission, shall make by law appropriate provisions for placing and maintaining at the disposal of the Financial Commission an adequate revenue guard and patrol service, both on land and sea, and the expenses of such revenue guard and patrol service shall be paid by the Financial Commission out of the Assigned Revenues and Receipts. The duties of the revenue guard and patrol service may, with the approval of the Financial Commission, be performed by the Frontier Force, hereinafter mentioned, so long as the Financial Commission may deem such services adequate to assure the proper collection and protection of the Assigned Revenues and Receipts.

3. That for the further security of the Assigned Revenues and Receipts, the Government of Liberia shall maintain a Frontier Force sufficient for the maintenance of internal peace within the territories of Liberia. All salaries, wages and other expenses of the Frontier Force shall be paid on behalf of the Government of Liberia by the Financial Commission out of the Assigned Revenues and Receipts, and shall be deemed a part of the expenses of the Financial Commission. The strength of the Frontier Force shall be fixed by agreement between the Government of Liberia and the Financial Commission and it shall not be increased or reduced in members without the assent of the Financial Commission. Four officials of military experience to be designated by the President of the United States,

and to serve during his pleasure, shall be appointed as the four senior officers of the Frontier Force which shall be as follows: one major at a salary of \$4,200.00 per annum, and three captains at \$3,500.00 each per annum. Such officers shall serve in the Frontier Force during the life of the United States Loan. The Secretary of State of the United States may, if deemed advisable by the Financial Commission, suggest a definite scheme for reorganization of the Frontier Force, to be prepared by the War Department of the United States.

4. That the Assigned Revenues and Receipts shall, during the life of the United States Loan, be payable only in gold, or its equivalent, and the rates and amounts thereof shall not be decreased without the approval of the Financial Commission, but may be increased so as to meet the expenses of the Financial Commission, the service of the United States Loan and the expenses of the administration of the Government of Liberia. The Secretary of the Treasury of Liberia shall from time to time hereafter, in accordance with such recommendations as the Financial Commissioner may make after consulting with him, prepare and submit to the Legislature for enactment into law a draft of a Bill revising the customs duties and other revenues and receipts of the Government of Liberia for the purpose of increasing the revenues and distributing more equitably the incidence thereof. No customs house shall be established or discontinued, or opened or closed without consultation with and the agreement of the Financial Commission. The Financial Commission shall make to the Secretary of the Treasury of Liberia and to the Secretary of State of the United States quarterly and annual reports of the financial administration and of the collection and application of the Assigned Revenues and Receipts. Such reports shall contain the accounts of the Financial Commission in detail, and these accounts of the Financial Commission shall be subject quarterly to examination and audit by the Auditor, hereinbefore provided, on behalf of the Government of Liberia. All accounts of the Financial Commission shall be subject to examination and verification by the Government of Liberia at all reasonable times.

5. That the Government of Liberia shall not during the life of the United States Loan enact any legislation which may prejudicially affect the finances, revenues, or resources of Liberia and the Government of Liberia shall consult the Financial Commission with regard to all proposed legislation, before its enactment, which may in any way affect such finances, revenues or resources. If, after the consultation herein provided, the Government of Liberia enacts legislation which the Financial Commission has stated in writing to the Government of Liberia, would, in the opinion of the Financial Commission, prejudicially affect the finances, revenues

or resources of Liberia, an explanation of such action, by the Government of Liberia, and also a report thereon by the Financial Commission, shall be furnished to the Secretary of State of the United States for his information and consideration.

The proceedings of the Legislature of Liberia shall be printed daily by the Government of Liberia, and copies of such printed proceedings shall be furnished to the Financial Commission.

6. That the Government of Liberia shall by annually enacting a Budget make appropriations for the costs and expenses of collecting the Assigned Revenues and Receipts, including all expenses of the Financial Commission, the service of the United States Loan, the administrative expenses of the Government of Liberia, and all other amounts which under the present Plan or otherwise, the Government of Liberia is by existing laws or outstanding contracts or engagements required or obligated to pay. Before the opening of each regular session of the Legislature of Liberia, the Secretary of the Treasury of Liberia shall prepare an itemized Budget for the year which shall contain statements in detail of the probable revenues and receipts of the Government of Liberia for the ensuing fiscal year from all sources, and of all proposed expenditures chargeable in any manner against such revenues and receipts. The proposed Budget when so prepared and approved by the Financial Commission shall be submitted to the Legislature of Liberia by the Secretary of the Treasury of Liberia for enactment. Since the present Plan provides that the Secretary of the Treasury of the United States shall meet the deficit of the current expenses of the Government of Liberia during a period of five years, the Financial Commission shall not without the consent of the Secretary of State of the United States approve any proposed Budget or appropriation act in which the current expenses of the Government of Liberia, including the expenses of the Financial Commission and of the collection, application and administration of the Assigned Revenues and Receipts, shall exceed in the aggregate the sum of \$560,000.00 per annum. Within ten days after the enactment of the Budget, the Secretary of the Treasury of Liberia shall deliver to the Financial Commission a copy thereof as enacted and a statement of all appropriations, regular and special, which shall have been made. All accounts of the Government of Liberia shall be subject to examination and verification by the Financial Commissioner at all reasonable times.

7. That all Revenues and Receipts of the Government of Liberia, except as hereinafter provided, shall be deposited in a bank designated as the Depository. All deposits made with said Depository and all payments made therefrom shall be in accordance with an agreement supplementary to the present Plan, to be known as the Depository Agreement.

However, if it shall at any time be deemed advisable by the Secretary of State of the United States, the Government of Liberia shall establish a national bank to be known as the Bank of Liberia, and to be incorporated with funds supplied from the United States Loan, which shall then be the Government Depository for all government funds and revenues, as prescribed by the Financial Commission. This bank, if established, shall have a charter drawn up by the Federal Reserve Board of the United States and approved by the Government of Liberia and shall be administered during the life of the United States Loan by the Financial Commission.

8. That the Financial Commission, and all members thereof, are hereby granted all power and authority necessary for the performance of their duties hereunder. The Government of Liberia shall forthwith enact all legislation necessary to confirm said power and authority in the Financial Commission and shall give them all needful aid and support and full protection.

It is expressly understood, however, that all power and authority temporarily delegated under this agreement to the Financial Commission or any member thereof, is granted solely for the purpose of facilitating the financial and economic rehabilitation of Liberia, and upon the discharge by the Government of Liberia of the obligations herein assumed, all said power and authority so delegated shall automatically revert unimpaired to the Government of Liberia.

ARTICLE VI

The Assigned Revenues and Receipts shall be applied by the Financial Commission as follows:

1. To the payment as they arise of all costs and expenses of collection, application and administration of the Assigned Revenues and Receipts, including the salaries of the members of the Financial Commission and the salaries of the employees of the revenue service, both customs and internal, the cost and expenses of maintaining the Frontier Force and any other expenses whatsoever connected with the Financial Commission and all amounts incident to the service of the United States Loan except as to payments on account of principal and interest for which provision is hereinafter made.

2. Thereafter to the payment on the first day of each quarter for account of the Government of Liberia to the Depository of such sums as may be necessary to enable Liberia to pay as they become due the current administrative expenses of the Government of Liberia, but not in any year more than the sum set forth as the estimate of current administrative expenses of the Government of Liberia in the budget and appropriation acts prepared and adopted as hereinbefore provided.

3. Thereafter to the payment on the first day of each quarter to the Secretary of the Treasury of the United States of an amount equal to the interest accrued and unpaid up to the end of the preceding quarter on advances made by the Government of the United States to the Government of Liberia pursuant to the present Plan.

4. From the sum remaining, after the payments provided in clauses 1, 2 and 3 of this Article, have been made, one-half shall be paid on the first day of each quarter to the Secretary of the Treasury of the United States on account of the principal of advances made by the Government of the United States to the Government of Liberia pursuant to the present Plan.

5. The other half of said remainder shall be applied so far as may be necessary to the payment of any other amounts which the Financial Commission may, by further agreement between the Government of the United States and the Government of Liberia, be required to pay.

6. The sums that may remain after the payments provided in clause 5 of this Article have been made shall be applied as follows:

One-half shall be credited by the Depositary to an account hereinafter referred to as the Surplus Account, and one-half, to an account hereinafter referred to as the Improvements Account. Except as herein otherwise provided, the Surplus Account shall be subject to the sole order of the Government of Liberia. Monies in the Improvements Account shall be applied in so far as possible only for the improvement of Public Education in Liberia and for Public Works. Monies shall be paid from the Improvements Account only with the consent of the Financial Commission. Whenever, and for so long a period as the Assigned Revenues and Receipts shall be insufficient to meet the payments required to be made by clauses 1, 2, 3, 4 and 5 of this Article, the Depositary shall cease paying out the monies from either the Surplus Account or the Improvements Account and such funds may be applied by the Financial Commission to meet the payments provided in clauses 1, 2, 3, 4 and 5 of this Article.

ARTICLE VII

None of the provisions of the present Plan shall be deemed or construed to create any trust or obligation in favor of any holder of any of the outstanding obligations of indebtedness of Liberia or in favor of any owner of any coupons or claim for interest on, or in respect of, any thereof, or in favor of any holder of any claims against Liberia. Any and all claims against the Government of Liberia which may not be discharged under the provisions of clauses 3, 4 and 5 of Article I of the present Plan shall be submitted to a Claims Commission composed of the Secretary of the Treasury of

Liberia, the Auditor and the Financial Commissioner. This Claims Commission shall have power to determine the validity of any and all such claims and its decision shall be final.

ARTICLE VIII

In construing the present Plan, the life of the United States Loan shall be deemed to be the period from the date hereof until all the advances made by the Government of the United States to the Government of Liberia, pursuant to the present Plan, shall have been fully repaid with interest, and all other undertakings on the part of the Government of Liberia in the obligations representing said advances and in the present Plan contained shall have been satisfied.

ARTICLE IX

1. Until the Government of Liberia has repaid the whole amount of the advances and other expenses incident to the service of the United States Loan, no floating debt shall be created and no loan for any purpose shall be made except with the written approval of the Financial Commission.

2. No concession or franchise or amendment of any existing concession or franchise shall be granted by the Legislature of Liberia or by any other branch of the Government of Liberia until after it shall have been favorably reported upon by the Financial Commission. Any application for concession or franchise or amendment of any existing concession or franchise not favorably reported upon by the Financial Commission, but which the Government of Liberia may nevertheless deem it necessary to grant in order to promote the best interests of Liberia, shall be referred to the Secretary of State of the United States by the Government of Liberia and the Financial Commission, with a request that such application be examined and his opinion thereon be given. Such opinion, when given, shall be binding alike upon the Government of Liberia and the Financial Commission.

3. In case of malfeasance in office, neglect of duty, or inefficiency on the part of any American official or employee of the Financial Commission, or the Frontier Force, the Government of Liberia reserves the right to request his dismissal of the Secretary of State of the United States. Any such request shall be referred to the Secretary of State of the United States in order that an investigation may be made with a view, if the facts warrant, to the dismissal of the official or employee indicated. With the exception of the Financial Commissioner, and such other member of the Financial Commission as may be acting as Financial Commissioner, any American official or employee of the Financial Commission or the Frontier Force may

be temporarily suspended, for cause, by the Government of Liberia with the concurrence of the Financial Commissioner or the officer acting in his stead. Provision for the suspension for cause of any member of the Financial Commission by the Financial Commissioner shall be incorporated in the aforesaid methods of procedure of the Financial Commission to be approved by the Secretary of State of the United States. The Government of Liberia pledges itself to inflict prompt and adequate punishment upon any Liberian civil or military official who may be guilty of misconduct or malfeasance in office and upon all others who may be guilty of misconduct.

4. The Government of Liberia shall request the advice of the Secretary of State of the United States before appointing any purchasing agents or agent of the Government of Liberia either abroad or in Liberia.

ARTICLE X

The Government of Liberia hereby consents that the terms of the Agreement for Refunding Loan of 1912 and of the Fiscal Agency Agreement of 1912 shall be deemed modified in accordance with the terms of the present Plan.

ARTICLE XI

The Government of Liberia shall enact all such legislation as may be required for the complete authorization and legalization of the present Plan and of all action called for by the present Plan on the part of the Government of Liberia or necessary or convenient to carry it into operation.

ARTICLE XII

The present Plan shall come into force and effect the day on which the aforesaid Joint Resolution of the Congress of the United States whereby the Secretary of the Treasury is authorized on behalf of the United States to establish a credit of \$5,000,000.00 with the Treasury of the United States for the Government of Liberia, is approved by the President of the United States.

Done at Washington this the twenty-eighth day of October 1921.

CHARLES E. HUGHES

Secretary of State of the United States

C. D. B. KING

President of the Republic of Liberia

Plenary Commissioner of Liberia

F. E. R. JOHNSON

Plenary Commissioner of Liberia

JOHN L. MORRIS

Plenary Commissioner of Liberia

THE DEPOSITARY AGREEMENT

In Clause 7 of Article V of the Financial Plan for the reorganization and rehabilitation of the finances of the Government of Liberia, it is provided as follows:

That all revenues and receipts of the Government of Liberia except as hereinafter provided shall be deposited in a bank designated as the Depositary. All deposits made with said Depositary and all payments made therefrom shall be in accordance with an agreement supplementary to the present Plan, to be known as the Depositary Agreement.

The Governments of Liberia and of the United States, accordingly, have agreed upon the following provisions:

1. The Government of Liberia shall designate as the Depositary, under the Financial Plan, such bank in the City of Monrovia in Liberia as shall be agreeable to the Secretary of State of the United States of America and such designation shall be terminated by the Government of Liberia upon the request of the Secretary of State of the United States of America. Any arrangement which the Government of Liberia may make with the Depositary shall embody the provisions of this agreement and such Depositary shall undertake to comply with such provisions and with the pertinent provisions of the Financial Plan. The arrangement shall also provide for its termination upon request of the Secretary of State of the United States. In case the Depositary shall cease to act as such by reason of such termination of its designation or otherwise, a new Depositary shall be designated in the same manner as above provided. Monies paid to the Depositary for the account of the Government of Liberia, as provided in the Financial Plan, shall be held by the Depositary and paid out as follows:

2. Monies paid to the Depositary under Clause 3 of Article I of the Financial Plan, whether remitted by the Treasurer of the United States of America, or deposited by the Financial Commission, as provided in the Plan, shall be held in a separate account and shall be paid out by the Depositary only upon check signed by the Secretary of the Treasury of Liberia, or his nominee, and countersigned by the Financial Commissioner, and showing on its face the account against which drawn. As funds from this Account shall be applied to the payment of the principal and accrued interest of the Internal Funded Debt of Liberia the obligations representing this debt, whether bonds or coupons or both, must be surrendered to the Depositary for cancellation when payment thereof has been made. All such obligations so surrendered to the Depositary shall be received by the Depositary as Trustee for the Government of Liberia

and forthwith shall be turned over to the Secretary of the Treasury of Liberia, and by him destroyed.

3. Monies paid to the Depository under Clause 4 of Article I of the Financial Plan, whether remitted by the Treasurer of the United States, or deposited by the Financial Commission, as provided in the Financial Plan, shall be held in a separate account and shall be paid out, except as otherwise provided herein, by the Depository only upon check signed by the Secretary of the Treasury of Liberia, or his nominee, and countersigned by the Financial Commissioner, and showing on its face the account against which drawn. Such check shall be issued only upon presentation of a general release in favor of the Government of Liberia, duly executed by the creditor in whose favor the check is drawn. The Depository shall not pay any such check unless drawn in favor of the person mentioned in the certificate provided for in Article I of the Financial Plan, and in the amount shown by such certificate to be payable to such person. A true copy of such certificate shall be furnished the Depository. Amounts necessary for payments of arrears of the former Receivership Administration and of the Frontier Force, as certified by the Financial Commissioner to the Depository, shall be paid to the Financial Commissioner upon his sole order for disbursement.

4. Monies paid to the Depository under Clause 6 of Article I of the Financial Plan, whether remitted by the Treasurer of the United States, or deposited by the Financial Commission, as provided in the Financial Plan, shall be held in a separate account, and shall be paid out by the Depository only upon check signed by the Secretary of the Treasury of Liberia, or his nominee, and countersigned by the Financial Commissioner, and showing on its face the account against which drawn.

5. Monies paid to the Depository under Clause 2 of Article I of the Financial Plan, shall be held in a separate account; and, to the extent necessary, as certified to the Depository by the Financial Commission, to pay the costs and expenses of the collection, application and administration of the Assigned Revenues and Receipts as defined in Clause 1 of Article VI, shall be paid to the Financial Commissioner upon his sole order for disbursement. The remainder of monies so deposited under Clause 2 of Article 1 shall be paid out as provided in the next following paragraph.

6. Monies paid to the Depository under Clause 2 of Article VI of the Financial Plan, together with the remainder of funds last mentioned in the last preceding paragraph, shall, in such amounts not greater than those provided by the Budget as the Secretary of the Treasury of Liberia, with the approval of the Financial Com-

mission, may direct, be held, respectively, in separate accounts which the Depositary is hereby directed to open each year for each item of current administrative expenses set forth in the Budget. Such monies shall be paid out by the Depositary only upon check signed by the Secretary of the Treasury of Liberia, or his nominee, and showing on its face the account against which drawn. The Depositary shall not pay out for any purpose, other than that set forth in the Budget, any funds held by it under this paragraph, nor for any purpose so set forth in excess of the amount authorized in the Budget for such purpose, nor shall it without the approval in writing of the Financial Commissioner transfer funds from any account opened under a budgetary heading or item to any other account.

7. Monies paid out under Clause 6 of Article VI of the Financial Plan in so far as they are credited to the Improvements Account shall be paid out by the Depositary only upon check signed by the Secretary of the Treasury of Liberia, or his nominee, and countersigned by the Financial Commissioner, and showing on its face the Account against which drawn. The Depositary, except upon the sole order of the Financial Commissioner, shall cease payments out of both Accounts referred to in Clause 6 of the aforesaid Article VI, when the Financial Commissioner shall state in writing to the Depositary that he is of the opinion that the revenues and receipts shall be insufficient to meet the payments required to be made under Clauses 1, 2, 3, 4 and 5 of the aforesaid Article VI; and when the Financial Commissioner shall state in writing to the Depositary that the Assigned Revenues and Receipts are again sufficient to meet the payments required to be made under the aforesaid Clauses, the funds in the Surplus Account and in the Improvements Account shall again be paid out by the Depositary as first provided in this paragraph.

8. In all cases where for any reason of emergency or necessity the Secretary of the Treasury of Liberia, from available funds held by the Depositary, may desire to make a payment different in purpose or amount than that provided in the Budget, or may desire to make a payment not provided in the Budget, said payment shall be made only upon check signed by the Secretary of the Treasury of Liberia, or his nominee, and countersigned by the Financial Commissioner showing on its face the account against which drawn.

9. At the end of each Fiscal year all unexpended balances of the Budget or appropriations, or of the remittances or deposits of whatever character mentioned in this agreement shall be returned by the Depositary to the Financial Commission to be applied by it for the fiscal year so closed as Assigned Revenues and Receipts in the manner and in the order provided in the Financial Plan.

10. The Government of Liberia shall make no expenditures, except by check or order upon the Depository, against the accounts set out in Article VI of the Financial Plan and for the purposes and in the manner so provided and shall not incur any liability or obligation to make expenditures otherwise. All salaries and arrears of salary and expenses incident to the collection, application and administration of the Assigned Revenues and Receipts, and maintenance of the Frontier Force shall in accordance with the provisions of the Financial Plan be disbursed by the Financial Commission.

11. The Financial Commissioner, or such person as he may designate, and the Auditor shall have the right at any time and from time to time to examine and audit the books and accounts of the Depository in connection with its acts as Depository. Monthly or quarterly statements of such accounts shall be rendered by the Depository to the Financial Commission. A copy of said monthly or quarterly statements shall be furnished by the Depository to the Secretary of the Treasury of Liberia.

12. Agencies or branches of the Depository shall be opened or established at such places in the interior or on the coast of Liberia as the Financial Commission may decide are necessary for the protection of the Assigned Revenues and Receipts and for their convenient application and administration.

13. This agreement shall come into force and effect the day on which the aforesaid Financial Plan for the reorganization and rehabilitation of the finances of Liberia, to which it is supplementary, becomes effective.

Done at Washington this twenty-eighth day of October, 1921.

CHARLES E. HUGHES

Secretary of State of the United States

C. D. B. KING

President of the Republic of Liberia

Plenary Commissioner of Liberia

F. E. R. JOHNSON

Plenary Commissioner of Liberia

JOHN L. MORRIS

Plenary Commissioner of Liberia

882.51/1338

The Assistant Secretary of State (Dearing) to President King

WASHINGTON, November 8, 1921.

MY DEAR MR. PRESIDENT: In view of the execution of the financial agreement on October 28, 1921, in terms of a proposed new credit of \$5,000,000 subject to appropriate action of Congress, I have the

honor to inform you, in keeping with previous verbal expressions of the Department of State, that the balance of the credit established in favor of Liberia with the United States Treasury September 12, 1918,¹¹ but not deemed available, has therefore been withdrawn.

I am [etc.]

F. M. DEARING

822.51/1347c

The Assistant Secretary of State (Dearing) to President King

WASHINGTON, November 9, 1921.

MY DEAR MR. PRESIDENT: The copy of the *pro forma* Budget transmitted as an enclosure of the letter dated November 4, 1921,¹² addressed to me at your direction by Mr. Dennis, Secretary of the Commission, has been received.

The understanding that the current administrative expenses of the Liberian Government shall not in any year during the operation of the loan exceed \$270,000 per annum is hereby confirmed.

Before enactment this Budget and those to be prepared annually hereafter, in keeping with the provisions of the loan plan, will have to receive within the limit of the aforesaid \$270,000 agreed upon, the formal approval of the Financial Commissioner as to its items. Any Budget so approved is not subject to change. However, the Department is of the opinion that the Budget of the first year would, in all probability, be approved by the Financial Commissioner since it has the sanction of the Department.

I am [etc.]

F. M. DEARING

882.51/1355

Memorandum of an Interview between the Assistant Secretary of State (Dearing) and President King, November 8, 1921

[WASHINGTON,] November 9, 1921.

Mr. Dearing received the four members of the Liberian Plenary Mission at four thirty . . .

President King had several questions he desired to take up with Mr. Dearing and they were discussed in the following order:

¹¹ Credit established by Treasury Department on Sept. 9, 1918; Liberia notified by State Department on Sept. 12, 1918; see *Foreign Relations*, 1918, p. 537.

¹² Not printed.

1. President King left letters

(a) Concerning the further advances by the Bank of British West Africa at Monrovia in order to carry on the Government for another three months.¹³ It seems that the Bank has already consented to this arrangement and that funds will therefore be available for carrying on the Government for another three months. If the loan is granted within this time, all well and good, but if not the Mission requested that the Department of State should use its good offices in order to obtain from the Bank at Monrovia further advances to pay the governmental expenditures until such time as the loan becomes available.

(b) He also left a letter with Mr. Dearing upon the question of the Franco-Liberian boundary,¹³ with the request that this matter be taken up through diplomatic channels with the French Government at an early date.

(c) His third letter was formally confirming the desire of the Liberian Government to appoint a Liberian Minister to the United States.¹³ This letter suggested John L. Morris for this post and asked whether or not the nomination of Mr. Morris would be agreeable to the American Government when the loan becomes available.

2. The Mission requested that Mr. Dearing should give prompt consideration, if possible, to the appointment of Mr. Frank as the Purchasing Agent of the Liberian Government in the United States.

Mr. Dearing informed the Liberian Mission, however, that although he had received Mr. Frank and had found him to be a gentleman who would probably fill this post in a fairly satisfactory manner, yet at the same time he felt that it was too early to give a definite decision upon this point at the present time, the appointment of such an Agent being a matter which should await for final decision upon the granting of the five million dollar credit, it being apparently unnecessary to appoint a Purchasing Agent until the services of such an Agent were required.

3. President King then brought up the question of what would be done in case Congress refused to grant the credit, stating that that, in all probability, would be the first question the Mission would be required to answer when they arrive at Monrovia. President King suggested that if Congress refused to grant the loan it would be quite satisfactory to the Liberian Government if the Department of State would use its good offices with prominent and trustworthy American bankers to induce them to furnish the money. Mr. Dearing told the Mission that this Government was very much interested in Liberian affairs and would at all times do everything that it properly could to assist the Liberian Government to a successful conclusion of its difficulties, and that he thought it would be very natural that the Department would assist in any proper way toward obtaining the money necessary for the financial rehabilitation of Liberia in case Congress refused to grant the credit as requested. The Mission made a very strong point that if, in the last contingency, it should be necessary to obtain money from bankers rather than

¹³ Not printed.

from the American Government, that this money be obtained under such terms that it would be possible to carry out in full the terms of the loan agreement already concluded between the Secretary of State and the Liberian Mission. They understood, of course, that if the money is obtained from bankers, in all probability it would be necessary to pay a higher rate of interest than if the loan was made by the Government of the United States, but that they were very anxious that all the other terms of the agreement should be adopted providing the money was furnished by American bankers.

4. The President then brought up a matter in which he said that he felt it was advisable that he speak quite frankly. It was the designation at the present time of Mr. Bundy¹⁵ as Deputy Financial Commissioner. He said that although Mr. Bundy was acceptable in every way to the Liberian Mission yet, on the other hand, there were members of the Liberian Government and other people in Liberia who at the present moment might not be disposed in a favorable way toward the appointment of Mr. Bundy on the Commission. President King therefore suggested that his designation be postponed until the Mission could return to Liberia and pave the way to the favorable acceptance of his designation. Mr. Dearing's reply was to the effect that he would take this suggestion under consideration.

The Mission then bade farewell to Mr. Dearing, who replied in fitting terms stating that he hoped within a very short time through the efforts of the Commission in the United States a new era of prosperity would be inaugurated in Liberia.

882.51/1345b : Telegram

The Secretary of State to the Minister in Liberia (Johnson)

WASHINGTON, November 14, 1921—1 p.m.

28. President King and other members of the Plenary Commission are returning to Liberia sailing November 15th from Boston on U.S.S. *Denver* in command of Captain Kautz. The cruiser has been detailed for this purpose by United States Government and should be about 16 days *en route*. You may make this public.

HUGHES

882.51/1365

The Secretary of State to the Minister in Liberia (Johnson)

WASHINGTON, December 15, 1921.

SIR: Before the Liberian Plenary Commission left Washington, President King was informed that in view of the execution of the financial agreement on October 28, 1921, in terms of a proposed new

¹⁵ Richard C. Bundy, former Secretary of Legation and Vice Consul at Monrovia; on detail in the Department of State in connection with the Liberian loan negotiations.

credit of \$5,000,000, subject to appropriate action of Congress, the balance of the credit established in favor of Liberia with the United States Treasury September 12, 1918, had been withdrawn.¹⁶

In a letter dated December 8, 1921,¹⁷ from the Treasury Department the request was made that the Department of State transmit to the Government of Liberia the enclosed canceled obligation of that Government of \$2,500,000, held by the Treasury, dated December 8, 1919, against which no advances have been made, and obtain therefor a proper receipt, as the balance of the credit established September 12, 1918, in favor of the Government of Liberia with the Treasury was withdrawn on November 4, 1921.

You will, therefore, deliver in person this canceled obligation of the Liberian Government to the Secretary of State of Liberia and have him date and sign the enclosed receipt which you will promptly return to the Department.

I am [etc.]

For the Secretary of State :

F. M. DEARING
Assistant Secretary

¹⁶ See note of Nov. 8 to President King, p. 389.

¹⁷ Not printed.

MEXICO

QUESTION OF THE RECOGNITION OF THE GOVERNMENT OF GENERAL OBREGON BY THE UNITED STATES:¹ PROPOSED TREATY OF AMITY AND COMMERCE; OBJECTION BY THE OBREGON GOVERNMENT TO CONCLUDING A TREATY BEFORE RECEIVING RECOGNITION

712.00/3

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3779

MEXICO, April 7, 1921.

[Received April 20.]

SIR: In confirmation of the Embassy's telegram No. 66, April 4, 3 P.M.,² I have the honor to forward herewith copy, and translation, of the declarations made by General Obregon. An official copy of these declarations was furnished me by Mr. Pani, the Minister for Foreign Affairs. I am enclosing also summaries, in translation, of local editorial and other comments on these declarations.² They appear to be favorable, although both *El Universal* and *Excelsior* express a desire to see these words translated into facts. There is a difference of opinion on the street, however, as to whether General Obregon will be able to induce the Lower House to take any action.

As the Department is aware, this is the first official statement made by General Obregon, in regard to international matters, since his assumption of office on December 1, 1920. These declarations may possibly be intended as a partial reply to, or comment on, Ex-Secretary Colby's communication of November 25, 1920,³ to Mr. Roberto Pesqueira, the Confidential Agent of Mr. de la Huerta at Washington; or their publication at this time may indicate a desire on the part of General Obregon to open or renew conversations with the Department in regard to the question of recognition.

I have [etc.]

GEORGE T. SUMMERLIN

¹ Continued from *Foreign Relations*, 1920, vol. III, pp. 162-199.

² Not printed.

³ *Foreign Relations*, 1920, vol. III, p. 195.

[Enclosure—Translation ⁴]*General Obregon to the Mexican Foreign Office*

TO THE DEPARTMENT OF FOREIGN AFFAIRS: Please transmit the following to our foreign representatives to the end that it may be published in the foreign press:

“The present administration of the Government of Mexico believes that the proper moment has arrived to make known, through its foreign representatives, that, continuing its unalterable purpose to win a legitimate prestige amongst the other nations of the world, it is pursuing a line of conduct which absolutely accords with the precepts of morality and law, and has initiated this policy with a series of acts which have taken place during the few months in which it has been established and which will not be interrupted until its noble purposes, which may be mentioned as follows, have been fulfilled:

“1. The establishment of a Government which, satisfying just popular aspirations, and being genuinely representative of all social classes, has brought as a consequence the complete pacification of the country without using any violent means to accomplish this end.

“2. It has undertaken a rigorous campaign of administrative moralization, which has brought about as a consequence that within a few months not only are the sources of revenue sufficient to cover completely the budget of disbursements, but surpluses have already been obtained.

“3. An absolute observance of the laws, imparting complete guarantees of the lives and interests of nationals and foreigners.

“4. A frank hospitality towards all those businessmen who have come and continue to come with the object of making large investments in our country, granting them all kinds of facilities for the development of their undertakings.

“5. The Government has initiated a period of extraordinary sessions in the Houses of Congress, during which the principal reforms of legal character will be discussed and promulgated, among these being the regulations under article 27 in so far as it refers to petroleum, which regulations doubtless will be based upon an ample spirit of equity, with the endeavor that their provisions will not have a confiscatory character and will not be given a retroactive interpretation.

“6. Already a decree has been issued that extends the term fixed for the admission of claims for damages caused during the revolution, and a law regulating these claims is about to be promulgated, creating a commission whose impartial arbitration shall be the best guarantee for the Government and the claimants.

⁴ File translation revised.

"7. The restitution of all properties which have been seized by former Governments is about to be completed, and such important enterprises as the Mexican Railway have already been restored.

"8. With the object of expediting the administration of justice in the country, the Government has initiated and is about to complete a series of projects reforming Mexican legislation, for no other reason than that of administering justice by the most practical procedures, thus satisfying a national aspiration.

"9. Likewise, Congress will shortly receive a bill designed to grant greater guarantees to nationals and foreigners against the transgressions of those who, under the name of rebels, commit, as have been committed formerly, outrages against their lives and properties.

"10. An arrangement has already been entered into with the banking institutions for the whole amount which was due to them, approximately 55,000,000 pesos national currency, in such a manner as to leave said institutions completely satisfied, without impairing the good name and the credit of the Government, raising the attachment of properties decreed by former Governments and returning said banks to their owners and respective boards of administration.

"11. An invitation has been issued to all holders of our foreign debt, asking them to appoint their representatives immediately, and enter into arrangements with the Government concerning all its debts, upon the basis that the Government will not use any subterfuge or evasion, but on the contrary will found its settlement upon an ample spirit of equity, such as has served heretofore as a standard for all its acts, until they be completely satisfied.

"12. The Government has already made large investments, and is now making larger investments for the purpose of securing rolling stock for the National Railways of Mexico, thus bettering the service and replacing the stock destroyed during the revolution, in order to facilitate arrangements with the management of said National Railways of Mexico.

"The Mexican Government trusts that the facts related will inspire confidence in all those who have established themselves in business in the country as well as those who hope to do so in the future; and issues a cordial invitation to all citizens of other countries who wish to come to Mexico, where they will find all kinds of facilities, from the humble farmer who is looking for a tract of land to cultivate and form his patrimony, to the man of business and enterprise who wants to come and make large investments, all of whom may have the absolute certainty that they will enjoy all the prerogatives set down in our laws, and a very ample spirit of hospitality, which has been and still is characteristic of the Mexican people, provided they are men devoted to work, and willing to comply with the laws of morality and those of the country."

I reiterate to you the assurances of my attentive consideration.
Sufragio Efectivo. No Reelección.

Mexico, April 2, 1921.

A. OBREGÓN

Comply:

The Secretary of Foreign Affairs

A. J. PANT

711.1211/45

The Secretary to President Harding (Christian) to the Secretary of State

WASHINGTON, May 21, 1921.

MY DEAR MR. SECRETARY: The President directs me to return to you herewith the proposed covenant between the United States of America and the United Mexican States and to say that the draft has his approval. He will be glad if you can expedite the movements of the representative of your Department who is to submit the proposal to the President of Mexico.

Sincerely yours,

GEO. B. CHRISTIAN, Jr.

[Enclosure]

Draft Treaty of Amity and Commerce between the United States of America and Mexico

The United States of America and the United Mexican States, desiring to regulate and promote commercial intercourse between the two countries and to remove all causes of differences between them, have resolved to conclude a Treaty of Amity and Commerce for that purpose, and to that end have named as their Plenipotentiaries, Warren G. Harding, President of the United States of America

and

Alvaro Obregon, President of the United Mexican states

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following Articles:

ARTICLE I

The citizens of each of the High Contracting Parties shall have liberty to enter, travel and reside in the territories of the other to manage their affairs, to exercise their professions, to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses and shops, to employ agents of their choice, to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native citizens, submitting themselves to the laws and regulations there established.

They shall have free access to the tribunals of justice, on conforming to the laws regulating the matter, as well for the prosecution as

for the defense of their rights, in all the degrees of jurisdiction established by law.

They shall not be compelled, under any pretext whatever, to pay any charges or taxes other or higher than those that are or may be paid by native citizens.

The citizens of each of the two High Contracting Parties shall receive, in the territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or may be granted to native citizens, on their submitting themselves to the conditions imposed upon the native citizens.

Property rights of whatever nature, heretofore or hereafter acquired by citizens of either country within the territories of the other, in accordance with the laws thereof, shall under no circumstances be subjected to confiscation, under constitutional provisions, legislation or executive decrees or otherwise. The right of expropriation may be resorted to only on proper grounds of public purpose, and it shall not be exercised without due process of law, nor without the prompt payment of just compensation.

Having in mind the principles stated in the present Article, and desiring clearly to define the property rights of American citizens in Mexico, corporations, companies, associations, and private individuals, including rights and interests in any company, corporation, or association, foreign or domestic, and to avoid all misunderstanding with reference thereto, the United Mexican States declare that neither the Mexican Constitution which went into effect on May 1, 1917,⁵ nor the Decree of January 6, 1915, to which the said Constitution refers, is retroactive in its operation; that neither the said Constitution nor the said decree, nor any Executive decree or administrative or military order, nor any Federal or state law heretofore or hereafter issued or enacted has or shall have any effect to cancel, destroy or impair any right, title or interest in any property, of whatever nature and wherever situated, which, prior to the coming into effect of the said Constitution and the said Decree of January 6, 1915, was owned in accordance with the laws of Mexico as then existing or declared or interpreted; and that all lands of whatever character and all rights and interest therein, and all property of whatever nature, which in accordance with the laws of Mexico as then existing, declared or interpreted, were owned by American citizens, corporations, companies, associations or private individuals, on the date of the promulgation of the said constitution, or on the date of the issuance of the said Decree of January 6, 1915, or were owned by any company, corporation or association, foreign or domestic, in which they were interested, are and shall be secured to the said owners and

⁵ *Foreign Relations*, 1917, p. 951.

to any grantees or transferees thereof under grants or transfers heretofore or hereafter made, and whether or not the said grantees or transferees shall be Mexican citizens; and the United Mexican States recognize that the ownership of all substances which are described in the Code of Mines of the United Mexican States (Codigo de Minas) of 1884 and the subsequent Mexican Mining laws of 1892 and 1909, respectively, on or beneath the surface of lands in that country, are [*is*] vested in American citizens, corporations, companies, associations and private individuals who acquired title to such lands prior to May 1, 1917; the United Mexican States further recognize the rights of all American citizens, corporations, companies, associations and private individuals, to such substances or rights therein or with respect thereto obtained under grants or leases which they hold from the Mexican Government or Mexican citizens or from other persons who acquired ownership to such lands or rights prior to May 1, 1917; and the United Mexican States undertake:

(a) to restore to American citizens, corporations, companies, associations or private individuals, the property, rights or interests of which they may have been deprived in Mexico without just compensation since January 1, 1910;

(b) to make compensation to them for damages of [*or*] injuries inflicted on their property, rights or interests, including any company or association in which they are interested, as a result of such deprivation;

(c) to make adequate compensation for any such property, rights or interests of which they may have been so deprived and which it is not possible to restore.

ARTICLE II

The citizens of each of the High Contracting Parties shall not be disturbed, molested nor annoyed in any manner, on account of their religious belief, nor in the proper exercise of their peculiar worship, either within their own houses or in their own churches or chapels, which they shall be at liberty to build and maintain, in convenient situations, interfering in no way with, but respecting the religion and customs of the country in which they reside.

Citizens of the United States in Mexico shall have and enjoy the rights to engage in religious worship and all other matters appertaining to religion and education, as citizens of Mexico enjoy in the United States.

ARTICLE III

The dwellings, warehouses, manufactories and shops of the citizens of each of the High Contracting Parties in the territories of the other, and all premises appertaining thereto used for purposes of residence or commerce, shall be respected. It shall not be allowable

to proceed to make a domiciliary visit to, or a search of, any such buildings and premises, or to examine or inspect books, papers or accounts, except under the conditions and with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

There shall be between the territories of the two High Contracting Parties reciprocal freedom of commerce and navigation. The citizens of each of the High Contracting Parties, equally with the citizens or subjects of the most favored nation, shall have liberty freely to come with their ships and cargoes to all places, ports and rivers, in the territories of the other which are or may be opened to foreign commerce.

ARTICLE V

No higher or other duties shall be imposed on the importation into the territories of either of the two High Contracting Parties of any article of the growth, produce or manufacture of the territories of the Contracting Parties, than are, or shall be, payable on the like article of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the Contracting Parties on the exportation of any article to the territories of the other than such as are, or shall be, payable on the exportation of the like article to any other foreign country; nor shall any prohibition be imposed upon the importation or exportation of any article of the growth, produce or manufacture of the territories of either of the Contracting Parties to or from the territories of the other, which shall not equally extend to the like article of any other foreign country.

The last prohibition is not, however, applicable to prohibitions or restrictions maintained or imposed as sanitary measures or for purposes of protecting animals and useful plants.

ARTICLE VI

The citizens of each of the High Contracting Parties shall enjoy in the territories of the other exemption from all transit duties and a perfect equality of treatment in all that relates to warehousing, bounties, facilities and drawbacks.

ARTICLE VII

Merchant vessels navigating under the flag of the United States or that of Mexico and carrying the papers required by their national laws to prove their nationality shall in Mexico and in the United States be deemed to be vessels of the United States or of Mexico, respectively.

ARTICLE VIII

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels in general, or on vessels of the most favored nation. Such equality of treatment shall apply reciprocally to the respective vessels from whatever place they may arrive and whatever may be their place of destination.

ARTICLE IX

The coasting trade of the High Contracting Parties is excepted from the provisions of the present Treaty and shall be regulated according to the laws of the United States and Mexico, respectively. It is, however, understood that the citizens of either Contracting Party shall enjoy in this respect most-favored-nation treatment in the territories of the other.

A vessel of one of the Contracting Parties, laden in a foreign country with cargo destined for two or more ports of entry in the territories of the other, may discharge a portion of her cargo at one of the said ports, and, continuing her voyage to the other port or ports of destination, there discharge the remainder of her cargo, subject always to the laws, tariffs and customs regulations of the country of destination; and, in like manner and under the same reservation, the vessels of one of the Contracting Parties shall be permitted to load at several ports of the other for the same outward voyages.

ARTICLE X

Except as otherwise expressly provided in this Treaty, the High Contracting Parties agree that, in all that concerns commerce and navigation, any privilege, favor or immunity which either Contracting Party has actually granted, or may hereafter grant, to the citizens of any other State shall be extended to the citizens of the other Contracting Party gratuitously, if the concession in favor of that other State shall have been gratuitous, and on the same or equivalent conditions, if the concession shall have been conditional.

ARTICLE XI

Each of the High Contracting Parties may appoint consuls general, consuls, vice consuls, and other consular officers or agents to reside in the towns and ports of the territories and possessions of the other where similar officers of other powers are permitted to reside.

Such consular officers and agents, however, shall not enter upon their functions until they shall have been approved and admitted by the Government to which they are sent.

They shall be entitled to exercise all the powers and enjoy all the honors, privileges, exemptions, and immunities of every kind which are, or may be, accorded to consular officers of the most favored nation.

ARTICLE XII

In case of the death of any citizen of Mexico in the United States or of any citizen of the United States in Mexico without having in the country of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the nation to which the deceased belonged, in order that the necessary information may be immediately forwarded to parties interested.

In the event of any citizens of either of the High Contracting Parties dying without will or testament, in the territory of the other contracting party, the consul general, consul, vice consul, or other consular officer or agent of the nation to which the deceased belonged, or, in his absence, the representative of such consul general, consul, vice consul, or other consular officer or agent shall, so far as the laws of each country will permit and pending the appointment of an administrator and until letters of administration have been granted, take charge of the personal property left by the deceased for the benefit of his lawful heirs and creditors.

ARTICLE XIII

The citizens of each of the High Contracting Parties shall enjoy in the territories of the other the same protection as native citizens in regard to patents, trade-marks and designs, upon fulfillment of the formalities prescribed by law.

ARTICLE XIV

The United Mexican States recognize their pecuniary responsibility for all damage arising from death of, or injuries to persons, or damage to, or destruction of, property, of American citizens, corporations, companies, associations or private individuals, when such damages were occasioned by the acts of representatives of the United Mexican States or by acts of persons engaged in brigandage or in insurrection or revolution against the Mexican Government.

The High Contracting Parties undertake to conclude, within six months from the date of signature of the present treaty, a convention for the settlement of all claims, on the one hand, of corporations, companies or private individuals, citizens of the United States,

for pecuniary loss or damage, including loss or damage resulting from injuries to any company or association, foreign or domestic, in which they are or have been interested, against the United Mexican States, and, on the other hand, of all claims or [of] corporations, companies or private individuals, citizens of Mexico, for pecuniary loss or damage, including loss or damage resulting from injuries to any company or association in which they are interested, against the United States.

ARTICLE XV

The High Contracting Parties undertake to conclude within six months from the date of signature of the present Treaty a further convention for the adjustment of the differences which have arisen between them as to the international title to the so-called Chamizal tract which was the subject of the Convention of June 24, 1910, and the supplemental Protocol of December 5, 1910.⁶ For this purpose they will resume negotiations at the precise point where they were interrupted in the month of March, 1913.⁷

ARTICLE XVI

The High Contracting Parties agree that within six months after the exchange of ratifications of the present treaty they will appoint a Commission to be composed of one commissioner designated by each party which shall forthwith proceed to study questions relating to the equitable distribution of the boundary waters. This Commission shall, within one year after its organization, submit to the respective governments a report with recommendations which shall serve as the basis for future negotiations on that subject.

Each government will bear the expense of the commissioner designated by it.

ARTICLE XVII

The present Treaty shall remain in force for the term of six years from the date of the exchange of ratifications, and if six months before the expiration of that period neither party shall have notified the other of its intention of reforming any of, or all, the Articles of the Treaty, or of arresting the operation of the Treaty, it shall remain binding beyond that time until six months from the time that one of the Parties notifies the other of its intention of proceeding to reform it or to terminate it; provided, however, that the termination of this treaty as hereinbefore provided, shall not affect any property rights recognized by this Treaty, or which may have been acquired prior to such termination.

⁶ *Foreign Relations*, 1911, pp. 565 and 569, respectively.

⁷ See *ibid.*, 1913, pp. 957-977.

ARTICLE XVIII

The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutions. The ratifications of this Treaty shall be exchanged in Washington as soon as practicable, and it shall take effect on the date of the exchange of the ratifications.

In witness whereof, the respective Plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

Done in duplicate in _____, this _____ day of _____, 1921.

711.1211/17

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3929

MEXICO, June 3, 1921.

[Received June 16.]

SIR: In confirmation of my confidential telegram No. 110, May 27, 6 p.m.,⁸ I have the honor to report that I was received by General Obregon, quite informally, at Chapultepec Castle at four-thirty last Friday afternoon,⁹ at which time I placed in his hands a copy, in English, of the proposed Treaty of Amity and Commerce.

General Obregon received me most cordially, and as stated in my telegram, no one else was present during the interview.

After the usual preliminary greetings, I thanked the General for his kindness in tendering me a private car at Nuevo Laredo and explained that I had already engaged satisfactory and comfortable accommodations.

I began by stating that the friendliest feeling existed in the Department, and elsewhere in the United States, for him, and I told him of your sincere hope that he would be able to establish a stable and permanent government in Mexico. I said that my Government considered that the time had arrived for a full, complete and lasting understanding, once for all time, with Mexico, irrespective and independent of political or other changes in either country, and that such a permanent understanding required previous arrangements for the settlement of all important questions and difficulties between the two countries. I stated that the Department had made a careful study of his public statements, since the issuance of his manifesto, in June, 1918 [1919], when he announced his candidacy for the presidency, those made prior to his election, and especially those contained in the formal statements made by him through the Foreign Office on April 3rd [2d] last;¹⁰ that partly with these state-

⁸ Not printed.

⁹ May 27.

¹⁰ *Ante*, p. 395.

ments as a base an instrument has been drawn up which is reciprocal in character. In this instrument, a copy of which I stated I would have the pleasure of placing in his hands, no special privileges are asked for American citizens; that we ask for American citizens in Mexico that which we afford Mexican citizens in the United States, and I stated that great care had been exercised to avoid anything that might tend in the slightest degree to offend the susceptibilities of Mexico.

I then stated that the signing of the instrument would constitute recognition by the United States Government. In other words, I said, the act of recognition and signing the document would be concurrent.

I then spoke of the moral effect, in Mexico and in the United States of recognition, and of the moral and other support the United States would be in a position to extend to him; that then the question of financial recognition by private individuals, would not in my belief, be long delayed.

I explained that he could initial the document, which would indicate his acceptance of it and his willingness to sign it; that if he were desirous of prompt action, I should be very glad to telegraph the Department to that effect and request full powers in the premises; that if there was no need of immediate action I felt certain, if he so desired, a high official of my Government would be sent to Mexico with full powers to sign the document with his duly accredited representative; that in view of my inferior rank it might be a good political move for him to suggest that a High Government Official of the United States come to Mexico for that purpose. I intimated, personally, that, if he so desired, I felt that even the Under Secretary of State might be available for this high duty.

I added that I was under instructions to say to him that his wishes in regard to publicity would be respected.

I concluded by repeating that the signature of the document by a representative of the United States Government, under full powers, with his representative, acting similarly, would constitute the recognition of his Government.

General Obregon, who neither speaks nor reads English, received the draft of the Treaty but made no attempt to inspect it. He began by repeating what he stated to me last June (1920), last September¹¹ and again on April 14th last, as to the necessity, as he saw it, for a complete understanding among all of the American countries, as a matter of protection against European, and possibly, Asiatic, aggression. He acknowledged that the future of Mexico depended on that of the United States, and expressed a strong desire to see

¹¹ See the Charge's report of his interview with General Obregon, Sept. 13, 1920, *Foreign Relations, 1920*, vol. III, p. 182.

the two countries arrive at a proper understanding. He said that the local political situation would have to be considered and ended by saying that he doubted if he had authority under the Constitution to sign such a document as the one I had placed in his hands. He also expressed greater doubt as to its ratification by the Senate. Several times he remarked that he was making these statements before having read the document I had handed him but he added that it would receive his careful consideration.

I shall not fail to keep the Department promptly advised by telegraph of all developments in regard to these negotiations.

I have [etc.]

GEORGE T. SUMMERLIN

711.1211/5 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

[Paraphrase]

WASHINGTON, June 6, 1921—5 p.m.

83. Inform Department immediately what definite action adequately protecting the rights and interests of American citizens in Mexico is being considered by Executive, Congress, and Supreme Court.

HUGHES

711.1211/8a : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, June 8, 1921.

85. The following statement was made public by the Department last night:

“The fundamental question which confronts the Government of the United States in considering its relations with Mexico is the safeguarding of property rights against confiscation. Mexico is free to adopt any policy which she pleases with respect to her public lands, but she is not free to destroy without compensation valid titles which have been obtained by American citizens under Mexican laws. A confiscatory policy strikes not only at the interests of particular individuals, but at the foundations of international intercourse, for it is only on the basis of the security of property validly possessed under the laws existing at the time of its acquisition, that commercial transactions between the peoples of two countries and the conduct of activities in helpful cooperation are possible.

This question should not be confused with any matter of personalities or of the recognition of any particular administration. When-

ever Mexico is ready to give assurances that she will perform her fundamental obligation in the protection both of persons and of rights of property validly acquired, there will be no obstacles to the most advantageous relations between the two peoples.

This question is vital because of the provisions inserted in the Mexican Constitution promulgated in 1917. If these provisions are to be put into effect retroactively, the properties of American citizens will be confiscated on a great scale. This would constitute an international wrong of the gravest character and this Government could not submit to its accomplishment. If it be said that this wrong is not intended, and that the Constitution of Mexico of 1917 will not be construed to permit, or enforced so as to effect, confiscation, then it is important that this should be made clear by guarantees in proper form. The provisions of the Constitution and the Executive Decrees which have been formulated with confiscatory purposes, make it obviously necessary that the purposes of Mexico should be definitely set forth.

Accordingly this Government has proposed a Treaty of Amity and Commerce with Mexico, in which Mexico will agree to safeguard the rights of property which attached before the Constitution of 1917 was promulgated. The question, it will be observed, is not one of a particular administration but of the agreement of the nation in proper form which has become necessary as an international matter because of the provisions of its domestic legislation. If Mexico does not contemplate a confiscatory policy, the Government of the United States can conceive of no possible objection to the Treaty.

The proposed treaty also contains the conventional stipulations as to commerce and reciprocal rights in both countries. It also provides for the conclusion of a convention for the settlement of claims for losses of life and property, which of course means the prompt establishment of a suitable claims commission in which both countries would be represented, in order to effect a just settlement. There is also a provision for a just settlement of boundary matters.

The question of recognition is a subordinate one, but there will be no difficulty as to this, for if General Obregon is ready to negotiate a proper treaty it is drawn so as to be negotiated with him and the making of the treaty in proper form will accomplish the recognition of the Government that makes it. In short, when it appears that there is a government in Mexico willing to bind itself to the discharge of primary international obligations, concurrently with that act its recognition will take place. This Government desires immediate and cordial relations of mutual helpfulness and simply wishes that the basis of international intercourse should be properly maintained.

Accordingly on the 27th of May last, Mr. Summerlin, American Chargé d'Affaires at Mexico City, presented to General Obregon a proposed Treaty covering the matters to which reference has been made. The matter is now in the course of negotiations and it is to be hoped that when the nature of the precise question is fully appreciated the obstacles which have stood in the way of a satisfactory settlement will disappear."

HUGHES

711.1211/19

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3949

MEXICO, June 10, 1921.

[Received June 23.]

SIR: Supplementing my confidential No. 3929, of June 3, 1921, and in confirmation of the Embassy's telegram No. 119, June 4, six P.M.,¹² I have the honor to forward herewith translation of Memorandum No. 1 and its enclosure,¹³ and copy and translation of Memorandum No. 2. In view of Mr. Pani's statement that Memorandum No. 1, and its enclosure, has been left at the Department, I am enclosing translations only of those papers.

I gave the Department, in my confidential telegram No. 121, of June 5, 9 A.M.,¹² a condensed account of Mr. Pani's remarks after he had read the Memorandums to me.

On June 6th, upon receipt of the Department's confidential telegram No. 83, June 6, 5 P.M., I sought an interview with Mr. Pani. I transmitted verbally the Department's request for information as to what specific action was contemplated by the three branches of the Government of the present regime looking to the adequate protection of American interests. Mr. Pani asked for a memorandum of the subject after I had requested a reply as soon as possible. I also furnished him with a paraphrased *résumé* of my telegram No. 121¹² to the Department, as I had promised to do.

Late yesterday afternoon I received an informal communication from Mr. Pani, enclosing a memorandum of his remarks made on the fourth instant. This appeared to be a revision, or as he stated, a "modification", of those remarks. I am enclosing herewith a copy and translation of this memorandum. Evidently, Mr. Pani considered that this revision and amplification of his remarks was sufficient to meet my request for information as to what specific action was contemplated, as he said, by the Executive, by the Congress, and by the Supreme Court.

At once, I endeavored to make an appointment with him, but I was unable to see him until noon today, when he dictated the three specific actions reported in my telegram, No. 134, 3 P.M. today.¹⁴ It appears that General Obregón now proposes to make use of the Extraordinary Powers conferred on the Executive, by the law of May 8, 1917, to promulgate a Law of Claims, in which, Mr. Pani says, provision will be made for a mixed claims commission. Mr. Pani's statement as to the declarations made by "the President of

¹² Not printed.

¹³ Enclosure with memorandum no. 1 not printed.

¹⁴ *Post*, p. 415.

the Republic" are those made by General Obregón on April 3rd [2d] last.¹⁵ These declarations were reported in full by the Embassy, and are referred to briefly on page 4 of the accompanying Memorandum No. 1. I am unable to attach the importance to the reported declarations of individuals of the Chamber of Deputies, whether members of Petroleum Committees, or not, that Mr. Pani does. The statements he referred to were made more than two months ago, but I have not been able to learn that there has been even an informal report made by either of the two Petroleum Committees. Nor may any action by the Congress be expected, in the near future, unless very strong pressure is immediately brought to bear on the members of the Congress, and it is a question whether General Obregón feels himself strong enough to attempt to do this.

I am enclosing summaries in translation of all local Editorials¹⁶ on the matter of the negotiations. Short summaries of them have been telegraphed daily.

I shall continue to keep the Department fully advised by cable as to all developments in the matter.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure 1—Translation¹⁷]

*The Mexican Foreign Office to the American Embassy*¹⁸

MEMORANDUM No. 1

Ever since Mr. Adolfo de la Huerta occupied the Presidency of the Mexican Republic by the designation of the Federal Congress made in accordance with law, the relations between Mexico and the United States of America have been incomplete and abnormal. The intensity of the everyday life which the two countries for obvious reasons necessarily observe maintains the normal aspect in everything which refers to commerce between the two; the Mexican consulates in the United States and the North American consulates in Mexico function normally; the desire of each of the two countries to extend its mercantile operations with the other is continually made manifest, sometimes in an eloquent way by means of excursions of chambers of commerce, etc.; North American public opinion daily expresses its desire that a good understanding with Mexico be cultivated, and Mexican public opinion, in turn, responds to this in similar terms. Notwithstanding all this, purely diplomatic relations

¹⁵ *Ante*, p. 395.

¹⁶ Not printed.

¹⁷ File translation revised.

¹⁸ Handed to the American Chargé by the Secretary of Foreign Affairs June 4, 1921.

are in suspense. Undoubtedly the interdependence of the two countries and their desire daily to reach a better understanding would begin to manifest itself to the benefit of the two peoples if the state of diplomatic relations were an open highway to a good understanding, instead of being (as at present) a dike between the interests of Mexico and the interests of the United States.

In the opinion of the Mexican Government, the present anomalous situation would be completely remedied by the simple act of having diplomatic representatives duly accredited in Washington as well as in Mexico. In this way all pending questions between the two Governments would be easily arranged, and the study of a treaty of amity and commerce, which Mexico would enter into with pleasure, and a revision of existing treaties could be undertaken.

The Government of Mexico would have no objection to immediately requesting of the Washington Government an *agrément* for an ambassador, provided it should previously receive assurances that the Government of the United States would view with pleasure this first step of the Government of Mexico, and that the former would indicate its willingness to respond in the same way.

In order to respond in an affirmative way to this first step of the Government of Mexico, the Government of the United States could take the following considerations into account:

1. The Mexican Republic being a state whose existence and complete sovereignty have not been questioned for a hundred years, its governments have the right to be recognized by the governments of the other countries, in accordance with established usage, without other condition than their legality and their capacity to fulfill the international duties and obligations of Mexico. The reference from Moore's *International Law Digest* (volume 1, section 27, page 73), according to which "it may happen, by way of exception, that the recognition is conditional or is given *sub modo*", would not be applicable, because this refers to cases which treat of a new state, and not a new government of a state already universally recognized.

2. In accordance with the foregoing principle, the Government of Mexico, presided over by General Alvaro Obregon, has been recognized already by the Governments of the following countries: Germany, Spain, France, Italy, the Netherlands, China, Japan, Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Ecuador, Guatemala, Honduras, Panama, Paraguay, Peru, Salvador, Uruguay, and Nicaragua. Likewise, the following countries have requested and obtained recognition of the Mexican Government presided over by General Alvaro Obregon: Finland, Czechoslovakia, Georgia, Lithuania, and Poland.

In like manner, diplomatic relations are actually maintained with other countries with which recognition is now nothing more than a question of details.

3. The legality of the Government presided over by General Alvaro Obregon, which cannot be objected to from any point of view,

as might have been the case with the interim Government of Mr. de la Huerta in the eyes of those theoretical jurists who feigned not to understand the popular sanction which that Government had, is eloquently manifested by the immediate pacification of the whole country. The present Government has, besides this sanction, the strength which is derived from its origin in an irreproachable popular election.

4. The present diplomatic condition of the Mexican Republic, and the good disposition of the people and of the Government of Mexico to comply with everything which they are legally obliged to comply with relative to private interests of nationals and foreigners, as was stated by the President of the Republic in his declarations of April 3 [Ø],¹⁹ and as he has demonstrated by many acts of his Government; the return of the banks of emission taken over by the Government of Mr. Carranza, which was fully recognized by the United States; the settlement of the debt which the Government of Mr. Carranza contracted with these banks, and all prior debts; the invitation to the International Bankers Committee, presided over by Mr. Lamont, and the Speyer house to come to the city of Mexico and arrange everything relative to the public foreign debt,²⁰ an invitation made almost coincident with the inauguration of the present Government; the extension of time for receiving claims for damages occasioned by the revolution,²¹ and the study which is being made of reforms in the respective law, which reforms will soon be promulgated and will duly guarantee, not only the interests of the Government, but also those of foreign claimants; the proposition repeatedly expressed by the Government to the effect that the regulations under article 27 of the Constitution²² will not be confiscatory or retroactive in their effects, and the previously made statements of the Chamber of Deputies to the same effect, etc., etc.

5. The certainty that, as soon as diplomatic relations are renewed, nothing will prevent Mexico and the United States from reaching a satisfactory understanding relative to the pending questions between the two countries, because, so far as Mexico is concerned, a sincere desire exists to reach this understanding with a spirit of justice and concord.

6. The popular opinion of the North American people, already sufficiently indicated by acts so conclusive as the resolutions favorable to recognition approved by the Legislatures of California and Arizona, by the convention of the Mississippi Valley Association, in which 27 States were represented, and by innumerable chambers of commerce and other organizations of that country.

7. The fact that recognition of the Government of Mexico should be extended under such conditions as will strengthen its prestige and be a motive for closer relations between the two countries in the future, and not under conditions which deprive it of the capacity for

¹⁹ *Ante*, p. 395.

²⁰ For discussions between the Obregon government and the International Committee of Bankers on Mexico, see pp. 493-504.

²¹ For negotiations looking toward the establishment of a mixed claims commission, see pp. 504-514.

²² For papers relating to the proposed organic law to give effect to art. 27, see pp. 439-446.

friendly cooperation with the Government of the White House, to the benefit not only of the mutual interests of the two countries, but also to the general interests of the American continent.

If the information which the Department of State of the White House has with respect to the present Mexican situation and of the intentions of the Government of Mexico does not agree with the spirit and the text of this memorandum, the Government of Mexico would prefer to leave matters in their present condition until the Government of the United States becomes convinced of the reality of events. A complete recognition only is desired by the Government of Mexico, not only because it believes it has a right to it, but also because only such recognition would be useful in the development of its internal policy and its continental policy, as stated before, in friendly cooperation with the Government of the White House.

[Enclosure 2—Translation]

*The Mexican Foreign Office to the American Embassy*²³

MEMORANDUM No. 2

With respect to the memorandum relative to a Treaty of Amity and Commerce delivered by Mr. Summerlin to the President of the Republic,²⁴ it is deemed opportune to make the following observations.

It is not possible nor expedient to sign a Convention or Treaty between the Governments of Mexico and the United States of North America before the first is fully recognized by the second. The priority of the convention or treaty with respect to recognition, or the simultaneity of these two acts or their fusion, considering that the signing of the former could imply or signify at the same time the renewal of diplomatic relations between the two countries, would give recognition a conditional character and would gravely injure the sovereignty of Mexico.

The Mexican Republic being a State whose complete existence and sovereignty have not been questioned for one hundred years, its governments have the right to be recognized by the governments of the other countries in accordance with established usage without other condition than the legality and capacity to comply with the international duties and obligations of Mexico; therefore, in the light of international law, the exaction that General Obregon should previously

²³ Handed to the American Chargé by the Secretary of Foreign Affairs June 4, 1921.

²⁴ For text of draft treaty, see p. 397.

contract obligations of any nature in order that recognition be extended him is not justifiable. Aside from this reason of law, neither is such an exaction justifiable because General Obregon, first as a candidate and afterwards as an executive, has made repeated statements to adjust his policy to the dictates of law and morality, has offered to repair equitably the damages caused by the past revolution and has given, by his capacity to develop that policy and to fulfill those obligations, sufficient proofs, recognized not only by his own country in maintaining itself in almost perfect tranquility but also by many governments of European and Asiatic countries in renewing their diplomatic relations with Mexico.

Therefore, any exaction of promise whatsoever on the part of the American Government from that of Mexico, precedent to the renewal of diplomatic relations, would be unnecessary besides unjust and more than this prejudicial to both countries because it would incapacitate the Mexican Government to fulfill the obligation contracted and would deprive it of strength to accomplish its purposes of friendly cooperation with the Government of the United States, not only in behalf of the interests of the two countries but also the general interests of the American continent.

With respect to the Treaty of Amity and Commerce, in the form in which it has been prepared, it is objectionable because it contains stipulations which are opposed to some precepts of the Mexican Constitution. The President of the Republic, whose primary duty is to comply and to enforce compliance with the Constitution, would not be empowered to accept those stipulations. Even in case he should accept them the Senate would reject them when they should be submitted to it for its ratification. And moreover, in the remote possibility that the Senate should not reject them, they would continue to lack all validity, not only because the Mexican Constitution expressly prohibits in its Article 15 "to enter into conventions or treaties which abridge or modify the guarantees and rights which the Constitution grants to the individual and to the citizen", but also because, following the criterion of our jurists also held by North American commentators, if a conflict arises between the text of a Constitution and a treaty preference is always given to the former.

Besides, it is known that the Mexican Constitution, in Article 135, establishes the legal procedure to amend or add to it, and that General Obregon has already proposed the reglementary laws and indicated in accordance with that article the Constitutional amendments and additions required for the development of his policy of interior reconstruction and of good understanding with other countries.

Finally, the Mexican Government considers, as does the American Government, that the conclusion of a Treaty of Amity and Com-

merce between both nations would be of great mutual benefits. The treaty could be concluded with the complete goodwill of the Government of Mexico as soon as this Government is internationally capacitated for that purpose.

[Enclosure 3—Translation ²⁰]

The Mexican Secretary of Foreign Affairs (Pani) to the American Chargé (Summerlin)

MEXICO, June 9, 1921.

MY DEAR MR. SUMMERLIN: I have the pleasure to refer to your letter of the 7th instant, with which I received the summary of one of the telegrams sent by you to the Department of State in Washington, in connection with the conversation which we held on Saturday last in regard to memorandum no. 2.

With this letter I transmit the summary referred to, after having made some small indispensable modifications to make it agree exactly with my statements.

I remain [etc.]

A. J. PANI

[Subenclosure—Translation ²⁰]

Memorandum by the American Chargé (Summerlin) of a Conversation with the Mexican Secretary of Foreign Affairs (Pani), Modified by the Mexican Secretary of Foreign Affairs

After Mr. Pani read me memorandum no. 2, he said that since General Obregon was firmly determined to satisfy the just demands of foreign governments, he did not wish to lose the spontaneity of his acts before Mexico and the world by accomplishing this purpose under the appearance of foreign pressure. "If this happened," continued Mr. Pani, "aside from wounding the dignity of Mexico and of the President, the Government over which he presides would be weakened, as would be the tendency with any government which appeared capable of complying with its international duties only under pressure from a foreign power."

Referring to the proposed Treaty of Amity and Commerce, Mr. Pani mentioned that it embraces two parts—commercial and political; that the clauses relating to the first are acceptable in general, requiring only slight changes of form or detail and some amplifications; that the clauses of a political character, relating principally to article 27 of the Constitution, to foreign claims for damages caused by the Revolution, and to the religious question, either agree fundamentally with the political program which General Obregon is developing and are unnecessary or undesirable in said treaty, or

²⁰ File translation revised.

they are opposed to the Mexican Constitution and therefore unacceptable.

"What really could affect American interests," added Mr. Pani, "are, on one hand, the reglementation which may be made of article 27 of the Constitution, and, on the other hand, the form in which the claims commission is made up.

"With respect to the future reglementation of article 27 of the Constitution, the agreement of the executive and the legislative powers in favor of the principle of nonretroactivity has already been stated in various ways and on various occasions. What can the Supreme Court of Justice of the Nation do other than to align itself with the other powers of the Government in such an equitable proposal? I believe that a very short time will elapse before we see this presumption confirmed."

With respect to damages caused by the revolution, Mr. Pani spoke of a law which General Obregon has prepared and which is to be promulgated soon, which provides in a practical way for a mixed claims commission.

"Finally, as to the religious question," said Mr. Pani, "it is dangerous and unnecessary: dangerous because the Mexican people—although this may appear untrue—are as fanatic about their religion as about the reform laws which they consider written with their own blood; and unnecessary because in Mexico—despite what may be said to the contrary—religious tolerance is enjoyed normally to the extent that it should be in a civilized country."

711.1211/12: Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

[Paraphrase]

MEXICO, June 10, 1921—3 p.m.

[Received June 11—4:52 a.m.]

134. Department's number 83, June 6, 5 p.m.²⁷ Just received reply from Pani that definite actions to which you refer are:

"1. The claims law, which practically establishes mixed claims commission, will soon be promulgated;

"2. It is to be expected, in view of declarations made at different times by Executive and Chamber of Deputies, that organic law under article 27 of the Mexican Constitution will be promulgated shortly in conformity to the principle of nonretroaction, and this would leave the Supreme Court of Mexico no other course than to join the two other branches in such a just proposal;

²⁷ Ante, p. 406.

"3. The proposition made by the Government to arrange with creditors for renewing the services of the public debt is to be carried out at once."

I inquired of him what these declarations of the Chamber of Deputies might be, and he replied that he referred to certain statements made by members of Petroleum Committee of the Chamber of Deputies and to a speech made some time ago, advocating the principle of nonretroaction, and stated that the applause which greeted the speech indicated that the principle was supported. He thought the above-mentioned organic law would be acted upon within the course of a few weeks.

SUMMERLIN

711.1211/5: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

[Paraphrase]

WASHINGTON, June 10, 1921—5 p.m.

89. Your numbers 119, June 4, 6 p.m., and 121, June 5, 9 a.m.²⁸ At first opportunity hand Pani copy of statement which Department gave to the public June 7, and which was contained in Department's number 85, June 8. Inform Pani that he may regard this statement as in essence Government's position in reply to memoranda you received on June 4.²⁹

HUGHES

812.00/26059

General Obregon to President Harding

[Translation]

MEXICO, June 11, 1921.

HONORABLE AND DISTINGUISHED FRIEND: I have conversed on various occasions with our mutual friend, Mr. Elmer Dover, who has very kindly explained to me some aspects of the point of view of the White House concerning the diplomatic relations between the United States and Mexico. Mr. Dover explains to me that the present situation has not been clarified because, in forming your judgment regarding the fate in store for American interests in Mexico, you, personally, have had only data gathered from indirect

²⁸ Neither printed.

²⁹ *Ante*, pp. 409 and 412.

sources; and that, in these circumstances, nothing better could be attempted at this moment than to bring to your attention, in a manner direct and free from suspicion, an exact statement of the policy of the Mexican Government with respect to the questions affecting those interests.

This opinion of Mr. Dover, to which I attach absolute credit, has the merit of coming exactly at a time when the Mexican Government is gladly taking advantage of every favorable opportunity to divulge its intention; so that I have decided, continuing our correspondence, to again place myself in communication with you, not only because I can send you nothing more direct and above suspicion than a personal letter, but also because once more will be manifested the good will and spirit of concord with which Mexico is disposed to renew the outward form of its friendship with the United States, since I certainly do not believe this friendship has been fundamentally impaired.

In order not to make this letter too long, permit me to send you the enclosed copy of the statement which I recently made to the press of the world, through the representatives of Mexico abroad.³⁰ My object in making these declarations was to make known to all governments the rule (or standard) of conduct of the Government over which I preside. These embody, therefore, the strongest moral obligations, which in my character of Chief of the executive power in Mexico, I can contract not only before my own country, but before the world. You will particularly see from them that my Government desires ample con-fraternity, that it guarantees to foreigners fundamental rights analogous to those of Mexicans, that it invites them to come to Mexico, alone or with their capital, to assist in the development of the riches of its soil, and that it obligates itself to recognize all the rights they acquire in conformity with the laws of the country.

However, and notwithstanding the fullness with which I have dealt in these declarations with the topics of most importance to the Mexican policy of the United States, I wish to make herein particular reference to them. As far as I am able to interpret the attitude of the Government over which you worthily preside, there are three fundamental doubts, the clarification of which is desired before diplomatic relations are re-established with Mexico: the application which may be given to Article 27 of the Constitution; the procedure which may be adopted to settle and determine the claims for damages caused by the Revolution; and payment of the external debt. I say three because while something has been said with regard to the matter of education, of religion and of liberty to acquire real

³⁰ Quoted in the communication of Apr. 2, 1921, from General Obregon to the Mexican Foreign Office, p. 395.

property, etc., with respect to these, either there is in reality no interference with the liberty of North American residents in Mexico, except in a verbal and apparent manner, or it arises from limitations of rights (equally affecting other foreigners) which are inevitable because they have their origin in the laws.

Nevertheless, the non-retroactive and non-confiscatory reglementation of Article 27 of the Constitution (meaning the passage of laws giving effect to Article 27) is something which is in the political atmosphere of Mexico. Apart from the political guarantees which the Constitution gives to these principles, the agreement of the executive and legislative powers with respect thereto, has been already shown in diverse forms and occasions, and there is no reason for believing that the judicial power will adopt different views. With respect to the damages caused by our internal war, the Executive has prepared a law, soon to be promulgated, which will establish as a fact a mixed claims commission, just as effective in its operation as if it originated in an international treaty. With respect to the service of the debt, there are two convincing proofs of the good disposition of Mexico, now that there is within its reach means of collecting the necessary funds, viz: the invitation extended to the international committee of bankers, presided over by Mr. Lammont, and the banking house of Speyer (that an arrangement has still to be made is because of their fault in not having accepted it), and the recent decree laying additional export taxes on petroleum, precisely with a view to the payment of the debt.

These being the intentions of the Government and people of Mexico, it is difficult in truth for me to understand, unless it be for lack of exact information, or by reason of an atmosphere created on purpose by those who wish to gain more the longer the misunderstanding shall be continued—that it is still pretended to ask Mexico to give greater assurances that she will comply with her international obligations, nor still less even, can I understand why these assurances should have to be given in the form of a treaty or protocol prior to recognition, and which is impossible to reconcile with the laws of Mexico. Leaving on one side the right of this country to obtain for its legitimate government a full and unconditional recognition, a principle which cannot be abdicated in any case because it deals with a State whose existence and sovereignty have not been questioned for one hundred years, it is unnecessary to demand of Mexico the signature of a treaty upon matters already settled in a spontaneous manner, and which I as President cannot enter into because the law does not permit me, any more than it is permitted of the President of the United States to conclude treaties contrary to the laws of his country.

Finally, I permit myself to draw your attention to a distinction which should be made in order to understand better the actual situation of the relations between the United States and Mexico. The moral entities, "American Government" and "Mexican Government" should be separated from the physical persons who preside over them, or who compose them, since in the present case, the change of the physical persons who form the Government of Mexico imports no break in the legal continuity of the entity "Government of Mexico," constituted after the triumph of the revolution of 1913. The moral entity "Government of the United States" recognized the moral entity "Government of Mexico", then constituted in accordance with the laws which are still in force, and completely disregarding the physical persons who formed it. It is thus not admissible, unless in this case the principle of retroactivity should be applicable, that the present Government of the United States should disavow its former acts in denying recognition to the moral entity "Government of Mexico", before recognized, and still in existence.

I hope, as I am assured by Mr. Dover, that the preceding explanations may put an end to the present misunderstanding, and I desire very sincerely that in a short time our Governments may recognize and treat with each other in an official manner. Meanwhile, I am pleased to offer to you the expressions of my respectful esteem.

A. OBREGON

812.00/25114½

The Under Secretary of State (Fletcher) to the Chargé in Mexico (Summerlin)

WASHINGTON, July 21, 1921.

DEAR MR. SUMMERLIN: I enclose a personal letter from the President of the United States to General Obregon, in answer to a personal and informal letter sent to the President by General Obregon through Mr. Dover. The President desires that you should present this letter to General Obregon at a personal interview, and that you should have an accurate and careful translation of it made into Spanish, which should be handed to General Obregon with the original letter. You should be careful, however, to state to General Obregon that you have made the translation merely as a matter of courtesy and convenience to him, and that it is in no wise to be regarded as official.

For your information and the confidential files of the Embassy, I also enclose a copy of General Obregon's letter to which the enclosed is a reply, accompanied by a translation made in the Department.

Yours very sincerely,

HENRY P. FLETCHER

[Enclosure]

President Harding to General Obregon

WASHINGTON, July 21, 1921.

DEAR GENERAL OBREGON: Your personal letter of June the eleventh was handed to me by our common friend, Mr. Dover, on returning from his visit to Mexico, and I am glad to reply in the same personal and informal manner. I have read with the greatest interest and attention the statements in your letter with reference to your policy in regard to the interests of American citizens in Mexico. I wish to say in the first place that I entirely agree with you that the friendship between Mexico and the United States has not been fundamentally impaired, and that the important question to be settled is the manner in which we may re-establish and renew the outward form of its expression.

It would be uncandid not to state that the relations which have existed between Mexico and the United States during the last decade have been far from satisfactory. Since the Revolution, hundreds of Americans, peacefully residing in Mexico, have lost their lives, and many more of them have been deprived in one way or another of their properties. When the Constitution of Queretaro was adopted, the American Government felt uneasy as to its effect upon the rights and interests of American citizens in Mexico, and inquiries on that score were made in advance of recognition of Mr. Carranza. Relying on the faith of the assurances received from the Mexican authorities then exercising control, the Carranza Government was recognized. In spite, however, of these assurances the United States Government was greatly disappointed to find that measures seriously menacing the private rights of American citizens were adopted, and American lives and property did not receive the protection and enjoy the security which had been promised.

After the overthrow of the Carranza Government, the Government of the United States felt that its duty to its citizens demanded a more definite understanding as to the intention of the regime which succeeded it with regard to the protection of the interests of American citizens in Mexico. It felt that this understanding, if reached, would have a very beneficial effect on the political and commercial relations of the two countries, and would obviate the necessity for diplomatic representations and remonstrances arising from lack of protection and security.

I have read with interest your public statement of April second, of which you attach a copy to your letter, and following the lines of it and desiring to remove all possible causes of friction, and to pave the way to that neighborly friendship and cooperation which I hope

to see established between Mexico and the United States, I directed the State Department to prepare for submission to and discussion with you, the draft of a treaty³¹ which would give to the people of our two countries mutual and reciprocal advantages in respect to their trade, and would also serve, first, to clear away, in harmony with your public statements, all doubt as to the non-retroactive and non-confiscatory effect of the present Mexican Constitution; second, arrange for a joint mixed claims commission to settle the claims of American citizens against Mexico, and of Mexican citizens against the United States; third, to provide the means of settlement of all pending frontier questions. I carefully examined and approve[d] the draft of the proposed treaty. Treaties are nothing more nor less than formal statements of terms on which two countries maintain their political and commercial intercourse. They are designed to remove causes of misunderstanding, and so in this case it seemed to me that by embodying the understanding of the two governments with reference to questions raised by the adoption of the new Constitution in Mexico, especially those relating to the enforcement of its provisions in a non-retroactive and non-confiscatory manner, the causes of friction and difficulty which have unfortunately existed in the last few years would be removed, and the two governments might devote themselves to mutual help and cooperation, rather than remain divided and disturbed by continual discord and friction with respect to points upon which, apparently, we are both now agreed.

You, as I understand it, recognize that some of the questions, at least, now pending between us should be settled and arranged by treaty, and have invited, as I am informed, this and other Governments to enter into conventions providing for the creation of joint commissions for the settlement of claims arising out of the Revolution. The proposal of the United States is merely to go a step farther and to arrange for the settlement of other pending questions.

In proposing this course of action the United States is not attempting to interfere with the domestic institutions of Mexico, nor to dictate in matters of purely internal concern. It fully recognizes the right of Mexico as a sovereign nation to adopt such laws as may seem best, providing always (and this applies not only to Mexico but to every other country) that such laws do not violate the Law of Nations and the fundamental principles of right and justice underlying international intercourse.

On the other hand, the question as to whether the United States Government shall or shall not recognize another government is purely a domestic one for the United States. The principles upon which it has heretofore acted in this respect are well known, and need scarcely

³¹ *Ante*, p. 397.

be recapitulated. In entering into this treaty with you recognition would be effected, *ipso facto*.

I think I ought to take advantage of this occasion to make clear to you that the attitude of the United States Government is not dictated by the interests of any particular group, and that its position is not affected by what you refer to as "lack of [exact] information or by reason of an atmosphere created on purpose by those who wish to gain more the longer the misunderstanding shall be continued", but on the contrary has been taken after careful study of the situation and with a sincere desire to reach an understanding which will place the relations of the two countries on a firm and enduring basis of friendly and mutually advantageous intercourse.

In your letter under acknowledgment you state that you cannot enter into a treaty because the law does not permit you "any more than it is permitted to the President of the United States to conclude treaties contrary to the laws of his country". It was not my intention to invite you to conclude a treaty contrary to the laws of Mexico, but one entirely in conformity with them as interpreted by your own declarations. If the statements repeatedly made to the effect that the Constitution and laws of Mexico are not retroactive and confiscatory are true, I cannot see how the treaty which has been submitted for your consideration is contrary to them, any more than a treaty or convention for the adjustment of claims would be so considered. In other words, the United States Government feels that the provisions of the proposed treaty cannot be considered to be violative of the Constitution and laws of Mexico, unless it is the intention to interpret and apply those laws retroactively, which you insist it is not the intention to do; therefore, I feel there must be some misunderstanding which a more careful examination of the matter will correct.

I have also noted your statement that the non-retroactive and non-confiscatory reglementation of Article 27 of the Constitution is in the political atmosphere of Mexico, and that apart from the political guarantees which the Constitution gives to these principles, the agreement of the legislative powers of Mexico with regard thereto, has already been shown in divers forms and occasions and that there is no reason for believing that the judicial power will adopt a different view. I am not advised, however, that the legislative and judicial authorities of Mexico have acted in the matter, and I may be permitted to observe that such action undoubtedly could have a very beneficial effect in removing the uncertainties of the situation.

It would be wholly pleasing to this Government to send a special commissioner to Mexico to negotiate the covenant in conformity with the terms which have already been expressed to you, both formally

and informally, upon advice from you that such a treaty can be closed up. Arrangement for such a special envoy will be made with great promptness and in the hope of a speedy conclusion of the arrangements which are so essential to the welfare and concord of both governments.

This letter will be handed you by Mr. Summerlin. And it may be well to say that, in view of the publicity which has attended the discussion of these questions, and of the natural desire of a number of persons to appear as your representatives or mine, you will find the representatives of the State Department more dependable, as they alone are authorized to speak for this Government.

With assurances [etc.]

[WARREN G. HARDING]

812.00/25136½

*The Chargé in Mexico (Summerlin) to the Under Secretary of State (Fletcher)*³²

MEXICO, August 6, 1921.

DEAR MR. FLETCHER: I received late Friday last, your informal instruction dated July 21, 1921, enclosing a personal letter from the President to General Obregon. On account of the usual rush of work for the Saturday pouch, I was not able to start the work on a translation of the letter into Spanish until Sunday, the 31st ultimo. However, I called on Mr. Pani Monday morning, the first instant, and told him I had received this letter and asked for an appointment with General Obregon, at the latter's convenience. Mr. Pani very kindly stated that he would arrange for me to be received informally the following morning (Tuesday). Tuesday's papers all printed the announcement that General Obregon had left the evening before for Puebla, where he expected to remain until Wednesday the 3rd. I heard nothing further from Mr. Pani until the afternoon of the 3rd when, at a tea at Mrs. Pani's, he stated that General Obregon had returned to the city slightly indisposed but that he would arrange for me to see the General the following morning. This was done and a member of the Protocol called for me at 5:45 p.m., the afternoon of the 4th and conducted me to Chapultepec Castle hill where I was received quite informally, and alone, by General Obregon, in his residence just back of and below the Castle. The General, who was very hoarse, stated that he had contracted a severe cold at Puebla and was still confined to his house. I thanked him for receiving me despite his illness, and after the usual preliminary greetings, I stated that I was under instructions from the Department, informally and

³² No record of the date of receipt of this despatch in the Department.

unofficially to present in person the President's personal, informal and unofficial reply to his personal and informal letter sent through Mr. Dover. I also stated that I had made a careful translation of the letter into Spanish, merely as a matter of courtesy and convenience for him, but that the translation into Spanish should not be considered as official.

General Obregon thanked me for delivering the letter and for my courtesy in making the translation. He said he would hasten to read the reply and that he would read it with great interest and care.

Very faithfully yours,

GEORGE T. SUMMERLIN

812.00/26098

General Obregon to President Harding

[Translation ³³]

MEXICO, August 18, 1921.

HONORABLE AND DISTINGUISHED FRIEND: A few days ago ³⁴ Mr. Summerlin delivered to me your personal letter dated the 21st of July last, by which I have realized that Mr. Dover was right when he suggested that it was possible to arrive soon at a thorough understanding in regard to the points in which our Governments do not concur for the moment, through a frank and direct exchange of views between yourself and me. In fact, the frankness with which you define and express these points, your categorical assertion that, in so expressing and defining them, the United States is not acting in the interests of any particular group of American citizens, and your expressed intention not to expect from me, as President of the Republic of Mexico, anything except that which may be just and in accordance with the laws of my country,—all indicate that the time is not far off when doubts will be cleared and diplomatic relations between the two countries resumed.

It is fortunate for the resumption of these relations that between the date of my previous letter and that of the present one, and in conformity with the plan of reconstruction which I have announced from the time of the electoral campaign, and which, since my election, I have been endeavoring to carry out, the Government of Mexico has taken several important steps, along the lines indicated in your letter, that in a practical manner shed the fullest light upon those matters which have occasioned distrust to the Government of the White House. I refer to the invitation extended by Mexico to

³³ File translation revised.

³⁴ On Aug. 4.

various countries to appoint mixed commissions to appraise the responsibilities of the Mexican Nation for damages caused to foreigners, and to the deliberations of Congress and of the Supreme Court of Justice, where the nonretroactivity and nonconfiscatory character of article 27 of the Constitution will be promptly determined. I consider these steps all the greater in importance as they coincide with the observations in your letter in regard to the decisive effect they would have upon the uncertainty of the present international situation.

Therefore, since the Government of Mexico has already invited the Government of the United States to appoint a mixed claims commission, I hope that as soon as article 27 has been regulated by our Congress or interpreted by decisions of the Supreme Court of Justice, the abnormal state of official relations between Mexico and the United States, so detrimental to the material and spiritual interests of the two peoples, will be ended.

In conformity with your wishes, and confident that the best channel for our exchange of views is the officials of the Department of State of the United States and the Department of Foreign Affairs of Mexico, I am sending this letter to Mr. Téllez, our Chargé d'Affaires in Washington, in order that he may deliver it informally to you with the expression of my sincere esteem.

A. OBREGON

812.6363/951½

The Chargé in Mexico (Summerlin) to the Under Secretary of State (Fletcher)

MEXICO, September 1, 1921.

[Received September 21.]

DEAR MR. FLETCHER: With reference to the recent so-called non-retroactive decision of the Supreme Court,³⁵ you will be interested to hear, if you do not know it already, that no decision of the Mexican Supreme Court may be considered as establishing a precedent. I received a report, indirectly, from a Mexican lawyer this morning, to the effect that the Supreme Court, acting tomorrow, say, on a denouncement case similar to that of the Texas Oil Company, could render a decision directly opposite to that rendered on August 30th. This being the case, it appears to me that we should continue to press for the signing of the proposed Treaty of Amity and Commerce.³⁶ In this connection, Mr. Pani admitted to me several days

³⁵ Decision of Aug. 30, 1921, in the *amparo* case of the Texas Oil Co., p. 464.

³⁶ *Ante*, p. 397.

ago that such a Treaty would be of the greatest assistance to the Central authorities in cases where State Legislatures would attempt to pass and enforce radical legislation such as the Vera Cruz law for the division of profits, the Durango Agrarian Law and other objectional State legislation.³⁷

Very sincerely yours,

GEORGE T. SUMMERLIN

812.6363/1042½

President Harding to the Under Secretary of State (Fletcher)

WASHINGTON, November 19, 1921.

MY DEAR SECRETARY FLETCHER: I have read with very great interest your letter of November 14th³⁸ relating to the brief of the Legal Department of the Department of State³⁸ on the decision of the Supreme Court of Mexico in the Texas Company case. I have not taken the time to make a study of the brief. Nothing has arisen to change my mind about our proper attitude toward Mexico. It will be better to have a complete understanding when we resume relations rather than to attempt to seek the understanding after the resumption of relations is established. This policy is quite in harmony with all that I said during the political campaign of 1920, and it is quite in harmony with everything which has been said directly or indirectly to President Obregon.

I am well aware that there is a change of front on the part of many interests which heretofore strongly opposed recognizing Mexico, if their attitude was not more specifically hostile. Apparently a number of these interests have come to an understanding on their own account and are now addressing themselves as agents of the Mexican government as a result thereof. I am sure this change of attitude has not materially altered the opinion of yourself and your associates, and I know it has not had anything to do toward effecting a change of mind on my part. I wish we might recognize Mexico and reestablish helpful relationships. It is futile to venture upon such a course without a complete understanding if we mean to perform our first duty in protecting American rights.

Very truly yours,

WARREN G. HARDING

³⁷ See pp. 473 ff.

³⁸ Not printed.

ATTITUDE OF OTHER GOVERNMENTS TOWARD RECOGNITION OF
THE OBREGON GOVERNMENT ³⁹

812.00/24839

The Chargé in Mexico (Summerlin) to the Acting Secretary of State

No. 3574

MEXICO, January 7, 1921.

[Received January 20.]

SIR: Referring to the autograph letter which, under date of November 25th last, President Ebert of the German Government addressed to Mr. de la Huerta (see the Embassy's despatch No. 3556 of December 31st),⁴⁰ and to frequently recurring assertions by the local press to the effect that Count Montgelas, the German Minister in this city is about to present his letters of credence, the latter recently stated in the course of a private conversation, that Mr. Ebert had acknowledged the receipt of Mr. de la Huerta's notification of his accession to the Presidency of the United Mexican States only at the repeated instance of Mr. Balbino Dávalos, Mexican Minister at Berlin, and with the agreement that such acknowledgment be regarded by the Mexican Government solely as a manifestation of personal courtesy, and that it be kept from publication until the extension of recognition by Germany, which would be withheld until accorded by the United States or by a major European power. In conclusion, Count Montgelas denied the receipt of instructions to present his letters of credence or of any intimation of their early presentation, and confidentially implied that the Mexican Government has, since his arrival in this city five months ago, consistently endeavored by every means at its disposal, to extort recognition from Germany.

I have [etc.]

GEORGE T. SUMMERLIN

812.00/24830 : Telegram

The Chargé in Mexico (Summerlin) to the Acting Secretary of State

MEXICO, January 10, 1921—noon.

[Received 6:37 p.m.]

7. Local press publishes Foreign Office statement that Ecuador has recognized Mexican Government.

SUMMERLIN

³⁹ For previous correspondence relating to this subject, see *Foreign Relations*, 1920, vol. III, pp. 169-190, *passim*.

⁴⁰ *Ibid.*, p. 199.

812.00/24846 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, January 27, 1921, 10 a.m.

[Received 4:54 p.m.]

29. Coincident with the arrival here of General Garibaldi on a special commercial commission the local press announced the recognition of Mexico by Italy.

The Italian Minister stated to me yesterday that his Government considered and had so instructed him that its diplomatic relations with Mexico had not been interrupted.

SUMMERLIN

812.00/24871

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3676

MEXICO, February 18, 1921.

[Received February 28.]

SIR: With reference to my despatch No. 3641, of February 3, 1921,⁴² relative to the recognition of Mexico by Italy, I have the honor to report that in a private conversation with the Italian Minister here, on the 16th, Mr. Carrara stated to me that he did not know whether or not his Government had recognized General Obregon. He said that he had received a telegram from Mr. Brambilla, the Italian Chargé d'Affaires *ad interim* at Washington, reporting local press notices to the effect that Italy had recognized the new Government in Mexico and asking for an explanation. Mr. Carrara stated that he had replied to Mr. Brambilla requesting that the press notices be not denied and adding that he did not know whether Mexico had been recognized or not.

I have [etc.]

GEORGE T. SUMMERLIN

812.00/24927

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3749

MEXICO, March 19, 1921.

[Received March 30.]

SIR: With reference to my telegram No. 57, March 17, 10 a.m.,⁴² in regard to the reports that France had recognized Mexico, I have the honor to report that Mr. Pani's⁴³ statement to me in confirma-

⁴² Not printed.⁴³ Alberto J. Pani, Mexican Secretary of Foreign Affairs.

tion of the report appears to have been based on the action of the President of the French Republic in acknowledging the receipt of General Obregón's autograph letter announcing that the latter had assumed charge of the Executive power in Mexico. The Department will recall that a similar acknowledgment was made, several months ago, by the President of Germany but that action was not considered recognition by Germany, nor has Count Montgelas, the German Minister designate, who is here, presented his credentials, although he is in informal contact with the officials of the present régime.

With reference to the reported appointment of a French Minister to Mexico, the French Chargé d'Affaires, in reply to the inquiry of a colleague, stated that he did not know whether or not the French Minister would be prepared to present letters of credence on his arrival here.

I have [etc.]

GEORGE T. SUMMERLIN

812.00/24940

The Minister in Venezuela (McGoodwin) to the Secretary of State

No. 2297

CARACAS, *March 19, 1921.*

[Received April 11.]

SIR: I have the honor to report that Doctor Gil Borges, Minister of Foreign Affairs, told me today that Doctor Salvador Guzmán, Mexican Chargé d'Affaires, told him a few days ago that he had been instructed "to inquire as to the attitude of the Government of Venezuela toward the present Government of Mexico." Doctor Gil Borges said that he had replied that the Government of Venezuela "had been glad to welcome him on his return to Caracas," on February 13, 1921 but that no action would be taken by this Government in the nature of formal recognition of the Obregón Government "at this time." The Mexican Chargé d'Affaires was represented as having indicated that the instruction was telegraphic and circular.

Doctor Gil Borges took occasion to remind me that the present Government of Venezuela has awaited invariably the action of the Government of the United States in granting recognition to other Governments, mentioning especially the various changes in the Government of Mexico, Costa Rica, et cetera, the sole exception being "the necessity for recognition of the Ebert Government in Germany, precipitated by an inquiry from Clemenceau in December 1919."

I have [etc.]

PRESTON MCGOODWIN

812.00/24897 : Telegram

*The Secretary of State to the Chargé in Mexico (Summerlin)*WASHINGTON, *March 23, 1921—5 p.m.*

39. Amembassy Paris telegraphs March 22d, 4 P.M., as follows:

"Foreign Office informs me that information is incorrect and that no recognition has been given to Obregon. Foreign Office adds that the rumor might have arisen from the fact that President Millerand replied to Obregon's letter regarding his accession to office, but that this matter had been taken up by Mr. Jusserand with the Department which had seen no objection to the fact or the nature of the reply."

HUGHES

812.00/25024

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3908

MEXICO, *May 27, 1921.*

[Received June 7.]

SIR: I have the honor to transmit herewith a copy in translation of the autograph letter ⁴⁴ in which Doctor Baltasar Brum, President of the Republic of Uruguay, acknowledged the receipt of General Obregon's notification of his assumption of the Executive office of the United Mexican States. The letter, which is undated, was released by the Foreign Office and published by today's press as indicative of recognition by the Uruguayan Government.

I have [etc.]

GEORGE T. SUMMERLIN

812.01/7½

The Under Secretary of State (Fletcher) to the Secretary of State[WASHINGTON,] *May 27, 1921.*

DEAR MR. SECRETARY: I have just talked with Mr. Norman Davis ⁴⁵ over the telephone. He informed me that the understanding with the British Embassy with regard to Mexico was as follows:

That in view of pressure which was being brought to bear on the British Government to recognize Mexico, that Government had decided not to recognize until we should do so; that we would keep them advised of any important steps which we might take looking toward recognition, in order that British action might follow ours.

H[ENRY] P. F[LETCHER]

⁴⁴ Not printed.⁴⁵ Under Secretary of State June 15, 1920—Mar. 7, 1921.

812.00/25039

The Commissioner at Vienna (Frazier) to the Secretary of State

No. 181

VIENNA, May 28, 1921.

[Received June 15.]

SIR: With reference to my telegram dated May 20th and numbered 112,⁴⁶ I have the honor to transmit herewith enclosed, for the Department's information, the translation of a note just received from the Foreign Office informing me of the recognition by the Austrian Government of the "Obregon Government" of Mexico.

I have [etc.]

ARTHUR HUGH FRAZIER

[Enclosure—Translation]

The Austrian Minister of Foreign Affairs (Mayr) to the Commissioner at Vienna (Frazier)

No. 2092/1 A

NOTE VERBALE

In reply to the *Note Verbale* dated the 19th instant, the Austrian Federal Minister of Foreign Affairs has the honor to inform the American Commissioner that the Government of this Republic, after having sounded the governments of the Great Powers in this respect, could no longer see its way clear, for economic reasons, to refuse the Government of Mexico the recognition which had been repeatedly requested. This recognition became effective from the 4th of May last.

VIENNA, May 23, 1921.

711.1211/212

Memorandum by the Under Secretary of State (Fletcher)

[WASHINGTON,] June 4, 1921.

Mr. Craigie⁴⁷ called this morning and asked, on behalf of the Ambassador, whether it would now be possible for the Department to give him the text of the draft treaty with Mexico,⁴⁸ and referred again to the understanding of full cooperation between the two governments with regard to Mexico. I told Mr. Craigie that I felt that we had complied with the spirit of that understanding in communicating to him the general outlines of the proposed treaty; that,

⁴⁶ Not printed.⁴⁷ R. Leslie Craigie, Secretary of the British Embassy.⁴⁸ *Ante*, p. 397.

with the exception of one Cabinet officer and the President, no one outside of a few officers in the Department knew anything about the proposed treaty; that it had not even been communicated, confidentially or otherwise, to members of the Senate Foreign Affairs Committee; that we did not wish to take any chances or do anything which might, even remotely, affect the decision of the Obregon government in the matter.

Mr. Craigie insisted that the British Government felt that inasmuch as they had been pressed by certain interests for recognition of Obregon, and had been criticized on account of the subserviency of their Mexican policy to that of the United States, they were entitled to have communicated to them, or that they be entitled to see, the text of the treaty. I repeated that we were very anxious to cooperate with Great Britain in this, that we highly appreciated their attitude of cooperation, and that I hoped they, on their side, would understand that our failure to communicate the text of the treaty was not due to any lack of confidence, or unwillingness to cooperate fully with them, but should be attributed solely to our belief that every precaution should be taken under the peculiar circumstances surrounding Mexican matters.

I told him that I did not think at this juncture that it would help matters to give him the text of the treaty; that this was a matter entirely within the hands of the Secretary, and that if he were disposed to send a copy of the treaty to the Ambassador I would be very glad to do so, and would bring the matter immediately to the attention of the Secretary for his decision.

I told him that we had received information from Mexico that we might expect some memorandum on the subject from the Mexican Government after the return of General Calles to Mexico City, and that we would be very glad to keep them in touch with the progress of the negotiations as they develop.

H[ENRY] P. F[LETCHER]

812.00/25033: Telegram

The Representative on Special Mission in Cuba (Crowder) to the Secretary of State

HABANA, June 10, 1921—10 a.m.

[Received 4:55 p.m.]

70. President Zayas asked me to ascertain privately whether views of State Department had undergone change since Céspedes' ⁴⁹ telegram of April 28th in substance that it would be agreeable if Cuban recognition of Obregon Government should be made coincident with

* Carlos Manuel de Céspedes, Cuban Minister at Washington.

our own. Position of Mexican Minister who has been here since Carranza's time seems to make it necessary for Cuba to inform him definitely whether it will receive communication from him announcing that Obregon has assumed the Government of Mexico; otherwise he talks of leaving. It is suggested that Martín Rivero, Cuban Delegate Mexico, now here might be instructed in the event he returns to cooperate with United States Chargé at Mexico in a helpful way.

CROWDER

812.00/25033 : Telegram

The Secretary of State to the Minister in Cuba (Long)

WASHINGTON, June 11, 1921—2 p.m.

117. For General Crowder.

Your 70, June 10, 10 a.m.

Advise the President confidentially that this Government will greatly appreciate it if recognition by Cuba of the present Government of Mexico should be made coincident with recognition by the United States.

A copy of the statement issued to the press by this Department on June 7,⁵⁰ regarding the relations between the United States and Mexico, will be transmitted to you by the next mail for your information and for that of Dr. Zayas.

HUGHES

741.9411/140½

Memorandum of a Conversation between the Secretary of State and the British Ambassador (Geddes), June 23, 1921

[Extract ⁵¹]

Mexico. The Ambassador said that his Government had instructed him to express his appreciation of the Department's action in giving him a copy of the proposed treaty with Mexico and informing him of the progress of the negotiations. He said that his Government had considered the attitude taken by the American Government and was in sympathy with it, and that they were preparing to go along with the American Government. In response to his inquiry, the Secretary said that there was nothing new in the negotiations relating to the treaty.

⁵⁰ Quoted in telegram no. 85, June 8, 1921, to the Chargé in Mexico, p. 406.

⁵¹ An additional extract from this memorandum is printed on p. 314.

812.00/25054 : Telegram

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

[Paraphrase]

WARSAW, June 23, 1921—5 p.m.

[Received June 24—3:15 p.m.]

146. The Minister of Mexico in Austria has approached the Government of Poland with an offer of colonization privileges and concessions if it will recognize the present Government of Mexico. I have assurances that Poland will not accord recognition until the United States recognizes Mexico. However, Government of Poland would appreciate a statement from the Government of the United States as to whether latter has yet accorded recognition, and if not, what the prospects of recognition are at the present time.

GIBSON

812.00/25066

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3995

MEXICO, June 24, 1921.

[Received July 6.]

SIR: I have the honor to report that the *Excelsior* of to-day publishes the following autograph letter from the Queen of Holland to General Obregón in reply to General Obregón's letter of December one, last, announcing his inauguration as President of Mexico:

"WILHELMINA By the Grace of God, Queen of the Low Countries, Princess of Orange-Nassau, etc. etc.

To Mr. Alvaro Obregón, President of the United Mexican States:

Great and Good Friend: I duly received your letter of December 1, 1920, in which you were so good as to inform me that, having been called by the will of your fellow-citizens to occupy the Presidency of the Republic, you took possession of your high office on that date.

In thanking you for this important communication, I take pleasure in assuring you that I also will do all I can to draw closer and make even stronger if possible the friendly relations which exist between our two countries.

With pleasure I avail myself of this opportunity, Mr. President, to offer you my best wishes for the prosperity of the Republic as well as for your personal happiness.

Done at The Hague, on the 29th day of April of 1921.

Your Good Friend,

(Signed) Wilhelmina
(Countersigned) V. Karnebee[k]."

I have [etc.]

GEORGE T. SUMMERLIN

812.00/25054 : Telegram

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

[Paraphrase]

WASHINGTON, June 27, 1921—5 p.m.

150. Legation's telegram No. 146, dated June 23, 5 p.m. Advise the Minister for Foreign Affairs confidentially that Department highly appreciates the attitude which his Government has taken, and add that this Government has not yet extended recognition. The outlook now is that there will be a delay in recognition. You should receive very shortly a full statement outlining the position of the Department which was given to the public on the 7th of June.⁵²

HUGHES

812.00/25126

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4111

MEXICO, July 23, 1921.

[Received August 10.]

SIR: I have the honor to inform the Department that the local press of July twenty-first published the text of an autograph letter addressed to General Obregón by King Alfonso XIII of Spain, on June 13, last, acknowledging the receipt of the former's notification of his assumption of the Executive power of the United Mexican States.

The press of the 23rd instant published the text of a similar letter from Yoshihito, Emperor of Japan, dated the "eighth day of the sixth month of the tenth year of Taische."

Copies in translation of both letters are going forward to the Department as enclosures to this despatch.⁵³

In respect of the general subject of recognition, I have also the honor to report that the press of July sixteenth published an Associated Press despatch from Madrid, stating that Mr. Diego Saavedra, Spanish Minister Designate to Mexico, will leave for his post on the thirtieth instant. The despatch added that Mr. Saavedra will, moreover, represent his Government at the centennial celebration in September.

The press of July twentieth published a telegram transmitted, on the nineteenth instant, to Mr. Alberto J. Pani, Secretary of Foreign Relations, by Mr. Aristide Briand, Prime Minister of the

⁵² Quoted in telegram no. 85, June 8, 1921, to the Chargé in Mexico, p. 406.

⁵³ Not printed.

French Republic, acknowledging the receipt of General Obregón's message of felicitation to President Millerand on the occasion of the French national holiday. The press of July twenty-first stated further that a similar telegram had been sent to General Obregón by President Millerand, and published a statement by Mr. Pani to the effect that diplomatic relations between France and Mexico are uninterrupted and extremely cordial, as was evidenced by Mr. Millerand's acknowledgment, sometime since, of General Obregón's announcement of his inauguration as President.

In conclusion, I have the honor to report that the press of July twenty-first stated that the Secretary of Foreign Relations has received from Mr. Antonio Caso, Mexican Special Ambassador to Peru for the centennial celebration of the independence of that country, a telegram informing Mr. Pani of the presentation of his letters of credence to President Francisco [*Augusto*] Leguía, on the nineteenth instant.

I have [etc.]

GEORGE T. SUMMERLIN

812.00/25145

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4171

MEXICO, August 8, 1921.

[Received August 26.]

SIR: I have the honor to report that Count Montgelas, the German Minister Designate, called at the Foreign Office this morning to arrange for the presentation of his credentials. Count Montgelas stated to one of my colleagues that after having heard that a new Spanish Minister was *en route* to this post he so advised his Government and requested, if this report could be confirmed at Madrid, that he be instructed to recognize the Obregon Government.

I regret that the Embassy's contingent allotment is not sufficiently large to permit the above information to be telegraphed.

I have [etc.]

GEORGE T. SUMMERLIN

812.00/25155

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4216

MEXICO, August 18, 1921.

[Received August 30.]

SIR: I have the honor to report that Mr. Carl A. Wollert, the Swedish Chargé des Affaires here, has stated to me confidentially that he has received a telegram from the Swedish Foreign Office instructing him that the King of Sweden signed a reply on July eighteenth,

to General Obregon's autograph letter, and that this letter was forwarded on August second to the Swedish Legation here for presentation. Mr. Wollert added that his Government considered that this act constituted a recognition of General Obregon's Government.

I have [etc.]

GEORGE T. SUMMERLIN

812.00/25208 : Telegram

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

[Paraphrase]

BRUSSELS, October 28, 1921—6 p.m.

[Received October 29—2:20 p.m.]

47. I am informed by Jaspas⁵⁴ that Belgium regards it as difficult, if indeed not impossible, to withhold recognition longer to the Obregon regime in Mexico. They have postponed recognition because of their friendship for America. However, since Italy, France, and other nations have recognized the new Government, and since they are under the impression that England is on the point of extending recognition, they are becoming increasingly embarrassed on account of the insistence of the Belgian commercial element in Mexico, which latter are using pressure. They feel they are unable longer to postpone recognition. My policy has been to urge them to await Department's lead, and I have thus far been successful. Jaspas promises me that no action will be taken for several days, at least until I have gotten in touch with you. Please send instructions.

WHITLOCK

812.00/25208 : Telegram

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

[Paraphrase]

WASHINGTON, October 31, 1921—3 p.m.

46. Embassy's telegram number 47, dated October 28, 1921, 6 p.m. Evidently the Government of Belgium has been misinformed. Mexico has not been recognized by France. We were informed several days ago by the French Government that although they have appointed Clinchant as Minister, no orders will be given him to depart for Mexico until it is agreeable to the Governments of Great Britain and the United States. Recognition is not contemplated by Great Britain. In fact, both Great Britain and the United States are following the same policy in the matter of recognition. It has come

⁵⁴ Henri Jaspas, Belgian Minister of Foreign Affairs.

to the knowledge of the Department, informally, from the Spanish Embassy, that Spain, which extended recognition to the Obregon Government, is not satisfied, and it has asked this Government in an informal way what action the United States intends to take regarding the danger to the lives of foreigners and the expropriation of their property. It is the belief of this Government that present conditions do not justify any change in our policy so far as the recognition of Mexico is concerned.

You may say to the Government of Belgium that we appreciate the policy which they have followed in the past and you may also inform Jaspas in an informal way that this Government would regard it as a matter of regret if Belgium should find it necessary at the present time to determine upon a policy which is different from the one now being followed by France, Great Britain, and the United States.

HUGHES

812.00/25215 : Telegram

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

[Paraphrase]

BRUSSELS, November 4, 1921—4 p.m.

[Received November 5—1:45 p.m.]

48. Department's number 46, October 31, 1921. I have communicated with Jaspas, who has agreed not to extend recognition to the Obregon Government until such time as Great Britain, France, and the United States take such action. He states, however, that on account of the importance of Belgian interests in Mexico, the Government of Belgium would not want to be placed in a position of being the last to extend recognition, and therefore asks that when the time comes for any action looking toward recognition, such action be taken simultaneously. Do you think that an arrangement along these lines, which would solve Jaspas's perplexities, would be agreeable to the Department?

WHITLOCK

812.00/25215 : Telegram

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

[Paraphrase]

WASHINGTON, November 9, 1921—2 p.m.

47. Embassy's telegram number 48, November 4, 1921, 4 p.m. Inform the Minister of Foreign Affairs that we are highly pleased to learn that the Government of Belgium has agreed not to extend

recognition to the Obregon Government until such time as Great Britain, France, and the United States take such action. You may give him assurance that when the time comes for any action looking toward recognition, this Government will be pleased to inform the Government of Belgium, to the end that such action be taken simultaneously.

HUGHES

PROJECT OF A PETROLEUM LAW TO GIVE EFFECT TO ARTICLE
27 OF THE MEXICAN CONSTITUTION⁶⁵

812.6363/958

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4279

MEXICO, September 2, 1921.

[Received September 13.]

SIR: I have the honor to forward herewith a copy, in translation, of an article published in *El Universal* of September 1st which purports to be the report of, and a proposed law prepared by, a majority of the Joint Petroleum Committee of the House of Deputies on a proposed Organic Law for Article 27 of the Mexican Constitution.⁶⁶ The newspaper article states that this opinion will be presented at the first ordinary session of the Chamber of Deputies. The projected law approved by the Senate referred to in the enclosed opinion was transmitted to the Department as an enclosure to the Embassy's despatch No. 1639 of December 3, 1918.⁶⁷

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure—Translation]

Draft of Petroleum Law Prepared by the Joint Petroleum Committee of the Mexican Chamber of Deputies

CHAPTER I

PETROLEUM PROPERTY

ARTICLE 1. The following are properties under the *dominio directo* of the Nation and are subject to the dispositions of this Law:

- I. The sources, springs and natural deposits of petroleum.
- II. The hydrocarbons which are found in the subsoil or which escape to the surface of the land.

⁶⁵ For text of Mexican Constitution, see *Foreign Relations*, 1917, p. 951.

⁶⁶ Only that part of the article which contains the draft of the proposed law has been printed.

⁶⁷ *Foreign Relations*, 1918, p. 772.

III. The natural deposits of ozocerite and asphaltum.

IV. All mixtures of hydrocarbons of the different groups which owe their origin to natural forces.

ARTICLE 2. The *dominio directo* of the Nation over the substances enumerated in the preceding article is imprescriptible and inalienable. Consequently, private persons, or societies, civil and commercial, formed in accordance with Mexican laws, will enjoy the right to exploit those substances without other limitation than that which public interest may impose.

ARTICLE 3. Exploitation of the subsoil will be done by virtue of concessions which will be granted in each case, consequent [upon] previous and appropriate denouncement.

ARTICLE 4. The petroleum industry is declared to be a public utility. The petroleum industry will be understood to be the extraction, collection and transportation and the commercial and industrial use of the substances mentioned in article 1.

ARTICLE 5. The following are not subject to denouncement:

I. Lands covered by concession-contracts granted by the Federal Government for the express purpose of petroleum exploitation, which contracts shall continue in force except in so far as they may be at variance with Constitutional precepts.

II. Lands in respect of which work of exploitation has been performed, prior to May 1, 1917.

III. Lands with regard to which contracts have been made prior to May 1, 1917, in accordance with law, with the express provision that such lands would be devoted to the exploitation of petroleum, provided that the beneficiaries shall have indicated, within the period of one year counting from the date of the enactment of this law, the portion of land which they desire to dedicate to the exploration and exploitation of petroleum, paying in respect of such portion of land the respective taxes; the remainder or undeclared portion remaining free.

Those holding legal titles in the cases cited in the three preceding sections will be empowered to exploit or to continue the exploitation of their properties, being subject to the other dispositions of this Law.

ARTICLE 6. For the period of two (2) years counting from the date of the enactment or promulgation of this law, owners of lands that are not embraced in the preceding article will have preference in respect of denouncements of petroleum properties. If, within the period mentioned, a third person shall present himself for purposes of denouncement, the Secretary of Industry, Commerce and Labor will give notice to the superficiary in order that he may exercise his right of preference within the period fixed by the regulation; in case such superficiary fails to exercise said right, the concession will be granted to the said third person making denouncement.

ARTICLE 7. The executive of the Nation is empowered to establish and to declare the portions of territory in which reserve zones should be created, after due ratification by the Senate. With respect to the subsoil which these zones embrace, no concession shall be granted for the exploitation of petroleum, if or until this shall be authorized by a new law.

ARTICLE 8. A petroleum property (*fondo petrolifero*) is the volume in indefinite depth, limited laterally by the vertical planes which pass through the boundaries of a continuous surface extension the form of which is such that it permits, at least, of the installation of a well and of a storage tank of 5,000 cubic-meter capacity, within the regulation distance from the boundaries, at the time the concession is granted. The extension of a petroleum property shall not exceed 2,000 hectares.

CHAPTER II

RIGHTS AND OBLIGATIONS OF THE CONCESSIONAIRE

ARTICLE 9. The title which the Executive of the Nation grants in each case to the Concessionaires of a petroleum property will give them the right to extract and to utilize all of the substances to which Article 1 refers, without limitation other than that imposed by the respective regulations. These rights may be mortgaged, transferred, and transmitted by heritage, in the same cases as are authorized by the Common Law in respect of landed properties, the Secretary of Industry, Commerce and Labor, being notified of the operations which are performed.

ARTICLE 10. Where the concessionaire of a petroleum property is not also the proprietor of the surface thereof, five per cent of the gross production should be given to the owner of the surface, by way of indemnity, unless there be an agreement to the contrary.

ARTICLE 11. The taxes imposed upon the petroleum industry in accordance with the respective fiscal legislation will be paid by all corporations, societies or private individuals who are engaged in the industry under reference, whatever may be the character of the rights which they may have over the sources which they exploit. Consequently, for the purposes of this legislation, all of the exploiters of petroleum and its derivatives shall be in equal conditions.

ARTICLE 12. The taxes referred to in the preceding article shall be of two kinds: One territorial and the other upon the production of the well or wells which have been sunk on the property.

The first tax will have a lower rate, which will be fixed annually by the respective law governing revenues and the unit whereof shall be the area of one hectare. The other tax will be upon the production obtained from the wells, and the amount of said tax will be fixed annually by the respective law governing revenues.

Taxes upon production will be payable in specie or money, as the Executive of the Nation may elect and in accordance with the fiscal value which, in this connection, the Secretary of Hacienda and Public Credit may determine.

The respective regulation will specify the form of payment with regard to specie.

The product of the taxes imposed by virtue of this Law shall be apportioned in the following manner:

Sixty per cent to the Federation.

Twenty per cent to the State within the territory of which are situate the property or properties in reference; and

Twenty per cent to the Municipality within the jurisdiction of which the property or properties may lie.

Where the lands appertain to different jurisdictions, the Secretary of Hacienda and Public Credit will make the allocation of the product of the taxes proportionately to the area of the lands which may lie in each jurisdiction, according to the location of the wells and the production thereof.

ARTICLE 13. The exploiters of petroleum properties are obliged to subject themselves to the dispositions which the Federal Government may dictate in connection with the regulation of the production of petroleum, in accordance with the requirements incident to the public interest.

CHAPTER III

GENERAL PROVISIONS

ARTICLE 14. The concessions for the exploitation of petroleum and its derivatives shall be granted to Mexicans by birth or by naturalization and to Mexican societies, and to foreigners, in accordance with the terms embodied in the Constitution and other pertinent laws.

ARTICLE 15. In cases of controversy, the Tribunals of the Nation are competent to assume jurisdiction in the cases which treat of the following matters:

I. Opposition to denouncements or to the issuance or the rectification of titles of petroleum properties.

II. Nullity of titles of petroleum properties.

III. Expropriation, for cause, of petroleum exploitations.

IV. Rights of way for pipe lines and other rights of way.

V. Offences resulting from infractions of this law; and

VI. Offences which place the lives of laborers of a petroleum exploitation and of the inhabitants of the vicinity in danger.

ARTICLE 16. The provisions of the Civil Code of the Federal District relative to common property will be applicable with regard to everything not provided in this Law.

ARTICLE 17. The Executive of the Nation will issue the Regulations for this Law, including the provisions relative to denounce-

ments, to the formation of the Register of Petroleum Property, to the exploitation of petroleum and its derivatives, and to other complementary matters, as he may deem necessary.

ARTICLE 18. A petroleum concession shall be forfeited for any one of the following causes:

- I. For failure to pay the respective taxes.
- II. For not having begun exploitation work two years after the concession has been granted, except as provided in Article 13; and
- III. For not complying with the Regulations which may be issued by the Executive of the Union.

ARTICLE 19. Persons having interest in petroleum concessions granted previously to May 1, 1917, must adjust their respective concessions or contracts, to the terms of this Law, within the period of one year counting from the date of the promulgation of this Law.

ARTICLE 20. In respect of national lands of common use, such as Federal zones of the seas, rivers, arroyos, lakes, lagunes [*ponds*], tide-creeks and sea-marshes, the beds and depths thereof, national and neighborhood roads, lands belonging to the National Treasury, and properties manifested and abandoned which have an industrial value, denouncements will not be admitted for petroleum exploitation.

Exploitation of lands just referred to will be granted by means of contracts consummated by the Executive and subject to the approval of the Senate, where by reason of such contracts a public service ensues and the results are beneficial in character.

ARTICLE 21. In the future concessions for the construction of pipe-lines for private use will not be granted. Those undertaking work of this nature are obliged to transport, at cost, the Nation's petroleum; in accordance with a tariff duly approved by the Secretary of Industry, Commerce and Labor, they must also transport petroleum which is the property of private enterprises.

ARTICLE 22. The petroleum industry is within the purview of Federal jurisdiction and therefore will be governed only by the laws which the Congress of the Nation may enact.

TRANSITORY

ARTICLE 1. The discoverer of petroleum deposits which lie outside of the States of Chiapas, San Luis Potosí, Tabasco, Tamaulipas and Veracruz, will enjoy the privilege of only paying ten per cent of the territorial tax, for the period of ten years subsequently to the date of such discovery, but no waiver is effected as to the due payment of other taxes fixed by the laws.

ARTICLE 2. This Law will begin to govern one month after its promulgation.

812.6363/1022

The Secretary of State to the Chargé in Mexico (Summerlin)

No. 1858

WASHINGTON, November 19, 1921.

SIR: Referring to your despatch No. 4279 of September 2, 1921, and your telegram No. 199 of October 26 noon,⁵⁹ both in relation to the Bill introduced in the Mexican Congress in alleged conformity to the provisions of Article 27 of the Constitution regarding petroleum deposits, the Department informs you that it has given careful consideration to the provisions of the Bill and has the following comments to make thereon:

The first four Articles of the Bill appear to represent an effort to declare the support of Congress for the attempt which seems to have been made in said Article 27 to nationalize petroleum deposits not only in public lands but in lands of private ownership, or, in other words, to deprive private owners of the petroleum deposits in their lands and to vest the ownership of such deposits in the nation, and this without compensation to such private owners. By Article 3 it is provided that these deposits may only be exploited by means of concessions or denouncements.

Article 5 of the Bill excepts from denouncement:

- (1) Lands covered by concessions granted by the Federal Government for the express purpose of petroleum development;
- (2) Lands in which development work was carried on prior to May 1, 1917, and
- (3) Lands with respect to which leases for petroleum development were made prior to May 1, 1917. However, it is added that lessees must declare within a year the portion of the land they desire to dedicate for petroleum exploration and development.

With respect to exception No. 2, Article 5, it may be said that it is not entirely clear that it would afford protection to the owner of a large tract of land with regard to all of such land, when as a matter of fact he had developed petroleum on but a small portion of the land. This seems particularly the case since by Article 8 a petroleum claim is limited so as not to exceed 2000 hectares, and in view of the extensive regulatory powers given by the Bill to the Executive.

Regarding exception No. 3, it may be observed that it would seem to impose upon the owner of the lease the burden of declaring within a year what portion of the land he intends to exploit and of paying the taxes thereupon which, according to Articles 11 and 12 of the Bill, later legislation is to create, or in the alternative, of surrendering the lands not so declared, to be subject to denouncement by others.

⁵⁹ Not printed.

Exceptions 2 and 3 seem to represent the views of the Commission which framed the Bill as to the appropriate course to meet the contention that petroleum legislation should not be retroactive so as to injure acquired rights, and thus obviate the objection to depriving owners of private property acquired prior to May 1, 1917, of the rights accorded them by the laws of November 22, 1884, June 4, 1892, and November 25, 1909, the last of which in reaffirmation of the provisions of the law of November 22, 1884, provides that:

"The following substances are the exclusive property of the owner of the soil:

- "(1) Ore bodies or deposits of mineral fuels of whatever form or variety;
- "(2) Ore bodies or deposits of bituminous substances." (Article 2).

Despite the clear and unequivocal provision of these laws that the owner of the surface owns the petroleum deposits, the framers of this Bill have proceeded upon the theory that he does not own such deposits and that only in the cases where petroleum development was carried on in the lands prior to May 1, 1917, or where leases for petroleum development were made prior to that date has he any rights in such deposits which the Mexican Government is bound to respect in any degree, other than the rights of preferential denouncement for a period of two years, and of receiving five per cent of the total production when the deposits are developed by another.

However, by making the exceptions mentioned the framers of the Bill recognized that the rights which the owners of the surface had in the subsoil were property rights in that they could be conveyed and transferred to others. Therefore they involve themselves in the apparent contradiction that property rights capable of transfer are not vested rights which the Mexican Government should protect. They take this view despite the previous legislation of Mexico to the effect that petroleum deposits are owned in freehold by the owner of the soil, which, as before stated, is the clear meaning of the provisions of the said law of 1909, as is especially apparent when the said provisions of Article 2 thereof are considered in connection with Article 1, which provides that certain other substances belong to the nation.

Article 6 of the Bill provides that the owner of lands which are not included in the said subdivisions of Article 5 shall have a preference for two years after the passage of the Act, to denounce petroleum claims in his lands.

It would seem that *lessees* of such lands would have no preferential rights under the provisions of the Bill.

Article 7 empowers the Executive, with the consent of the Senate, to establish portions of territory known as reserve zones, in which no concession shall be issued for exploiting the subsoil.

The provisions of this Article, if enacted into law, would seem to expose all owners to the danger of the loss of the usufruct of the subsoil and therefore constitute a grave menace to such owners.

Article 13 provides that owners and lessees must obey the dictates of the Federal Government with respect to the amount of production from their properties. This provision appears to subject such owners and lessees to the danger of the arbitrary deprivation for an indefinite period of the right to develop the subsoil deposits.

Article 14 provides that concessions for the development of petroleum may be granted to Mexicans by birth or naturalization, to Mexican companies, and to foreign individuals under the terms fixed by the Constitution and other laws relating thereto.

Reading this Article in the light of the applicable provisions of the Mexican Constitution, it becomes apparent that foreign corporations are barred from concessions and that foreign individuals may only obtain them by conforming to the obnoxious provisions of the Constitution relative to the renunciation of their national rights by foreigners acquiring lands in Mexico.

Article 20 forbids denouncements in the so-called Federal Zones and provides that such areas shall be developed by Federal concessions.

With respect to the practical working of the provisions of Article 27 of the Mexican Constitution regarding the so-called Federal Zones, the Government of the United States is informed that thereunder attempts have been made to assert ownership in the nation of a large amount of property theretofore regarded as of private ownership and that with regard to such property many streams of entire insignificance and with which petroleum properties may be largely intersected have been held to be of public ownership, with the result that in some instances petroleum concessions have been granted therein to others than the owners or *lessees* of the land, thus decidedly hampering the latter in their operations, and diminishing the value of their subsurface deposits. The views of the Government of the United States on this feature of Article 27 of the Mexican Constitution have heretofore been made known to the Mexican authorities through the medium of your Embassy.

Article 21 forbids the construction of pipe lines for private use and states that companies operating said lines shall convey Government oil at cost and private oil at rates fixed by the Government.

The provisions of the last mentioned Article would seem to represent an attempt to convert existing pipe lines into public carriers without regard to the obligation of contracts.

You will convey the foregoing informally to the appropriate authorities as the views of the Government of the United States which have been communicated to you and you will add that while your Government does not entertain the idea that in view of the pronouncements of the Administration functioning in Mexico that the provisions of Article 27 of the Mexican Constitution are not retroactive, the present Bill, directly opposed as it is to that theory, will be enacted into law, yet it desires to take this occasion to reiterate its position that the rights of American citizens acquired prior to May 1, 1917, in accordance with the laws of Mexico, must not be taken from them by attempted confiscatory legislation, and that the points in the pending Bill which your Government regards as open to this objection and other objections are as outlined above.

I am [etc.]

For the Secretary of State:
HENRY P. FLETCHER

DIRECT ARRANGEMENT BETWEEN THE OIL COMPANIES AND THE
MEXICAN AUTHORITIES REGARDING TAXES ON THE PRODUCTION
AND EXPORTATION OF OIL ⁶⁰

600.127/174

The Association of Producers of Petroleum in Mexico to the Secretary of State

WASHINGTON, June 2, 1921.

SIR: For the information of your Department, there is enclosed copy of an export tax decree ⁶¹ as to which the Mexican Government has invited suggestions from the oil companies prior to its publication.

Apart from the increases involved, in the case of crude petroleum of 0.93 from 10% to 12%, the decree has the fundamental defect that, while establishing an export tax, it nevertheless provides that, in order to determine the values of the several products on which the tax is to be levied, "the average of the values obtained for similar products in the United States of the North during the preceding month" (Art. V), will be taken, without making any provision for deducting transportation charges. In other words, the measure seeks to create an export tax based on values obtaining, not at the port of shipment, but in the United States.

The Association of Producers of Petroleum in Mexico will meet tomorrow to consider the proposed measure, and will be pleased to advise the Department of the action taken.

We have [etc.]

ASSOCIATION OF PRODUCERS
OF PETROLEUM IN MEXICO
By H. N. BRANCH

600.127/175 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, June 8, 1921—11 a.m.

[Received June 9—12:21 a.m.]

128. Today's press publishes executive decree issued yesterday; greatly increased export duties on all grades of crude petroleum and its derivatives; the reasons given for the increase are to prevent excessive production, to protect national reserves and to provide for payment by the petroleum industries of equitable and proportionate

⁶⁰ For previous correspondence relating to the proposed collection of royalties on the production of oil, see *Foreign Relations*, 1919, vol. II, pp. 591 ff.

⁶¹ Dated May 24, 1921; not printed.

amounts into the public treasury for urgent expenses and the renewal of payments on the public debt. The decree becomes effective July 1st.

SUMMERLIN

600.127/185 : Telegram

*Mr. C. J. Wrightsman to the Secretary of State*⁶²

TULSA, 19 June, 1921.

[Received June 20—12:36 a.m.]

Independent American Oil Producers who represent over 60 per cent of American production and employ millions of American workmen respectfully protest against interference by this Government with Mexico's policy of export tax on oil. We are asking Congress for tariff on oil to stabilize the industry. It would be inconsistent and prejudicial to our prospects of securing this legitimate and positively needed measure of protection at a critical time for the State Department to make protest against export duty by Mexico.

C. J. WRIGHTSMAN

600.127/206 : Telegram

The Consul at Tampico (Dawson) to the Secretary of State

TAMPICO, June 30, 1921—10 p.m.

[Received July 1—2:25 p.m.]

Oil companies suspend shipments beginning with July 1st, alleging impossibility continuing business under new tax levies. Unemployment already existing as a result bad economic conditions will be increased greatly leaving thousands of laborers without means of support. Unrest and agitation are increasing and disturbances are very probable and will be directed against Americans and American capital. I believe reasonable precautions advisable for promptly meeting emergencies. Embassy informed.

DAWSON

812.00/25070

The Secretary of the Navy (Denby) to the Secretary of State

WASHINGTON, July 2, 1921.

MY DEAR MR. SECRETARY: I am in receipt of your letter of July 1st⁶³ acquainting me with the situation at Tampico. The Department has ordered the *Sacramento* from Galveston to proceed imme-

⁶² Similar communications were received from other American oil producers; not printed.

⁶³ Not printed.

diately to Tampico where she should arrive on Monday. Another ship has been ordered up from the Canal Zone and I hope the force present will be sufficient to prevent any trouble.

Yours sincerely,

EDWIN DENBY

600.127/211

Mr. Frederic N. Watriss to the Under Secretary of State (Fletcher)

[NEW YORK (?),] *July 7, 1921.*

[Received July 8.]

DEAR MR. FLETCHER: One of the purposes of my visit to Washington was to see the Secretary of State to tell him the circumstances of what has been referred to as the "shut-down" or "embargo" by the American companies producing oil in Mexico.

There has been no shut-down and no embargo; because the export taxes which became effective July 1st make it impossible for most of the companies to ship crude or fuel oil from Mexico except at a loss, most of the companies have decided to discontinue shipments of those oils. They will continue development wherever development cannot be discontinued without damage to the property, and they will continue production until lack of storage facilities stops production; what I want to impress upon your Department particularly is that there has been no concerted action by these companies and no agreement between them or any two of them with regard to their course of action. Each company has done what its particular situation made it necessary to do without reference to what other companies might do—some have discontinued shipments, some have not and some have reduced shipments as far as their contract obligations would permit.

Nor is it true that twenty-five thousand or ten thousand men have been thrown out of work as a consequence—a canvas[s] of the companies seems to show that since July 1st an insignificant number have been discharged. Prior to that date the companies had been compelled to cut down operations because of the tax and market conditions but this had no connection with the suspension of shipments.

I shall be grateful if you will transmit the above information to Secretary Hughes as he indicated that he would like to be kept informed as to what the companies might do.

Sincerely yours,

FREDERIC N. WATRISS

812.00/25080

The Secretary of State to the Chairman of the Pan-American Federation of Labor (Gompers)

WASHINGTON, July 8, 1921.

SIR: I have received your letter of July 7th⁶⁴ in which you quote a telegram received from Mr. Davison, Secretary of the International Association of Machinists, and Mr. John Kelly, who are now in Orizaba, Mexico, and request that a statement be made that the sending of ships to Mexican waters is "not with the object of interfering with the struggle of the workers in Tampico."

Permit me to say in reply, that the presence of the ships has nothing whatever to do with labor unions to which Mr. Davison refers in his telegram or with disputes between employers and employees, but is simply a precautionary measure for the purpose of assuring adequate protection to the lives and property of American citizens. It is hoped, of course, that this protection will be accorded by the local authorities.

I am [etc.]

CHARLES E. HUGHES

812.00/25073 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, July 8, 1921—noon.

[Received 6:27 p.m.]

154. I have received from the Minister for Foreign Affairs the following informal communication dated to-day:

"The Department of War informs this Embassy [*sic*] that at 11:25 a.m. the 6th instant the American war vessel *Sacramento* anchored in the port of Tampico. Since in this case the Mexican Government has not received the customary notification I respectfully request you to be so good as to inform me what is the object of the visit of the war vessel referred to."

SUMMERLIN

812.00/25080a : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

[Paraphrase]

WASHINGTON, July 8, 1921—4 p.m.

101. Whereas the consul at Tampico reported on July 1 [*June 30*] that he feared anti-American outbreaks because of the unemployment growing out of the cessation of oil shipments, orders were issued for warships to proceed to that port. Since the fears were

⁶⁴ Not printed.

shown to be baseless, and the lives and property of American citizens do not appear now to be endangered, the vessels have been ordered to leave that port.

HUGHES

812.00/25073 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

[Paraphrase]

WASHINGTON, July 9, 1921—3 p.m.

104. With reference to the communication to which you refer in your telegram no. 154, of July 8, 12 noon, you may make informal reply by stating gist of Department's telegram no. 101, of July 8th, 1921. You will omit, however, any reference to reports emanating from consulate at Tampico.

HUGHES

600.127/219

The Under Secretary of State (Fletcher) to Mr. Frederic N. Watriss

WASHINGTON, August 3, 1921.

DEAR SIR: I have your letter of July twenty-ninth,⁶⁵ and in reference to it, and to your conversations with the Secretary and myself today, beg to be advised by you whether or not the American oil companies whom you represent would care to undertake direct negotiations with the authorities of the regime now functioning in Mexico, with a view to securing a satisfactory adjustment of the taxes referred to. In case you reply in the affirmative, appropriate instructions will be sent to Mr. Summerlin, and the Foreign Office will be informed that pending any representations that this Government may have to make on the subject, it would be pleased to have this effort at adjustment made.

Yours very truly,

HENRY P. FLETCHER

600.127/226

Mr. Frederic N. Watriss to the Under Secretary of State (Fletcher)

NEW YORK, August 5, 1921.

[Received August 6.]

DEAR SIR: I thank you for your letter of August 3rd, 1921, to which I am glad to reply in the affirmative with this proviso. Construing your suggestion literally, you suggest that Mr. Summerlin be instructed to say to the authorities in Mexico that the Oil Companies

⁶⁵ Not printed.

would like to undertake negotiations with them concerning taxes; to such suggestion the Mexican Government will either pay no attention or the President will indicate a willingness to see us; in the latter event we should appear before him as suppliants to request a reduction in taxes with the result that he will undoubtedly refuse inasmuch as he will see in the request evidence that we are on the run.

If, however, your Department could represent to the Mexican Government that you are anxious to re-establish friendly relations between the Mexican Government and the Oil Companies in the interest of trade between the two countries; the Mexican Government must treat your suggestion with respect, particularly if they understand that back of such suggestion from you there is a possibility that this Government will be forced to take some action.

Please read the enclosed copy of a letter to the Secretary of State⁶⁶ and see if it does not suggest a possible course of action.

Possibly I have not expressed myself clearly, but if there is to be a conference, I should like the invitation to come from the other side in order that we may not start at a disadvantage.

Sincerely yours,

FREDERIC N. WATRISS

600.127/222a : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, August 6, 1921—3 p. m.

115. Referring to recent oil export tax decree.

Department is being pressed by American companies affected for relief on account of alleged unconstitutionality and confiscatory character of the tax mentioned. Department in the present circumstances is loath to make representations until efforts at adjustment shall have been found unavailing. It is thought settlement might be reached which would result in producing practically the same amount of revenue which was hoped to be raised by the taxes mentioned, and which would at the same time obviate the question of confiscatory character of the taxes. Informally ascertain whether Mexican authorities would be willing to enter into direct negotiations with representatives of American companies concerned, on the distinct understanding that no sacrifice of principle by either side would be involved. Make it clear that this suggestion is made in a friendly spirit, and with the hope of removing another possible cause of friction in our relations. If favorable reply received, Department will suggest this course to American companies concerned.

HUGHES

⁶⁶ Not printed.

600.127/223 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, August 9, 1921—2 p.m.

[Received 6 p.m.]

166. Department's telegram 115, August 6, 3 p.m. Foreign Office replies in a memorandum dated today

"The Government of Mexico animated by the same friendly spirit shown by the Washington Government will receive with pleasure the representatives mentioned of the interested companies and will discuss with them the point in question if said companies will communicate to this end with the Department of Hacienda and Public Credit."

SUMMERLIN

611.127/394

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Secretary of State

NEW YORK, August 18, 1921.

DEAR MR. SECRETARY: Because of the urgent nature of the matter mentioned in the accompanying communication to you, I have taken the liberty of sending it by special messenger, for delivery at your residence tonight.

Very sincerely yours,

W. C. TEAGLE

[Enclosure]

The Executives of the Standard Oil Company of New Jersey, the Mexican Petroleum Company, the Atlantic Refining Company, the Sinclair Consolidated Oil Corporation, and the Texas Company to the Secretary of State

NEW YORK, August 18, 1921.

SIR: Your letter of 10th instant to Mr. Watriss,⁶⁷ giving the substance of instructions issued to Mr. Summerlin, and of his reply stating that the Government of Mexico will receive with pleasure the representatives of the interested companies and discuss with them the matter of Mexico's export tax on oil, has been submitted to the companies at interest.

We, the undersigned, have been appointed as a committee to go to Mexico, with full power to act for the companies. We shall be in position to make decisions on the ground, and we are ready to start as soon as it is advisable to go.

⁶⁷ Not printed.

We hope to bring out, if possible,

First: A settlement of the tax matter on a basis which will permit the companies to operate, and which will be of permanent nature, so that the companies can know the cost of raw material which enters into the products which they market largely under long term contracts.

Second: If the first cannot be accomplished at this time, then and in the alternative we would ask (a) an interim abatement of the taxes in question for a reasonable time, pending such readjustment of operations by the companies as may be necessary under the new conditions brought about by the increased taxes, or at least pending full discussion and study of the matter, or again in the alternative (b) that the collection of the taxes in question be suspended during the period last mentioned, without prejudice to the right of Mexico to collect back to the effective dates of the decrees if final negotiations shall fail.

On behalf of the companies at interest we respectfully request that, if consistent with the views and policy of the State Department, a communication be telegraphed to Mexico stating that the companies have appointed a committee composed of executives of five of the principal companies and that the committee has indicated an intention of communicating with the Department of Hacienda and Public Credit, in accordance with the courteous suggestion transmitted through Mr. Summerlin, with a view of arranging for a conference in Mexico City. And it will greatly strengthen the position of the committee if the State Department can add the expression of a hope that all differences may be settled amicably, and also that in event of prolonged negotiations the Mexican authorities can see their way clear in the interest of commerce between the two countries to hold in suspense during the meantime the decree[s] in question. It might be better still—and we certainly would expect that view of the matter if you should feel that the result could be accomplished—if in lieu of the State Department acting in accordance with the suggestion contained in the last preceding sentence of this letter you should ask that pending arrival of the committee and the negotiations which would ensue, the taxes in question be abated in accordance with "A" of paragraph marked second above.

In connection with the foregoing, let us suggest, Mr. Secretary, that it will be very desirable if these decrees can be suspended until the Committee of International Bankers have completed the negotiations in which they are about to engage.⁸⁸ We believe it probable at least that our committee upon going to Mexico may be asked for a loan, the making of which might conflict with other plans. If such a request should be made, it might be possible to promise good offices and defer action until the bankers are ready to negotiate, and then

⁸⁸ See pp. 493-504.

merge the entire matter into a single plan. We have discussed our program with Mr. Lamont⁶⁹ and he is in accord. We might even delay our going until Mr. Lamont goes.

The taxes in question, which as you know, are in addition to already heavy export taxes, have had the effect of reducing oil exports from Mexico to such extent that some of the companies are greatly embarrassed in filling contracts made prior to the issuance of the decrees, and it now appears that in order to carry out their contracts they must resume shipments and submit to the losses resulting from the decrees. The oil exports from Mexico in June were approximately 17,000,000 barrels, but as a result of the decrees they fell to approximately 5,000,000 barrels in July. The few companies that continued exporting under the decrees say they will not voluntarily submit to the increased taxes, and are planning to decline payment on the due date, August 25th, which, unless we can accomplish something by our negotiations, will add to the already difficult situation.

We would appreciate the earliest possible decision by the State Department. If our plan is not objectionable to the Department, and you will send a telegram such as we have requested, we will get in communication with the Department of Hacienda and Public Credit at Mexico City now or later as you may think best. It might be possible for us to dispatch our telegram on Saturday of this week, or Monday next, in event you may decide that the State Department should not make the effort for the interim abatement of taxes. If our plan in any way conflicts with the views of policy of the State Department, we shall be glad to obtain an appointment with you and will come immediately to Washington for a conference. Please direct your reply to Mr. Teagle, 26 Broadway, New York.

We are taking every precaution to guard against publicity, as we feel that erroneous impressions might be created and the purposes of our mission defeated.

Yours very truly,

W. C. TEAGLE

President, Standard Oil Co. of New Jersey

EDWARD L. DOHENY

President, Mexican Petroleum Company

J. W. VAN DYKE

President, Atlantic Refining Company

H. F. SINCLAIR

Chairman, Sinclair Consolidated Oil Corp'n

AMOS L. BEATY

President, The Texas Company

⁶⁹ Thomas W. Lamont, Alternate Chairman of the International Committee of Bankers on Mexico.

600.127/223 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, August 19, 1921—5 p.m.

117. Your 166, August 9, 2 p.m.

The American companies have appointed a committee composed of executives of five of the principal companies, which will communicate with the Department of Hacienda and Public Credit, with a view to arranging for a conference in Mexico City. The Department hopes that all differences may be settled amicably, and believes that if the Mexican authorities could see their way clear to suspend the operation of the decrees pending the effort at adjustment, it would have a very good effect upon the negotiations.

It is understood by the Department that the following persons will compose committee: for Standard Oil, President Teagle; Sinclair Oil Corporation, Sinclair; Mexican Petroleum, President Doheny; Texas, President Beaty; Atlantic Refining, President Van Dyke. Considering the standing of these men, decisions can be made there and they will possess full powers to function for all of the companies interested.⁷⁰

HUGHES

611.127/394

The Secretary of State to the President of the Standard Oil Company of New Jersey (W. C. Teagle)

WASHINGTON, August 20, 1921.

SIR: I have your letter of August 18th with reference to the proposed visit to Mexico of a Committee representing the American oil companies in connection with the recent tax decrees. After Under Secretary Fletcher's conversation with you on the telephone, a telegram was dispatched to the Embassy along the general lines suggested in the first paragraph on page two of the letter of your Committee.⁷¹ With reference to the question of a loan which your Committee believes may be asked of it during its visit in Mexico, the Department understands from Mr. Lamont that the matter has

⁷⁰ Last paragraph paraphrased.

⁷¹ Refers to the paragraph which begins "On behalf of the companies at interest".

already been discussed between your Committee and the bankers interested, and is inclined to agree with the suggestion that negotiations for a loan, if undertaken, should be entirely independent of your negotiations with respect to taxation.

I am [etc.]

CHARLES E. HUGHES

600.127/227 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, August 21, 1921—12 noon.

[Received 8:20 p.m.]

167. Your 117 August 19—5 p.m. In memorandum dated yesterday noon the Foreign Office in the name of the Mexican Government expresses thanks to the Department of State for its spontaneous and friendly intervention and "has the pleasure to inform it that the Department of Hacienda and Public Credit to which the committee of the Petroleum Companies has already addressed itself is in communication with that committee."

SUMMERLIN

600.127/250

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4301

MEXICO, September 8, 1921.

[Received September 21.]

SIR: In confirmation of my telegram No. 173, September 4, two p.m.,⁷² reporting briefly the basis of agreement concluded between the five oil company Presidents, representing American Oil Companies, and Mr. de la Huerta, the Mexican Secretary of the Treasury and Public Credit, I have the honor to forward herewith copy of a confidential report prepared on the night of September third by Mr. Teagle, the President of the Standard Oil Company, Chairman of the Committee. A copy of this report was furnished me on the fourth instant.

The entire local press of the fourth instant featured reports of an agreement having been reached as a result of these conferences and great credit was given Mr. de la Huerta for their successful termination, but the nature of the agreement has not been made public. The announcement has had an excellent effect here, and

⁷² Not printed.

one of the local papers stated that the members of the petroleum committee had promised to work for the recognition of General Obregon.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure]

Report of a Meeting of the Committee of Oil-Company Executives with their Tampico Managers, at Mexico, D. F., September 3, 1921

Chairman TEAGLE: Gentlemen, we have just concluded an agreement with Secretary de la Huerta, and he has agreed to give out a statement to the newspapers at 9:30 tonight. The basis is, as follows:

First: The companies will pay to the Mexican Government, either in Mexican gold at the City of Mexico or by their drafts payable in U.S. Cy. at New York at the rate of one dollar for two pesos, the full amount of the production tax on the quantity of crude petroleum or its derivatives produced during July 1921. (Our idea is that all of the Managers here who have not the available gold should, on Monday, draw a draft on New York for these various payments; or, if you do not wish to draw a draft, you can arrange to telegraph your New York office to deposit the funds in the Equitable Trust Company for account of the Mexican Government. Details to be arranged with the Government.)

Second: The Mexican Government will issue a decree postponing up to the 25th of December, 1921 the effective date provided for in the decree of June 7, 1921 for the payment of the export tax to which this decree refers. (In other words, no export tax payable by any one on shipments from the first of July on.)

Third: Oil in storage on the 30th of June 1921 will pay the production tax applicable to the various products in storage.

Fourth: Oil produced from August 1, 1921 shall be subject to the production tax in accordance with the valuations to be established in circulars issued in accordance with the decree of May 24th.⁷⁴ (Example: Circular 114 covers the tax for August.)

Fifth: The Mexican Government will repeal the infalsicable [*sic*] tax,⁷⁵ established in addition to the other taxes levied on petroleum. (Note: Effective back to June 30th and forward.)

*Seventh:*⁷⁶ Upon the oil companies making the payment (which must be made in accordance with Article 1), the Mexican Government

⁷⁴ Summarized in the letter of June 2, 1921, from the Association of Producers of Petroleum in Mexico, p. 447.

⁷⁵ A surcharge, imposed by decree of Mar. 29, 1917, of 1 peso *infalsificable* ("uncounterfeitable") for each peso or fraction of a peso of national gold exacted in payment of import or export duties or in payment of the stamp tax on the production of petroleum and metals.

⁷⁶ The sixth paragraph was evidently omitted; it appears to have contained the bond-purchase clause summarized in the Charge's despatch no. 4637, Dec. 14, 1921, *infra*. For additional correspondence relating to clause six, see pp. 499-503.

will release all embargoes, and set aside all proceedings now pending against the oil companies on account of their resistance in paying the taxes levied under the decree of May 24th and June 7th, and such companies, respectively, in turn, at their own cost, will dismiss their *amparo* proceedings on the same account against officials of the Mexican Government. (Note: The *amparo* proceedings in reference apply only to the taxes levied under the decree of May 24th and June 7th.)

Gentlemen, as I see it, there are two important features in connection with this matter: The first is, you should all be familiar with the agreement which we have just stated. The second is that this memorandum should be treated as *strictly confidential*. In other words, we do not wish to give out any particulars to the newspapers here or anywhere else. If any information regarding this matter is given out, it should come from the Department of Hacienda.

NOTES

There are no export taxes payable until the 25th of December, 1921. In other words, the decree of June 7th has not been cancelled, but merely suspended.

There is to be a production tax every month, but no export tax.

You pay on the 25th of each month for the oil produced during the preceding month.

Infalsicable [*sic*] surtax wiped out entirely.

QUERY BY Mr. DOHENY: What will the Manager do in case he has refined a lot of oil?

ANSWER: He will not pay any tax on any crude that he has run through his plant, but only on the products derived therefrom, such as fuel oil, gasoline, etc.

600.127/261

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4687

MEXICO, December 14, 1921.

[Received December 29.]

SIR: I have the honor to refer to the Embassy's despatch No. 3969 of June 16, 1921,⁷⁷ with which was enclosed a translation of the Executive Decree dated June 7, 1921, imposing an additional tax on petroleum exported from Mexico. At the time this Decree was published, the local press stressed the point that the revenues received under this Decree were to be placed aside for the resumption of interest payments on the country's national debt. However, the Decree states that these taxes are destined to be used "to cover *some* of

⁷⁷ Not printed.

its (the Government's) urgent expenses and to assist it to renew payments on the national debt". The Department will recall that in the agreement concluded between Secretary of the Treasury de la Huerta and the Presidents of five oil companies, representing American oil companies, on September 3, last, it was agreed to postpone until December 25, next, the payment of the export tax provided for by the above-mentioned Decree. (Please see the Embassy's despatch No. 4301, September 8, 1921). In this connection, I may refer also to the enclosure with the Embassy's confidential despatch No. 4465 of October 21, 1921,⁷⁸ or to that part of it which refers to a provision in the so-called oil agreement which is reported to provide that the oil producers shall arrange with some banking syndicate to purchase Mexican bonds at an average market price of say forty or fifty and turn them over to the oil producers who in turn would pay them over at par to the Mexican authorities in payment of these export taxes. The local press has announced that these export taxes, which it is stated will amount to slightly more than twenty-two million six hundred thousand pesos, will be paid, but that the matter is receiving the active attention of General Obregon. In view of the reported depleted condition of the Treasury, it is believed that the Mexican authorities may now be easily dissuaded from the original plan to receive Mexican bonds in payment of these export taxes. Whether or not the oil producers will be able to pay these export taxes in cash at forty per cent of the scale set forth in the June seventh Decree, will probably be discussed in New York, in the very near future, between Mr. de la Huerta, the Secretary of the Treasury, and the Committee of Oil Executives. I am reliably informed that Mr. de la Huerta will proceed to New York for further conferences, in a few days, and that he will be accompanied by Mr. Eduardo Iturbide, the local representative of Speyer and Company, and Mr. Manuel Martinez del Campo.

Yesterday's *Excelsior* published a special despatch from New York, dated December 12th, on the subject of the petroleum exportation tax as interrelated with the bonds representing Mexico's foreign debt. Among other things, the article recited that the matter of the deferred petroleum export tax payment is now being handled by means of cables; that rumors are current in Wall Street that the petroleum companies are encountering great difficulties in purchasing in the Exchange the bonds of Mexico's foreign debt that the Mexican Government insists must serve as payment of sixty per cent of the exportation imposts, inasmuch as it seems that the banks are monopolizing the bonds in question with the object of precluding the petroleum companies' delivering them to the Mexican

⁷⁸ Neither printed.

Government. In this connection, it is said that these companies have proposed to the Mexican Government to deposit a sum of money in the "Banco Nacional" representing the bonds whose acquisition is causing so much difficulty.

I have [etc.]

GEORGE T. SUMMERLIN

DECISION BY THE MEXICAN SUPREME COURT ON THE "AMPARO"
CASE OF THE TEXAS COMPANY OF MEXICO

812.6363/926

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4165

MEXICO, August 6, 1921.

[Received August 18.]

SIR: I have the honor to report that the *Excelsior* of today states that, after a series of conferences between General Obregon and some of the justices of the Supreme Court, it has been agreed that the Supreme Court will begin, during the coming week, to hand down its decisions in the hundred or more *amparo* cases instituted by the petroleum companies since the month of December, 1918, which decisions will establish whether or not Article 27 of the Federal Constitution⁷⁹ is or is not retroactive.

The article states that the cases have been divided into groups, the principal five of which are the following:

- I. Cases of *amparo* against laws not yet being enforced.
- II. Cases of *amparo* against laws which have been put into force.
- III. *Amparo* arising out of denouncements made by third parties on petroleum property in accordance with the decrees of 1918,⁸⁰ which provided that such denouncements might be made on properties which have not been manifested.
- IV. *Amparos* against the refusal of the Federal Executive Power to grant permission to drill new wells.
- V. *Amparo* against the issuance of titles to those making new denouncements.

It appears that the intention of the court is to render a decision in at least one case of each of the above specified groups, concerning which the principal questions at issue are the constitutionality of the decrees of President Carranza, promulgated by virtue of the extraordinary power which he had in the Department of Hacienda, whereas the decrees referred to the Department of Industry and Commerce; and whether or not Article 27 of the Constitution is retroactive.

⁷⁹ *Foreign Relations*, 1917, p. 951.

⁸⁰ *Ibid.*, 1918, pp. 702, 721, 743, 752, 759, 765, 766, 771.

The article closes with the statement that the general impression is that the Justices of the Supreme Court are of the opinion that the cases should be decided in favor of the petroleum companies.

I have [etc.]

GEORGE T. SUMMERLIN

812.6363/978

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4317

MEXICO, September 14, 1921.

[Received September 26.]

SIR: Supplementary to my despatch No. 4275, of September 2, 1921,⁸¹ in regard to the reported decision of the Mexican Supreme Court on *amparo* proceeding instituted by the Texas Oil Company against the Secretary of Industry, Commerce and Labor and the President of the Republic, for having issued a title of concession in favor of Rafael Cortina for lot No. 36, Zacamixtle, I have the honor to forward herewith a translation of the remarks of Associate Justice Benito Flores⁸¹ in explanation of his vote on this case. The opinion on which the decision of the Supreme Court will be based and which will be signed by all of the members of the Court, has not yet been made public. It is reported that the Justices have held a number of secret sessions in regard to this opinion, but that no agreement has yet been reached as to the actual wording of the document. It appears that each member of the Court rendered a separate "dictamen" in the argument explaining his vote, and it now becomes necessary to harmonize these several "dictamens".

Until the opinion is made public it will not be possible to say what was decided in this case, however, I am reliably informed that the facts of the case are as follows:—

The Texas Oil Company obtained by assignment a lease of a certain tract of land authorizing the Company to explore and exploit the petroleum and carbide gases of the sub-soil. The lease had been executed by the owners of the land prior to May 1, 1917, the date the Constitution of that year became effective. The Company failed to manifest the lease within the first fifteen days of August, 1918, as required by the Carranza Decree of July 31, 1918,⁸² and was, by this failure, subject to denouncement. It was denounced by Rafael Cortina and the denouncement was accepted by the Department of Industry, Commerce and Labor.

The Texas Oil Company asked for *amparo* against the act of the Government in admitting the denouncement and based the *amparo* on the grounds that it had acquired the lease of the lands prior to

⁸¹ Not printed.

⁸² *Foreign Relations*, 1918, p. 752.

May 1, 1917, and that the lease was protected under the mining laws of 1884, 1892 and 1902 [1909?], which reserved to the owner of the surface of the land the right to explore and exploit the coal and petroleum and carbide gases that might be found in the subsoil of the lands.

The District Court refused the *amparo* and the Company appealed to the Supreme Court for revision, and the Supreme Court by unanimous decision granted the *amparo*. It is stated, therefore, that the only point decided by this case is that leases for the exploration and exploitation of petroleum and carbide gases in the sub-soil of lands, which leases were granted prior to May 1, 1917, by the owners of the land described in the leases, are to be protected under the provisions of Article 14 of the Constitution of 1917, which declares that:

“No law shall be given retroactive effect to the prejudice of any person whatsoever”,

and that the Carranza Decree of July 31, 1918, was retroactive in its effects and, therefore, its application to the case before the Court is prohibited by Article 14 of the Constitution.

It is reported that all of the various arguments of the Supreme Court Justices in this case appear to be confined strictly to the protection of leases made prior to May 1, 1917, and that these arguments seem to indicate the distinction between “rights acquired” and “rights in expectancy”. It might, therefore, appear that the owners of lands who have not leased them for petroleum purposes, or who have not themselves developed the oil on their own lands, prior to May 1, 1917, would not be protected.

It is stated that the decisions of the Mexican Supreme Court are not precedents and that another Court or the same Court can in the future decide a similar case precisely to the contrary. However, in view of the declarations of General Obregon in regard to non-retroactivity, it is hardly probable that this decision will be reversed during the present administration.

I have [etc.]

GEORGE T. SUMMERLIN

812.6363/1007

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4352

MEXICO, September 27, 1921.

[Received October 14.]

SIR: In confirmation of my telegram No. 186 of to-day,⁸⁸ I have the honor to forward herewith copy and translation of the Mexican Supreme Court decision, made public last night, in the *amparo*

⁸⁸ Not printed.

case of The Texas Oil Company against the Secretary of Commerce, Industry and Labor and the President of the Republic.

The local press reports that the decision bears the signature of all eleven of the Supreme Court Magistrates.

The decision appears to confirm the validity of the Executive Decrees of July 31, August 8th and 12th, 1918,⁸⁴ establishing certain taxes and prescribing certain rules for the exploitation of petroleum, by virtue of the extraordinary powers in financial matters conferred on the Executive by the Congress; and states that the fourth paragraph of Article XXVII of the Constitution, in so far as it relates to petroleum and all hydro-carbons, solid, liquid or gaseous, is not retroactive as regards rights legitimately acquired prior to May 1, 1917.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure—Translation ⁸⁵]

*Decision of the Mexican Supreme Court in the "Amparo" Case of the Texas Company of Mexico, August 30, 1921*⁸⁶

In view of the *amparo* applied for by Licentiate Adalberto Ríos as attorney for the Texas Company of Mexico, S.A., against acts of the President of the Republic and of the Department of Industry, Commerce, and Labor, because, according to the complainant company, such acts seek to deprive it of its rights and interfere with its peaceful possession of lot number 36, in Zacamixtle, Municipality of Tancoco, Canton of Tuxpam, State of Vera Cruz, in violation of articles 14, 16, and 27 of the General Constitution of the Republic; and

RESULTING, *first*: The attorney in the complaint in reference sets out that the Texas Company of Mexico, S.A., acquired the right to explore and exploit petroleum in respect of the lot aforesaid; that, while the company was in possession of and exercising said rights, Mr. Rafael Cortina, by virtue of the decree of August 8, 1918, covering petroleum matters, issued by the President of the Republic by virtue of the extraordinary powers granted him by the Congress of the Nation in matters pertinent to the Department of Hacienda, denounced the aforesaid lot in the Tuxpam Agency of the Department of Industry, Commerce, and Labor; that said denouncement being accepted, it followed the legal course prescribed by the aforesaid decree until it came before the Department of Industry for revision, the complainant company having duly protested against

⁸⁴ *Foreign Relations*, 1918, pp. 752, 759, and 766, respectively.

⁸⁵ File translation revised.

⁸⁶ Published in *El Universal*, Sept. 27, 1921.

and manifested its nonconformity with the proceedings therein; and that on December 10, 1920, attorney Ríos was informed that the Department of Industry had issued title in favor of Mr. Cortina for the exploitation of the said tract of land, which act Mr. Ríos considers to be in violation of the complainant company's guarantees, because its intent is to deprive the company of the rights which it had acquired theretofore, which rights are duly proven by the respective documents.

RESULTING, *second*: Article 14 of the Constitution is considered violated, because according to this precept, no one may be deprived of his possessions or rights except by due process of law instituted before the tribunals and wherein the attendant formalities of procedure are duly observed; and the Citizen President of the Republic and the Secretary of Industry, Commerce, and Labor, as a result of the denouncement proceedings and in particular by the issuance of title, have sought to deprive said company of the rights which it had acquired, without having proceeded against said company by means of the respective courts of justice; moreover, said article 14 prescribes that a retroactive effect shall not be given to any law to the prejudice of any person whatsoever, and in the present case the authority responsible is giving a retroactive effect to the decree of August 8, 1918, since the rights theretofore acquired are not respected, which rights inured to said company by virtue of the laws in force at the time of the acquisition, said laws being the mining code of November 22, 1884, article 10, and the mining law of July 4, 1892, article 2. In the final part of the petition it is expressly stated that protest is made against the retroactivity which it is sought to give to article 27 and also to the decrees of July 31 and August 8 and 12, 1918.

Article 16 of the Constitution is deemed to be violated, because, while it establishes the precedent that no one shall be molested in his possessions except under an order in writing issued by competent authority, setting forth the legal ground and justification for the action taken, yet in this case the authority responsible has proceeded, without competency, to perform acts which molest the company in its possessions, since the President of the Republic has not been empowered to enact laws, or even in lesser degree to issue regulations in respect of article 27 of the Constitution, unless our opinion herein be deemed at variance with the decree referred to, of August 8, which is entitled "Regulative Prescriptions of Article 14 of the Decree of July 31, 1918", because the mere title of the decree does not alter the nature or essence of its contents, which without doubt relate to the regulation of article 27; moreover, section I of article 89 of the said Constitution limits the powers of the President of the

Republic to the issuance of regulations with regard to laws enacted by the Congress of the Nation, and solely in order that said laws may be observed; the complainant company also sets forth that article 27 of the Constitution has been violated, because in saying that ownership of the lands and waters embraced within the limits of national territory is vested originally in the Nation, which has had and has the right to transfer dominion thereof to private persons, thus constituting private ownership, and that expropriation may only be effected for reasons of public utility, the responsible authorities in their attempt to exercise expropriation with regard to the complainant company—since their acts are tantamount to the foregoing—have violated the requirements which must be observed in cases of expropriation, without taking into consideration that the said company has a private title in respect of rights of exploration and exploitation of petroleum on the lot of which mention has been made. The complainant company says there has been a violation of its right on another point also, in that article 27 itself provides that the Federal Government can grant concessions to private persons or to civil or commercial societies formed in accordance with Mexican laws only provided that regular exploitation operations be undertaken with regard to the elements under reference and that due compliance be given to the requirements prescribed by the law; and inasmuch as these regulative laws defining the requirements which must be observed in order that the Federal Government might grant concessions have not been promulgated, said Government has proceeded improperly; and on the other hand, the titles which the Department of Industry is issuing are contrary to article 27, because said article says that concessions may be granted, whereas titles are not concessions, being a form of property different from them, and the Executive cannot by his own act create the conditions and requirements for the exploitation of petroleum.

RESULTING, *third*: A request for data having been made of the authorities responsible, a document was submitted by the Department of Industry, for itself and in agreement with the President of the Republic, on December 28, which set forth that the complainant company's opposition herein referred to was not in due form nor in obedience to the laws pertinent to the procedure in denouncement; that it had merely limited itself to sending its protest; that said company had not made the manifestations provided for by article 14 of the decree of February 19, 1918,⁸⁷ in relation with article 14 of the decree of July 31 of the said year, nor had paid the taxes on the petroleum lands levied by articles 1-5 of the said decree of July 31; that the decrees in reference did not lack the element of Constitu-

⁸⁷ *Foreign Relations*, 1918, p. 702.

tional validity, for, whatever might be said to the contrary, such allegations would be baseless from the moment the legislative authority should approve and ratify the extraordinary powers conceded to the Executive in matters relating to the Hacienda; wherefore the laws under reference may be considered as requiring general observance until the enactment of the organic law on petroleum.

RESULTING, *fourth*: The hearing having taken place on February 17 of this year, the judge denied the *amparo*, relying mainly on the fact that article 27 of the Constitution left acquired rights without any force whatever, modifying the relative laws on private property, and that the Executive, in regulating by the decree of August 8 the conditions under which private persons may explore and exploit the petroleum in the subsoil of the properties, did nothing more than regulate that which is its property, or rather the property of the Nation, in the same manner and with the same right as a private person would have done with his own property.

RESULTING, *fifth*: Licentiate Ríos, not agreeing to the decision referred to, filed an appeal for revision, setting forth as damaging factors that although article 27 declares petroleum to be the property of the Nation, the same article recognized private ownership, and that the judge erred in deciding that rights of private persons were extinguished by the said Constitutional prescription; that said decision was also founded on the law of July 31, 1918, and the regulation thereof of August 8 of the same year, despite the fact that these were issued by the Executive by virtue of extraordinary powers in the Department of Hacienda, whereas the decision relates to acts of the Department of Industry, Commerce, and Labor, in respect of which department no such powers have been given him; and that the law and regulations referred to lacked the countersignature of the Secretary of Industry, Commerce, and Labor expressly required by the text of article 92 of the Constitution.

The appeal has gone through all its stages before this Supreme Court, the Federal District Attorney praying that in this action the decision appealed from be confirmed.

CONSIDERING, *first*: This decision having to concern itself with the offenses set out by the complainant company, in connection with the paragraphs contained in the petition, it will be necessary first to consider the validity or competency of the decrees issued by the Executive of the Nation July 31 and August 8 and 12 of the year 1918, which established taxes and prescribed certain regulations in respect of the exploitation of petroleum properties, inasmuch as these have been impugned as to their legality, the principal allegation being that they were issued by the Executive without due authority and also that they were published with the authentication of the Depart-

ment of Hacienda and not with that of the Department of Industry, Commerce, and Labor, to which this duty belonged because said decrees contained dispositions and regulations relating to the petroleum industry. In this respect it suffices to say that the Executive of the Union acted in virtue of the extraordinary powers conceded to him by the National Congress in the Department of Hacienda, according to the decree of May 8, 1917, and that this same Congress by the law of December 30, 1918, not only approved the use which he made of such powers, but also ratified the said decrees issued as a result thereof by the Citizen President of the Republic; in this respect the decrees under reference must not now be deemed as solely issued by the Executive, but as laws enacted by the Congress of the Union, being as a consequence legitimate and obligatory, and this too, in the present case, long before the month of June 1920, when the acts complained of took place.

By virtue of these facts and with regard to the present case wherein *amparo* is sought, the impugning statements of the complainant as to the said decrees are without foundation.

CONSIDERING, *second*: In regard to the violation of guarantees, that is alleged on the ground of the retroactive effects which the complainants allege are given to the decrees referred to, to their prejudice, especially that of August 8 in its relation to article 14 of the decree of July 31, 1918, it is necessary to set forth the following reasoning:

In article 14 of the Constitution in force, the first mandate is: "No law shall be given retroactive effect to the prejudice of any person whatsoever."

This Constitutional precept does not concern the legislator; it is addressed to the judges, to the tribunals, and generally to the authorities whose business is the application of the laws or their execution. This is an essential point in which article 14 of the present Constitution differs from the article of the same number of the Constitution of '57 which sets forth categorically: "No retroactive law can be enacted."

Retroactive laws are made either by the ordinary legislator or by the Constitutional Congress when the precepts of the political code are framed. In the first case, a retroactive effect cannot be given to the prejudice of any one, this being estopped by article 14 of the present Constitution, which is the supreme law that must be respected even as against any secondary law (see article 133 of the same political code). In the second case, they must be applied retroactively, as will be explained farther on, in despite of article 14 of the Constitution and without the violation of individual guarantees; because the precepts which coexist in one Constitution have equal obligatory force. It is necessary to try to harmonize them, when

determining their interpretation and their proper application, and if some are at variance with others, it is necessary to consider those which are singular or special as exceptions to those which establish principles or general rules.

Our Constitutional legislator in 1917, by virtue of his most ample faculties, could from important political or social motives or motives of general interest, create exceptions to article 14 of the Constitution in force, by establishing retroactive precepts, and if it be that he has so proceeded, such precepts must be retroactively applied.

It is well known, on the other hand, that in order that a new law may have retroactive effect, two concurrent circumstances must be present: that it apply as to time past and that it damage rights acquired under the protection of other former laws, because this new law is in opposition to them. The latter circumstance, above all, is essential; for even when laws relate to the past but are nevertheless harmless to rights and do not affect any rights previously acquired, retroactivity does not then really exist, and they cannot be the cause of conflicts or be the basis of a legal claim.

These premises being accepted, we must ascertain whether paragraph 4 of article 27 of the Constitution in force, which nationalizes, among other substances, petroleum and all solid, liquid, or gaseous hydrocarbons, is or is not retroactive. We must therefore define the meaning of this paragraph 4, because if it is retroactive, there must also be applied retroactively the decrees complained of that have this article as a basis, notwithstanding article 14 of the Constitution; and if this paragraph is not retroactive, then the decrees are contrary to the said Constitutional text. And as they are issued by the ordinary legislator they are subject to the restrictions of the said article 14 of the most recent supreme law.

Paragraph 4 of article 27 of the present Constitution cannot be deemed retroactive, either in letter or in spirit, inasmuch as it does not damage acquired rights.

Not by the letter thereof, for it does not contain an express mandate decreeing retroactivity, nor does the wording thereof convey this idea by implication; nor by its spirit, for it proves to be in consonance with the other articles of the same Constitution, which recognize, in a general way, the ancient principles upon which rest the rights of man and which grant to him ample guarantees, and because if it be held to be not retroactive, it also proves to be in harmony with the principles expressed in the paragraphs which immediately precede it on the subject of private ownership from its inception and also in harmony with the texts relative to petroleum which immediately follow it, as integral parts of the same article 27 of the Constitution.

From all this it is inferred that, in consonance with the rules universally accepted for the interpretation of laws and those imposed by sound logic, it must be held that paragraph 4 of article 37 [27] of our present Constitution is not retroactive, inasmuch as it does not damage former rights legitimately acquired. This precept establishes the nationalization of petroleum and its by-products as well as that of the other substances to which it refers, amplifying the enumeration that existed in our former mining laws, but respecting the rights legitimately acquired prior to May 1, 1917, the date on which the present Constitution went into effect in its entirety.

CONSIDERING, *third*: In view of that which has been before expressed and in strict compliance with that which is established by section I of article 107 of the Constitution, it is opportune to determine whether in the present case, of which this *amparo* treats, vested rights have been injured by the violation of the individual guarantees as alleged by the complainants.

In our Republic there have been in effect in successive periods the mining code of 1884; the mining law of June 4, 1892; and that of November 25, 1909, which in article 2 granted the owner of the land the right to explore and exploit oil freely in order to appropriate what he might find without the necessity of a permit from any authority; and it also granted him the right to transmit the said rights as he would any other property, either for a consideration or gratuitously. By virtue of this provision, Severiana Hernández, widow of Martínez, and her sons, acting under that law as joint owners of lot 36 of Zacamixtle, could explore and exploit oil in that land, and also transfer their rights by the exercise of this faculty, as they did in favor of Manuel S. Ravisé by virtue of the contract contained in the deed of April 28, 1917, in which it appears that the grantors fixed and received a price higher than would have been paid them for the surface of the land because it was not sought to cultivate the property or to build upon it, but to look for oil and to exploit it if found. So that the rights of the owners of the land which are granted in article 2 of the said law of November 25, 1909, were transferred by means of positive acts; and we are therefore dealing with vested rights acquired by Ravisé as to the exploitation and exploration of petroleum in the said Zacamixtle lot from the date of that contract, that is, before the present Constitution began to be effective in its entirety. The purchaser, Manuel S. Ravisé, could legally transmit those rights and he actually did in favor of the Texas Company of Mexico, S.A., by a deed dated September 21 of the same year, and it is therefore beyond discussion that this company could in its turn enjoy the said rights as legally obtained. In view of the legal status of the Texas Company of Mexico, S.A.,

when the present Constitution came into force, and as regards their rights to the said lot 36 of Zacamixtle, the fact that the Department of Industry, Commerce, and Labor, which is a department of the Executive power, issued a title to explore and exploit the petroleum belonging to the said lot in favor of Rafael Cortina, based upon the decree of August 8, 1918, which presupposes the direct ownership by the Nation of the petroleum existing in the subsoil of the Republic, constitutes assuredly a retroactive application of the said decree and a dispossession of the rights of exploration and exploitation already mentioned, without any legal basis, violating thereby the guarantees set forth in article 14 and article 27, paragraph 2 of the present Constitution. In view of these facts and of those contained in the foregoing finding, which serve as a basis in determining the proper application of paragraph 4 of article 27 of our basic law in the sense that it is not retroactive in the present case, it is not admissible, nor may we legally sustain the contrary opinion issued by the judge of the inferior court in the suit under revision; and it is therefore declared that without a violation of these individual guarantees the plaintiff company could not be deprived of the said rights which it obtained legally from Manuel S. Ravisé, who in his turn acquired them legally by virtue of a purchase for value made from Severiana Hernández, widow of Martínez, and her sons.

From the foregoing we rule:

First: The decision under revision issued by the first proprietary district judge of the Federal District, dated February 17, 1921, which refused the *amparo* prayed for in the federal court by the Texas Company of Mexico, S.A., is revoked.

Second: The justice of the Union protects and aids the Texas Company of Mexico, S.A., against the act of the President of the Republic and the Department of Industry, Commerce, and Labor, which consists in having issued to Rafael Cortina a title to explore and exploit the petroleum contained in lot 36 of Zacamixtle, Municipality of Tancoco, Canton of Tuxpam, State of Vera Cruz.

Let this be published and distributed; let the necessary stamps be affixed; and let the papers, with a certified copy of this resolution, be returned to the court whence they proceeded, and the docket in due time filed.

Thus by unanimous vote of eleven Justices as to the final part of the decision and by a majority of eight votes as to the legal bases, the Supreme Court decided.

The President of the Court, Moreno, did not deem it necessary to examine the articles in the complaint regarding the extraordinary powers granted to the President, condemnation of property for public utility, or dispossession without a prior suit, his vote being based

solely on the ground that paragraph 4 of article 27 of the Constitution had been applied retroactively, as had also the decrees of July 31 and August 8 and 12, 1918, thus violating the guarantees given in article 14 of the Constitution. Justice Garza Pérez did not accept the first finding, since he did not deem it pertinent. Justice Flores considered discussion and decision as to extraordinary powers, as to condemnation for public uses, and as to dispossession without a previous suit, unnecessary, inasmuch as the *amparo* has been granted for violation of guarantees in respect of non-retroactivity.

The President and the Justices sign.

Enrique Moreno, President; Alberto González, Adolfo Arias, Benito Flores, Ignacio Noris, Patricio Sabido, José María Mena, Ernesto Garza Pérez, Gustavo A. Vicencio, Agustín Urdapilleta, Antonio Alcocer, Justices; F. Parada Gay, Secretary.

812.6363/1007 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, October 13, 1921—4 p.m.

134. Referring decision Texas Company's case, telegraph obtainable information these points:

In deed of April 28, 1917, from Martinez family to Ravise, was specific mention made of petroleum rights?

Did the Texas Company buy the land from Ravise or lease it or the oil rights, and if there was a purchase or lease of the land itself, was specific mention made of the petroleum rights?

Did Ravise or the Texas Company conduct any operations on the land for exploring or exploiting petroleum deposits?

HUGHES

812.6363/1012 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

[Paraphrase]

MEXICO, October 19, 1921—11 a.m.

[Received 7:01 p.m.]

194. Department's telegram no. 134. Texas Company's representative furnished me following data on subjects desired:

1st. In deed to Ravise from the Martinez family petroleum rights were specifically mentioned.

2d. The Texas Company did not purchase the land but bought the lease or contract from Ravise. Ravise was to have 5% of the petroleum secured from the land.

3d. Neither Texas Company nor Ravise conduct any operations on land covered by contract.

SUMMERLIN

PROTEST BY THE UNITED STATES AGAINST AGRARIAN
LEGISLATION IN MEXICO⁸⁸

812.52/565

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3496

MEXICO, November 26, 1920.

[Received December 7.]

SIR: I have the honor to report that to-day's press publishes the draft of a proposed agrarian law which, it is said, will be submitted to the Congress by President-elect Alvaro Obregón, shortly after his inauguration. The main features of the Bill are as follows:

The following lands shall be expropriated for distribution, such areas as are needed to be taken in accordance with this law:

- The large landed estates;
- Lands which have been idle for five years past;
- Lands cultivated by primitive and antiquated methods.

Lands cultivated according to modern methods shall not be expropriated in so far as concerns the area necessary to make a complete agricultural whole; not less than five and not over twenty hectares may be granted to any one individual; the parcels adjudicated may not be the subject of sales contracts, mortgages, usufruct, or any other transaction limiting the right of ownership, nor may they be embargoed;⁸⁹ the rights under this law granted to recipients of lands, shall become void upon failure to cultivate the land during a period of one year. The Local Agrarian Commissions are empowered to receive and handle petitions and the National Agrarian Commission is authorized to decide upon them and then request the Executive to order the required expropriations.

The rights under this law shall be exercised by Mexicans only. Mexicans already owning over twenty hectares of land shall be excluded. Petitioners must prove they are of industrious habits and fully able to cultivate the land.

⁸⁸ For previous correspondence concerning agrarian legislation, see *Foreign Relations*, 1919, vol. II, pp. 614 ff.

⁸⁹ I.e., attached.

Payment for expropriated lands is to be made by the Government to the owner in twenty-year agrarian bonds redeemable in twenty annual payments of principal plus interest of not over five per cent. Recipients shall pay the Government for lands granted, on the basis of the amount paid to the owner, plus five per cent. for cost of survey and division. The value of the lands expropriated shall be the registered tax valuation plus ten per cent., or in the absence of such data, the value shall be fixed by experts.

I have [etc.]

GEORGE T. SUMMERLIN

812.52/565

The Acting Secretary of State to the Chargé in Mexico (Summerlin)

No. 1501

WASHINGTON, January 15, 1921.

SIR: Referring to your despatch No. 3496, of November 26, 1920, in which you reported that the press of Mexico City had published the draft of a proposed agrarian law, which it was expected would be submitted to Congress, and which provided that compensation to the owner of lands expropriated should be made on the basis of the registered tax valuation plus 10%, you are directed, should a bill containing such a provision be introduced in a future session of the Mexican Congress, to point out informally to the appropriate authority the injustice that would be done American citizens who have paid taxes during the past several years, when by reason of disturbed conditions they have received no benefits from the land owned by them, if that land should be taken at the depressed valuation indicated. You will point out in this relation that, by the laws of the leading civilized nations of the world, the market value of property expropriated at the time of the taking is uniformly adopted as the appropriate measure of compensation.

I am [etc.]

For the Acting Secretary of State:

ALVEY A. ADEE

812.52/575

The Chargé in Mexico (Summerlin) to the Acting Secretary of State

No. 3601

MEXICO, January 19, 1921.

[Received February 1.]

SIR: I have the honor to transmit herewith the translation of a law enacted by the Mexican Congress, and published in the *Diario Oficial* of the eighth instant, prescribing the procedure to be fol-

lowed in making grants or restitutions of lands to towns, hamlets, congregations (*congregaciones*), communities and other nuclei of population, for their common use until such time as legislation may be enacted on the general subject of land division.

The law prescribes that such grants are of public utility and, consequently, that the legitimate owner thereof has the right to proper indemnization by the Federal Government in accordance with rules established in the law which appear to provide for paying the owner the value of the property as fixed in the tax list plus ten percent and any additional excess which may be allowed by experts for improvements made after the value was fixed in the tax list.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure—Translation ⁹⁰—Extract]

Mexican Law of December 28, 1920, Relating to Land Grants

I, ALVARO OBREGON, Constitutional President of the United Mexican States, to the inhabitants thereof, know ye:

That the Congress of the Union has transmitted to me the following decree:

The Congress of the United Mexican States decrees:

CHAPTER V

INDEMNIFICATIONS

ARTICLE 35. The granting of sufficient lands to towns, hamlets, congregations, or communities which prove the necessity or expediency of obtaining lands for their subsistence, shall be of public utility.

ARTICLE 36. A grant of lands gives to the legitimate owner thereof a right to proper indemnification.

ARTICLE 37. All claims for indemnification brought about through the application of this law shall be against the Federal Government, and they shall be decided in accordance with the following rules:

I. The amount of the indemnification for lands affected in consequence of a grant shall be proportional to the part of the land affected, according to its assessed value, tacitly or expressly recognized by the owner, including aqueducts, buildings, and any other class of constructions which may exist, plus 10 percent.

II. The excess of value which the private property may have attained through improvements made subsequent to the fixing of the

⁹⁰ File translation revised.

taxation value, shall be the only part subject to appraisal, two appraisers being named: one by the National Agrarian Commission and the other by the interested party; and in case of the disagreement of the latter or of the National Agrarian Commission with the appraisal, the valuation of improvements shall be submitted to judicial decision. The same shall be done as concerns property the value of which is undetermined in the tax offices.

ARTICLE 38. In cases of claims against restitutions and the interested party obtains a judicial decision that the restitution made to the town is not in order, the decision shall only give the right to obtain from the Government of the Nation the proper indemnification.

Within the same term of one year, the owners of appropriated lands may appeal to the judicial authority, claiming the indemnification which should be paid them, and stating their unsatisfied claims.

DONE at the Palace of the Federal Executive Power, Mexico, December 28, 1920.

A. OBREGON

812.52/577

The Secretary of State to the Chargé in Mexico (Summerrlin)

No. 1524

WASHINGTON, February 21, 1921.

SIR: I am in receipt of your despatch No. 3645, of February 4, 1921,⁹¹ in which you refer to your despatch No. 3601, of January 19, transmitting a translation of a law recently enacted by the Mexican Congress and published in the *Diario Oficial* on January 8, prescribing the procedure to be followed in the expropriation of lands, until such time as legislation may be enacted on the general subject. You invite the Department's attention to Chapter 5 of the law, relating to indemnifications.

In reply you are directed to make to the appropriate authorities, with respect to the provisions as to compensation contained in the law published January 8, 1921, the informal representations set forth in the Department's instruction No. 1501, of January 15, 1921.

I am [etc.]

For the Secretary of State:

NORMAN H. DAVIS

⁹¹ Not printed.

812.52/590

Report of the Consul in Charge at Mexico, D. F. (Ferris)

MEXICO, March 2, 1921.

[Received March 14.]

Referring to the Department's mimeographed instruction of July 25, 1919,²² (File No. 812.52), relative to the policy of the Mexican Government in restoring the land to the people, through the medium of the towns and cities, the practical operation of the laws on this subject is now being brought to my notice, and may be of interest to the Department. The process is simple and direct. Heads of families are allowed five hectares each. Anyone wishing land applies to the town government. The town applies to a local agrarian commission, which in turn applies to the national commission. An official surveyor determines what land is to be allotted. The tract is then divided and occupied, without giving the owner previous notice or an opportunity for a hearing of any kind. The compensation allowed is the tax appraisalment with ten per cent added. Appraisalment of land for purposes of taxation is very low, about half the real value. For this compensation only state bonds are given, payable in twenty years. So far as I have been informed, unused lands are not taken, the tracts determined on by the surveyors being in every case the best portions of the land actually under cultivation.

A copy of this report is being sent to the Embassy, with a copy of a memorandum addressed to the French Minister by citizens of France, who have had lands taken from them under the law in question.

812.52/604

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 3753

MEXICO, March 21, 1921.

[Received April 6.]

SIR: I have the honor to report that *El Universal* of the twenty-first instant published a bill presented to the legislature of the State of San Luis Potosi by Governor Rafael Nieto, the purpose of which is to expropriate the large land holdings and to divide them up among the inhabitants of the state.

In submitting this bill Governor Nieto states that, in the prolonged social upheavals in Mexico, no aspiration of the rural popu-

²² Not printed.

lation has been asserted more vigorously than their desire for land, and that the treatment they have received from the land holders is the most cruel oppression to which they have been subjected under former regimes.

By way of demonstrating the truth of the above statement, he gives the following statistics:

Of the western, extremely arid section of the state, six estates embrace more than one-fourth of the region; nine other estates embrace more than one-sixth of the region; thirty-two others more than one-fifth, or, in all, forty-seven proprietors own almost two-thirds of the region.

Of the central, somewhat less arid, zone one estate embraces one-tenth of the region, four others one-seventh, and nineteen others one-fifth, or, in all, twenty-four proprietors hold more than one-half of the region.

Of the eastern, fertile and well watered region, seven estates embrace one-fifth of the section.

From the above it will be seen that, in the entire state, seven proprietors hold more than one-sixth of its territory; fifteen others another sixth; fifty-six others another sixth, or, in all, more than one-half of the state is held by seventy-eight proprietors.

The general plan of the bill is to furnish small lots of land to those desiring them in centers of population containing more than six hundred inhabitants, of which it is calculated there are in the state approximately three hundred and fifty, and that they will require in round numbers two million hectares of land.

It is proposed that the irrigation of the arid lands of the western and central zones shall be under the limited control of the state, and that the costs of irrigation works shall be paid in part from state funds.

The maximum amount of land which may be held by any one person, or company, is four thousand hectares in the western region, three thousand in the central and two thousand in the eastern.

However, the owner of the large estates is to continue in possession of his lands in excess of the above amounts until such time as requests are made by inhabitants of the vicinity for the small lots to which they are entitled under the bill, and, consequently, it may be that his total remaining estate may be larger than the above mentioned limits.

The small holdings resulting from the dividing up of the large estates may not exceed, for each person, thirty hectares in the western zone, twenty-five in the central and twenty in the eastern, but it is provided that these areas may be increased, depending upon the fertility and productiveness of the soil.

The owners of the large estates are obliged to receive, in payment for the expropriated portions thereof, bonds of the State Agrarian Debt, which bear five percent interest.

The price at which the estates are expropriated will be determined by taking their smallest tax valuation after January 1, 1922, plus ten percent, and adding thereto the value of improvements made after the tax valuation was made. Payment is to be completed in twenty years.

I have [etc.]

GEORGE T. SUMMERLIN

812.52/586

The Secretary of State to the Chargé in Mexico (Summerlin)

[Extract]

No. 1552

WASHINGTON, March 30, 1921.

SIR: The Department acknowledges the receipt of your despatch, No. 3693, of February 25, 1921,⁹³ . . .

With respect to this law⁹⁴ you are directed to point out informally to the appropriate authorities that it does not seem to provide for the establishment of adequate machinery for ascertaining and paying the compensation properly due to owners whose land is expropriated, and that it seems possible that under this law property might be taken without proper provision being made for compensation.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

812.52/604: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, April 20, 1921—6 p.m.

54. Your despatch 3753, March 21, agrarian bill, State San Luis Potosi.

Consideration bill reveals its ambiguity in important respects, for instance, right of land owner to make private division, provision for payment by State, for fixing value of improvements, and for preserving rights of creditors.

No effective compensation is provided since bill taken in connection with provisions Article 117, Mexican Constitution,⁹⁵ regarding

⁹³ Not printed.

⁹⁴ Law of Dec. 28, 1920.

⁹⁵ *Foreign Relations*, 1917, p. 951.

bond issues by States, apparently requires land owners to accept non-negotiable State bonds, payable in Mexico, and in Mexican money, which would seemingly have no market value, and owners of which would be remediless in case of default, except through diplomatic channel, and would be exposed to danger of being compelled to accept payment in depreciated fiat money.

No provision is made for fixing value of improvements by judicial determination as required by Article 27, Mexican Constitution. Therefore, and since measure provides for taking property by purely arbitrary administrative action without due process of law, or judicial determination, measure violates Article 14 of Constitution.

Measure does not meet provisions for protecting owner in expropriation proceedings, which prevail in United States, and generally, as in accordance with justice and equity.

Communicate foregoing to appropriate authorities, and, on behalf of interested American citizens, make informal protest against passage of measure in present form.

HUGHES

812.52/636

The Chargé in Mexico (Hanna) to the Secretary of State

No. 3878

MEXICO, May 14, 1921.

[Received May 24.]

SIR: I have the honor to transmit herewith a copy and translation of the Agrarian Bill which was submitted to the Chamber of Deputies by the President of the Republic, and reported out of committee in an amended form on the 8th ultimo. The Bill, as an entity, has been approved by the Chamber, and is now being discussed and voted on article by article in accordance with the prescriptions of Mexican law.

Although the first two articles have received an affirmative vote, action on Article 3 has become complicated by the threatened opposition of the Liberal Constitutional Block, which, really on an issue of patronage, but nominally because of the President's supine toleration of numerous instances of abuse of authority on the part of the radical element throughout the country, has declared its intention to defeat the bill. In any event, the law, if enacted, will probably apply only to the Federal District and Territories, inasmuch as the Peleceano Block had previously announced its opposition to its further extension "in violation of the sovereign rights of the States".

I have [etc.]

MATTHEW E. HANNA

[Enclosure—Translation **]

Draft of Mexican Law for the Subdivision of Large Landed Estates

ARTICLE 1. The Nation recognizes the natural, inalienable, and imprescriptible right which every individual has to own and cultivate for himself a parcel of land the products of which, upon a moderate application of labor, may be sufficient to satisfy his necessities and those of his family, and permit him to make a saving with which to meet the eventualities of the future.

ARTICLE 2. In fulfillment of the written text of article 27 of the Constitution, and for the realization of the right to which the foregoing article refers, the expropriation of the following lands, to the extent which may be necessary and in compliance with the terms of this law, shall be considered of public utility:

- (a) *Latifundios*;
- (b) Lands which have been kept in a state of idleness during the last 5 years; and
- (c) Lands which, in the judgment of the National Agrarian Commission, are cultivated by primitive and antiquated methods.

ARTICLE 3. Any rural estate which, due to its extent, subject to qualifications enumerated in the following article, is prejudicial to the social welfare, whether because it creates a monopoly of agricultural products in the region where it is located, or because it contributes to produce a crisis in prices or scarcity of alimentary articles, or because it offers a notably meager yield in proportion to that of neighboring estates, or because it obstructs for any other cause the agricultural development of the country or the exercise of the right consecrated by article 1 of this law, shall be considered a *latifundio*.

ARTICLE 4. The National Agrarian Commission, in the name of the Executive of the Union, and upon previous receipt of the appropriate petition for lands, shall be the authority empowered to make, in each case, the declaration that a rural property is a *latifundio*. This declaration shall be made in accordance with the rules established in the foregoing article and shall take into account the following factors, to the end that its decision may have a technical basis:

- (1) The quality of the lands and their state of irrigation;
- (2) The elevation above sea level of the land under consideration, and all the details of climate which are accompaniments of said elevation;

** File translation revised.

- (3) The meteorological conditions of the region;
- (4) The location of the property in relation to the centers of population, and the means of communication with said centers;
- (5) The abundance or scarcity of labor and the average wage rate in the community;
- (6) The deficiency in cultivation in whole or in part, and the primitive or modern methods employed; and
- (7) The extent of the property in relation to others of the State or region.

ARTICLE 5. When the applications for land refer to a property which, in the judgment of the respective Local Agrarian Commission, manifestly cannot be considered as a *latifundio*, the interested party, who shall have the right to apply to the National Agrarian Commission for a review of the case, shall be so informed.

ARTICLE 6. The expropriation to which this law refers can only be made upon the filing of petitions for parcels of land with respect to each individual property.

ARTICLE 7. In conformity with this law, those rural properties on which there is an established industry which would be ruined as a consequence of the subdivision, cannot be expropriated to such an extent as, in the judgment of the National Agrarian Commission, would necessarily cause said property to lose its character as an agricultural industrial unit.

ARTICLE 8. In making an appropriation of a *latifundio* on which irrigation works exist, or are being constructed or are projected, the prompt execution of which is sufficiently guaranteed in the judgment of the National Agrarian Commission, the same shall be exempt from expropriation, and not only the irrigation works which are constructed or are to be constructed, but also those areas served by said works shall be exempt from expropriation.

ARTICLE 9. The amount of land which may be granted to each individual shall vary in the following form:

	<i>Minimum</i>	<i>Maximum</i>
Irrigation lands, from.	10	to 20 hectares
Rain lands, 1st class, from.	20	to 40 hectares
Rain lands, 2d class, from.	30	to 60 hectares
Rain lands, 3d class, from.	40	to 80 hectares

Provided the right to petition for arable land is not impaired, each individual may be granted up to 200 hectares for the raising of cattle, and all petitioners for arable lands may be granted up to 100 hectares of pasture land for the maintenance of their working animals.

ARTICLE 10. The Local Agrarian Commissions are authorized to receive and forward, and the National Agrarian Commission to

decide, the petitions made by persons interested in the exercise of the rights granted by this law, as well as to decide definitely in regard to the expropriation of lands necessary for the development of the small landed property.

ARTICLE 11. The appointment of the members of the National Agrarian Commission shall be submitted for confirmation to the Chamber of Deputies of the National Congress of the Union, which Chamber shall also have the right to decree its cessation by a vote of two-thirds of the members of said Chamber.

ARTICLE 12. In conformity with the provisions of paragraphs 2, 3, and 8 of article 27 of the Constitution, the expropriations decreed by the present law for the formation of small landed property by means of the subdivision of the estates to which this law refers, are considered as of public utility. Therefore, in conformity with the last of the above-mentioned paragraphs, the proceedings for carrying out the expropriations are placed in the hands of the administrative authorities.

ARTICLE 13. The rights which are granted by this law may be exercised by Mexicans and naturalized foreigners, provided they are residents of the Republic and are in full exercise of their civil rights.

ARTICLE 14. Mexicans and foreigners, owners of areas of land greater than those fixed for each case in article 9 of this present law, shall be excluded from its benefits.

ARTICLE 15. All other conditions being equal, the neighbors of a place shall be preferred to those from a distance, and married men to bachelors. As between the neighbors of a place, the preferential right shall be given to tenants, persons cultivating the land as partners, and the peons of the property to be subdivided. Mexican women of legal age and widows shall also have the right to acquire parcels of land, whenever they are for their own benefit and not for that of others.

ARTICLE 16. For all juridical purposes, parcels of land shall be considered indivisible, and therefore, in case of hereditary succession they shall be adjudged to one heir only, who shall be designated by all of his co-heirs by mutual agreement. If this designation is not made within a term of 4 months from the date of the probaton, the judge in charge of the case shall sell at public auction.

ARTICLE 17. Each grantee shall only have the right to acquire one parcel of land in the area which is granted by the terms of article 9 of this law.

ARTICLE 18. The grantees shall work their parcels in complete liberty, cultivating thereon the crops which may appear most advantageous to them and by methods which they may consider most appropriate, and only in regard to the exploitation of forests and waters shall they be subject to the respective laws.

ARTICLE 19. The right over the parcels shall be perpetual and inviolable, without any restrictions other than those which, for evident reasons of public interest, may be established by law; but in case of the forfeit of the parcel, to which reference is made in article 21, the grantee may remove the improvements which he may have made and which he can remove without impairment of said property.

ARTICLE 20. Parcels which are granted to petitioners cannot be the subject of contracts of sale, mortgage, usufruct, or any other contract which may limit the right of ownership, nor can they be attached. Existing rights of way shall continue, but shall be modified in the terms of the respective law.

The grantee may transfer his parcel when, in the judgment of the Local Agrarian Commission, there is a justified cause, said judgment being subject to revision by the National Agrarian Commission.

The crops may be held as a guarantee for the debts which may be contracted by the proprietor; but as long as the price of the parcel has not been totally paid, the crops can only serve as a guarantee for the debts which may be contracted with agrarian institutions of credit.

ARTICLE 21. The rights which this law gives to grantees over their parcels shall be forfeited in the following cases:

- (a) Failure to make one of the yearly instalments on the price;
- (b) Failure to cultivate the parcel for a period of 1 year, except in case of *force majeure* or of absolute impossibility, all of which shall be duly proven before the respective Local Agrarian Commission; and
- (c) Failure to pay the respective taxes for a period of 2 consecutive years.

The forfeiture to which this article refers shall in each case be determined by the National Agrarian Commission.

ARTICLE 22. When, in conformity with this law, the expropriation of lands takes place, the owners shall be summoned in order that within 10 days they may declare whether the decree is acceptable to them. If, upon the expiration of this term, they give no reply to the summons, their approval shall be taken for granted, and the expropriation shall proceed in consequence.

ARTICLE 23. In case of opposition, the National Agrarian Commission, after a study of the technical points relative to the expropriation, shall decide as to the legality of the same, taking into account that in no case shall its decision invalidate the rights granted by article 1 of this law.

The intervention of the judicial authorities shall be limited, as is provided by article 27 of the Constitution, to judging and deciding in regard to the excess value which an expropriated property may

have over the tax valuation, because of the improvements made on it at a later date.

ARTICLE 24. For the purposes of the first paragraph of the foregoing article, the proprietors whose lands are to be studied with a view to expropriation are obliged to furnish topographical maps, levels, and the agronomic, economic, and any other natural data which may be required for the study of the factors which, in conformity with article 4 of this law, must be taken into consideration.

The Department of Agriculture and Fomento is charged with completing the data furnished by the interested parties or with making the compilation complete, and with making the necessary studies for facilitating the decisions of the National Agrarian Commission. It is likewise charged with the making of subdivision maps, based on the condition of the lands, on the provisions of this law, and the decisions of the National Agrarian Commission.

ARTICLE 25. Whenever the National Agrarian Commission deems it necessary, because of the special condition of the lands, it may appeal to the Department of Agriculture and Fomento to make the necessary technical study to determine the zones which, in the subdivision of any landed property, must be reserved for forests, pasturage, or industrial uses of a special character.

ARTICLE 26. Through the very act of occupation of the lands by the Local Agrarian Commission, in virtue of the consent of the proprietor, or through a decision in regard to expropriation rendered by the National Agrarian Commission in cases of opposition, all claims which the Public Treasury may have against the expropriated lands, whether because of taxes, or which may have their origin in the laws of disentail, idle lands, or for any other cause whatsoever, and which might affect the rural property, shall be void, with the sole exception of the eminent domain which is inherent in the Nation and which can never be renounced.

ARTICLE 27. Contracts of any class whatsoever, real or simulated, shall be held to be null and void in that part which may be in opposition to the fulfillment of this law. Nevertheless, those who have contracted in good faith shall be indemnified for the improvements which they may have made and shall have the right to harvest the crops on the land, if they have planted them. The lessees shall have the right to exact a proportional reduction of the rent stipulated in their respective contracts.

ARTICLE 28. The person whose parcel is protected by the record to which reference is made in article 35 of this law shall not be disturbed by suits for recovery or enjoinders of possession which may be founded on causes existing prior to the date of said record, and its presentation shall be sufficient to terminate the case.

ARTICLE 29. The delegate of the National Agrarian Commission in each federal entity is charged with the publication and effective circulation of this law in all of the cities, villages, and ranches of his jurisdiction. He is likewise charged, on his own responsibility, with the publication and circulation in all of those places of the instructions which, in brief form and intelligible to all persons, shall be issued by the National Agrarian Commission in regard to the making of applications and the proceedings to be followed by the interested persons. Said instructions shall be accompanied by the text of articles 1 to 4, 7 to 9, 20, 21, 27, and 28 of this law.

ARTICLE 30. In establishing regulations to carry out the provisions of this law, the National Agrarian Commission shall take care to give all possible facilities for the presentation and consideration of petitions for lands, by dispensing with useless requirements of form, and by instructing the Local Agrarian Commissions that officially and by means of opportune suggestions to the interested parties, they are to supply the omissions made by the latter, for which purpose, at the end of each petition the Local Agrarian Commissions themselves shall specify the data which they obtain verbally from the petitioners and which the latter through ignorance may not have made a record of in their petitions.

In no case shall a petition be rejected for a deficiency of form; on the contrary, this deficiency shall be corrected by the Local Agrarian Commission, which shall immediately address the interested parties, requesting the data which they may have omitted.

ARTICLE 31. The Private Agrarian Committee of each place, or in its stead the Municipal President, shall order billboards to be placed in the accustomed places with the express notice that they refer to "matters concerning the subdivision of lands", and on which must be posted:

- (a) The present law;
- (b) The instructions of the National Agrarian Commission in regard to the presentation and proceedings of petitions for parcels;
- (c) An extract of the petitions presented before the local Agrarian Commission with regard to the lands within the jurisdiction under reference;
- (d) The decisions in regard to expropriation issued by the National Agrarian Commission with relation to these same lands; and
- (e) The properties which may be granted by the Local Agrarian Commission.

All of these documents shall be renewed periodically so that they may be kept legible; the understanding being that, with exception of the law and its instructions, the publication of which shall be perma-

ment, the other documents shall remain exposed to the public for a period of 1 month only.

ARTICLE 32. The petitions for parcels may be presented to the respective Local Agrarian Commissions or directly to the National Agrarian Commission, if the interested parties so prefer; and they may be delivered in person or sent by registered mail.

ARTICLE 33. The Local Agrarian Commission, according to the case, shall issue to each interested person a duly certified receipt for the petition, stating the principal facts contained therein. It must likewise forward to the National Agrarian Commission a complete copy of the petition when this has been presented to the Local Agrarian Commission.

The same procedure must be observed by the National Agrarian Commission in its turn, which after reserving for itself a complete copy of the respective petition, shall send it immediately to the Local Commission to which it pertains for action.

ARTICLE 34. When it becomes necessary to proceed to the occupation of the lands, whether by reason of the expressed or tacit consent of the proprietors or of the decision of the National Agrarian Commission, the Local Agrarian Commission shall take possession of the lands and shall proceed to fix the location and boundaries of the parcels according to the following rules:

(a) A map shall be made of each parcel, indicating its exact dimension and boundaries, for registration in the Tax Office, with the understanding that the parcels must be delivered immediately to the interested parties according to the requirements referred to in article 35 of this law, the proper map to be furnished at a later date.

(b) Wherever the topography of the land permits, parcels shall be given a regular and uniform area.

(c) The boundaries shall be fixed with all precision.

(d) An effort shall be made to avoid enclosed parcels by giving parcels access to the public road, in order to avoid as far as possible the need for rights of way.

(e) Also, an effort shall be made to provide that each parcel may have drainage into canals or conduits of common use.

(f) The parcels shall be numbered serially, so that at the time of the issuing of titles to the grantees, the parcels may be designated as follows: Parcel number _____ of the estate known as _____, Municipality of _____, Federal District, Territory, or State of _____.

This in no way prejudices the right of the grantees to give whatever names they may desire to their parcels.

ARTICLE 35. The proprietor having manifested his approval of the expropriation, or the expropriation having been decided upon by the National Agrarian Commission, the Local Agrarian Commission must give possession of the parcel to the grantee, with an express judicial notice of the location of the adjoining properties. Of this

action, which shall have the same effect as a granting of judicial possession, a record must be made which must be signed by all of the persons taking part therein and of which a copy shall be given to the interested party for his protection.

ARTICLE 36. The titles granting possession of the parcels must be signed by the Secretary of Agriculture and Fomento in his character as President of the National Agrarian Commission, and by the interested parties. So long as the price of the parcel is not fully paid to the Nation, a title of ownership shall not be issued.

ARTICLE 37. The deeds shall bear no tax whatsoever.

ARTICLE 38. Owners of expropriated lands have the right to receive indemnification for their value as it appears registered in the Tax Office, plus an increase of 10%.

ARTICLE 39. In the absence of data in the Tax Office in regard to the lands under consideration, an appraisal thereof shall be made by the engineers of the respective Local Agrarian Commission, who shall take as a basis the valuation of adjoining or nearby properties, as registered in the Tax Offices.

ARTICLE 40. Payment shall be made in bonds of the National Agrarian Debt, payable in 20 years in yearly instalments covering capital and interest. The rate of interest shall not exceed, in any case, 4% per annum.

ARTICLE 41. The income to the Government from expropriated lands shall be set aside for the payment of said bonds issued in favor of the proprietors. In no case shall the Federal Government make a different application of the funds which constitute this guarantee.

ARTICLE 42. When the taxation value of the parcel subject to expropriation is determined, or when in the absence of taxation data the parcel is appraised under the terms of this law, payment shall be made to the proprietors from what remains after deducting the following preferred charges:

- (a) To the National Treasury that which may be owing to it for taxes; and
- (b) To the existing mortgaging or financing creditors the proportional share of their claims in the order of their entry in the Register. For this purpose the creditors shall be obliged to divide their credits.

ARTICLE 43. In case the owners of the lands refuse to receive the price to which they are entitled, and whenever the mortgaging or financing creditors refuse to accept the payment of their credits, the bonds shall remain at their disposal for the term of 1 year in the General Treasury of the Nation, after which time they shall lose all right to claim them.

ARTICLE 44. The price which the grantee pays for his land shall be the same as that which the Nation is obliged to pay to the person

from whom it has been expropriated, including capital and interest, plus 5% for expenses of mapmaking and subdivision, and another 4% for the unpaid capital; the grantee must pay the price in 20 yearly instalments, which shall be counted from the day on which he is given possession.

ARTICLE 45. Any person who publishes reports, notices, or rumors in opposition to this law and its application, or who, by any means whatsoever, attempts to dissuade applicants from filing their petitions, shall pay a fine of from 50 to 500 pesos, and in case of a repetition of the offense he shall suffer the penalty of from 1 to 3 months' imprisonment.

ARTICLE 46. Owners who endeavor to hinder compliance with this law by means of legal subtleties, sophistry, or manifestly irregular recourse to the courts shall pay a fine equivalent to 10% of the taxable value of the property under consideration. Those who take up arms against the Constitutional Government of the Republic or against the local authorities, or who provoke, aid, or foment the rebellion of others, or who, in any violent manner whatsoever, try to hinder the introduction of the agrarian reform, shall lose their rights of citizenship for 10 years and shall pay a fine to the National Treasury equivalent to 20% of the value of the lands the expropriation of which is under consideration. Those who, with the object indicated, provoke foreign intervention or who in any manner seek the support of foreign governments or of foreign peoples to exercise diplomatic, military, or economic pressure against the people or Government of Mexico, shall be deprived of their rights of citizenship and shall pay a fine equal in value to 40% of their holdings. The Federal Prosecuting Attorney, in conformity with the terms of this article and without prejudice to the continuation of the expropriation proceedings, shall institute the respective suit before the appropriate judicial authorities.

ARTICLE 47. Any agrarian authority who, in violation of this law, rejects a petition for lands for a simple defect of form or who delays the completion of the respective records, shall suffer, in addition to his immediate dismissal, the penalty of from 1 to 6 months' imprisonment.

ARTICLE 48. All national lands shall, from the date of the promulgation of this law, be subdivided and transferred in accordance with the provisions thereof. The sale price of said lands shall be determined by taking the value of the neighboring properties as a basis, with the deductions which, in the judgment of the Department of Agriculture and Fomento, should be made, taking into consideration the distance from ways of communication, the scarcity of labor, and the difficulties which must be overcome to place said lands in a state of production.

TRANSITORY

First. The present law is issued in organic conformity with paragraph 3 of article 27 of the Constitution, and in exercise of the right which the Nation has to impose upon private property the restrictions which public interest demands. Consequently, since the Legislatures of the States have not yet issued laws regarding the subdivision of *latifundios*, which they were obliged to do within the Constitutional period subsequent to the promulgation of the supreme code, this law shall be compulsory throughout the Republic, ceasing to be in force in each State when said State shall decree its corresponding agrarian laws.

Second. In conformity with the provisions of section (b) of the eleventh paragraph of article 27 of the Constitution, owners of lands declared to be *latifundios*, in accordance with the terms of this law, shall enjoy a period of 3 months within which they themselves may carry out the subdivision of the lands decreed expropriable, subject to the provisions of this same law. The National Agrarian Commission shall be empowered to extend the said period for not exceeding 2 months, provided, in each case, it is fully shown that it has been impossible for the owner to complete the subdivision.

Third. Until such time as the operation of cooperative agricultural societies is provided for by law, the Secretary of Agriculture and Fomento, for the purpose of expediting the subdivisions to which the present law refers, shall aid in the formation of agricultural colonies.

Fourth. The provisions of the present law shall in no case be applicable to the restitution and grants of *ejidos* (commons), which shall be governed exclusively by the law of January 6, 1915, and by the decrees or rulings which regulate it.

Fifth. The present law shall become effective on the day of its promulgation.

Sixth. All laws and regulations which are opposed to the present law are hereby repealed.

Seventh. The National Agrarian Commission shall regulate the precepts of this law by means of circulars.

812.52/619 : Telegram

The Secretary of State to the Chargé in Mexico (Hanna)

WASHINGTON, May 14, 1921—5 p.m.

65. Your despatch 3847, April 30th, Agrarian Bill.⁹⁷

Consulate San Luis Potosi reports Bill has passed and Act now in force.

⁹⁷ Not printed.

Informally request appropriate authorities to advise you whether such is the case and take occasion to renew informal protest made pursuant Department's 54, April 20th, 6 p.m., adding that this Government will not consent to the application of the attempted confiscatory provisions of this measure to American citizens owning land acquired in accordance with Mexican law.

HUGHES

812.52/636 : Telegram

The Secretary of State to the Chargé in Mexico (Hanna)

WASHINGTON, May 28, 1921—3 p.m.

73. Your despatch 3878, May 14, Agrarian Bill.

Consideration bill reveals its ambiguity in important respects, for instance, provision for payment for fixing value of improvements and for preserving rights of creditors.

Article 22 gives property owner only 10 days in which to report whether he consents to sub-division. This would be entirely inadequate in case the owner resided at a place remote from affected lands or outside Mexico.

Article 46 apparently assumes to attempt to penalize owners for resorting to remedies they may have under existing laws.

Compensation provided is inadequate since only tax valuation plus 10 per cent is to be paid and that in bonds of National Agrarian Debt, payable in Mexico and in Mexican money, which would seemingly have small market value and owners of which would be remediless in case of default, except through diplomatic channel and would be exposed to danger of being compelled to accept payment in depreciated fiat money.

Measure does not meet provision for protecting owners in expropriation proceedings, which prevail in United States and generally as in accordance with justice and equity.

Communicate foregoing to appropriate authorities on behalf of interested American citizens and make strong informal protest against passage of measure in present form.

HUGHES

812.52/680

The Secretary of State to the Chargé in Mexico (Summerlin)

No. 1708

WASHINGTON, August 6, 1921.

SIR: The Department has received letters from various American citizens, protesting against the promulgation and the operation of the Agrarian law passed by the State of Durango and published in the

Periodico Oficial dated July 14, 1921, providing for the expropriation of property in excess of five thousand hectares held by any person or corporation in that State.

This law is passed for the purposes expressed in Section 7 of Article 27 of the Constitution of Mexico of 1917.

In a telegram dated July [January] 22, 1917, to Mr. Parker,⁹⁸ representing American interests in Mexico City at that time, the Department outlined in the third and the last paragraphs of that telegram its position relative to Section 7 of Article 27 of the Mexican Constitution.

Guided by this telegram, you are instructed immediately to bring this law informally to the attention of the appropriate authorities, pointing out that the operation of this law will apparently result in the attempted confiscation of property rights acquired in accordance with Mexican law, and that the method of taking provided in the Agrarian law of the State of Durango does not involve a proper exercise of the right of expropriation. You will express the hope that measures will be taken looking to the non-enforcement and the ultimate repeal of this law, as the United States cannot acquiesce in any attempt, direct or indirect, to confiscate property lawfully owned by its citizens in Mexico.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

812.52/724 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, September 12, 1921—11 a.m.

[Received 3:06 p.m.]

179. Your telegram number 123, September 10, 5 p.m.⁹⁹ The Foreign Office has not even acknowledged receipt of Embassy's representations concerning Durango and other agrarian laws.

SUMMERLIN

812.52/724 : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, September 19, 1921—4 p.m.

128. Your 179, September 12, 11 a.m.

You will renew your informal representations concerning Durango and other Agrarian laws, and state that, in view of importance of American interests affected by these laws, this Government hopes that early responses will be made to your informal representations.

⁹⁸ *Foreign Relations*, 1917, p. 947.

⁹⁹ Not printed.

You will informally and discreetly continue to press for replies to your representations concerning these Agrarian measures and report results.

HUGHES

812.52/788

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4628

MEXICO, December 1, 1921.

[Received December 10.]

SIR: With reference to the Department's No. 1708, of August 6, 1921, and to subsequent instructions relative to the Agrarian law passed by the State of Durango, I have the honor to report the receipt of Foreign Office informal note No. 7406, dated November 28, 1921, (received to-day) in regard to this matter. Mr. Pani states that the Executive finds himself prohibited from intervening to cause the derogation of the law in question, by virtue of the fact that the States of the Federation are absolutely sovereign in respect of their internal regimen. Mr. Pani concludes by saying "nevertheless, in the event that citizens of your country suffer any injury, they have tribunals and recourses ready at hand given them by Mexican laws to defend themselves against any transgressed disposition of the text of the Constitution or violation of individual guarantees".

I have [etc.]

GEORGE T. SUMMERLIN

INEFFECTUAL DISCUSSIONS BETWEEN THE OBREGON GOVERNMENT AND THE INTERNATIONAL COMMITTEE OF BANKERS ON MEXICO¹

812.51/629

The Acting Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Under Secretary of State (Fletcher)

NEW YORK, March 28, 1921.

[Received March 29.]

MY DEAR MR. FLETCHER: I thank you for your letter of March 25th,² advising me that the Department approves of our request to enlarge the International Committee of Bankers on Mexico by the addition of a representative from Belgium, the understanding being that effective control shall remain in our hands.

¹ For previous correspondence relating to the activities of the committee, see *Foreign Relations*, 1920, vol. III, pp. 226 ff.

² Not printed.

We have accordingly advised the British and French Groups that the American Group, with the approval of the Department of State, has voted favorably on the admission of a Belgian representative. We are also giving to the press a brief announcement covering the above.

Yours very truly,

T. W. LAMONT

812.51/726

The Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Secretary of State

NEW YORK, June 27, 1921.

[Received June 28 (?)]

DEAR MR. SECRETARY: . . .

In regard to the projected visit to Mexico,⁸ it is the belief of the American Committee, in which I know the foreign committees join, that some response should now be made to the invitations that have been extended to me by the Mexican Government. Accordingly, the American Committee has authorized me to make response, and unless the Department disapproves I propose to address the following letter to the Mexican Chargé, at Washington,⁹ who came to New York in person and presented the original invitation to us from his government:

"Referring to your letter of February 7th last, addressed to me as Acting Chairman of the International Committee of Bankers on Mexico,¹⁰ transmitting certain expressions from your government as to any possible visit that I might make to Mexico City; referring further to my reply of February 8th last,¹⁰ in which I said that

'I have conferred with the members of this Committee, and it was their unanimous opinion that, while the Committee was anxious to cooperate with the Mexican Government in every way in its power, yet as this Committee was formed with the approval of the Governments of the United States, Great Britain and France, the American section of the Committee felt bound to withhold its decision in the present situation until it had consulted with the Department of State at Washington,—which Department would doubtless wish the Committee to confer also with members of the incoming administration. This Committee also felt,—and I am sure you will agree—that it is under an obligation to consult its foreign colleagues as to your government's interesting and important communication.'

"I have now been authorized by the American Section of the Committee to accept the invitation proffered by your Government, at such time as it may prove personally practicable for me to avail myself of it, subject, however, to any announced action or declaration by the Mexican Congress, or by any other body authorized in the

⁸ See the statement by Mr. Lamont in the *New York Times*, Feb. 9, 1921, p. 19.

⁹ Transmitted by Mr. Lamont to Señor Téllez on June 30.

¹⁰ Not printed.

premises, to the effect that Article 27 of the so-called Carranza constitution¹¹ shall not be construed as being retroactive.¹²

"For your further information, I may say that I recently held conferences abroad with the foreign sections of the International Committee, these sections representing, as you know, the large investment interests of Great Britain, France, Belgium, Switzerland and Holland. I am glad to be able to inform you that the foreign sections of the International Committee are strongly in accord with the desire of the American section, as already expressed to you, of assisting, in any possible way, the Mexican Government and people in the proper adjustment of their outstanding external obligations; and it became clear to me in the course of my conferences abroad that the great investment interests of the countries over there feel it to be vital to the rehabilitation and future maintenance of Mexican Government credit, that remedy shall be brought about of the present anomalous situation by which, under Article 27 of the so-called Carranza constitution, the property rights of citizens, not only of America but of England, France, Switzerland, Belgium and Holland, continue to be jeopardized.

"The foreign sections of the International Committee join with the American section in expressing the earnest hope that some early solution of this most important point may be brought about by the Mexican Government and they have asked me to hold myself in readiness, upon receipt of favorable information to this effect and upon being assured that the Department of State approves such a visit, to proceed, at my convenience, to Mexico City and there to discuss with the government pending financial questions, acting in behalf, not only of the American section but of the foreign sections as well of the International Committee.

"Please present to the officials of your government my cordial acknowledgment of their assurances as to my reception and state that I hope the developments as indicated above will be such as to enable me to take advantage of their invitation. Meanwhile I know you will agree with me as to the advisability of maintaining as strictly confidential this communication to you."

The point that I have made in the foregoing proposed letter to the Chargé will serve, it seems to me, to emphasize strongly the very point on which you have laid stress in your own communications to the Mexican Government. As a matter of fact, as I explained to you in my interview with you at Washington a few weeks ago, the International Committee's authorization to me to proceed to Mexico is not qualified by the condition that I set forth above, but I know that I am representing the feeling of the Committee when I state that our present response to the invitation extended by the Mexican Government should be clearly qualified in the manner above indicated.

¹¹ *Foreign Relations*, 1917, p. 951.

¹² For papers relating to a project of law to give effect to art. 27, see pp. 439-446.

One reason that the International Committee deems it highly expedient to make a response now to the invitation from the Mexican Government is that they continue to receive alarming reports as to the movement against Obregon, and they believe that some slight indication of this kind would be of service to him in his difficult domestic situation.

Inasmuch as I am leaving the city for a fortnight's absence on Thursday evening of this week, I am asking Mr. Patchin, the secretary of our Committee, himself to go to Washington to-night and present this to the Department so as to obtain, if possible, your prompt comment upon the form of our proposed communication. Such a communication as I have proposed ought, it seems to me, to satisfy the present wishes of the foreign sections of our Committee, and as I stated to you in my last letter, it will, in no event, be convenient for me to proceed to Mexico City until the end of sixty days from now, or approximately in the early autumn, and very likely the ensuing time will yield further developments favorable to the attitude of the Department.

I am [etc.]

THOMAS W. LAMONT

812.51/726

The Secretary of State to the Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont)

WASHINGTON, June 29, 1921.

MY DEAR MR. LAMONT: I have received your letter of June 27th and have considered the proposed response to the invitation extended to you by the Mexican regime.

I think that the proposed communication to the Mexican Chargé at Washington, who presented the invitation to you, is admirable and it has my approval.

I am [etc.]

CHARLES E. HUGHES

812.51/834

The Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Secretary of State

NEW YORK, September 2, 1921.

[Received September 3.]

DEAR MR. SECRETARY: Referring to the conversation I had the privilege of holding with you in your office a fortnight ago, in which you expressed the opinion that it would now be wise for me to proceed to Mexico City to discuss with the authorities there outstanding

questions with reference to their external obligations, accordingly, I have it in mind to notify the authorities that in response to their invitation previously extended, I am preparing to visit Mexico City the latter part of this month. This communication we shall send, as usual, through the same medium by which the invitation was originally communicated, namely, the Mexican Chargé at Washington. Before, however, taking this step, I thought it wise to call the matter once more to your attention so that you might comment upon it in the event that recent developments had served to throw any new light on the situation.

I shall, therefore, venture to call you on the telephone sometime next Tuesday, the day after Labor Day. Trusting in the meantime that this letter will be brought to your attention, I am [etc.]

T. W. LAMONT

812.51/791

The Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Secretary of State

NEW YORK, September 8, 1921.

[Received September 9.]

DEAR MR. SECRETARY: Referring to my letter to you of September 2nd and to my informal talk with you on the telephone on September 6th, for your information, I enclose herewith a copy of a letter which I to-day handed to the Chargé of the Mexican Embassy and which he told me he would immediately communicate to his government. After giving him time to do so, we shall probably make some brief announcement here next week as to the proposed trip, in view of the fact that there already have been many rumors regarding it.

I am [etc.]

T. W. LAMONT

[Enclosure]

The Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Mexican Chargé (Télléz)

[NEW YORK] September 8, 1921.

DEAR MR. TELLEZ: Referring to the invitation extended to me last February by the Mexican Government,¹⁸ through your good offices, to visit Mexico City as a representative of the International Committee of Bankers on Mexico for a discussion of the Mexican Government's outstanding foreign credits, . . . I beg to say that I

¹⁸ Not printed.

am now planning to accept this invitation and to visit Mexico the last part of this or the early part of next month. Although I shall go unaccompanied by any other members of the International Committee, I have been asked to act for the International Committee as a whole, representing, as it does, holders of Mexican government obligations from all the countries that have seats on that Committee, viz., the United States, Great Britain, France, Switzerland, Belgium and Holland.

As soon as the arrangements for my trip have been completed, I shall advise you of the date of my departure from New York and arrival in Mexico City.

May I ask that this letter be treated as confidential until the date of my departure has been definitely decided upon?

Will you please present our respects to the officials of your government and again assure them that it is the earnest desire of the International Committee to assist the Mexican Government in every possible way in the proper adjustment of its outstanding external obligations.

I remain [etc.]

T. W. LAMONT

812.51/793

The Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Secretary of State

NEW YORK, September 13, 1921.

[Received September 14.]

DEAR MR. SECRETARY: I thank you for your note of September 12th.²¹ Of course I shall be sure to see you prior to my departure for Mexico as it is important that I should secure your latest counsel.

It would appear to me that the course of my conversation with Obregon and de la Huerta, if they are the officials with whom I talk, is likely to be about as follows:

1—Discussion as to plans for resuming interest payments upon the Mexican Government's external obligations now overdue; methods of remedying the defaults, etc.

2—Inquiry on the part of the Mexican officials as to what financial assistance, in the way of a new external loan, they may look forward to for re-organization purposes, in case they meet the views of the International Committee in the adjustment of the present overdue indebtedness.

3—Reply upon my part that, of course, until such time as recognition has been accorded to the present Mexican government by the United States, Great Britain and France, it is quite hopeless for the

²¹ Not printed.

Mexican government to float a loan in any one of those countries; the investing public will, of course, decline to buy fresh securities from a government remaining unrecognized.

Of course the conversation may not run along the foregoing lines. The government may indicate no desire for fresh assistance but, although [*sic*], every report to us indicates that the railroads are in very bad condition. Should recognition be granted by the Department prior to my arrival in Mexico City, of course, the situation would be changed materially.

I am planning to leave here on or about Friday, September 30th, and if agreeable to you, plan to run over and see you on Monday or Tuesday of that week, September 26th or 27th.

In calling your attention to the attached clipping,²² I hardly have to say to you that it is inaccurate in every particular. I have been in Washington only twice in the last three months, once early in June and once in August, both visits having been made for a conference with you, and in both instances I came directly back to New York after leaving your office.

I am [etc.]

T. W. LAMONT

812.51/794

*The Alternate Chairman of the International Committee of Bankers
on Mexico (T. W. Lamont) to the Secretary of State*

NEW YORK, September 23, 1921.

[Received September 24.]

MY DEAR MR. SECRETARY: I should prefer that you should receive directly from the oil men such information as they may have, but in order to acquaint you beforehand with the view of the bankers in the matter, may I be permitted to explain to you, in confidence, that the proposition which (as explained to us) the Mexican government authorities made to the oil producers was, in effect, that the oil producers should organize a syndicate of bankers to buy up, in the open market, at 40% of par or thereabouts, a large amount of the Mexican government's external obligations and then to make these available for the oil men to turn in at par in payment of their taxes. In this way the Mexican Government might make an actual remission of the oil taxes to the extent of 60%, yet it might be able to state that it was receiving full value in taxes, accepting its outstanding bonds in payment at par.

The attached draft of our letter to the oil producers explains the impracticability of this plan. Mr. Teagle and the other oil executives

²² Not printed.

fully understand our point of view, and, I may say, are in accord with it. The letter attached is a first draft and may be subject to a slight alteration but nothing material.

Looking forward to seeing you on Monday at twelve o'clock noon,
I am [etc.]

THOMAS W. LAMONT

[Enclosure]

Draft of Letter from the Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Chairman of the Committee of Oil Executives (W. C. Teagle)

[NEW YORK,] September 19, 1921.

DEAR MR. TEAGLE: Referring to the conferences which I have been holding with you and the other members of your Committee who recently visited Mexico, I beg to state that I called together representatives of leading financial houses, a number of whom in past years were active in the issuance of the Mexican government's external obligations; and I laid before them, in confidence, your plan with reference to the outstanding Mexican government bonds.

The matter was discussed at length and it was agreed that it would be impossible to undertake such a plan as you proposed. I think you are familiar with the reasons that make this plan, from the point of view of the banks and banking houses, impracticable.

First: I would explain that the bankers hold exceedingly small amounts of these securities. At the time the external loans of the Mexican government were offered for subscription only a limited part of these loans was taken in this country. Moreover, an examination of the total amount of money which was remitted to this country to be used in paying interest in the year 1913—the last year in which full interest payments were made on the external loan bonds—indicates that the percentage of such loans owned in this country at that time was relatively small. The bonds were widely distributed to investors, and we are convinced that there are no concentrated holdings in this country. It would therefore be quite impossible to secure these bonds in any considerable blocks.

Second: the bankers whom I consulted felt that they might properly be criticized by their clients who look to them to protect their interests, if they made an attempt to secure such bonds at the present nominal market quotations, in view of the general conviction that such external loan bonds are entitled to be recognized in full at par and accrued interest, and that security was pledged to cover such payment which, even today, is probably in excess of the amount necessary to cover the complete debt service on these bonds. The fact is that, inasmuch as banking houses and banks have, in years past,

distributed these Mexican government obligations widely and have represented them as a sound investment, they have become, in effect, trustees for the many investors who, relying upon their judgment and recommendation, have put their savings into such securities.

While the foregoing represents the primary reason for the feeling on the part of the bankers that they are unjustified in recommending the sale by clients at the present levels, they also expressed the view that the floating supply of bonds at present prices was only nominal and that an attempt to secure bonds in large volume would be unsuccessful.

Again, if the oil companies should buy bonds with the intention of using them in paying their taxes, they would be confronted by the fact that the taxes in question are pledged, equally and proratably, for the payment of the interest and principal of almost all of these issues of external bonds, and other bondholders, those who have no taxes to pay but are interested in seeing the revenues applied without preference or priority, would doubtless object to this plan or method, since its result would be the absorption of the revenue and the retirement of certain specific bonds, leaving the others outstanding.

We now trust that it will be clear to you why—as a matter of good faith, chiefly, but of expediency as well, it is impossible for the leading financial houses and banks of this city and country to undertake the plan you have proposed to them. These bankers whom I consulted and who are largely represented upon the International Committee of Bankers on Mexico earnestly desire to co-operate in any way possible, and they wish, if possible, to be of service in assisting Mexico to a wise solution of some of her perplexing problems. It is in that spirit that I have been glad to accept the very gracious and flattering invitation that President Obregon's administration has extended to me; and to all of us it is a source of gratification, but not of surprise, to learn from you that you found all the members of the Mexican government with whom you came in contact frank and straightforward, reasonable and earnest in their endeavor for their country.

Sincerely yours,

812.51/660

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4400

MEXICO, October 8, 1921.

[Received October 15.]

SIR: I have the honor to report the arrival at Mexico City on the fifth instant of Mr. Thomas W. Lamont, Alternate Chairman of the International Committee of Bankers on Mexico. I understand that

Mr. Lamont has the proxies of the British and French Sections of the Committee and is therefore able to represent all Sections of the Committee in his discussion of the matter of Mexico's external indebtedness with the Mexican authorities. Mr. Lamont has stated confidentially that such a discussion may lead to wider matters such as the whole Mexican financial situation and what way, if at all, the investment world can be of real assistance to it, and that he will try to make very clear to the Mexican authorities that there is an earnest desire on the part of the Committee to be of service to Mexico.

Mr. Lamont has had two conferences with Mr. de la Huerta, the Mexican Secretary of the Treasury, and has been received by General Obregon. No statements have been made as to the progress of the discussions.

I have [etc.]

GEORGE T. SUMMERLIN

812.51/661 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, October 21, 1921—5 p.m.

[Received 10:35 p.m.]

196. Lamont reports failure of negotiations due to Government's insistence on attempting to carry out bond purchase clause of oil agreement. However, door is left open for resumption of negotiations on sound basis when Mexican authorities appreciate that bond purchase proposal is not workable.

SUMMERLIN

812.51/687

The Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Secretary of State

NEW YORK, December 5, 1921.

[Received December 6.]

MY DEAR MR. SECRETARY: This is to confirm a telegram which I sent you on December 2nd, as follows:

"For your confidential information, we learn from Committee of Oil Executives that on December 1st they notified Minister of Finance de la Huerta at Mexico City that they would be unable to carry out bond purchase clause of their agreement and that therefore they would be prepared to pay on December 25th in cash accrued taxes due at that time to Mexican Government.

"Since my return from Mexico City I have maintained contact with Minister de la Huerta and we have now developed situation to point where International Committee of Bankers on Mexico has suggested to De la Huerta the advisability of his carrying out the suggestion he himself made of proceeding to New York for further conferences on the matter of arranging to meet his government's external indebtedness."

I may say further that the Oil Executives have suggested to the Minister of Finance a further extension of their agreement for ninety days or six months, in order to afford adequate time and opportunity for the settlement of all outstanding matters.

I am [etc.]

T. W. LAMONT

812.51/692

The Alternate Chairman of the International Committee of Bankers on Mexico (T. W. Lamont) to the Secretary of State

NEW YORK, December 23, 1921.

[Received December 24.]

DEAR MR. SECRETARY: Supplementing my latest communications to you in reference to the status of the International Committee's negotiations with Minister of Finance de la Huerta, I may say that the Committee has maintained contact with Minister de la Huerta and has had intermittent communications with him by cable to the end of ascertaining whether any plan could be devised under which, with full knowledge and consent of all bondholders, Clause Six of the so-called Oil Agreement (embodying the bond purchase clause) could be handled to the satisfaction of the Mexican Government. The exchanges are still continuing on this point without, as yet, any definite outcome whatsoever.

Meanwhile, however, Minister de la Huerta has extended, we are informed, until January 25th next, his agreement with the Oil Executives which expired on December 25th. He has made this extension in order to afford time for further negotiations and meanwhile the Oil Executives are not pledged to pay accrued taxes. The Associated Press dispatch crediting President Obregon with stating that no postponement had been made in the matter of taxes is incorrect.

In looking through our files we seem never to have received an acknowledgment to my letter of November 10th.²⁴

I am [etc.]

T. W. LAMONT

²⁴ Letter of Nov. 10 not found in Department files.

812.51/693 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, December 27, 1921—5 p.m.

[Received 9:19 p.m.]

215. Eduardo Iturbide left for New York last night as Obregon's representative to resume the financial discussions initiated with Lamont last October. Iturbide informed me that he has very full powers.

SUMMERLIN

PROPOSALS LOOKING TOWARD THE ESTABLISHMENT OF A MIXED
CLAIMS COMMISSION ²⁵

411.12/2½

The Mexican Embassy to the Department of State[Translation ²⁶]

The Department of Foreign Affairs of Mexico has telegraphed to its Embassy at this capital that the Government of the United Mexican States is ready to enter immediately into arrangements with foreign governments for the purpose of allowing *ex gratia* indemnities to their nationals who may have suffered by reason of the revolutions that have occurred in Mexico since the year 1910. For that purpose the Citizen President of the Republic, on the strength of article 5 of the decree of May 16 [10], 1913,²⁷ issued in the city of Monclova, Coahuila, by the then First Chief of the Constitutionalist Army, Don Venustiano Carranza, and of revised article 13 of the law of December 24, 1917,²⁸ which created the claims commission, has seen fit to order that the Department of Foreign Affairs extend respectful invitations to the governments of every one of the countries whose nationals may have suffered damages through the revolution, in order that steps may be taken in common accord to establish permanent mixed commissions which shall respectively take cognizance of the claims of their nationals either because these have refused to accept the decisions of the claims commission created by the aforesaid decree of December 24, or because they preferred their claims to be taken from the beginning before their own permanent mixed commission. To that end the same Department of Foreign Affairs has been empowered to conclude, entirely on the lines of the

²⁵ Continued from *Foreign Relations*, 1920, vol. III, pp. 236-241.

²⁶ File translation revised.

²⁷ *Foreign Relations*, 1913, p. 955.

²⁸ Apparently refers to art. 13 of the decree of Aug. 30, 1919 (*ibid.*, 1919, vol. II, p. 640), which revised that of November (not December) 24, 1917 (*ibid.*, 1918, p. 793).

principles of international law accepted in such cases, the necessary conventions.

In order to carry out this order of the President of the Republic, who is actuated by the desire of governing his conduct by the precepts of international law, the Embassy of Mexico, in compliance with instructions it has received to that effect, has the honor to extend a cordial invitation to the Government of the United States, through the Department of State, to appoint a mixed commission which may, as above indicated, pass upon the damages that may have been suffered by its nationals residing in Mexico. In so doing, the Embassy, in the most respectful manner, begs the Department of State kindly to communicate to it, after this invitation shall have received consideration, the decision which the Government of the United States may see fit to reach in regard thereto.

The Embassy of Mexico gladly avails itself of this opportunity to offer once more to the Department of State the assurances of its most distinguished consideration.

WASHINGTON, *July 13, 1921.*

411.12/2¼ : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

[Paraphrase]

MEXICO, *October 8, 1921—noon.*

[Received 5:45 p.m.]

190. Embassy's telegram dated October 4, 5 p.m.²⁹ Señor Pani³⁰ came to see me early today and inquired whether Department intended to make reply to invitation of July last for entering into agreement relative to mixed claims convention. Pani stated that above inquiry will open the road for a resumption of negotiations.

SUMMERLIN

411.12/2¼ : Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

[Paraphrase]

WASHINGTON, *October 11, 1921—11 a.m.*

132. Embassy's telegrams no. 190, dated October 8, noon, and no. 189 October 4, 5 p.m.³¹ The Department is now studying decision of Supreme Court³² received several days ago, and additional

²⁹ Not printed.

³⁰ Alberto J. Pani, Mexican Secretary of Foreign Affairs.

³¹ The latter not printed.

³² Decision of the Mexican Supreme Court, Aug. 30, 1921, in the *amparo* case of the Texas Co. of Mexico, pp. 461 ff.

instructions will be forwarded shortly. Any suggestions which Señor Pani desires to make will be gladly received by Department.

HUGHES

412.11/458

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4592

MEXICO, November 21, 1921.

[Received November 28.]

SIR: In confirmation of the Embassy's telegram No. 205, November 20, 5 p.m.,³³ I have the honor to enclose herewith copy and translation of an undated Memorandum received from Mr. Pani on the evening of November 19th. I am enclosing, also, copies and translations of the two "Tentative Proposals", mentioned in the Memorandum as Annexes 1 and 2, respectively.

In view of the importance of this matter and of Mr. Pani's desire to have it brought before the attention of the Department as soon as possible, I ventured to cable a full summary of the Memorandum.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure—Translation ³⁴]

The Mexican Secretary of Foreign Affairs (Pani) to the American Chargé (Summerlin)

In a message read before the Congress on the 1st day of September of this year, the President of the Republic spoke as follows in discussing the state of the relations between Mexico and the United States:

"Our Government is concerned as much as that of the United States with the protection of American interests in Mexico, since this protection is one of its most urgent duties toward that great country, not only because of the material bonds which their geographical position necessarily creates, but also owing to those moral bonds—even stronger—of our sympathy with its democratic institutions and the noble qualities of its people. The two Governments, then, are in accord in this aim, and the Government of Mexico, with a view to cooperating more effectively in its realization, that is, in order that this realization may take a form such as may strengthen the prestige of the Mexican Government, and enable it better to fulfill the duty of protection referred to above, and be at the same time the basis of closer future relations between the two countries, has preferred to eliminate, by the natural development of its political and administrative policy, the occasion for promises which might

³³ Not printed.

³⁴ File translation revised.

humiliate it, and it proposes to follow this course until the field appears sufficiently free of obstacles to permit its being recognized without prejudice to its national dignity and sovereignty, and to be able, later, under equal conditions, to conclude and celebrate such treaties as it may deem necessary for the greatest cordiality in the resumed diplomatic relations between the two countries."

The foregoing statement, made before the legislative power, has all the validity of an obligation solemnly contracted with the people of the Republic, and is the expression of a policy carefully weighed with regard both to its necessity and its consequences, or, in other words, the expression of all that the Government of Mexico can do in regard to this matter.

As a result of the foregoing statements, and in accord also, as the Government of Mexico believes, with the essential attitude of the United States (the requirement that Mexico give sufficient guarantees of its good will and of its ability to safeguard the legitimate interests of North American enterprises and citizens in Mexico), the first step which the Governments of the two countries could take would consist in concluding, in accordance with the proposal which the Government of Mexico previously made to the Government of the United States, a convention (annex: draft number 1, relative to the special convention regarding claims for damages caused to American interests in the Mexican revolution) by virtue whereof a mixed commission would be created to examine and decide the claims which the United States may have to make against the Mexican Republic by reason of the damages caused to North American citizens during the revolution. This convention would not be reciprocal in character, but would be destined—and the Government of Mexico, disregarding conventional customs and scruples, frankly so declares—solely to make restitution for damages caused in Mexico to North American interests, and as greater proofs of the good will of the Government of Mexico and of its desire to satisfy all just demands, the claims will not be settled in accordance with the principles of international law, but—and this is a criterion ampler and more favorable to the claimants—in a simple spirit of equity.

Upon concluding this convention, which is embraced in the salutary political program of the Government of Mexico, since it has invited all countries whose nationals have suffered injuries since 1910 to conclude similar conventions which would tend to remove the difficulties which recently have arisen as an obstacle to good relations, the Government of Mexico would be implicitly recognized by the Government of the United States, and, relations being thus reestablished without impairment to the dignity and sovereignty of Mexico, the Government of the latter country would find itself enabled to develop the policy enunciated by the President in the tran-

scribed portion of his message, namely, to take the steps which the highest cordiality in the said relations will require.

The first step embraced in this policy—the most favorable doubtless to North American interests, since it is the most just, frank, and effective—would be to conclude another convention (annex: draft number 2, relative to the general claims convention) which would establish a mixed commission to decide pending claims of either country with regard to the other, for acts which have taken place from the signing of the convention of July 4, 1868,³⁵ to date, such subjects being excluded from the jurisdiction of the special convention first named. The effect of the second convention, in solving all the difficulties which have arisen between the two countries in the past, would be to clear the way of obstacles, to the end that Mexico and the United States might attain a closer relationship in the future than that which has been possible heretofore.

If this plan merit the approval of the Department of State of the United States, the Government of Mexico would take the initiative by referring to the note already presented to the United States, not yet answered, in order to proceed with the nomination of a mixed commission on claims for damages suffered during the revolution.

[Annex 1—Translation ^{35a}]

Draft of Special Convention between the United States of America and Mexico on Claims for Damages Caused to American Interests during the Mexican Revolution

The United States of North America and the United Mexican States, desiring to adjust and settle amicably all pecuniary claims growing out of the damages suffered by American citizens in Mexican territory by revolutionary acts during the period from November 20, 1910, to May 31, 1920, have resolved to enter into a convention with this object, and to this end have nominated as their plenipotentiaries:

The President of the United States:

.

The President of Mexico:

.

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon the following articles:

³⁵ Malloy, *Treaties*, vol. I, p. 1128.

^{35a} File translation revised.

ARTICLE 1. All claims against Mexico which may arise from damages caused, whether to corporations, companies, or persons of North American nationality, during the revolutions which have occurred in Mexico from November 20, 1910, to May 31, 1920, and which have been presented to the United States for its mediation with Mexico, shall be submitted to a commission composed of three members, one of whom shall be nominated by the President of the United States, another by the President of Mexico, and the third, who shall preside over the commission, by mutual agreement of both Governments. If the two Governments should not be able to agree on the nomination of the third member in the course of the two months following the exchange of ratifications, he shall then be designated by the Court of Arbitration at The Hague. In the case of the death, absence, or incapacity of any member of the commission, or in the event that a member fails to act and ceases to function, the same method followed in his nomination shall be observed in filling the vacancy.

ARTICLE 2. The commissioners so nominated shall meet in Mexico within the six months following the exchange of ratifications of this convention, and each member of the commission, before beginning his labors, shall make and subscribe a solemn declaration that he will carefully examine and impartially decide, in accordance with the principles of equity, all claims presented, since it is Mexico's desire that its responsibility be not fixed according to the general principles of international law, but in accordance with the point of view of magnanimity, it being sufficient that the damage alleged exists and that it arose from causes stated in article 3 for Mexico to feel morally obliged to make indemnification.

The declaration in reference shall be entered in the record of the proceedings of the commission.

The commission may fix the time and place of its subsequent meetings, according to its convenience, but always subject to the special instructions of both Governments.

ARTICLE 3. The claims to be tried by this commission are those arising from acts of revolutionary forces between November 20, 1910, and May 31, 1920, that is to say:

1. By revolutionary forces upon the triumph of whose cause Governments *de facto* or *de jure* have been established;
2. By forces brought into existence by the disbanding of the above-mentioned forces and before the Government *de jure* had established itself as the result of the said revolution;
3. By forces of the dissolved Federal Army; and
4. By surrections or acts of bandits, provided there be proved omission, lenity, or cause imputable to the authorities.

The commissioners shall adopt, as the standard in their proceedings, the rules established by the mixed commission created in 1869.

The contracting parties may nominate agents and commissioners authorized to submit to the commission, orally or in writing, all the reasons which they may deem pertinent in favor of or against the claims. In each case, only one agent or counsellor shall be permitted to make allegations for each Government. The decision of the majority of the members of the commission shall be the decision of the commission. Spanish shall be the language used in the proceedings.

ARTICLE 4. The commissioners shall keep an exact record of the subjects and cases submitted and correct minutes of their proceedings with the dates thereof. To this end, each one of the interested powers may nominate a secretary; these secretaries shall work jointly as secretaries attached to the commission and shall be subject to its instructions. The commission may also nominate and employ any other necessary functionaries to assist it in the discharge of its duties.

ARTICLE 5. As the Government of Mexico is desirous of arriving at an equitable adjustment of the claims of the citizens and corporations of the United States, and of granting them, in accordance therewith, just and adequate compensation for their damages, said Government hereby agrees that the commission shall not deny or reject any claim by application of the general principle of international law to the effect that, as a condition precedent to the validity of the claim, all legal expedients must have been exhausted.

It is stipulated, further, that no indemnification for damages to properties may exceed the value declared by the interested persons themselves for taxation purposes plus ten percent as coefficient of its true value, and that the indemnifications for personal damages shall not exceed those conceded by the most favorable law of the States of the American Union relating to accidents.

ARTICLE 6. All claims must be presented to the commissioners within the year following the date of their first meeting, unless in any case reasons satisfactory to the majority of the commissioners are adduced for the delay, and in such case the period for presentation of the claim may be prorogued for a period which shall not exceed three additional months.

The commissioners shall be obliged to examine each claim and to decide upon it within the five years following the date of their first meeting.

Beginning six months after the date of the first meeting of the commission, the commissioners must submit to the contracting Governments, every four months, reports showing in detail the labors

of the commission up to date, including a statement of the claims heard and decided.

ARTICLE 7. The contracting parties pledge themselves to consider as final and conclusive the decision of the commissioners on all claims adjudged by them, and to give full effect to such decisions. They agree, further, to consider the result of the proceedings of the commission as a complete, perfect, and final adjustment of all claims against the Government of Mexico arising from any of the causes stated in article 3 of the present convention; and they pledge themselves, further, that from and after the date of the termination of the proceedings of the commission, any of said claims may be considered and treated as completely adjusted, excluded, and therefore inadmissible, whether or not they have been presented to the jurisdiction of said commission, or made, proposed, or submitted to it.

ARTICLE 8. After the termination of the labors of the commission, the terms of payment of the indemnities decided in favor of American citizens shall be fixed by agreement between the two Governments, in accordance with the financial capacity of Mexico.

ARTICLE 9. Each Government shall pay its own commissioner and shall defray its own expenses. The expenses of the tribunal, including the salary of the third commissioner, shall be paid equally by both Governments.

ARTICLE 10. The present convention shall be ratified by the high contracting parties in accordance with their respective Constitutions. The ratifications of this convention shall be exchanged in , as soon as may be practicable, and this convention shall begin to take effect on the date of the exchange of the ratifications.

IN TESTIMONY WHEREOF, the respective plenipotentiaries have signed this convention and affixed thereto their seals.

DONE in duplicate, in , the day of , 1921.

[Annex 2—Translation ^{25b}]

Draft of General Claims Convention between the United States of America and Mexico

The United States of North America and the United Mexican States, desirous of arranging and adjusting amicably the pecuniary claims which the one may have against the other from the signing of the claims convention concluded between both countries on July

^{25b} File translation revised.

4, 1868, to date (without including herein the claims growing out of the late revolutions, which form the basis of another and different convention), have decided to conclude a convention with this object, and to this end have nominated as their plenipotentiaries:

The President of the United States:

. and

The President of Mexico:

Who, after having communicated to each other their respective full powers, found to be in good and proper form, have agreed upon the following articles:

ARTICLE 1. All claims against Mexico, except those arising from acts of the late revolutions, of nationals of the United States, whether corporations, companies, or persons, for pecuniary losses or damages caused to persons or properties in Mexico, and all claims against the United States of North America of nationals of Mexico, whether corporations, companies, or persons, for pecuniary losses or damages caused to persons or properties in the United States, which have been presented to either country for its mediation with the other, from the signing of the convention on claims entered into between both countries on July 4, 1868, and which may be pending, as well as any other similar claims which may be presented within the period specified hereinbelow, shall be submitted to a commission composed of three members, one of whom shall be nominated by the President of the United States, another by the President of Mexico, and the third, who shall preside over the commission, by mutual agreement of both Governments. If the two Governments should not be able to agree on the nomination of the third member in the course of the two months following the exchange of ratifications, he shall then be designated by the Court of Arbitration at The Hague. In case of the death, absence, or incapacity of any member of the commission, or in the event that a member fails to act or ceases to function, the same method followed in his nomination shall be observed in filling the vacancy.

ARTICLE 2. The commissioners so nominated shall meet in Washington or in Mexico within the six months following the exchange of ratifications of this convention, and each member of the commission, before entering upon his labors, shall make and subscribe a solemn declaration that he will carefully examine and impartially decide, according to his true knowledge and understanding, and conformably with the principles of public law, justice, or equity, all

claims presented for decision; and said declaration shall be entered in the record of the proceedings of the commission.

The commission may fix the time and place of its subsequent meetings according to its convenience, being always subject to the special instructions of both Governments.

ARTICLE 3. The commissioners shall adopt as the standard in their proceedings, in general, the rules established by the mixed commission created in 1869. The contracting parties may nominate agents and commissioners who will be authorized to present to the commission, orally or in writing, all the reasons which they may deem pertinent in support or defense of the claims. In each case, as has been said, only one agent or counsellor for each Government may make allegations. The decision of the majority of the members of the commission shall be the decision of the commission. The language used in the proceedings shall be English or Spanish.

ARTICLE 4. The commissioners shall keep an exact record of the subjects and cases submitted and correct minutes of their proceedings with the dates thereof. To this end each of the interested powers may nominate a secretary, and these secretaries shall work conjointly as secretaries attached to the commission and shall be subject to its instructions. The commission also may nominate and employ any other necessary functionaries to assist it in the discharge of its duties.

ARTICLE 5. The high contracting parties, being desirous of arriving at an equitable settlement of the claims of their respective nationals, and thereby to grant to them just and adequate compensation for their damages, hereby agree that the commission shall not deny or reject any claim by the application of the general principle of international law to the effect that, as a condition precedent to the validity of the claim, all legal expedients must be exhausted.

ARTICLE 6. All claims must be presented to the commissioners within the year following the date of their first meeting, unless, in any case, reasons that are satisfactory to the majority of the commissioners are adduced for delay, and in such case the period for presentation of the claim shall be prorogued for a period not to exceed three additional months.

The commissioners shall be obliged to examine each claim and to decide upon it within the five years following the date of their first meeting.

Beginning six months after the date of the first meeting of the commission, the commissioners must submit to the contracting Governments, every four months, reports showing in detail the labors

of the commission, up to date, including a statement of the claims heard and those decided.

ARTICLE 7. The contracting parties pledge themselves to consider as final and conclusive the decision of the commissioners on all claims adjudged by them, and to give full effect to such decisions. They agree, further, to consider the result of the proceedings of the commission as a complete, perfect, and final adjustment in respect of all claims against either of the two Governments arising from any event prior to the date of the exchange of ratifications of the present convention; and they pledge themselves, further, that from and after the termination of the proceedings of the commission, any of said claims may be considered and treated as completely adjusted, excluded, and therefore inadmissible, whether or not they have been submitted to the jurisdiction of said commission, or made, proposed, or presented to it.

ARTICLE 8. After the termination of the labors of the commission, the total sum adjudged in all the cases decided in favor of the nationals of one party shall be deducted from the total amount adjudged to the nationals of the other party, and the balance shall be paid in the city of Mexico or in the city of Washington, in gold or the equivalent thereof, to the Government in favor of whose nationals the larger amount may have been adjudicated, without interest or any other deduction except that specified in article 9 of the present convention.

The terms of payment shall be fixed by agreement between the two Governments, when the balance is known, and in accordance with the financial capacity of the country which proves to be debtor.

ARTICLE 9. Each Government shall pay its own commissioner and shall defray its own expenses. The expenses of the tribunal, including the salary of the third commissioner, shall be paid by means of a deduction proportionate to the total of the sum adjudicated by each Government, at the rate of five percent on said sums, or less, according as the two Governments may agree. The remainder, if any, shall be paid equally by the two Governments.

ARTICLE 10. The present convention shall be ratified by the high contracting parties in accordance with their respective Constitutions. The ratifications of this convention shall be exchanged in _____, as soon as may be practicable, and this convention shall begin to take effect on the date of the exchange of such ratifications.

IN TESTIMONY WHEREOF, the respective plenipotentiaries have signed and affixed their seals to this convention.

DONE in duplicate, in _____, the _____ day of _____, 1921.

PROPOSALS FOR REGULATING THE DISTRIBUTION OF THE
WATERS OF THE COLORADO RIVER

711.1216M/493

The Secretary of State to the Secretary of the Interior (Fall)

WASHINGTON, August 2, 1921.

SIR: I have received your letter of June 27, 1921,⁸⁶ with which you forward copies of Senate Bill 1853 and "H.R. 6877", being bills relative to a proposed arrangement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming respecting the disposition and utilization of the waters of the Colorado River. You state that you thought it proper, in view of the international situation, to call my attention to these bills.

The Senate Bill provides for the creation of a Commission to be composed of Representatives of the States mentioned and a Representative of the United States, appointed by the President, and to be authorized and constituted for the purpose of negotiating and entering into an arrangement, compact or agreement "between the said States and the United States" on the subject mentioned.

The House Bill provides that the consent of Congress shall be given to the States mentioned "to negotiate and enter into a compact or agreement" to the end mentioned, provided that a person appointed by the President shall participate in the negotiations as a representative of and for the protection of the interests of the United States, who shall make a report to Congress of the proceedings had and of the agreement entered into.

Each bill provides that the compact or agreement entered into shall not be binding or obligatory upon any of the parties unless or until it shall have been approved by the Legislature of each of the said States and by Congress.

I observe that you state that you have advised the Chairman of the House Committee on Judiciary that you have no objection to the enactment of the House Bill and that you have informed the Chairman of the Senate Committee on Irrigation and Reclamation that the House Bill avoids objections which have been raised to certain features of the Senate Bill and that for this reason you recommended that the Senate Bill be amended to conform to the provisions of the House Bill.

While pointing out that no request has come from Congress for this Department's views concerning either of these Bills, I may

⁸⁶ Not printed.

observe that since they seem merely to lay the foundation for negotiations with a view to the conclusion of an agreement which to be binding must be approved by Congress, and inasmuch as a representative of the United States is to be included among the negotiators, I see no reason at this time, from the standpoint of international relations, to object to the measures.

Thanking you for your courtesy in calling the matter to my attention,

I have [etc.]

For the Secretary of State:

HENRY P. FLETCHER

Under Secretary

711.1216M/497

The Mexican Embassy to the Department of State

[Translation *]

At a meeting held on the 17th of March, 1920, at the Trinity Auditorium in Los Angeles, California, by the Chamber of Commerce of that city, and attended by representatives of the so-called League of the Southwest of the United States, Their Excellencies the Governors of the States of Arizona, California, Colorado, Idaho, Oklahoma, Wyoming, and also some high representatives of banking, commerce, and politics, and the Honorable the President of the Senate of the United States, it was unanimously resolved to support five motions, one of which was that the Government of this country should come to an agreement with that of Mexico to have them both contribute equitably to the expenses that will be involved in the utilization of the waters of the Colorado River for irrigation purposes and motive power. The Chamber of Commerce of Los Angeles communicated in advance to the Government of the Northern District of Lower California, the desire to have the interests of Mexico represented by Mexican delegates; and in compliance with that desire, in an informal manner—owing to the fact that, the question being one of international interest, the invitation should not have been extended through the Government of that district—the said meeting was attended by an agent of that district and the chief engineer of the Mexican Colorado River Irrigation Commission.

As soon as the Mexican authorities concerned heard of the foregoing, the Secretary of the Embassy of Mexico, in compliance with instructions which had been sent to that effect, applied in person on two different occasions (the 14th of November, 1920, and the 3rd of March, 1921), to the Chief of the Division of Mexican Affairs of

* File translation revised.

the Department of State and communicated the foregoing to him orally with the request that with respect to the treaties in force, and considering that Mexico holds, in the distribution and the utilization of the waters of the Colorado River, rights in common with the United States, the rights of Mexico be given due consideration in any future conferences or agreements, in reply to which the Chief of the Division, also orally and in his personal capacity, said to the Secretary of the Embassy, first (on November 14), that the Department of State had no official knowledge of the meeting above referred to having been held, and later (on the 3rd of March), when the Secretary gave him further particulars about that meeting, that the Department would in due course acquaint the proper Mexican authorities with the steps that might be taken in the future and which might affect the rights held in common by Mexico and the United States over the waters of the Colorado River.

Later, the Embassy heard that in June 1921, on the initiative of one of the Honorable Representatives from the State of Wyoming, there was introduced in the House of Representatives of the United States a bill which affected the interests considered at the meeting held in Los Angeles, California, and ultimately, that the Congress of this country on August 19, 1921,³⁸ passed an act "authorizing an agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, relative to the disposal of the waters of the Colorado River"³⁹

Inasmuch as the rights of Mexico were not taken into consideration therein, the Embassy of Mexico, confirming in this formal manner the representations heretofore made orally by its Secretary, has the honor to apply to the Department of State and to ask that Mexico be duly represented and given consideration as a party in the studies and projects that may be undertaken or the arrangements that may be made concerning the distribution and utilization of the waters of the Colorado River, in view of the fact that the questions relative to that river, apart from involving serious phases of a technical nature, are essentially of international policy, for as long as Mexico and the United States shall not have framed a final agreement definitely stating the rights and obligations with respect to the conservation of the stream of the river, the utilization of its waters as a way of communication, its use for irrigation purposes and motive power, and the manner of protecting the land of both countries from the danger of flood, neither party can particularly put into practice any project whatsoever, without a breach of the existing international treaties.

³⁸ Act approved by the President Aug. 19, 1921; for text, see 42 Stat. 171.

³⁹ Omission indicated in the Embassy's note.

On this occasion the Embassy of Mexico takes pleasure in renewing to the Department of State the assurances of its most distinguished consideration.

WASHINGTON, *October 15, 1921.*

711.1216M/498

The Mexican Embassy to the Department of State

[Translation ⁴⁹]

On Saturday last—the 22d of this month—the Embassy heard that on the 27th there would be held at this capital a conference that was to pass upon the pending questions relative to the distribution and use of the waters of the Colorado River, and the Secretary of the Legation immediately hastened to make the information known, by telephone, to the Chief of the Division of Mexican Affairs of the Department of State, begging him, if the information were correct, to see that the legitimate rights of Mexico in the settlement of those questions be borne in mind. The Chief of the Division of Mexican Affairs kindly told the Secretary of the Embassy, by telephone also, that he had no knowledge that the above-mentioned conference was to be held but would make inquiries on the subject and would communicate in good time all pertinent information.

Later, the Embassy of Mexico heard that a conference of representatives of seven States and of the Government of the United States of North America was about to meet somewhere in the West of this country, to discuss and propose the storage and distribution among those States of the waters of the said Colorado River and of the power that might be derived from them.

In the short space of time available to the Embassy it could not ascertain whether through some error of one of its informants the report it had received related to one and the same conference or whether there were actually to be two conferences, one in this capital and the other somewhere in the West; but in either case the Embassy, under instructions of an urgent character which it has received to that effect, has the honor to have recourse to the Department of State to the end that, in consideration of the fact that Mexico holds interests and rights that are established beyond question over part of the waters of the Colorado River, by virtue of the original boundary treaties and of the actual use it makes of those waters on a very large scale, Mexico be allowed to take in the said conference or conferences the part that belongs to it by right. In doing so, the Embassy of Mexico ventures to bring to the special

⁴⁹ File translation revised.

notice of the Department of State that the greater part of the land benefited by the waters of the river is owned by American companies or citizens, to whom it is the Mexican Government's duty and desire to extend, as demanded by the treaties and the invariable sentiments of equity and courtesy that have ever animated it, the same protection as it accords to the national companies and citizens of the Republic.

The Embassy feels sure that this request will be given the proper favorable attention and respectfully asks the Department of State kindly to furnish it as promptly as may be necessary with full information as to the place or places where the conference or conferences above referred to will be held, the date, and any other pertinent information.

On this occasion, the Embassy of Mexico takes pleasure in renewing to the Department of State the assurances of its most distinguished consideration.

WASHINGTON, *October 24, 1921.*

711.1216M/498

Memorandum by the Acting Chief of the Division of Mexican Affairs, Department of State (Hanna)

[WASHINGTON,] *October 24, 1921.*

I advised Mr. Téllez by telephone today that such a conference as is referred to herein ⁴¹ is contemplated, but that it probably will not meet before about December 1 next, and that I understand that it will treat of domestic matters only. I added that the matter has been referred to the appropriate department for more particulars, and that he will be advised more fully at a subsequent time.

M[ATHEW] E. H[ANNA]

711.1216M/498

The First Secretary of the Mexican Embassy (Téllez) to the Acting Chief of the Division of Mexican Affairs, Department of State (Hanna)

[Translation]

WASHINGTON, *October 31, 1921.*

ESTEEMED MR. HANNA: With reference to information received at this Embassy, and which I communicated to your Department in *note verbale* of the 24th, I have just been informed that on the

⁴¹ Note from the Mexican Embassy to the Department of State, Oct. 24, 1921, *supra*.

22nd of this month a conference was held in this city at which were discussed problems relating to the distribution of the waters of the Colorado River, which was attended by His Excellency the Secretary of the Interior and representatives of the Western States of this country, and in which the delegation from the State of California submitted proposals, of extraordinary importance, to the consideration of the Assembly.

As Mexico naturally has great interest in everything connected with the above problems, I take the liberty kindly to request you, in case such conference did in fact take place, to be so good as to obtain, if possible, and furnish to me information which will enlighten this Embassy on the subjects which were discussed and acted upon in the said conference.

Be assured that I shall be duly grateful for the attention you are kind enough to give my request, and accept [etc.]

MANUEL C. TÉLLEZ

711.1216M/497

The Acting Chief of the Division of Mexican Affairs, Department of State (Hanna) to the First Secretary of the Mexican Embassy (Téllez)

The Acting Chief of the Division of Mexican Affairs, Department of State, presents his compliments to the First Secretary of the Mexican Embassy and, referring further to his two communications of October 15 and 24, 1921, on the subject of the distribution and utilization of the waters of the Colorado River, has the honor to inform him that the branch of this Government to which the communications in question were referred has now submitted a report in regard to the matter.

It appears from this report that the meeting referred to in the Embassy's communication of October 15, at which, it is stated, a Mexican citizen was invited to be present, probably was some meeting of interested parties not called by any official authority; and that the hearing which, according to the Embassy's communication was to have been held on October 27, in this city, doubtless refers to a hearing now pending which is to be held by the Secretary of the Interior at some point in California, probably San Diego, at a date in the latter part of November or early in December, to be hereafter definitely fixed.

The report adds that this proposed hearing is for the consideration of a report prepared and submitted under the provisions and direction of an Act of Congress approved May 18, 1920, "To provide for the examination and report upon conditions and possible

irrigation development of the Imperial Valley of California,"⁴² and that public notice will be given of it in due time.

The report makes reference to another Act of Congress which was approved on August 19, 1921, a copy of which is enclosed, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes," and discloses that the States mentioned in the Act have appointed delegates, or representatives, to serve on the Commission which the enactment provides for. The report adds that this Commission presumably will meet at some date in the future to consider the distribution of the mutual interests of each of such States in the waters of the Colorado River, but that it is believed the result of any such consideration will not affect Mexico in any way.

Finally, the report states that the object of appointing this Commission, on which a national representative appointed by the President of the United States will serve, is simply to provide some legislation which will obviate any further litigation between any two states concerning the use of an inter-state stream for irrigation or for other purposes.

Mr. Matthew E. Hanna embraces this opportunity to renew to Señor Don Manuel C. Téllez the assurances of his most distinguished consideration.

WASHINGTON, *November 9, 1921.*

711.1216M/502

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4648

MEXICO, *December 5, 1921.*

[Received December 20.]

SIR: With reference to the Department's No. 1860 of November 23, 1921,⁴³ I have the honor to report that *El Universal* of the third instant published an article to the effect that cotton-growers of Arizona and California are seeking by means of dams and impoundings altogether to deprive Mexicans of the waters of the Colorado River to which they are justly entitled pursuant to the Guadalupe Treaty signed in 1848.⁴⁴ The article added that the Department of Communications and Public Works had appointed Mr. Manuel Balarezo, Civil Engineer, to represent Mexico's interests at the conferences presently to be held in San Francisco, California.

⁴² 41 Stat. 600.

⁴³ Not printed.

⁴⁴ Treaty of Feb. 2, 1848; for text, see Malloy, *Treaties*, vol. I, p. 1107.

The local press of the fourth instant stated that the following committee has been appointed by General Obregón to attend the conference which is to be held at Riverside, California, and at which will be discussed the utilization of the waters of the Colorado River:

President, Engineer Federico Ramos,
Engineer Manuel Balarezo,
Engineer Javier Sánchez Mejerada.

It is stated further that the appointment of the commission has been communicated to the Secretary-Treasury of the League of the Southwest, in response to its telegram dated December second, in which the League announced its desire to accord due honors and hospitality to the Mexican Commission and requested information as to the number and names of its members, date of arrival, etc.

I have [etc.]

GEORGE T. SUMMERLIN

RELAXATION OF REGULATIONS GOVERNING TRAVEL BETWEEN THE UNITED STATES AND MEXICO FOR RESIDENTS IN A FORTY- MILE ZONE ON EITHER SIDE OF THE FRONTIER

811.111/33630 : Telegram

The Secretary of State to the Chargé in Mexico (Hanna)

WASHINGTON, May 19, 1921—6 p.m.

67. Department has under consideration advisability abolishing all passport requirements with respect to residents of 40-mile zones on border, so that persons who have resided in the 40-mile zone on either side of the Mexican border for more than a year prior to entrance into this country, except Russians and hostile aliens, upon satisfying United States authorities at ports of entry of such residence, may enter American border zone without passports or border cards, provided they are otherwise admissible. Proposed plan will be put into effect provided Mexican authorities along border are given corresponding instructions with respect to *bona fide* residents in 40-mile zone who may wish to cross into Mexican zone. No visas will be required under this arrangement.

Please take up informally with appropriate authorities, pointing out benefit that will result to border business intercourse, and request that the matter be given immediate consideration. Report results.

HUGHES

811.111/33709 : Telegram

*The Chargé in Mexico (Hanna) to the Secretary of State*MEXICO, *May 26, 1921—noon.*

[Received 9:45 p.m.]

107. Department's telegram 31 [67], May 19, 6 p.m. Foreign Office states that it agrees to plan in reference and will give instructions "to the end that persons desiring to cross into the Mexican zone shall only be required to sign a document issued by any municipal authority of the 40-mile zone on the American side in which it is stated the bearer has resided within the zone mentioned for at least 1 year prior to his entry into Mexico. Likewise persons residing within the 40-mile zone on the Mexican side shall in the same manner prove their residence before the American authorities."

The Foreign Office requests that it be given ample notice so that the plan may be inaugurated simultaneously in both countries.

HANNA

811.111/33709 : Telegram

*The Secretary of State to the Chargé in Mexico (Hanna)*WASHINGTON, *May 28, 1921—5 p.m.*

74. Your 107.

Mexican authorities appear to have misinterpreted Department's proposal, which eliminates all documentation with respect to persons who have resided in 40-mile zones for more than a year (except Russians and hostile aliens desiring to enter United States), it being necessary only for such residents, provided they are otherwise admissible, to satisfy port authorities of residence requirement prior to their passage from one zone to the other.

Take matter up again informally with appropriate authorities, and request them to consent to plan as originally presented, to be put into effect beginning June 15, pointing out that American municipal authorities on border are now issuing identifying documents, but that this practice is unsatisfactory.

HUGHES

811.111/33796: Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

MEXICO, June 11, 1921—5 p.m.

[Received June 12—3:12 a.m.]

137. Department's telegram 74, May 28, 5 p.m. The Foreign Office now proposes the following modification of plan to govern transactions [*transit*] between zones for all persons except Russians and hostile aliens:

That the Mexican Government will issue the necessary orders to immigration officers on the frontier to demand only of persons residing in the American zone who are unknown to such agents a letter, communication or proof issued by any municipal authority in the United States zone, stating that the bearer has resided in the zone mentioned for more than 1 year prior to his entrance into Mexico provided he is otherwise admissible, the purpose of such requirement being to facilitate transit; and that the American Government will issue like orders with respect to the Mexican zone. Residents of either zone known to the immigration officers of both countries may be admitted without presenting such letter, communication or proof provided they are otherwise admissible.

SUMMERLIN

811.111/33796: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

WASHINGTON, June 28, 1921—1 p.m.

95. Your 137, June 11.

Department is submitting to President for signature Executive Order reading in part as follows:⁴⁵

“On and after July 1, 1921, citizens of Mexico desiring to enter the United States through Mexican Border ports, may do so without presenting to the Control Officers at Border ports any travel document whatsoever, provided such persons have been residents of the forty mile border zone for a period of one year or more and are otherwise admissible; and that such persons are known to the United States Immigration Officials. If such persons are unknown to the United States Immigration Inspectors they will be required to present proof, satisfactory to the Immigration Officers, that they are *bona fide* residents of the forty mile zone.”

Order also provides that any alien domiciled in this country who visits 40 mile Border zone of Mexico, may return to this country within 6 months without passport. All other aliens, as well as Mex-

⁴⁵ The order was submitted to the President June 24, signed June 25, as no. 3505, and returned to the Department of State June 27 (received June 28). This telegram was drafted June 26.

icans residing without Border zone required to present visaed passports.

Advised Foreign Office informally that it is proposed to put above order into effect as soon as this Government receives definite assurances of reciprocal action by Mexico. Please report by telegraph.

HUGHES

812.111/142

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 4129

MEXICO, July 28, 1921.

[Received August 11.]

SIR: Supplementary to and in confirmation of the Embassy's telegram No. 163, dated July 28, 10 a.m.,⁴⁶ relative to the abolition of passport requirements in the forty mile zone on either side of the Mexican border, I have the honor to transmit herewith a copy and translation of Foreign Office informal unnumbered communication of the twenty-seventh instant transmitting the Executive Decree providing for such abolition, a copy and translation of which are also enclosed.

The Embassy communication of May 20, 1921, to which the Foreign Office note refers, contained the original plan in this connection proposed by the Department in its telegram No. 67, dated May 19, 6 p.m., but no reference was made by the Foreign Office to the proposed Executive Order referred to in the Department's telegram No. 95, dated June 28, 1 p.m., which appears not to extend the benefits of the order to certain classes of foreigners who were included in the original plan and to whom the Mexican decree extends the privilege of entering Mexico on the same terms as Americans.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure—Translation]

The Mexican Under Secretary of Foreign Affairs (Sáenz) to the American Chargé (Summerlin)

[MEXICO,] July 27, 1921.

MY DEAR MR. SUMMERLIN: I am pleased to inform you that the appropriate authorities have been furnished today with the decree of the Executive of the United Mexican States, the text of which I am pleased to send you herewith; I request you to communicate with the Government of the United States of America with the least

⁴⁶ Not printed.

possible delay to the end that it in turn may proceed to put into force the similar provisions in the terms agreed upon according to the courteous communication which you were good enough to address to this Department on May 20, 1921.

The appropriate Mexican consuls have been given telegraphic orders in the case to the end that they may comply with the provisions of the decree in reference. The Department of Government has also given instructions for the same purpose to the authorities depending upon it.

I am [etc.]

AARÓN SÁENZ

[Subenclosure—Translation]

Executive Decree of July 4, 1921, Abolishing Passport Requirements in the Forty-Mile Zone on Either Side of the United States-Mexican Border

ALVARO OBREGON, Constitutional President of the United Mexican States, to its inhabitants make known:

That by virtue of faculties conferred upon me by Fraction one of Article 89 of the Federal Constitution,⁴⁷ and

CONSIDERING;—That if the Government of the United States of America is courteously disposed to facilitate the entrance into its territory of Mexican citizens who desire to enter, without the necessity of presenting any form of documents for this purpose, provided that the Mexican citizens have resided for the period of a year or more in a forty mile zone along the frontier, it is just and international reciprocity demands that the Government of Mexico should extend equal facilities to the residents of the United States of America who desire in turn to enter the national territory, except only pernicious foreigners, and, therefore, I have seen fit to decree the following;—

ARTICLE 1.—After July 16 of the present year, citizens of the United States of America who desire to enter the United Mexican States through frontier cities, may do so without presenting to the Immigration Authorities any form of travel documents, provided that such persons have resided for a period of one year or more in a forty mile zone along the frontier, and are otherwise admissible, and moreover, that such persons are known to the immigration officials of the United Mexican States. Foreigners under the same circumstances, with the exception of pernicious foreigners, shall have the same privilege.

ARTICLE 2.—If the persons who desire to enter the national territory through frontier cities are unknown to the immigration inspec-

⁴⁷ *Foreign Relations*, 1917, p. 951.

tors of the United Mexican States, they will be required to present satisfactory proofs to the immigration authorities mentioned that they are *bona fide* residents of the forty mile zone along the frontier.

ARTICLE 3.—Any foreigner domiciled in the United Mexican States who visits the forty mile zone in the territory of the United States of America may return to Mexico without the necessity of a passport, provided that he does so within six months.

ARTICLE 4.—All other foreigners, as well as citizens of the United States of America, who reside outside of the zone mentioned, are required to present a passport duly visaed.

ARTICLE 5.—Articles 35, 36, 37, 38 and other similar provisions of the immigration inspection regulations, dated February 25, 1918, remain in force.

ACCORDINGLY, I order that this be printed, published, distributed and given due compliance.

Done in the National Palace of Mexico on the fourth day of the month of July of 1921.

NETHERLANDS

CONTINUED NEGOTIATIONS FOR AMERICAN PARTICIPATION IN EXPLOITING THE OIL FIELDS OF THE DUTCH EAST INDIES¹

856d.6363/38

The Minister in the Netherlands (Phillips) to the Secretary of State

No. 440

THE HAGUE, *January 31, 1921.*

[Received February 24.]

SIR: I have the honor to report that I have recently had occasion for a further conference with M. van Karnebeek, the Minister for Foreign Affairs, on the subject of the development of mineral oil in the Netherlands Indies, and more especially with regard to the negotiations which are being carried on between the Sinclair Consolidated Oil Corporation and the Bataafsche Oil Company for participation in the so-called Djambi Concessions.

I informed M. van Karnebeek that, at the suggestion of the Foreign Office several months ago, I had come in touch with the Minister of the Colonies and had discussed in detail with M. de Graaff the participation of American capital in the projected development of the Djambi fields; that M. de Graaff had pointed out that the Government had already committed itself to the Bataafsche as the Government's agent in this work, but that it was possible for American capital to reach an agreement directly with the Bataafsche and in this way participate in the enterprise. I pointed out to His Excellency that I had gained the impression in my interviews with the Minister of the Colonies that the latter was inclined to favor the combination of American and Dutch capital and that he had gone so far as to express to me his willingness to advise the Bataafsche to reach an agreement with American capital. Thereupon I read to His Excellency the following extracts from my despatches to the Department:

Despatch No. 325, October 20, 1920.²

"I think, however, that he himself (the Minister of the Colonies) is in favor of the Bataafsche Company reaching a working arrangement with the Sinclair Consolidated Oil Corporation and that it is likely he will use his influence privately to this effect."

¹ For previous correspondence concerning petroleum exploitation in the Dutch East Indies, see *Foreign Relations*, 1920, vol. III, pp. 260 ff.

² Not printed.

Telegram No. 272, October 20, 10 AM, [11 a.m.?] 1920.³

"My definite impression is that the solution to problem of participation of American capital with the Bataafsche might yet be discovered, for the question was still open."

Despatch No. 313, October 7, 1920.^{3a}

"He (the Minister of the Colonies) saw no objection to American capital reaching an agreement if it could with the Bataafsche concern and in this way becoming a part of the development of the Djambi fields. I asked him whether he would urge the Bataafsche to include American capital if it made application to participate. He promised me that he would do so and furthermore that he would have a conference with the Bataafsche company within a few days and would recommend such action."

I told M. van Karnebeek that I had recently seen in the Press that the Senate of the United States had called for the correspondence between the American Government and foreign Governments on the subject of mineral oils and reminded him that the Department had recently requested permission to publish the correspondence between the Dutch Government regarding the oil situation in the Netherlands; that, in the circumstances, I felt it was very important for me to know now whether my reports regarding the attitude of the Minister of the Colonies towards American participation represented the attitude of the Dutch Government. I asked whether I had exaggerated in any way the views of the Colonial Department and, if not, whether they were in fact the views of the Ministry for Foreign Affairs. M. van Karnebeek took notes of the phraseology which I had used in my despatches to the Department above referred to, and promised at once to consult with his Colleague, the Minister of the Colonies.

To-day, M. van Karnebeek advises me that he has had a conference with his Colleague of the Colonial Department and that he read to him the words which I had employed; that I had not exaggerated the favorable attitude of the Colonial Department, and that, moreover, my reports represented the attitude of the Dutch Government. M. van Karnebeek, however, referred to a meeting in London between Mr. Sinclair, of the Sinclair Consolidated Oil Corporation, and Mr. Colijn, of the Bataafsche Company, which had not been wholly satisfactory and at which no agreement seemed to have been reached between the interested parties.

. . . [This situation] illustrates the difficulty of the task of American diplomatic officers in matters of this kind when the representa-

³ *Foreign Relations*, 1920, vol. III, p. 283; the quotation here printed is a paraphrase.

^{3a} Not printed.

tives of American business concerned fail at the last moment to take advantage of the favorable situation which has been created for them through the efforts of the American Government.

I have [etc.]

WILLIAM PHILLIPS

800.6363/223

The Netherland Chargé (De Beaufort) to the Secretary of State

No. 193

WASHINGTON, February 2, 1921.

MY DEAR MR. SECRETARY: I have the honour to advert to the note from the Acting Secretary of State dated November 2nd⁴ regarding the operation of the Netherland East India Mining Laws, the contents of which I have not failed to bring to the knowledge of my Government.

With respect to this matter I take the liberty to refer to a letter from the Netherland Foreign Minister to the United States Minister at The Hague dated December 2nd copy of which is enclosed herewith.⁵

Referring to the report made under date of May 14th, 1920 by the Department of State to the Senate⁶ in response to the Senate Resolution 331, where amongst others it is stated, that American Companies have endeavored for many years without success to secure leases in the Netherland East Indies, I have the honour to inform you that my Government has advised me that by Decisions of the Governor General of the Netherland East Indies dated September 4th, 1920 the following mine concessions have been granted the "Koloniale Petroleum Maatschappy" a daughter company of the Standard Oil Company of New Jersey t.w. Sadjan, Koetei IV, Koetei VI, Koetei VIII, Soengei Pinang, Batoe Betak I and Sekoerau, the first four mentioned for the mining of oil and the last three mentioned for the mining of coal.

I may add that the extra supplement of the *Javasche Courant* (the official paper in the Netherland East Indies) contains the publication of these concessions.

I will be very much obliged if the above could be communicated to the Department which is charged with the administration of the General Leasing Laws of February 25th, 1920.⁷

I have [etc.]

W. DE BEAUFORT

⁴ *Foreign Relations*, 1920, vol. III, p. 284.

⁵ *Ibid.*, p. 289.

⁶ *Ibid.*, vol. I, p. 351.

⁷ 41 Stat. 437.

856d.6363/71 : Telegram

*The Minister in the Netherlands (Phillips) to the Secretary of State*THE HAGUE, *March 8, 1921—6 p.m.*

[Received March 8—5:13 p.m.]

20. For Department of Commerce and Labor [*sic*].

[“] Dutch owners valuable Siak oil lands concessions Sumatra wish American Standard Oil Company officials come to confer secretly, preferably Brussels. They say new Governor General of Indies interested, promises aid. Opportunity for American capital combine with owners and prominent Dutch bank to organize new independent Dutch oil company. Advise American interests cable. Can act as intermediary. Mailing details pouch tomorrow.

Suggested Djambi concessions may be split. Parliament beginning consideration soon. Quick action necessary. Johnston.^s”

PHILLIPS

856d.6363/38 : Telegram

*The Secretary of State to the Minister in the Netherlands (Phillips)*WASHINGTON, *March 9, 1921—5 p.m.*

13. Your despatch No. 440, January 31, 1921. Archibald Roosevelt representing Sinclair has informed Department of the general terms of an offer that Sinclair has telegraphed Van der Woude^o relative to participation in Djambi concession. Mail full report of any further negotiations and telegraph if urgent.

HUGHES

800.6363/223

*The Secretary of State to the Netherland Chargé (De Beaufort)*WASHINGTON, *March 14, 1921.*

SIR: I have the honor to advert to your note of February 2, 1921, in which you refer to a statement made in the report of May 14, 1920, by the Department of State to the President, transmitted by the President to the Senate on May 17, 1920, to the effect that Ameri-

^o Coldwell S. Johnston, acting commercial attaché at The Hague.

^s Representative of the Sinclair Consolidated Oil Corporation of New York.

can companies have endeavored for many years without success to obtain oil rights in the Netherlands East Indies. You stated in your note that seven mining concessions in the Netherlands East Indies were granted on September 4, 1920, to the Koloniale Petroleum Maatschappy, a Netherlands corporation in which the Standard Oil Company of New Jersey is interested.

A copy of your note of February 2, 1921, was, as stated in my note of February 8th,¹⁰ transmitted to the Government Department which is charged with the administration of the general leasing law of February 25, 1920, and has had due consideration. I now take pleasure in informing you that I have received from the interested American company certain further information on the subject¹¹ which I have likewise transmitted to the Department of the Interior.

According to the communication from this company, seven concessions for the exploitation of petroleum, gas, or coal were granted to the Koloniale Petroleum Maatschappy on September 4, 1920, one on January 3, 1920, and two in October, 1919. It is further stated by the company that the prospecting licenses originally covering the acreage in question were granted prior to May 1, 1913, that the Koloniale Petroleum Maatschappy did not obtain these licenses from the Netherlands Government but by purchase from third parties, and that, under the law in force on May 1, 1913, the discovery of a mineral by the holder of a prospecting license entitled him to a concession. The company takes the position, based on the above considerations, that the Koloniale Petroleum Maatschappy has not increased its holdings in the Netherlands East Indies by reason of the ten concessions recently granted. It is also suggested by the company that the only holdings of the Koloniale Petroleum Maatschappy in the Netherlands East Indies at the present time consist of the ten concessions referred to and eighteen prospecting licenses covering acreage on which applications for concessions have been filed, that all of these prospecting licenses were obtained not from the Government but by purchase from third parties, that all were granted prior to May 1, 1913, and that, although the Koloniale Petroleum Maatschappy applied for a number of prospecting licenses, none has been granted to it.

Accept [etc.]

For the Secretary of State:
HENRY P. FLETCHER

¹⁰ Letter not printed.

¹¹ Letter of Mar. 1; not printed.

856d.6363/45 : Telegram

The Minister in the Netherlands (Phillips) to the Secretary of State

THE HAGUE, *March 23, 1921—6 p.m.*

[Received March 24—9:58 p.m.]

30. Your March 8 [9], 5 p.m. In reply to my inquiry two weeks ago of the Minister of the Colonies whether in his opinion American capital would in fact be able to participate in the Djambi concession, the Minister promised to communicate with Mr. Colijn and advise me of the reply. The Minister has just transmitted this reply to me without comment. The substance of it is as follows:

"Mr. Sinclair evidently thought that by participating he would obtain right of possession of the produce, viz, liquid fuel. I informed him immediately that this right does not apply to shareholders of the B shares but to the board of directors of which the majority are persons selected by the Government. Moreover, I drew to his attention the fact that the combination of the raw oil which eventually would be obtained from the Djambi fields is of such a nature that very probably not a single litre of liquid fuel would be sold, inasmuch as most likely all the liquid obtained will have to be used in the concern itself. It seemed to me that this information very much decreased Mr. Sinclair's interest in Djambi, but from a subsequent interview with Mr. van der Woude it appears that in spite of this Mr. Sinclair would still like to participate in the B capital. I then informed Mr. van der Woude that it would be utterly impossible for me at this time to express any opinion as to whether we would be willing to grant him part of the B shares. We shall be able to give a definite answer to this question only when the bill¹² has become law."

Please advise Van der Woude, now in New York, care of Sinclair, of this message.

PHILLIPS

856d.6363/71 : Telegram

The Secretary of State to the Minister in the Netherlands (Phillips)

WASHINGTON, *March 31, 1921—3 p.m.*

18. Your No. 20 March 8, 6 P.M.

Information sent by Johnston has been circulated confidentially to oil companies. Department desires further information regarding Siak concessions and splitting of Djambi area. These appear to be

¹² See telegram no. 281, Nov. 23, 1920, from the Minister in the Netherlands, *Foreign Relations*, 1920, vol. III, p. 288.

separate propositions. Are you in touch with Standard Oil representative at The Hague? Is there not danger of creating a situation where one American company will be played off against another? Van der Woude has been asked to call at Department. Whole situation requires clarifying. Give Department your views. Inform Johnston.

HUGHES

856d.6363/72 : Telegram

The Minister in the Netherlands (Phillips) to the Secretary of State

THE HAGUE, April 2, 1921—2 p.m.

[Received 5:53 p.m.]

37. Your 18, March 31, 3 p.m. Difficult to obtain definite information regarding splitting of Djambi concession. Government maintains this is out of the question as Bataafsche has been promised exclusive development. However, interests hostile to Government declare Djambi may be split if American capital makes sufficiently strong demands. Standard Oil representative, a Dutchman, has not come to Legation and I am not in touch with him. Report is that Standard Oil Company appears not to be particularly interested in this business. Local representative of Texas Oil Company [apparent omission] for instructions. If Standard Oil Company, Sinclair and Texas companies are willing to work together possibility of admission to development would in my opinion be far greater. By competing with each other there would be little chance of success.

Dutch holders in Siak concession desire Standard Oil Company's cooperation. As to validity of concession I know nothing. Rotterdamsche Bank which is hostile to the Royal Dutch have also expressed willingness to cooperate with Standard Oil Company in this connection although in absence of knowledge of details they cannot commit themselves.

PHILLIPS

856d.6363/72 : Telegram

The Secretary of State to the Minister in the Netherlands (Phillips)

[Paraphrase]

WASHINGTON, April 12, 1921—6 p.m.

21. Your telegram no. 37 of April 2, 2 p.m. The vice president of the Standard Oil Company of New Jersey, Mr. F. D. Asche, is now en route to Europe to consult with you and with the Dutch officials with respect to participation in the Djambi oil concession. On March 7 Mr. W. T. Klaare, who is a managing director of the subsidiary of

the Standard Oil Company, and Mr. G. A. Popp conferred with the Minister of Colonies. The Standard Oil Company of New Jersey has offered to set up a limited liability company to enter into an agreement with the Dutch Government for the exploitation of part of the Djambi area.

You may tell the Minister for Foreign Affairs that the American Government still has in mind the assurances which he and the Minister of Colonies gave with respect to the favorable attitude of the Dutch Government toward participation by American interests. Reference to Legation's 440 of January 31. You will clearly explain that you are not acting in the interests of a particular American corporation, but you may invite his attention to the fact that the definite proposals made by the Sinclair and Standard Oil Companies give sufficient proof that experienced and responsible American concerns are ready and desirous of assisting the Dutch Government in the development of the oil industry. It would not be satisfactory to the American Government either to have the decision on American participation postponed until the passage of the bill or to have the making of the decision delegated to the Bataafsche Company. You are instructed, therefore, to urge that the Dutch Government postpone action on the bill until an opportunity is given for Asche to confer.

The Department considers that American interests would probably be served best by the defeat of the bill if the proposal to divide the Djambi oil concession is not accepted and if before the passage of the bill specific guarantees are not given of adequate American participation by ownership of stock in the company working the concession. The Department is not aware whether the Standard and Sinclair interests have reached any agreement on the matter. You are expected to use your discretion in acting in such a manner as will serve in the most vigorous and practical manner American interests as a whole. See instruction no. 591 of October 16, 1920.¹³

HUGHES

856d.6363/74 : Telegram

The Minister in the Netherlands (Phillips) to the Secretary of State

[Paraphrase]

THE HAGUE, April 18, 1921—6 p.m.

[Received 7:19 p.m.]

45. Your 21, April 12, 6 p.m. I would find it helpful in dealing with the Foreign Office if I could know in advance the general attitude of the Department in case the Netherland Government and

¹³ *Foreign Relations*, 1920, vol. III, p. 282.

the Bataafsche Petroleum Company decline to change their attitude. Could I be authorized to intimate that the American Government would regard an unfavorable reply as practical evidence that capital from the United States was not wanted in the Netherland East Indies, and that therefore the Department would feel obliged to advise American financiers and business interests to that effect? It is possible that such a warning might have a good effect, as there is great need for American capital in all lines of business except petroleum development.

PHILLIPS

856d.6363/74 : Telegram

The Secretary of State to the Minister in the Netherlands (Phillips)

[Paraphrase]

WASHINGTON, April 22, 1921—6 p.m.

25. Your telegram 45 of April 18, 6 p.m. See note under date of November 2, 1920,¹⁴ especially paragraph number eight, enclosed with instruction 97, November 11, 1920.¹⁵ Much publicity is being given to the subject of the Djambi oil concession. If the Senate publishes report¹⁶ referred to in Department's telegram 2, January 18, 6 p.m.,¹⁷ further public notice will be drawn to this concession. With this publicity, if American interests are practically completely excluded from the Dutch oil business, an unfavorable impression would be created and the situation would be discouraging to Americans considering participation in other lines of Dutch industry.

With respect to its future attitude regarding American investments in the Netherland East Indies, the Department does not desire to commit itself to the extent suggested in your telegram under reference.

HUGHES

856d.6363/80 : Telegram

The Minister in the Netherlands (Phillips) to the Secretary of State

THE HAGUE, April 25, 1921—6 p.m.

[Received 9:50 p.m.]

49. Following is text of note handed to Minister for Foreign Affairs April 19th:

“ Excellency, during the last twelve months I have, on several occasions, presented to Your Excellency the very great interest of

¹⁴ *Foreign Relations*, 1920, vol. III, p. 284.

¹⁵ *Ibid.*, p. 286.

¹⁶ See S. Doc. 11, 67th Cong., 1st sess.

¹⁷ Not printed.

my Government in the participation by American capital in the development of the mineral oil deposits of the Netherlands East Indies. With your approval I have also had frequent interviews with the Minister of the Colonies on this same subject.

On every occasion I have sought to impress upon the Government of the Netherlands that the real interest of the Government of the United States in these matters lies in the recognition of the principle of mutual or reciprocal accessibility to vital and natural resources by the nationals of the United States and by those of foreign countries, and the belief that the recognition of the principle of equal opportunity is the solution of the future oil problems throughout the world. I have pointed out that the United States has for years carried a burden of supplying a large part of the petroleum consumed by other countries, that Dutch capital has had free access to American oil deposits, and that the petroleum resources of no other country have been so heavily drawn upon to meet foreign needs as the petroleum resources of the United States. I have pointed out that in the future ample supplies of petroleum have become indispensable to the life and prosperity of my country as a whole, because of the fact that the United States is an industrial nation in which distance renders transportation difficult and agriculture depends largely on labor-saving devices using petroleum products.

In these circumstances, my Government finds no alternative than the adoption of the principle of equally good opportunity with the proviso that no foreign capital may operate in public lands unless its government accords similar or like privileges to American citizens; and furthermore I have submitted that in the light of the future needs of the United States such very limited and purely defensive provisions as the above might become inadequate should the principle of equality of opportunity not be recognized in foreign countries.

During the month of January, 1921, I again had an opportunity to discuss the situation with Your Excellency and on this occasion I advised you that in my interviews with the Minister of the Colonies I had gained the impression that the Colonial Department at least was inclined to favor the participation of American capital in the development of the Djambi fields; at the same time I advised you of the nature of the reports which I made to my Government in which I had dwelt upon the favorable attitude of the Colonial Department and furthermore I asked whether the attitude of the Minister of Colonies represented in fact that of Her Majesty's Government. You will recollect that on January 31st you were good enough to advise me that my impressions had been accurately reported to my Government and that I had not exaggerated the favorable attitude of the Colonial Department which represented that of Your Excellency's Government.

I have now the honor to inform Your Excellency that I have received a telegram from the Secretary of State to the effect that the Government of the United States is still mindful of the assurances that have been given by you and by the Minister of Colonies relative to the favorable attitude of Her Majesty's Government towards American participation in the development of the Djambi fields. While I am not acting on behalf of any particular American com-

pany, I am glad of this opportune moment to point out that certain definite propositions which have been made during the last twelve months, furnish sufficient evidence that responsible and experienced American interests are ready and desirous to cooperate with the Netherlands Government in oil developments in the Netherlands Indies.

It is perhaps needless to say that my Government is fully aware of the laws and regulations in the Indies which prohibit foreign companies as such from entering the Colonies for the development of mineral oils. On the other hand, my Government is very greatly concerned when it becomes apparent that the monopoly of such far-reaching importance in the development of oil is about to be bestowed upon a company in which foreign capital other than American is so largely interested.

In this connection, I desire most earnestly to divert [*sic*] to Your Excellency's attention the fact that American capital stands ready to assist in the development of the Djambi fields and other oil deposits in the Netherlands Indies.

In conclusion, I venture to say once more that my Government attaches the highest importance to the recognition of the principles of reciprocity and equal opportunity in the solution of the oil problem, as well as the extension to American capital organized under Dutch law of the same privileges and benefits which are granted to other foreign capital similarly organized under the laws of the Netherlands.

I avail myself of this occasion, etc."

PHILLIPS

856d.6363/86

The Minister in the Netherlands (Phillips) to the Secretary of State

No. 528

THE HAGUE, *April 25, 1921.*

[Received May 11.]

SIR: I have the honor to transmit herewith the copy of a Note, based on the Department's telegraphic Instruction No. 25, of April 22d last, which I have to-day addressed to the Minister for Foreign Affairs, on the subject of the participation of American interests in the Dutch colonial oil industry. At the same time, I am transmitting herewith the copy of my informal communication to M. van Karnebeek, dated April 19th [*22d*] last, on this same subject.

The Department's telegram No. 25, above referred to, invites my attention to M. de Beaufort's note to the Department of September 27, 1920¹⁸ (transmitted under cover of your despatch No. 97, of November 11, 1920),¹⁹ and to the Department's reply thereto of November 2, 1920,²⁰ especially the eighth paragraph, which refers

¹⁸ *Foreign Relations*, 1920, vol. III, p. 279.

¹⁹ *Ibid.*, p. 286.

²⁰ *Ibid.*, p. 284.

to the intimation that the Netherlands Government does not intend to give to the Royal Dutch Petroleum Company a virtual monopoly of the exploitation of the remaining petroleum fields in the Netherlands East Indies.

I think the Department will agree, in this connection, that the only concession made by the Dutch Government was to the effect that a monopoly in the future oil fields to be opened up by the Netherlands Government had not been accorded to the Royal Dutch nor to the Bataafsche company. M. van Karnebeek has repeatedly assured me to the same effect, but, as the Department has itself several times stated, the richness of the fields that may in the future be opened for exploitation by the Dutch Government is extremely problematic as compared with the known value of the Djambi territories. I cannot but feel, therefore, that to discuss with the Dutch Government the possible exploitation of these other oil fields would tend only to weaken our case as regards the Djambi concession. In fact, when the Minister for Foreign Affairs, as he has several times done, has attempted to shift the discussion to American participation in these other fields that may possibly be opened up later, I have taken the opportunity to call attention to the fact that American oil experts are not disposed to attach great importance to them.

I have [etc.]

WILLIAM PHILLIPS

[Enclosure 1]

The American Minister (Phillips) to the Netherland Minister for Foreign Affairs (Van Karnebeek)

THE HAGUE, April 22, 1921.

MY DEAR M. VAN KARNEBEEK: Referring to our conversation this morning on the subject of the participation of American capital in the oil development of the Indies, I am not sure that I brought out sufficiently clearly that American scientists and oil experts, who have a very intimate knowledge of the oil resources of the Indies, agree that the Djambi fields do represent substantially the oil wealth of the country.

In these conditions, I think it is not unnatural, therefore, for us to feel that the contemplated agreement with the Bataafsche does in fact, although perhaps not in theory, constitute a monopoly—a setting aside, for the exclusive development by one company in which foreign capital other than American is largely interested, of the richest mining district known in the Netherlands East Indies. Under these circumstances, I should not be surprised if my Government did not attach any very great significance to the assurances that have been given me from time to time that nothing in the proposed

legislation contemplated the prohibition of American capital from participation in the development of the oil regions other than the Djambi fields.

You will not forget, I am sure, that the United States has in the past been conspicuously friendly to Dutch oil interests, but there is the possibility and even the probability that my Government may find it impossible for the present situation to continue unless American capital is received in the same spirit in the development of Dutch mineral oils.

I am [etc.]

WILLIAM PHILLIPS

[Enclosure 2]

The American Minister (Phillips) to the Netherland Minister for Foreign Affairs (Van Karnebeek)

No. 153

THE HAGUE, April 25, 1921.

EXCELLENCY: Referring to my Note No. 151, of April 19th last,²¹ and to my informal communication of April 22d, on the subject of the participation of American capital in the development of oil in the Netherlands Indies, I have the honor to inform Your Excellency that I have just received a further telegraphic Instruction from the Secretary of State advising me that in view of the wide publicity which the matter of the Djambi concession is receiving in the United States, the practically complete exclusion of American interests from the Dutch oil industry would create an unfavorable impression and a situation of general discouragement to prospective American participants in other branches of Dutch industry.

In communicating the foregoing to Your Excellency, I avail myself [etc.]

WILLIAM PHILLIPS

856d.6363/83 : Telegram

The Minister in the Netherlands (Phillips) to the Secretary of State

[Paraphrase]

THE HAGUE, April 29, 1921—8 p.m.

[Received April 30—2 a.m.]

53. Legation's telegram no. 48 of April 22, 4 p.m.²² An amendment to divide the Djambi oil concession between the Bataafsche and Standard Oil companies, which was introduced today, was voted down 43 to 37. A contributory reason for the defeat of the amend-

²¹ See telegram no. 49, Apr. 25, from the Minister in the Netherlands, p. 536.

²² Not printed.

ment was, in my opinion, the fact that Vice President Asche of the Standard Oil Company did not remain at The Hague to care for his own interests. The original bill was approved by a vote of 49 to 30. It has yet to pass the first chamber which can reject but not amend it.

This afternoon Mr. van Karnebeek again told me that the Netherland Government had not changed its policy and still hoped that American capital would participate in the further development of the East Indian oil fields. He said that the vote with respect to the Djambi region should not be regarded as giving the Bataafsche Company a monopoly but rather as an approval of the method of exploiting the petroleum fields under the supervision of the Government. Van Karnebeek was confident that in the immediate vicinity of the Djambi there were other rich oil fields which should be made available for development under the same conditions as those granted for the Djambi.

In view of the strength of the opposition it seems to me that if we really are anxious to gain a foothold in the East Indies now is the time to test the sincerity of the statements cited above by having American interests immediately apply for opportunity to assist the Netherland Government in developing other territories. Although I regret the adverse vote I felt that it would be very unwise for me to oppose the bill publicly and thus involve myself in what was a very bitter debate.

PHILLIPS

856d.6363/83 : Telegram

The Secretary of State to the Minister in the Netherlands (Phillips)

[Paraphrase]

WASHINGTON, May 5, 1921—6 p.m.

31. Reference your telegram no. 53 of April 29, 8 p.m. Your action approved. Continue to act at your discretion. Your suggestion is being followed by the Department.

HUGHES

856d.6363/88 : Telegram

The Minister in the Netherlands (Phillips) to the Secretary of State

THE HAGUE, May 11, 1921—6 p.m.

[Received 7:43 p.m.]

58. Foreign Office reply to my note 151 of April 19th last²³ in regard to participation American interests Djambi oil fields just received. After insisting that Netherlands legislation makes no

²³ See telegram no. 49, Apr. 25, from the Minister in the Netherlands, p. 536.

distinction between Dutch and foreign capital in exploitation of oil fields and desire of Government to see American capital therein, the Minister for Foreign Affairs reiterates that when, in January last, I requested on behalf of American Government permission to participate in Djambi concession, the law as now passed by the second chamber had already been drafted and question settled pending Parliament's approval. The Minister for Foreign Affairs then discusses participation American capital in Bataafsche, saying this must however be subject to approval of Dutch Government. He concludes with argument that rich oil fields other than Djambi exist in Sumatra and Borneo and that the Minister of Colonies would gladly make similar contract for their exploitation by companies other than the Bataafsche.

In acknowledging note I called Minister for Foreign Affairs' attention to representations made by me in 1920, notably my note number 92 September 7th ²⁴ (See my despatch 385 December 4th ²⁵).

Note sent by the pouch today.²⁴

PHILLIPS

856d.6363/66a : Telegram

The Secretary of State to the Minister in the Netherlands (Phillips)

WASHINGTON, May 27, 1921—7 p.m.

36. Present to the Foreign Office note in the sense of the following :

"Pursuant to the instructions of my Government I have the honor to advert to Your Excellency's note of May 10, 1921,²⁶ relative to the bill now pending in the Netherlands Parliament providing for the development of the Djambi concessions in the Netherlands East Indies.

The Government of the United States regrets that the interest which it feels and has repeatedly expressed in obtaining for its citizens a substantial participation in the petroleum industry of the Netherlands East Indies similar to that enjoyed by Netherlands citizens in the United States should be regarded by the Netherlands Government as having been manifested at too late a date to receive consideration.

Your Excellency refers to conversations during the month of January, 1921, and states that at the date of my note of April 19, 1921,²⁷ the method of exploitation of the Djambi field provided for in the pending bill was already in principle a settled question, except for the concurrence of the States-General. In view of the impression which might conceivably be conveyed by the above statement that the Government of the United States and American companies ex-

²⁴ Not printed.

²⁵ *Foreign Relations*, 1920, vol. III, p. 288.

²⁶ Not printed; see telegram no. 58, May 11, from the Minister in the Netherlands, *supra*.

²⁷ See telegram no. 49, Apr. 25, from the Minister in the Netherlands, p. 536.

pressed no interest prior to January last in the question of the Djambi concession, I beg to refer again to various communications which during the past twelve months have been exchanged between the Government of the United States and the Government of the Netherlands.

On June 5, 1920, the American Legation at The Hague made inquiry regarding the precise conditions under which American citizens could operate in the oil fields of the Netherlands East Indies, in order that the Legation might be in a position to assure American interests that their cooperation in that region was welcomed. On September 7, 1920,²⁸ the Legation conveyed to Your Excellency the belief of the Government of the United States that the Djambi concession bill, if enacted into law, could hardly fail to be construed as a measure of exclusion and as compromising in that region the principle of equal opportunity. This communication from the Legation was followed on September 8, 1920, by the application of a responsible American company for participation in the Djambi concession.

My Government recalls that certain statements contained in a report prepared by the Department of State, dated May 14, 1920,²⁹ relative to the practical exclusion of American interests from petroleum development in the Netherlands East Indies, led the Netherlands Legation at Washington to submit on June 30, 1920,³⁰ September 27, 1920,³¹ and February 2, 1921,³² certain information and observations regarding the laws and policy in effect in the Netherlands East Indies.

In these communications, the attention of my Government was especially directed to Articles 5*a* and 28(2*a*) of the Netherlands Indian Mining law. It is the understanding of my Government that Article 28(2*a*) provides that the mining of petroleum shall be restricted to the Netherlands Government and to persons or companies entering into contracts with the Government in accordance with Article 5*a*, and the latter article prescribes that agreements, other than for prospecting work, 'shall not be concluded until authority to do so has been granted by law in each individual case'. The Netherlands Legation at Washington, in its note dated June 30, 1920, set forth that the Netherlands East Indian Government would either itself develop its oil resources or else do so by contract with persons or private companies, 'having previously obtained legal authorization to do so'. In the note of September 27, 1920, there was mention of a bill, apparently the bill now pending in the Netherlands Parliament, referring to an exploitation contract between the Netherlands Government and the Bataafsche Petroleum Company in accordance with Articles 5*a* and 28(2*a*) of the Netherlands Indian Mining Law.

It is the understanding of my Government, however, that the bill in question provides for the creation of a new company, called the Netherlands Indies Mineral Oil Company, to which shall be

²⁸ See telegram no. 555, Sept. 4, 1920, *Foreign Relations*, 1920, vol. III, p. 276.

²⁹ *Ibid.*, vol. I, p. 351.

³⁰ *Ibid.*, vol. III, p. 269.

³¹ *Ibid.*, p. 279.

³² *Ante*, p. 530.

entrusted the working of the Djambi concession; but there does not appear to be in the bill any reference to any previous commitments into which the Netherlands Government has entered with the Bataafsche Petroleum Company.

In view of the above considerations, the Government of the United States, while realizing that an arrangement was contemplated with the Bataafsche Petroleum Company, had naturally been under the impression that any decisions which may have been reached by the Netherlands Government in this regard were provisional and, of course, not in any sense binding on the Netherlands Government with respect to the company or companies concerned.

If the Netherlands Government feels that the introduction of the bill constituted an unalterable decision, I beg to remind Your Excellency that the bill was not introduced until November 22, 1920, several weeks after the representations of my Government and the application of a responsible American company.

If the Netherlands Government wished confirmation of the assurances which had been given by the American Legation at The Hague regarding the attitude of this Government and of American companies, such confirmation appears to have been furnished, when, in March and April, 1921, prior to the vote in the Second Chamber on the bill, another American company expressed specifically its desire for a share in the concession.

It seems, accordingly, impossible for my Government to accept the view that its expressions of interest or the applications of American companies were submitted to the Netherlands Government at too late a date.

My Government welcomes the statements in Your Excellency's note of May 10, 1921, that the Netherlands Indian laws make no distinction between Dutch and foreign capital in so far as companies desiring to participate in the exploitation of the petroleum fields of the Netherlands East Indies are concerned and that the Netherlands Government would view with satisfaction the participation of American capital in the exploitation of the petroleum resources of the Netherlands East Indies. Nevertheless, the Government of the United States is constrained to repeat in substance what was stated in a note of November 2, 1920, to the Netherlands Legation at Washington,³³ that, while the law appears to permit the ownership by aliens of stock in companies engaged in oil development in the Netherlands East Indies, the carrying out of the law, in the manner stipulated by the pending bill, can only be construed as evidence of a present purpose, on the part of the Netherlands Government, to exclude American citizens from any substantial participation in its petroleum industry, and therefore to deny to them the equal opportunity which has been enjoyed by Netherlands citizens in the United States.

The Government of the United States especially desires me to express the hope that the Netherlands Government will still be able to adjust this matter in consonance with the fundamental principle of reciprocal treatment which is deemed to be of the utmost importance in connection with the development of natural resources."

HUGHES

³³ *Foreign Relations*, 1920, vol. III, p. 284.

856d.6363/100 : Telegram

The Chargé in the Netherlands (Armour) to the Secretary of State

[Paraphrase]

THE HAGUE, June 23, 1921—11 a.m.

[Received 12:48 p.m.]

79. I am forwarding today by pouch the reply which I have just received from the Foreign Office.³⁴ Its purport is to answer the points which the Department raised in our last note,³⁵ giving an explanation as to why American action came too late and of the reciprocity policy of the United States which it calls impracticable. The note in conclusion justifies the decision of the Dutch Government in giving the Djambi oil fields to the Bataafsche Company. No new facts are presented in the note and substantially it is another definite refusal to give consideration to the American proposal.

This note as well as our note of May 30³⁵ are to be published here June 24. Shall I cable text? The note is long and rambling and it will take about 1,200 cipher groups to code the message.

In spite of the delivery of the note I am informed by the Foreign Office that the Cabinet crisis is still unsettled and that should the Premier be unable to reorganize the present Cabinet and a new Ministry be formed it is possible that the Djambi oil bill might yet be withdrawn in case the new Cabinet opposed it. While this is possible, it is very unlikely. There is good reason to think that it is Van Karnebeek's intention to have the bill rushed through the First Chamber soon after the opening of the session on June 28.

ARMOUR

856d.6363/110 : Telegram

The Chargé in the Netherlands (Armour) to the Secretary of State

THE HAGUE, July 1, 1921—6 p.m.

[Received July 2—1:33 a.m.]

90. Referring to Legation's telegram number 88, June 30, 8 p. m.³⁴ Djambi bill passed First Chamber this afternoon, 27 to 8. It now becomes law upon being signed by Queen which is purely formal procedure. De Graaff and Karnebeek both spoke defending bill, former added little to speech made during Second Chamber debate. Stated Dutch note of June 21st to the United States³⁶ leaves

³⁴ Not printed.³⁵ See telegram no. 36, May 27, to the Minister in the Netherlands, *supra*.³⁶ Not printed; see telegram no. 79, June 23, from the Chargé in the Netherlands, *supra*.

Government free to enter into agreements with other nations concerning remaining fields.

Karnebeek described correspondence with American Minister until September as academic discussion concerning oil legislation in the two countries. Admits he sent American Minister to the Minister of the Colonies for expert information on Djambi matter. Says he did so desiring to promote friendly relations between the two countries. Feels sure publication of notes in the United States will clear away misunderstandings Colonial Government, that both countries have much in common but each is entitled to conduct its own oil policy.

ARMOUR

856d.6363/130

The Chargé in the Netherlands (Armour) to the Secretary of State

No. 630

THE HAGUE, *July 13, 1921.*

[Received July 28.]

SIR: Referring to the Department's Instruction No. 180, of June 22d last,³⁸ transmitting the copy of an article by Mr. Paul Scott Mowrer, published in the *Washington Evening Star* of June 13, 1921, regarding a new oil trust formed in Japan now said to be attempting to obtain concessions in the Dutch East Indies on terms similar to those already granted to the Bataafsche Petroleum Company, I have the honor to state that I have been able to gather the following information regarding the transaction:

In the Government's reply to the First Chamber's memorandum regarding the Djambi Oil Bill, M. de Graaff mentioned the fact that an application had been made by the Japanese Government, through its Minister at The Hague, to be permitted to participate in the development of the Mineral oil fields in the Dutch East Indies (See the Legation's Despatch No. 610, of June 29, 1921, Page 2, sub (1); also Enclosure Number 1 to Despatch No. 610, Page 2, paragraph 1³⁹). M. van Karnebeek, in his speech in the First Chamber during the debate on the Djambi Bill, also referred to the Japanese proposal, at the same time reading to the Chamber the full text of the note which he had received from the Japanese Minister, as follows:⁴⁰

My government desiring to know whether it will be possible for Japanese to obtain a concession for the exploitation of the sources of petroleum in the Dutch East Indies, I will be exceedingly grateful to Your Excellency if you will be so kind as to inform me of the intention of the Royal Government concerning this subject.

³⁸ Not printed.

³⁹ Neither printed.

⁴⁰ Note quoted in French by the Chargé has been translated by the editor.

I should also be very much obliged to Your Excellency if you would be so kind as to indicate to me, in that case, the conditions under which such a concession will be granted to foreigners.

M. van Karnebeek added, upon concluding the reading of the note, that a routine reply had been sent to the Japanese Minister setting forth the conditions under which Japanese capital would be permitted to participate in the development of oil in the East Indies.

I have [etc.]

NORMAN ARMOUR

AMENDMENT OF THE PHILIPPINE PETROLEUM ACT OF AUGUST 31, 1920, TO ANTICIPATE OBJECTIONS BY THE NETHERLANDS AND GREAT BRITAIN

811.6363/28 : Telegram

The Minister in the Netherlands (Phillips) to the Acting Secretary of State

THE HAGUE, December 20, 1920—3 p.m.

[Received December 20—1:54 p.m.]

287. The Minister of the Colonies has asked me the nature of the oil legislation reported recently to have gone into effect in the Philippine Islands. Please advise me regarding this legislation and whether it is retaliatory applicable only to those countries which do not grant reciprocal privileges in mineral oils.

PHILLIPS

811.6363/28 : Telegram

The Acting Secretary of State to the Minister in the Netherlands (Phillips)

WASHINGTON, December 31, 1920—2 p.m.

613. Your 287, December 20. The following is for your information to be conveyed orally to the Minister of the Colonies at your discretion.

Act No. 2932 of the Philippine Legislature, approved by the President August 31, 1920, in effect in Philippines September 2, 1920, opens petroleum lands to "exploration, location, and lease by citizens of the Philippine Islands or of the United States and by associations and corporations wholly composed of citizens of the Philippine Islands or of the United States or both". Rules and Regulations dated October 13, 1920, prescribed by the Philippines Council of State under this law provide "Any citizen of lawful age of the Philippine Islands or of the United States, and any corporation,

association or partnership composed wholly of citizens of the Philippine Islands or of the United States, or both, may lease any tract of petroleum land under the provisions of Act No. 2932," by filing proper application. Aliens thus appear to be excluded both from direct leasing and from holding stock in leasing companies. The provision regarding citizenship is not reciprocal like the United States General Leasing Law.⁴²

The Act was not brought to the attention of the Department when it was under consideration. It was passed by the Philippine Legislature under its general powers of legislation in order to open the oil resources of the Philippines at the earliest possible moment to exploration and development. The Department understands, although it is without precise information on this point, that the restrictive feature was not recommended by this Government or by the Governor General. The presence of oil in the Philippines is problematic and it is understood that no leases have yet been granted.

The Governor General in his latest message to the Philippine Legislature recommended amendment of the law so as to permit the holding by aliens of stock in leasing companies. The Bureau of Insular Affairs of the War Department has also telegraphed the Governor General that the Department of State is anxious "that the Philippine Petroleum Act should be modified to conform in respect of foreign citizens to United States Act of February 25, 1920, last clause of section one. This is a slight modification of the recommendation in your message and seems to accomplish same purpose." The clause referred to is the reciprocity provision. The Chief of the Bureau of Insular Affairs expresses the opinion that the Act will be amended as desired.

DAVIS

811.6363/34

The Minister in the Netherlands (Phillips) to the Secretary of State

No. 418

THE HAGUE, *January 4, 1921.*

[Received January 22.]

SIR: Upon receipt of the Department's Telegram No. 613, of December 31, 2:00 P.M., advising me, in accordance with my request, of the nature of the recent Act passed by the Philippine Legislature regarding the exploitation and development of petroleum oil lands in the Islands, I have the honor to report that I had a conference to-day with the Minister of the Colonies on this subject.

I recalled to him that he had asked me for information about this Act and whether in fact it excluded aliens from leasing or holding stock in leasing companies in the Philippine Islands. I told him

⁴² Of Feb. 25, 1920; 41 Stat. 437.

that I had been surprised to learn of the existence of any such legislation and had cabled immediately to Washington for further information. It was, therefore, a gratification to me to be in a position to convey to the Minister the Department's satisfactory explanation of the manner in which the Act had been passed and the steps which had been taken to amend it to conform with the well-known policy of the United States in oil production. The Minister thanked me for the explanation and said that he had a copy of the Philippine Act in his possession and that he had been very much astonished to learn of its exclusive provisions, especially in view of the position which the Government of the United States had taken in the development of petroleum oil in all parts of the world.

I am therefore grateful to the Department for placing me in a position to convey to the Minister of the Colonies the assurances of the Chief of the Bureau of Insular Affairs that, in his opinion, the Act in question will be amended as desired.

I have [etc.]

WILLIAM PHILLIPS

811.6363/40

The Assistant Secretary of War (Williams) to the Secretary of State

B.I.A. 5627-93

WASHINGTON, February 3, 1921.

SIR: I have the honor to acknowledge the receipt of State Department letters of January 7th and January 28th,⁴³ inclosing copies of cablegram to the American Legation at The Hague⁴⁴ and the American Minister's reply⁴⁵ relative to the Philippine oil land leasing law.

I am pleased to inform you that this matter has been brought to the attention of the Governor-General of the Philippine Islands by cable, and it is thought that the desired modification of the oil land leasing Act of the Philippine Government will be brought about. The Governor-General has also been furnished copies of the correspondence relating to this matter.

Very respectfully,

W. R. WILLIAMS

811.6363/40

*The Secretary of State to the Secretary of War (Weeks)*⁴⁶

WASHINGTON, April 9, 1921.

SIR: I have the honor to refer to previous correspondence, particularly a letter signed by the Assistant Secretary of War, dated February 3, 1921, relative to the Philippine Petroleum Act.

⁴³ Neither printed.

⁴⁴ No. 613, Dec. 31, 1920, 2 p.m., p. 547.

⁴⁵ No. 418, Jan. 4, 1921, *supra*.

⁴⁶ For the attention of the Chief of the Bureau of Insular Affairs.

You have doubtless already noticed in the published text of the British note on economic rights in mandated territories, dated February 28, 1921,⁴⁷ that reference is made to the provision of the Philippine Petroleum Act which confines petroleum development in the Philippines to citizens of the United States or of the Philippines. In view of this reference and of previous conversations between the American Legation at The Hague and the Netherlands Government on the subject, I shall be glad to receive information regarding the progress of the movement for amending the Act. If amendments have been introduced into the Philippine Legislature or passed by it, would it be possible for you to send me a copy of such amendments?

I have [etc.]

For the Secretary of State:

HENRY P. FLETCHER

Under Secretary

811.6363/51 : Telegram

The Minister in the Netherlands (Phillips) to the Secretary of State

[Paraphrase]

THE HAGUE, *April 19, 1921—noon.*

[Received April 19—11:58 a.m.]

46. Your telegraphic instructions, no. 613, December 31, regarding Act No. 2932 of the Philippine Legislature concerning the exploitation of the oil resources of the Islands. Can you let me know whether this act has been amended in accordance with recommendations? Such action would be very helpful to this Legation in its negotiations with the Netherland Government concerning the Djambi petroleum concession.⁴⁸

PHILLIPS

811.6363/51 : Telegram

The Secretary of State to the Minister in the Netherlands (Phillips)

[Paraphrase]

WASHINGTON, *April 26, 1921—5 p.m.*

27. Legation's no. 46 of April 19, noon, and no. 49 of April 25, 6 p.m.⁴⁹ An amendment to the Philippine petroleum law was recently passed by the Philippine Legislature. The amendment provides that 61 percent of the stock of a leasing company must be

⁴⁷ See telegram no. 160, Mar. 1, from the Ambassador in Great Britain, p. 80.

⁴⁸ For negotiations mentioned, see pp. 528 ff.

⁴⁹ No. 46, *supra*; no. 49, p. 536.

held by citizens either of the Philippine Islands or of the United States. This measure is not in accord with the provisions for reciprocity contained in the United States general leasing law of February 25, 1920. You are authorized to state positively that the American Government will take steps to secure from the Philippine Legislature at its October session the passage of a law which will be in conformity with the reciprocity provisions of the general leasing law of the United States.

HUGHES

811.6363/49

The Secretary of State to the Secretary of War (Weeks)

WASHINGTON, *May 11, 1921.*

MY DEAR MR. SECRETARY: I beg to advert to your letter of April 13, 1921,⁵⁰ in which you state that you have received a bill amending the Philippine Petroleum Act and that, before submitting the bill to the President for his approval, you would be glad to have any criticisms or suggestions that I may deem appropriate.

As you will recall, the matter was taken up at the meeting of the Cabinet on April 26, 1921, and at a conference on the same day between the Under Secretary of State and the Chief of the Bureau of Insular Affairs. It is my understanding that the approval of the President will be withheld and that appropriate steps will be taken to bring about at the next session of the Philippine Legislature in October the further amendment of the Act in order that it may be in conformity with the general leasing law of February 25, 1920. The American Minister at The Hague has been informed that he can state positively that such action will be taken by this Government.

I am [etc.]

CHARLES E. HUGHES

811.6363/49

*The Secretary of State to the Secretary of War (Weeks)*⁵¹

WASHINGTON, *August 4, 1921.*

MY DEAR MR. SECRETARY: Adverting to my letter of May 11, 1921, and other correspondence, relative to the Philippine Petroleum Act, I beg to inform you that I have received from the British Embassy at Washington a copy of a memorandum on the petroleum situation which has been published by the British Government.⁵²

⁵⁰ Not printed.

⁵¹ For the attention of the Chief of the Bureau of Insular Affairs.

⁵² *Despatch to His Majesty's Ambassador at Washington enclosing a Memorandum on the Petroleum Situation* (London, H. M. Stationery Office, 1921). Miscellaneous No. 17. Cmd. 1351.

On page four of this memorandum the following observations occur :

“ Regulations were introduced last year in the Philippines restricting the exploitation of certain lands to citizens of the United States and of the Philippines. In this action, in almost her only detached territory, the United States appears to be adopting the very policy, and probably for the same reason, for which Great Britain has been so loudly condemned.”

In replying to the Embassy's note with which the memorandum was enclosed,⁵³ I took occasion to make the following statements regarding the policy of this Government relative to petroleum legislation in the Philippines :

“ Since the legislation referred to has been interpreted to indicate a change of policy on the part of this Government, I take pleasure in conveying information that may serve to make clear the present attitude of this Government relative to participation by foreign interests in petroleum development in the Philippine Islands.

“ The Philippine Legislature enacted in 1920 an act providing that petroleum development in the Philippines should be confined to citizens of the Philippine Islands or of the United States and to associations and corporations wholly composed of citizens of the Philippine Islands or of the United States or both. This act was approved by the President of the United States on August 31, 1920. Soon after the enactment of the law, the authorities of the Philippine Islands realized the necessity of amending the restrictive feature of Section I; and the Government of the United States recommended in December, 1920, that this section be so amended as to conform to the reciprocity provision of the United States general leasing law of February 25, 1920. At the last session of the Philippine Legislature, an amending bill was passed, the object of which was to relax substantially the restrictions embodied in the original act. Nevertheless, it is believed that the proposed amendment does not sufficiently meet the situation; and this Government intends to take all appropriate steps with a view to bringing about at the next session of the Philippine Legislature in October a further amendment of the act so that it may conform to the reciprocity provision of the United States general leasing law.”

I am [etc.]

CHARLES E. HUGHES

811.6363/61

The Secretary of War (Weeks) to the Secretary of State

WASHINGTON, October 11, 1921.

MY DEAR MR. SECRETARY: I have the honor to acknowledge receipt of your letter of October 5, 1921 (TA),⁵³ with respect to the Philippine Petroleum Act.

⁵³ Not printed.

As you are doubtless aware, under date of October 5, 1921, Major-General Leonard Wood, Retired, was appointed by the President, with the advice and consent of the Senate, to the position of Governor General of the Philippine Islands.

On August 8, 1921, the Chief of the Bureau of Insular Affairs, wrote General Wood, inclosing copies of letters from the Department of State in the matter of the treatment of our nationals, with respect to oil lands, in foreign countries, and also a draft of a proposed bill, which, if enacted by the Philippine Legislature, would make the Philippine law conform exactly with that of the United States. A copy of the letter of the Chief of the Bureau of Insular Affairs, and also a copy of the proposed bill, are inclosed.⁵⁴

General Wood is now on his way back from Japan to Manila, where he will be inaugurated as Governor General of the Philippine Islands on October 15th next, and the Department will shortly cable him in the matter in order that it may not be overlooked and that early action may be taken.

Very sincerely,

JOHN W. WEEKS

811.6363/76

The Secretary of War (Weeks) to the Secretary of State

WASHINGTON, February 21, 1922.

MY DEAR MR. SECRETARY: Replying to your letter of February 14, 1922, (TA-811.6363/61),⁵⁴ in which you make inquiry regarding the proposed amendment of the Philippine Petroleum Act, the War Department has received a cablegram, dated the 20th instant, from the Governor General of the Philippine Islands in which he states that the Legislature has passed the "Petroleum Law amended as recommended your office."

Upon receipt of the Law from the Philippine Islands, I shall be glad to furnish you with copies.

Sincerely yours,

JOHN W. WEEKS

⁵⁴ Not printed.

NICARAGUA

INCURSIONS BY REVOLUTIONARY BANDS INTO NICARAGUA

715.1715/206 : Telegram

The Minister in Nicaragua (Jefferson) to the Secretary of State

MANAGUA, August 22, 1921—noon.

[Received 8 p.m.]

39. Late yesterday afternoon and last night Nicaraguan telegraph operators at Somoto and Limay informed the Government that a revolutionary expeditionary force of approximately 400 to 600 had proceeded from Choluteca and Yuscuran, Honduras, and invaded Nicaragua; that it had occupied Somoto and Limay and moved on Cinco Pinos and San Francisco; that Policarpo Sánchez and Concepción Peralta, Nicaraguans recently [employed] by the Honduran Government, were heading the movement there.

During the last week Nicaraguan Government has had strong suspicions that a concerted move was on foot to cause an uprising here. . . . A telegram of warning was sent by the Government of Costa Rica to the President of Nicaragua stating that a revolutionary band of about 80 men were preparing to invade Nicaragua from Costa Rica. Nicaraguan Government has sent military forces to both the Honduran and Costa Rican frontiers and the President today decreed martial law.

In view of the above I would suggest the Department send a man-of-war to Fonseca Bay and prolong the *Dolphin's* visit to Bluefields. I also advise that an energetic note be sent through the Legations in Honduras and Costa Rica insisting that these Governments take immediate steps to suppress military expeditions organized on their territory for the purpose of invading this country. I shall keep the Department informed.

JEFFERSON

715.1715/206 : Telegram

The Secretary of State to the Chargé in Honduras (Spencer)

WASHINGTON, August 23, 1921—6 p.m.

30. Department's 25, July 2, 2 p.m.¹

Department reliably informed that revolutionary body of 400 to 600 men led by Policarpo Sánchez and Concepción Peralta, Nicara-

¹ Not printed.

guans, recently employed by Honduran Government, have invaded Nicaragua from Choluteca and Yuscuran and occupied Somoto and Limay.

You are instructed to investigate the truth of this report indicating that this proceeding was countenanced by Honduran Government and if well founded to express to Honduran Government informally the concern felt by this Government over the facts reported which would seem to involve a serious responsibility on the part of the Honduran Government in its relations with a neighboring country. You may express also the hope of the Department that the Honduran Government will take steps to prevent any further acts of violation of her neutrality in this connection.

HUGHES

715.1715/206 : Telegram

The Secretary of State to the Chargé in Costa Rica (Thurston)

WASHINGTON, August 23, 1921—6 p.m.

39. Department informed that during the last week Nicaraguan Government has had strong suspicions that a concerted movement was on foot to cause an uprising there. . . . Department informed further that a telegram of warning was sent by the Government of Costa Rica to the President of Nicaragua stating that a revolutionary band of about 80 men were preparing to invade Nicaragua from Costa Rica. Nicaraguan Government is also experiencing trouble with invasion by small body of men from Honduras and has sent military forces to both Honduran and Costa Rican frontiers.

You will endeavor to verify the statements made above with reference to Costa Rica and report by cable as to whether or not, in your opinion, Costa Rica is taking proper measures to prevent her neutrality being violated.

HUGHES

715.1715/208 : Telegram

The Chargé in Costa Rica (Thurston) to the Secretary of State

SAN JOSÉ, August 25, 1921—11 a.m.

[Received 10:25 p.m.]

119. Department's 39 August 23, 6 p.m. Believe Government of Costa Rica respecting neutrality. President Acosta informs me he has sent small force to police Nicaraguan frontier. Nicaraguan Legation believes no move against Nicaraguan Government will come from Costa Rican side. Have not yet obtained information respecting telegrams mentioned.

THURSTON

715.1715/209 : Telegram

The Chargé in Honduras (Spencer) to the Secretary of State

TEGUCIGALPA, August 25, 1921—noon.

[Received August 26—9:55 a.m.]

113. Department's telegram 30, August 23rd, 6 p.m. Investigations tend to prove following facts.

A small expedition mostly of Nicaraguan outlaws from Salvador landed at Tempisque, Nicaragua, led by Jiménez and Peralta, Nicaraguans who have never been in the employment of the Honduran Government.

The general opinion is that the Salvadorean Government is backing the expedition with the assistance of Honduran *emigrados* with a view to blocking the progress of the Union.

Honduran Government is in telegraphic communication with the Nicaraguan Government doing the utmost to prevent the entrance of this invading force into Honduran territory.

SPENCER

715.1715/209 : Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, August 27, 1921—2 p.m.

26. A cable from the Chargé in Tegucigalpa states it to be the general opinion there that the revolutionary movement in Nicaragua is being backed by the Salvadorian Government, with the assistance of Honduran *emigrados*, with a view to defeating the Central American Union. The Nicaraguan Minister in Washington has expressed an opinion to the same effect. Please inform the Department whether, in your opinion, there is any ground for this belief.

HUGHES

715.1715/214 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, August 30, 1921—midnight.

[Received August 31—11:10 a.m.]

41. Your telegram August 27, 2 p.m. was partly anticipated by my August 26, 10 p.m.² Personally I do not believe that the President of Salvador is acting otherwise than honorably and I am convinced that he earnestly desires peace between Central American countries. He has given me copies of correspondence with the Pres-

² Not printed.

idents of Nicaragua and Honduras and offers to have photographs made for the Department of intercepted documents showing complicity of López, President, and Lagos, Minister of War, of Honduras in Araujo revolution in Salvador last year.³ He states that the Government in Honduras is striving in every way to get him into war with Nicaragua and believes Araujo is involved. He offers to take any steps desired to prove his good faith.

No matter who is responsible the relations between Salvador, Honduras and Nicaragua are rapidly getting worse. In my opinion unless some steps are taken quickly there will be further serious trouble. The negotiations regarding the union are now in such a stage that they still further complicate political situation.

I suggested to the President to-day after a discussion lasting several hours the good results which might be brought about by conference of three Presidents and myself on board a United States vessel in the Gulf of Fonseca, making it quite plain that this was my own thought and that I did not know how the Department would view the idea. He jumped at it saying that Chamorro⁴ had suggested a meeting but that he could see no good results from meeting alone. He believes López would accept. My idea is that warship be sent here immediately after centennial September 15th and that President Meléndez⁵ himself invite the others to prove good faith at this time. There should be full and frank discussion of general political, economic and military questions and if possible a protocol signed guaranteeing peace and perhaps stipulating that in case of threatened hostilities they will ask the United States to interfere. I am sure such a conference between principals is the only way to avoid trouble. If you approve in principle and will authorize me to proceed with arrangements I shall be very glad to do so.

SCHUYLER

817.00/2804: Telegram

The Vice Consul in Charge at Bluefields (Waters) to the Secretary of State

BLUEFIELDS, August 31, 1921—9 a.m.

[Received September 1—noon.]

War condition Atlantic coast such Nicaraguan Government officials suggest sending war vessels here to protect American interests to avoid trouble.

WATERS

³ For papers relating to the Araujo revolution, see *Foreign Relations*, 1920, vol. III, pp. 728 ff.

⁴ Diego M. Chamorro, President of Nicaragua.

⁵ Jorge Meléndez, President of Salvador.

817.00/2804: Telegram

*The Secretary of State to the Vice Consul in Charge at Bluefields
(Waters)*

WASHINGTON, *September 2, 1921—5 p.m.*

Your August 31, 9 a.m. U.S.S. *Asheville* due to arrive Bluefields
September 3d. HUGHES

817.00/2814

*The Vice Consul in Charge at Bluefields (Waters) to the Secretary
of State*

No. 144

BLUEFIELDS, *September 2, 1921.*

[Received September 16.]

SIR: I have the honor to report to the Department that during the week ending August 27, 1921, the political situation on this Coast was very unsettled, and there were rumors current regarding revolutionary activities and an invasion from both Honduras and Costa Rica. The town was put under martial law, the latter part of the week. On August 27th, 1921, the three leading Liberal newspapers were suppressed.

On August 29, I called upon the Governor of the Atlantic coast and requested, if it were possible, that he give me definite information regarding the situation, and asked if there was any truth in the rumors current. He informed me that they were expecting an invasion from Honduras, but regarding Costa Rica, there was no truth in the rumor. I then asked, if in the event of any serious trouble, he was in a position to protect the American interests here, to which he gave me to understand that as regards the interests in Bluefields he thought he was perfectly able to cope with the situation, but was not in a position to protect the interests along the coast, and feared most, the depredations of mobs in the event of an uprising. I then asked him if he would suggest that I send for an American Warship to protect the American interests here, and he requested that I allow him to communicate with the President before doing anything. The next day he and his Secretary called at the Consulate stating that he had received an answer from the President who officially approved that an American warship be sent here to protect American Interests and avoid trouble which he anticipated, on the strength of which I wired the Department under date of August 31, 1921, 9 a.m.

Trusting my action in this matter will meet with the Department's approval.

I have [etc.]

THOS. W. WATERS

715.1715/214: Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, September 3, 1921—4 p.m.

28. Your August 30, midnight.

In view of the unsatisfactory results of the conference held at Amapala last year,⁶ the Department doubts whether difficulties between Salvador, Honduras, and Nicaragua are of such a nature that they could be satisfactorily dealt with in the manner you propose. Any measure which might help to bring about a better understanding between the Governments of the three Republics would be viewed with pleasure, but it is believed that it might be preferable to await the result of the meetings of the Constituent Assembly in Tegucigalpa⁷ before considering any action with a view to readjusting the relations of the Republics with one another.

HUGHES

817.00/2813

The Vice Consul in Charge at Bluefields (Waters) to the Secretary of State

No. 145

BLUEFIELDS, September 7, 1921.

[Received September 15.]

SIR: I have the honor to inform the Department of State that the U.S.S. *Asheville* arrived here early Sunday morning, September 3, 1921. The same day Commander J. B. Gay came ashore and paid his official visit on the Governor, who reported that the situation was very much improved and quiet and that the Government forces had succeeded in driving the revolutionists back across the border into Honduras, and he was of the opinion that all revolutionary activities had been practically settled, and he did not anticipate much more trouble.

From conversation with the Governor and also from good authority, there is no doubt in the writer's mind, but what the visit of the U.S.S. *Asheville* had a great deal to do towards quieting the local situation, politically, and morally, etc., which Commander Gay handled very tactfully.

I have [etc.]

THOS. W. WATERS

⁶ For papers relating to the conference held at Amapala Nov. 16-17, 1920, between the Presidents of Honduras and Nicaragua, see *Foreign Relations*, 1920, vol. 1, pp. 318 ff.

⁷ Refers to the National Constituent Assembly of the Federation of Central American Republics; see vol. 1, pp. 143-164.

817.00/2820 : Telegram

The Minister in Nicaragua (Jefferson) to the Secretary of State

MANAGUA, October 4, 1921—6 p.m.

[Received 11:55 p.m.]

45. Yesterday a new uprising occupied Telica and Somotillo. The Government has sent approximately 600 men there for the purpose of quelling this uprising. The President is exasperated believing that Honduran authorities are not acting in good faith with him, failing to take necessary measures to prevent recurrence of invasion of this country.

JEFFERSON

817.00/2823 : Telegram

The Chargé in Nicaragua (Goold) to the Secretary of State

MANAGUA, October 24, 1921—2 p.m.

[Received October 25—10:35 p.m.]

48. Disturbances continue on the Honduran boundary. I am informed that the project is on foot to conduct a series of small invasions into Nicaragua from Honduras with the object of harassing and financially weakening the Government of this country and of staging a general uprising when the Government is sufficiently weak to make a success of the revolution probable. Nicaraguan *emigrados* who have posts in the Government of Honduras and Nicaraguan and Honduran liberal leaders in general are said to be back of the movement, and the most powerful individual in Honduras working for the overthrow of this government is said to be Carlos Lagos, Minister of War, whom President López Gutiérrez is not strong enough to control.

General Solís, a Honduran *emigrado*, spoke to me in the above sense and the Minister for Foreign Affairs Dr. Zepeda tells me that he believes that the theory is a very probable one. The Under Secretary of Foreign Affairs is convinced of its correctness.

The Government has decided to maintain a permanent force of 1500 men in the area threatened and it is seeking a new loan of \$150,000 to cover the probable expenses of the maintenance of this force.

This morning the Foreign Minister told me that he thought it would be beneficial if the Department could see its way clear to declare that it would look unfavorably upon any revolutionary movement engineered against this country with Honduras or any other Central American country.

GOOLD

817.00/2824a

The Secretary of State to the Chargé in Honduras (Wilson)

No. 442

WASHINGTON, October 26, 1921.

SIR: In view of the persistent reports of revolutionary activity in northwestern Nicaragua, and in view of the statements of the Nicaraguan Government that public officials of Honduras have been implicated in these activities, the Department desires that you should make a discreet effort to ascertain from sources not connected with the Government of Honduras the real situation existing along the western part of the Honduras-Nicaragua frontier. It desires especially information regarding the truth of the statement that invasions of Nicaragua have been organized in Honduras, and that they have obtained arms and ammunition from the authorities of that country. It would be very desirable to have an investigation made in the district where these acts are said to have occurred, if you are able to find some one who can be entrusted with such an investigation.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

817.00/2824b

The Secretary of State to the Chargé in Nicaragua (Goold)

No. 398

WASHINGTON, October 26, 1921.

SIR: The Nicaraguan Legation at Washington has informed the Department that revolutionary bands are continually entering Nicaragua from the frontier of Honduras, and that they are being aided by authorities in that Republic. It is said that several small villages have been attacked during the last few weeks, in spite of the defeat of the uprising which occurred two months ago.

The Department desires that you should make a special effort to ascertain from sources not connected with the Nicaraguan Government the real situation in the district where these uprisings are said to have occurred. It would be glad to be informed not only of the extent and importance of these movements, but also of any facts tending to show the participation of officials of other Central American Governments, and the means by which the invaders have been equipped with arms and ammunition.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

817.00/2824c

The Secretary of State to the Minister in Salvador (Schuyler)

No. 14

WASHINGTON, *October 26, 1921.*

SIR: In view of the persistent reports of revolutionary activities in northwestern Nicaragua, and in view of the statements made in some quarters that the revolutionists have obtained aid from persons in Salvador, the Department desires that you should make a special effort to ascertain from persons not connected with the Government of Salvador, whether the revolutionists in Nicaragua have, in fact, received any organized assistance from persons in Salvador. It is believed that any violation of neutrality, if such existed, would necessarily be known to well informed persons in La Union and it would be very desirable if possible to have discreet inquiries made in that city.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

817.00/2828a : Telegram

*The Secretary of State to the Chargé in Honduras (Wilson)*WASHINGTON, *November 22, 1921—1 p.m.*

43. You will inform the Honduran Government that this Government has viewed with some concern the friction between Honduras and Nicaragua, arising out of recent disturbances in Nicaragua near the Honduran frontier. It believes that this friction could be removed by an impartial investigation of the existing situation in that district, and it therefore proposes to order one of the officers of the Legation Guard now stationed at Managua to undertake a journey through northwestern Nicaragua for the purpose of ascertaining the true situation there. This officer would be accompanied by a small escort of not more than four or five men. It is desired that he should, if practicable, return to his post at Managua by way of the Gulf of Fonseca, passing through a portion of Honduras for this purpose. You will therefore ask that the Government of Honduras grant permission for him to do this and issue the necessary instructions when the time arrives. Since the only purpose of the proposed investigation is to allay the friction and suspicion caused by recent events on the border, this Government is confident that it will meet with the approval of Honduras.

HUGHES

817.00/2829 : Telegram

The Chargé in Honduras (Wilson) to the Secretary of State

TEGUCIGALPA, November 26, 1921—5 p.m.

[Received November 27—7 p.m.]

127. Department's telegram 43, November 22, 1 p.m. There will be no difficulty regarding passage over Honduran territory of officer and escort provided they do not have character of an armed force. According to Honduran Constitution authority to permit entry of armed force lies with Congress. President therefore suggests that escort carry only side arms. The President wishes to extend every facility to the party and requests that he be informed of date and place arrival at frontier.

WILSON

817.00/2835

The Minister in Salvador (Schuyler) to the Secretary of State

No. 83

SAN SALVADOR, November 26, 1921.

[Received December 10.]

SIR: Referring to the Department's Confidential dispatch No. 14, of October 26th, 1921, regarding revolutionary activities, I beg to inform you that I took advantage of an invitation to a wedding of a Salvadorean official, the Subsecretary of Gobernacion, which took place in San Miguel, to go down there and to La Union for a stay of several days in order to find out if possible anything further on the questions interesting the Department. I talked discreetly with a number of people of all sorts, officials, merchants, planters and especially with the General Superintendent of the International Railways, Mr. Charles Stich, who is supposed to be the best informed person at La Union and who has the advantage of being a good American citizen. I did not find one single person who had any information tending to prove that there was any such movement or help passing between El Salvador and Nicaragua via La Union or the Gulf of Fonseca. One or two, while stating that they did not believe it was so in fact, said that if there was any truth in the stories they must relate to contraband crossing of the frontier between El Salvador and Honduras further inland.

I have [etc.]

MONTGOMERY SCHUYLER

817.00/2833 : Telegram

The Chargé in Honduras (Wilson) to the Secretary of State

TEGUCIGALPA, December 2, 1921—9 a.m.

[Received 5:18 p.m.]

128. The President's private secretary Aguirre Muñoz leaves to-day on special mission to assure Nicaraguan Government that Honduran Government will make every effort to prevent further disturbances on the frontier.

WILSON

817.00/2836a : Telegram

The Secretary of State to the Chargé in Nicaragua (Goold)

WASHINGTON, December 9, 1921—6 p.m.

41. The Navy Department has given instructions that an officer of the Legation Guard make an investigation of political conditions in northwestern Nicaragua, returning via the southern portion of Honduras. Both Governments have given their consent to this investigation, the object of which is obtain information to allay the unrest caused by recent disturbances along the frontier. As soon as the officer designated is ready to start, you will telegraphically inform the American Legation in Tegucigalpa, requesting it to inform the Government of Honduras and to ask that the necessary facilities be granted. You will inform the Department at the same time.

HUGHES

**SALE OF MUNITIONS BY THE UNITED STATES TO THE
GOVERNMENT OF NICARAGUA**

817.24/8

The Nicaraguan Minister (Chamorro) to the Secretary of State

[Translation]

C-21

WASHINGTON, August 24, 1921.

EXCELLENCY: In connection with an invasion of the territory of Nicaragua from the side bordering the Republic of Honduras consisting mainly of Hondurans and a few Nicaraguans and fomented by the Government of Honduras and several of the other Governments of the Republics of Central America, according to advices I

have received from my Government, I wish to lay before Your Excellency the following statement:

The Government of Nicaragua placing confidence in the loan contracts made sometime ago with the banking concerns of Brown Brothers and Company and J. & W. Seligman and Company of New York, with the friendly assistance of the Government of the United States, under which contracts the collection of the customs duties of the Republic was turned over to a Receiver General appointed by the Government of Nicaragua and nominated by the Government of the United States through which contracts and through the financial plan which was set up in Nicaragua in accord with the Government of the United States, for the purpose of placing its public finances upon a substantial basis and thus promoting its progress and prosperity, for which purpose its general estimates were also kept within the amounts that were indispensable for the conduct of the Government, aiming to carry out the objects that have been aimed at and relying at the same time on the declarations of the Department of State that it would not brook any armed intervention against the Government of Nicaragua that would unavoidably be attended with the consequence of throwing its budget out of balance and making it impossible to meet its obligations, for which Your Excellency's Government stands as the friendly mediator, the Government of Nicaragua has omitted for eight years to keep its war stores on the proper footing and being at this juncture without available funds that would provide these without a very serious upset in the discharge of its obligations, my Government wishes to be supplied by Your Excellency's Government from the stores left over from the world war and to be paid for according to such arrangements as may be agreed to, the implements that may not be in use and hereinbelow described:

Five thousand rifles.

Three million cartridges for rifles.

25 machine guns.

250 thousand rounds for machine guns.

2 military aeroplanes, with their regulation supply of ammunition and indispensable spare parts.

The proposition once accepted, the agreement as to the mode of payment would be made and the place where the implements are needed would be stated. I may add that 500 rifles, 250 thousand cartridges, 2 machine guns and 20 thousand rounds are urgently needed at Bluefields.

I avail [etc.]

EMILLIANO CHAMORRO

817.24/8

The Secretary of State to the Secretary of War (Weeks)

WASHINGTON, August 27, 1921.

SIR: I have the honor to enclose a translation of a communication recently received from the Government of Nicaragua,¹¹ inquiring whether this Government can supply certain arms and munitions from stocks left on hand by the war. This communication is transmitted to you for your information, and I should appreciate an expression of opinion from you as to whether the supplies desired by Nicaragua can be furnished by this Government. In view of the political situation referred to by the Nicaraguan Minister, the need for these arms and munitions is rather urgent.

I have [etc.]

For the Secretary of State:

HENRY P. FLETCHER

Under Secretary

817.24/9

The Secretary of War (Weeks) to the Secretary of State

ASW 400.703

WASHINGTON, September 6, 1921.

MY DEAR MR. SECRETARY: I have the honor to acknowledge receipt of your letter of August 27, 1921, with its enclosure from the Nicaraguan Minister regarding the purchase of—

- 5,000 rifles;
- 3,000,000 cartridges for same;
- 25 machine guns;
- 250,000 rounds of ammunition for machine guns;
- 2 military aeroplanes, with their regulation supply of ammunition and indispensable spare parts.

The War Department at the present time is in a position to negotiate a sale of all of the above mentioned equipment to the Nicaraguan Government except the 5,000 rifles. The availability of the rifles for sale will be determined at a later date, but, undoubtedly, before the negotiations for the purchase of the other material are concluded.

It is understood, of course, that this sale is sanctioned by the State Department.

Sincerely yours,

JOHN W. WEEKS

¹¹ Note of Aug. 24, 1921, *supra*.

817.24/1

The Nicaraguan Minister (Chamorro) to the Secretary of State

[Translation]

WASHINGTON, October 4, 1921.

EXCELLENCY: I have been informed that it lies with Your Excellency to furnish my Government with the armament it asked for. It is as follows: ten thousand rifles with six million rounds of ammunition, instead of the five thousand previously asked for; fifty machine guns with a million rounds of ammunition instead of the twenty five previously asked for, two military airplanes with all the needed accessories. As for the payment, taking into account the financial conditions now prevailing, I take the liberty of proposing to Your Excellency the mode of payment of the amount due might be as follows: the first payment to be made within three years, the second one year thereafter and the final payment five years from the date of the agreement.

I beg your Excellency to be so good when you address the War Department on the subject to inform me as to the quality and price of the said armament. I should also wish that in the handling of the matter you impress upon the War Department the necessity under which the Government of Nicaragua is placed and its desire of bringing the transaction to the earliest possible conclusion. I take the liberty of remarking that on the seventeenth day of this month the SS *Ecuador* will sail from Baltimore to Corinto, directly, and that the Government of Nicaragua would attach value to having the armament shipped on that steamer.

With the highest consideration, I am [etc.]

EMILIANO CHAMORRO

817.24/1

The Secretary of State to the Secretary of War (Weeks)

WASHINGTON, October 7, 1921.

SIR: With reference to previous correspondence concerning the desire of the Nicaraguan Government to purchase certain arms and munitions from your Department, I have the honor to enclose a copy of a translation of a note received from the Minister of Nicaragua¹² in which he requests that he be informed regarding the quality and

¹² Note of Oct. 4, 1921, *supra*.

the price of the arms and munitions which are available for sale by your Department. You will note that the Minister's new request is for a larger quantity than requested in his first note.

The Minister asks that I call to your attention the urgent need of the Nicaraguan Government for these arms and munitions, and the desire of that Government that the transaction be completed as soon as possible. The Minister states that the steamer *Ecuador* will leave Baltimore directly for Corinto on October 17, and that he would like to send the arms and munitions if possible on that steamer.

I have [etc.]

For the Secretary of State:

HENRY P. FLETCHER

Under Secretary

817.24/2

The Secretary of War (Weeks) to the Secretary of State

OCS 1159

WASHINGTON, October 14, 1921.

MY DEAR MR. SECRETARY: I acknowledge the receipt of your letter (Under Secretary Fletcher) of October 7, 1921, relating to the purchase of certain arms and ammunition by the Nicaraguan Government.

The Assistant Secretary of War, who is charged with the matter of sales, has been informed that there is no objection to the sale to the Nicaraguan Government of such of these articles as may be surplus at this time. In this connection, however, I desire to invite your attention to my letter of May 11, 1921, to you¹³ giving my opinion as to the undesirability, as a general policy, of the War Department selling arms to other governments. In that letter I requested that I be advised as to the views of the State Department with reference to the policy that should be pursued with regard to the general question of the sale of arms and munitions to other countries. No reply has been received. May I ask that you inform me as to your opinion of this policy or whether you believe that such matters should be decided on the merits of individual cases as they may come up.

Very sincerely yours,

JOHN W. WEEKS

¹³ Not printed.

817.24/2

*The Secretary of State to the Secretary of War (Weeks)*WASHINGTON, *October 22, 1921.*

SIR: I have the honor to acknowledge the receipt of your letter of October 14, 1921, in which you refer to your letter of May 11,¹⁴ discussing the undesirability, as a general policy, of selling arms to other governments. You ask that I inform you as to my opinion of this policy, especially in connection with the proposed sale of arms to the Government of Nicaragua.

A reply to your letter of May 11 was sent to you under date of June 11, 1921, and as a matter of convenience a copy thereof is transmitted herewith.¹⁴ You will note that this reply states that this Department feels that each request for the purchase of arms should be considered separately and according to its particular merits.

With regard to the particular case under discussion, I am inclined to think that the sale of the arms requested by Nicaragua would be desirable from the point of view of this Department, in view of our special interest in the maintenance of stable government in that country, and in view of our participation in the supervision of the financial affairs of the Republic. I am informed that Nicaragua has not at the present time sufficient war material to deal effectively with revolutionary bands which have been operating in the northern part of the Republic, and I consider it very desirable that the Government should be placed in a position where it will be able to maintain order.¹⁵

I have [etc.]

CHARLES E. HUGHES

817.24/4

The Secretary of State to the Minister in Salvador (Schuyler)

No. 18

WASHINGTON, *November 29, 1921.*

SIR: The receipt is acknowledged of your telegram of November 22, 1921, 8 p.m.¹⁴ in which you refer to the report that the United States Government had sold certain arms and ammunition to the Government of Nicaragua. In reply you are informed that the War Department, acting upon the recommendation of the State Depart-

¹⁴ Not printed.¹⁵ Shipment of arms and ammunition was made on Nov. 8, 1921, via the S.S. *Colombia* of the Pacific Mail Steamship Co.

ment, has sold to Nicaragua ten thousand rifles, fifty machine guns, and other military supplies for the equipment of the Nicaraguan army. The Department is informed that Nicaragua did not possess a sufficient amount of military equipment to enable the Government to cope with the revolutionary activities which have recently been carried on in that country. It was therefore felt desirable that that Government should be rendered this assistance in placing itself in a position to maintain order and to uphold the duly constituted authority.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

**DENUNCIATION OF THE TRADE-MARKS CONVENTION OF
AUGUST 20, 1910**

(See volume I, pages 164 ff.)

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 231 ff.)

NORWAY

ARBITRATION AGREEMENT, SIGNED JUNE 30, 1921, BETWEEN THE UNITED STATES AND NORWAY FOR THE SETTLEMENT OF CLAIMS ARISING OUT OF THE REQUISITIONING OF NORWEGIAN SHIPS¹

411.57 N 83/42

The Norwegian Minister (Bryn) to the Acting Secretary of State

WASHINGTON, June 3, 1919.

MR. ACTING SECRETARY OF STATE: I am instructed by the Norwegian Government to state to the Government of the United States that the Government of Norway has examined the contract between the United States Shipping Board Emergency Fleet Corporation and the Norges Rederforbund, dated June third, 1919,² relative to the settlement of twenty-seven claims of Norwegian subjects, represented by said Norges Rederforbund in connection with certain property and rights described in said agreement of settlement and alleged to have been requisitioned by the United States;³ that the Government of Norway approves without reservation said contract of settlement and that the Government of Norway hereby formally guarantees to save the Government of the United States or any of its branches harmless from any claims on the part of the Norges Rederforbund or the members thereof, or of any other persons, firms, associations or corporations having or claiming to have any right, title, or interest in the said property or rights, or any claims arising out of either, and that further the Government of Norway hereby waives any claims on its own behalf and on behalf of all citizens, firms, associations, or corporations of Norway arising out of or having relation to the said twenty-seven alleged cases of requisition; and finally, that the Government of Norway recognizes and agrees that the said contract of settlement constitutes a final settlement and disposition of all questions arising between the two Governments in connection with the said twenty-seven alleged cases of requisition.

¹ For papers concerning the requisitioning of ships under construction in the United States, see *Foreign Relations*, 1917, supp. 2, vol. 1, pp. 603 ff.

² Not printed.

³ \$34,500,000 was the sum agreed upon in settlement.

As interest, in case of postponement of the payment agreed upon in said contract, is to be paid from the date upon which said guaranty has been produced, which date constitutes the due date of the payment I venture to ask that the United States Shipping Board be today notified about the filing of the present undertaking. I also ask that I be advised that such notification has been given.

Please accept [etc.]

H. BRYN

411.57 N 83/54

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, December 2, 1919.

MR. SECRETARY OF STATE: By my note dated October 31, 1919,⁴ I had the honor to inform Your Excellency of the arrival of Captain C. Frölich Hanssen of Christiania, Norway, as the representative of a group of shipowners, called "The Christiania Group of Norwegian Shipowners", in order to negotiate with the United States Shipping Board about a settlement of claims growing out of the requisition by the United States of ships under construction in American yards for account of members of said group of shipowners. I added that I had been ordered by the Norwegian Government to render every assistance to Captain Hanssen in this matter.

I asked that the United States Shipping Board be notified and, by a note of November 3, 1919,⁴ Your Excellency was good enough to inform me that a copy of my note had been transmitted to the Shipping Board.

Captain C. Frölich Hanssen thereupon entered into communication with the Shipping Board to which he, on November 5, 1919, submitted a brief in which he discussed the claims represented by "The Christiania Group of Norwegian Shipowners", in all fifteen claims to an aggregate amount of \$14,157,977.58, which claims (except one) had already been formally presented to the Board last June by the legal Counsel of the Group, Judge J. Harry Covington.

The Norwegian Government has, ever since the time of the first requisition order of August 3, 1917,⁵ been desirous of having the claims growing out of said order and subsequent similar orders settled by private negotiations between the representatives of the Norwegian shipowners concerned and the United States authorities. In my personal note to Your Excellency of June 3, 1918,⁴ I expressed the opinion that a settlement might be much easier obtained through

⁴ Not printed.

⁵ See telegram of Aug. 3, 1917, from the General Manager of the Emergency Fleet Corporation to the owners of American shipyards, *Foreign Relations*, 1917, supp. 2, vol. 1, p. 614.

private than through diplomatic negotiations, and in my personal note of November 21, 1918,⁶ I stated that the Norwegian Government had hitherto refrained from protesting against the requisition of the new-buildings as being an infraction of the Treaty of Commerce and Navigation of July 4, 1827, hoping that an agreement might be reached between the United States Government and the Norwegian owners as to a satisfactory settlement.

On June 3, 1919, an agreement was signed between Mr. Emil Stray, on behalf of the "Norges Rederforbund", representing twenty-seven claims, and the United States Shipping Board, whereby a friendly settlement was reached through mutual concessions, in so far as said twenty-seven claims are concerned.

My Government has confidently hoped for a friendly settlement also of the fifteen claims represented by the association called "The Christiania Group of Norwegian Shipowners". From the discussions which Captain C. Frölich Hanssen has had with representatives of the United States Shipping Board it is, however, evident that the prospects of a settlement by agreement with the Shipping Board are very remote. From statements made by Mr. E. M. Weaver, Chairman of the Requisition Claims Committee of the United States Shipping Board in a letter, dated November 26, 1919, to the counsel of the Christiania Group, Judge Covington, it appears that the Shipping Board is of the opinion that the liability of the Board towards the Norwegian owners can be disassociated from the liability of the Government of the United States under the treaties for the actions of the Shipping Board.

In the opinion of the Norwegian Government it is impossible to disregard the treaty rights in settling these claims, and as the United States Shipping Board does not see its way to consider the treaties, the Norwegian Government is compelled, much to its regret, to lodge with the Government of the United States an official and formal claim for indemnification of all damage and all loss caused to the Norwegian citizens represented by "The Christiania Group of Norwegian Shipowners" by infractions on the part of the United States of treaty stipulations existing between the two Governments.

Article XVII of the treaty concluded between Norway and Sweden and the United States on July 4, 1827,⁷ stipulates that various specifically named articles of the treaty of Amity and Commerce concluded at Paris on April 3, 1783,⁸ between the United States and Sweden are revived and made applicable to all the countries under the dominion of the parties to the treaty of 1827 and shall

⁶ Not printed.

⁷ Miller, *Treaties*, vol. 3, p. 283.

⁸ *Ibid.*, vol. 2, p. 123.

have the same force and value as if inserted in the context of the treaty of 1827.

Article XVII of the said treaty of 1783 runs as follows:

“ One of the contracting parties being at war and the other remaining neuter, if it should happen that a merchant-ship of the neutral Power be taken by the enemy of the other party, and be afterwards retaken by a ship of war or privateer of the Power at war, also ships and merchandizes of what nature soever they may be, when recovered from a pirate or sea rover, shall be brought into a port of one of the two Powers, and shall be committed to the custody of the officers of the said port, that they may be restored entire to the true proprietor as soon as he shall have produced full proof of the property. Merchants, masters, and owners of ships, seamen, people of all sorts, ships and vessels, and in general all merchandizes and effects of one of the allies or their subjects, shall not be subject to any embargo, nor detained in any of the countries, territories, islands, cities, towns, ports, rivers, or domains whatever, of the other ally, on account of any military expedition, or any public or private purpose whatever, by seizure, by force, or by any such manner; much less shall it be lawful for the subjects of one of the parties to seize or take anything by force from the subjects of the other party, without the consent of the owner. This, however, is not to be understood to comprehend seizures, detentions, and arrests, made by order and by the authority of justice, and according to the ordinary course for debts or faults of the subject, for which process shall be had in the way of right according to the forms of justice.”

It is the opinion of the Norwegian Government that the orders of the United States Government requisitioning ships under construction and building contracts belonging to Norwegian citizens constituted an infraction of Article XVII of the treaty of July 4, 1827, and the therein mentioned Article XVII of the treaty of April 3, 1783, which stipulations certainly mean that the vessels and effects of citizens of Norway within the jurisdiction of the United States may not be appropriated against the owner's will to the public use for military or any other purposes, even though compensation be tendered.

As before mentioned the fifteen claims submitted by Captain C. Frölich Hanssen amounted to a total of \$14,157,977.58. This amount includes only what the Norwegian owners of the ships and contracts have actually paid for the same together with interest and expenses incurred. It was in order to facilitate an amicable agreement that the Christiania Group claimed only re-imbusement of outlay. But there is no reason why the Norwegian owners should waive their right to indemnification also for loss of profit and other indirect damage when the claim has to be presented officially by the Norwegian Government. A moderate amount for loss of profit and other indirect damage is therefore now added, raising the aggregate

amount of the fifteen claims by about ten per centum or to a total of \$15,600,000.

Acting under instructions from the Norwegian Government, the undersigned Minister Plenipotentiary has hereby the honor to ask from the Government of the United States an amount of 15,600,000 dollars as indemnification for damage and loss caused to Norwegian citizens by the violation of existing treaty stipulations on the part of the Government of the United States in appropriating the fifteen ships under construction and building contracts enumerated in the aforementioned brief of Captain C. Frölich Hanssen, dated November 5, 1919, a copy of which brief^o is attached to the present note.

Each claim is substantiated by the detailed affidavit of the present owner, or in the case of a corporation of the managing director or other proper officer. In support of the detailed affidavits there are receipts, certified statements of authorized auditors and certified bank statements showing the actual payments on which the claims are based. Also the originals or certified copies of all contracts and assignments have been procured. All these documents, originals or certified copies, can be produced to the Department of State by the Norwegian Legation whenever it is desired. All documents have, however, already been produced to the Shipping Board.

The Christiania Group of Norwegian Shipowners, having thus entrusted the Norwegian Government with the handling of the matter on their behalf in order that a settlement of the claims of the Group may be reached through diplomacy under existing treaty stipulations, the Group can, of course, not entertain any longer private negotiations with the United States Shipping Board, and the representative of the Group, Captain Hanssen, has, in a letter dated December 2, 1919, notified the United States Shipping Board accordingly.

Please accept [etc.]

H. BRYN

411.57 N 83/71

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, *May 27, 1920.*

MY DEAR MR. SECRETARY OF STATE: On December 2, 1919, I had the honor to address to Your Excellency's predecessor an official note claiming on behalf of my Government an amount of 15,600,000 dollars as indemnification for damage and loss caused to Norwegian citizens by the violation of existing treaty stipulations on the part of the Government of the United States in appropriating 15 ships

^o Not printed.

under construction and building contracts enumerated in a brief attached to said note.

Although more than six months have elapsed since my note I am without reply from the United States Government. We are now approaching the long space of three years since the requisitioning took place and great hardship is wrought upon the Norwegian shipowners by this delay in settling the claims. I therefore feel it my duty to my country to ask that radical action be taken in order to obtain a settlement.

If the President of the United States had been entirely well I would have applied for the honor of an interview in order to explain the matter to him personally. But under the present circumstances I feel it would be difficult to ask for such interview.

I therefore venture to ask whether Your Excellency might be willing to lay the affair before the President for his consideration and decision.

With my best thanks in advance for your good offices in this matter, I am [etc.]

H. BRYN

411.57 N 83/113

The Minister in Norway (Schmedeman) to the Secretary of State

No. 1691

CHRISTIANIA, November 1, 1920.

[Received November 23.]

SIR: I have the honor to report that His Majesty the King of Norway, requested the Minister for Foreign Affairs to inform me that he has sent a personal telegram to the President requesting him to use his good offices to hasten a settlement of the claims of the so-called Hannevig group of requisitioned Norwegian ships. The Minister for Foreign Affairs further stated that the King regretted that it was necessary to take such action, but so much pressure was brought to bear that he finally consented to send the telegram.

I have [etc.]

A. G. SCHMEDEMAN

411.57 N 83/111 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, November 15, 1920—3 p.m.

[Received 3:53 p.m.]

70. Referring to my cable number 59, October 4, 2 p.m.¹⁰ Norwegian Minister for Foreign Affairs informs me that you have suggested arbitration of the so-called Hannevig claims and requests me to say that Norway approves so strongly of that method in general

¹⁰ Not printed.

that it could not refuse a definite proposal; however a prompt solution is much desired and the offer by the United States of a definite sum would be greatly appreciated.

Some of the present holders of the contracts are on the verge of bankruptcy due to inability to repay loans from banks and the present remarkably high exchange value of the dollar would appear to furnish an opportunity to settle these claims now. The present contract holders have almost all paid for their contracts in kroner and the United States could pay enough kroner to repay their outlays with interest without greatly exceeding the payments in dollars made in America according to the original contracts.

SCHMEDEMAN

411.57 N 83/118

The Acting Secretary of State to the Norwegian Minister (Bryn)

WASHINGTON, December 29, 1920.

SIR: I have the honor to refer to your notes of December 2, 1919 and May 27, 1920, in regard to the claim of certain Norwegian subjects growing out of the alleged requisition by this Government of certain materials and ships under construction.

I am now in receipt of a further communication from the United States Shipping Board in regard to this matter,¹¹ in which the Board states that it cannot consistently make any offer of settlement which is not in harmony with the recommendation made by the Requisition Claims Committee of the United States Shipping Board, Emergency Fleet Corporation, with the terms of which you are doubtless familiar.

In a recent letter to the Shipping Board I suggested that the Board and the claimants might be able to arrange for an informal arbitration of their differences. In reply the Board has informed me that the method of arriving at just compensation so far as the Board and the Emergency Fleet Corporation are concerned is determined by Congressional enactment and that therefore the Board is not at liberty to agree to any form of arbitration which would determine the liability of the United States in any manner other than as already fixed by law.

If I am incorrect in supposing that the claimants and yourself are familiar with the recommendation made by the Requisition Claims Committee, I shall be pleased to request the United States Shipping Board to furnish for your consideration such details in regard to this recommendation as may be desirable.

Accept [etc.]

NORMAN H. DAVIS

¹¹ Letter of Dec. 16, not printed.

411.57 N 83/128

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, February 14, 1921.

MR. SECRETARY OF STATE: In reply to the note of the Acting Secretary of State, dated December 29, 1920, in regard to the claim presented by the Norwegian Government against the Government of the United States in the note of December 2, 1919, for indemnification for damage and loss caused to certain Norwegian citizens by the Government of the United States by requisitioning fifteen ships under construction and building contracts, I have been instructed by my Government to make the following communication to Your Excellency.

The Norwegian Government appreciates highly the endeavors made by Your Excellency to secure the co-operation of the United States Shipping Board with a view to obtain a proposition from the Board acceptable to the Norwegian citizens sustaining such damage and loss. The Norwegian Government regrets, however, that these endeavors have been without result.

From my note to Your Excellency's predecessor, dated December 2, 1919, it will also be seen that it was not until it had become evident that the direct negotiations between the Shipping Board and the Christiania Group would not reach any result, that the Norwegian Government was put to the necessity of making the affair the subject of an official diplomatic claim under the treaty provisions in force.

By virtue of the act of Congress, approved on June 15, 1917, it is the President of the United States who is exercising the authority to requisition, and it is on behalf of the President by his authorization in Executive Order, dated July 11, 1917,¹² that the United States Shipping Board Emergency Fleet Corporation has requisitioned the Norwegian ships under construction and the Norwegian contracts for the building of ships.

If Norwegian property and rights have been requisitioned in conflict with existing treaty provisions, such violation of treaty must therefore be considered as having been committed by the United States Government itself.

From these facts a claim on behalf of the Norwegian Government arises against the Government of the United States for indemnity for the damage which the United States by its violation of the treaty has caused to Norway.

The Norwegian Government, in its note of December 2, 1919, has therefore not directed its claim against the Shipping Board but against the Government of the United States.

¹² *Foreign Relations*, 1917, supp. 2, vol. I, p. 603.

Consequently, the Norwegian Government will not enter into any argument against the statement made by the Shipping Board that it can not agree to any method of determining the liability of the United States otherwise than as fixed by law. It is not for the Norwegian Government to make any criticism of the fact that the Shipping Board, without taking the treaties into consideration, executes the laws adopted by Congress and the instructions given by the President of the United States, this being recognized to be a domestic American concern. As regards the recommendation made by the Requisition Claims Committee, which is mentioned in the note of December 29, 1920, of the Acting Secretary of State, it is of less interest to the Norwegian Government now to be made officially acquainted with said recommendation than with the Department of State's own opinion of the affair.

The Norwegian Government is still willing to accept as indemnity in full the lump sum of \$15,600,000, mentioned in the note of December 2, 1919, provided that such an amount be placed at the disposal of the diplomatic representative of Norway at Washington within one month from the date of the present note. If not, the Norwegian Government reserves the right to present thereafter a claim for a separate amount of indemnity in each of the fifteen individual cases of requisition.

In this connection it should be borne in mind that when the Norwegian Government in the note of December 2, 1919, restricted itself to ask the refund of the outlays incurred in the acquisition of the property and rights together with only about 10 per cent for indirect loss, it was in order to facilitate a speedy settlement by agreement. Among the Norwegian citizens who are sustaining damages, several are, however, suffering very considerable loss by reason of the fact that they were deprived of the income of their property, the value of which also in part was greater than the cost of acquisition. If a settlement should not materialize within the time above mentioned, the Norwegian Government, therefore, must reserve the right to put forth a claim for indemnity for all loss, direct as well as indirect, inflicted on Norwegian citizens.

If the Government of the United States should not find it possible now to accept the proposition of the Norwegian Government as mentioned above, nothing is left but to endeavor to have the affair settled by arbitration. The choice will then be between one of the following three courses of procedure for the settlement of the difference, namely either referring the case to the Permanent Court of Arbitration at The Hague in accordance with the Convention of Arbitration, of April 4, 1908,¹³ or submitting it to the Commission

¹³ *Ibid.*, 1908, p. 663.

established by the Treaty of June 24, 1914,¹⁴ for investigation and report; or settling the case by arbitration, formal or informal, on a more free basis by a tribunal with international composition of the membership, established for the occasion by separate agreement to be entered into.

The Norwegian Government is willing to leave to the American Government to make the choice between any one of the said three courses of procedure; the Norwegian Government, however, reserving the right to invoke the anti-requisition clause of the treaty, whatever course of procedure may be chosen for the settlement of the claims. But the Norwegian Government will not fail to add that although it considers the requisitions in question of Norwegian property and rights as a violation of treaty, it deems it of subordinate importance to have a formal expression given to this opinion, provided only that a satisfactory settlement of the case can come about.

As now more than three years have elapsed since the requisition, the Norwegian Government will appreciate highly a reply to this note at an early convenience.

Please accept [etc.]

H. BRYN

411.57 N 83/128

The Secretary of State to the Norwegian Minister (Bryn)

WASHINGTON, April 1, 1921.

SIR: I have the honor to refer to your note of February 14, 1921, in which you set forth certain proposals of your Government with regard to the settlement of the claim presented by it against the Government of the United States on account of the requisition by the latter of property of Norwegian subjects.

In the communication addressed to you by the Department under date of February 23, 1921,¹⁵ it was stated that these proposals would receive the Department's careful consideration and would be the subject of a future communication to the Legation. While this Government does not admit that there has been a breach of any treaty obligation, considering the sole question as one of just claim for property taken for the use of the Government, I now beg to inform you that this Government is disposed to agree in principle to the settlement of this claim by an arbitration arrangement, the details of which can probably be expeditiously settled after the Norwegian Government shall have considered certain suggestions which I deem it advisable to make with respect to its proposals.

¹⁴ *Foreign Relations*, 1914, p. 971.

¹⁵ Not printed.

In your note of February 14, you state that your Government is prepared to submit the claim to arbitration before the Permanent Court at The Hague, in accordance with the Convention of Arbitration concluded April 4, 1908, between the United States and Norway, or before a specially created tribunal, or to refer it for investigation to the commission established by the treaty of June 24, 1914.

It seems possible that by a resort to mediation under the treaty of 1914, an expression of impartial opinion respecting the claim might be obtained within a shorter period of time than would be required to bring about an adjudication by an arbitral tribunal. However, the proposed action under this treaty appears to raise a somewhat doubtful question as to the application to the case of this agreement in view of the limitations contained in its Article I with respect to the classes of disputes which are subject to investigation. The Article reads as follows:

“The High Contracting Parties agree that all disputes between them of every nature whatsoever shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a Permanent International Commission; provided, however, that treaties in force between the two parties do not prescribe settlement by arbitration of such dispute.

The Commission shall be constituted in the manner prescribed in the next succeeding article.

The High Contracting Parties agree not to declare war or begin hostilities during such investigation and before the report is submitted.”

Questions involved in the claim presented by your Government, as to the right of the Government of the United States to expropriate property in this country belonging to Norwegian subjects and as to compensation which should be paid for any property taken, would appear to be included within the terms of Article I of the treaty of 1908, and hence not to be within the scope of the treaty of 1914. Therefore, after careful consideration of your Government's proposal with regard to an investigation pursuant to the terms of that treaty, I am not inclined to favor such a procedure. Although the treaty may not be applicable to the present case, there would appear to be no objection to a mediation in harmony with the principles underlying the treaty. It would seem practicable to make an arrangement for an examination into the questions at issue by impartial investigators in harmony with the principle of mediation to which both Governments have given their endorsement, not only by the conclusion of the treaty of 1914, but by their ratification of the Hague Convention for the Pacific Settle-

ment of International Disputes concluded October 18, 1907,¹⁷ Article IX of which relates to the investigation of disputes by International Commissions of Enquiry.

However, in my opinion, arbitration, which would effect a definite and final disposition of the claim, would be preferable to any other method of procedure. While the treaty of 1908 does not contain a provision for arbitration other than before the court at The Hague, there would appear to be no obstacle to the conclusion of an agreement as suggested in your note of February 14, for the settlement of the claim by an arbitral tribunal created especially for that purpose. However, since pursuant to Article II of that treaty a *compromis* in the form of a treaty must be concluded before an arbitration can be undertaken, the only advantage of negotiating an agreement for a special tribunal would seem to be that the arbitrators might hold their sessions in the United States, where probably most of the evidence required in the preparation of the case would be available, or in some nearby country. If your Government should not attach importance to this consideration, the establishment of a special tribunal would seem to have no advantage over the established procedure before the court at The Hague. Should it seem desirable to minimize as much as possible the expenses of an arbitration before that tribunal, the number of arbitrators could be limited to three, in accordance with the summary procedure prescribed by Article 86 of the Convention for the Pacific Settlement of International Disputes.

If an arbitration before the court at The Hague along the lines above suggested should meet with the approval of the Norwegian Government, I would be glad to take up at once on being informed to that effect the negotiation of the special agreement contemplated by Article II of the treaty of 1908, defining the issues involved in the particular claims which should properly be included within the terms of such agreement.

Accept [etc.]

CHARLES E. HUGHES

411.57 N 83/148

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, April 28, 1921.

MR. SECRETARY OF STATE: With reference to Your Excellency's note of April 1, 1921, relating to certain claim presented by the Norwegian Government against the Government of the United States on account of the requisition by the latter of fifteen ships under

¹⁷ *Foreign Relations*, 1907, pt. 2, p. 1181.

construction and building contracts belonging to Norwegian citizens, I have the honor to inform you that the Norwegian Government accepts Your Excellency's views that the claim should be referred for arbitration to the Court at The Hague for definite and final disposition. To that effect I have been authorized by my Government to take up with you at once, as suggested by you, the negotiation of the special agreement contemplated by article 2 of the Convention of Arbitration of 1908.

Please accept [etc.]

H. BRYN

411.57 N 83/148

The Secretary of State to the Norwegian Minister (Bryn)

WASHINGTON, May 28, 1921.

SIR: I have the honor to refer to your note of April 28, 1921, relating to the claim presented by your Government against the Government of the United States on account of the requisition by the latter of property of Norwegian subjects. I note your statement to the effect that the Government of Norway is of the opinion that the claim should be referred to arbitration and that you have been authorized to take up at once the negotiation of an agreement for that purpose.

I have the honor to enclose herewith, for your consideration, a draft agreement which I hope may be acceptable to your Government, so that an agreement may be promptly concluded.

Accept [etc.]

CHARLES E. HUGHES

[Enclosure]

Draft of Arbitration Agreement

The United States of America and His Majesty the King of Norway, desiring to settle amicably certain claims of Norwegian subjects against the United States arising out of the requisition of property by the United States Shipping Board Emergency Fleet Corporation;

Considering that these claims have been presented to the United States Shipping Board Emergency Fleet Corporation and that the said corporation and the claimants have failed to reach an agreement for the settlement thereof;

Considering, therefore, that the claims should be submitted to arbitration conformably to the Convention of the 18th of October 1907, for the pacific settlement of international disputes and the Arbitration Convention concluded by the two Governments April 4,

1908, and renewed by agreements dated June 16, 1913,¹⁸ and March 30, 1918,¹⁹ respectively;

Have appointed as their plenipotentiaries, for the purpose of concluding the following Special Agreement;

The President of the United States of America,

.....

His Majesty the King of Norway,

.....

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed on the following articles:

ARTICLE I

The Arbitral Tribunal shall be constituted in accordance with Article 87 (Chapter IV) and Article 59 (Chapter III) of the said Convention of October 18, 1907, except as hereinafter provided, to wit:

One arbitrator shall be appointed by the President of the United States, one by His Majesty the King of Norway, and the third, who shall preside over the Tribunal, shall be selected by mutual agreement between the two Governments. If the two Governments shall not agree within one month from the date of the exchange of ratifications of the present Agreement in naming such third arbitrator, then he shall be named by the President of the Swiss Confederation, if he is willing.

The Tribunal shall determine, in accordance with the principles of law and equity:

- (1) What property, if any, belonging to each of the claimants was requisitioned;
- (2) What sum, if any, should be paid to each claimant as compensation for such requisition.

The Tribunal shall also examine any claim of any American citizen against any Norwegian subject in whose behalf a claim is presented under the present Agreement, arising out of a transaction on which such claim is based, and shall determine what portion of any sum that may be awarded to such claimant shall equitably be paid to such American citizen.

ARTICLE II

As soon as possible, and within six months from the date of the exchange of ratifications of the present Agreement, each Party shall present to the agent of the other Party, two printed copies of its case (and additional copies that may be agreed upon) together with the documentary evidence upon which it relies. It shall be sufficient for

¹⁸ *Foreign Relations*, 1914, p. 970.

¹⁹ *Ibid.*, 1918, p. 851.

this purpose if such copies and documents are delivered at the Norwegian Legation at Washington or at the American Legation at Christiania, as the case may be, for transmission.

Within twenty days thereafter, each party shall deliver two printed copies of its case and accompanying documentary evidence to each member of the Arbitral Tribunal, and such delivery may be made by depositing these copies within the stated period with the International Bureau at The Hague for transmission to the Arbitrators.

After the delivery on both sides of such printed case, either Party may present, within three months after the expiration of the period above fixed for the delivery of the case to the agent of the other Party, a printed counter-case (and additional copies that may be agreed upon) with documentary evidence, in answer to the case and documentary evidence of the other Party, and within fifteen days thereafter shall, as above provided, deliver in duplicate such counter-case and accompanying evidence to each of the Arbitrators.

As soon as possible and within two months after the expiration of the period above fixed for the delivery to the agents of the counter-case, each Party shall deliver in duplicate to each of the Arbitrators and to the agent of the other Party a printed argument (and additional copies that may be agreed upon) showing the points relied upon in the case and counter-case, and referring to the documentary evidence upon which it is based. Delivery in each case may be made in the manner provided for the delivery of the case and counter-case to the Arbitrators and to the agents.

The time fixed by this Agreement for the delivery of the case, counter-case, or argument, and for the meeting of the Tribunal, may be extended by mutual consent of the Parties.

ARTICLE III

The Tribunal shall meet at The Hague within one month after the expiration of the period fixed for the delivery of the printed argument as provided for in Article II.

The agents and counsel of each Party may present in support of its case oral arguments to the Tribunal, and additional written arguments, copies of which shall be delivered by each Party in duplicate to the Arbitrators and to the agents and counsel of the other Party.

The Tribunal may demand oral explanations from the agents of the two Parties as well as from experts and witnesses whose appearance before the Tribunal it may consider useful.

ARTICLE IV

The decision of the Tribunal shall be made within two months from the close of the arguments on both sides, unless on the request of the Tribunal, the Parties shall agree to extend the period. The decision

shall be in writing and shall be accompanied by a statement of reasons.

The decision of the majority of the members of the Tribunal shall be the decision of the Tribunal.

The language in which the proceedings shall be conducted shall be English.

The decision shall be accepted as final and binding upon the two Governments.

Any amount granted by the award rendered shall bear interest at the rate of five per centum per annum, beginning to run one month after the rendition of the decision until the date of payment.

ARTICLE V

Each Government shall pay the expenses of the presentation and conduct of its case before the Tribunal; all other expenses which by their nature are a charge on both Governments, including the honorarium for each arbitrator, shall be borne by the two Governments in equal moities.

ARTICLE VI

This Special Agreement shall be ratified in accordance with the constitutional forms of the contracting parties and shall take effect immediately upon the exchange of ratifications, which shall take place as soon as possible at Washington.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Special Agreement and have hereunto affixed their seals.
Done in duplicate in this day of, 1921.

411.57 N 83/153

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, June 3, 1921.

MR. SECRETARY OF STATE: I have the honor to acknowledge Your Excellency's note of May 28, 1921, enclosing a proposed draft of agreement covering the arbitration of the fifteen claims of the so-called Christiania Group of Norwegian Shipowners.

The draft of agreement which I had the honor to submit informally on May 3rd²⁰ is not referred to, but I am assured that it has had the benefit of your consideration in the preparation of the draft now forwarded by you.

²⁰ Not printed.

It is a pleasure to observe the pains that have been taken in drafting the agreement enclosed by you to prepare the way for arbitration on the merits of the controversy.

I observe that the element which my Government has regarded of overshadowing importance, viz., the violation of the treaty existing between the two Governments is not referred to in the draft. Nevertheless, so desirous is my Government of reaching a basis of agreement, that, despite this omission, I am able to assure you that with some alterations, which I feel confident you will deem unessential, the agreement is acceptable to my Government. These alterations I have taken the liberty of embodying in a revision of your draft which I now beg to enclose herewith.²¹ This revision of your draft, while omitting much that my Government has heretofore been inclined to regard as essential, would, if agreeable to you, be acceptable to my Government. It is my hope that you may find it satisfactory.

For your convenience in examining the revision of your draft, I will refer briefly to the alterations made in your draft as follows:

1.—That part of the preamble which states the nature of the claims has been expressed in more general terms so as to cover what in fact are the claims of the Norwegians. I need not say that this involves no admission on the part of the United States Government of the validity of any such claim. The change is proposed merely to express more fully what in fact is claimed by the Norwegians.

I have also added to the preamble a clause expressing the fact that it has been impossible to settle the controversy by diplomacy.

2.—Carrying out the thought involved in the above change in the preamble, the issues in controversy have been stated in more general terms so as to express the principle that the claims of the Norwegians, whatever they may be, are to be arbitrated. The manner of stating the issues in your draft might have been claimed by the counsel representing the United States before the arbitrators to have excluded all the Norwegian claims. For the counsel for the United States might have claimed that in a strict sense no property belonging to the present claimants was requisitioned (all the present claimants being assignees of the owners of the property on August 3, 1917) and that therefore all the claims were out of court. I am assured that there is no desire on the part of the United States Government to have a futile arbitration of that character.

In justification of the general language employed in stating the issues, I note that in all arbitrations I have examined to which the United States has been a party where general language is applicable,

²¹ Not printed.

general language has been used. In the Oronoco Steamship Company Case, Article I of the protocol defines the jurisdiction of the Commission as follows:

"All claims owned by citizens of the United States of America against the Republic of Venezuela . . . ²² shall be examined and decided, etc."

In the Pious Fund Case the issues were stated—

"All claims on the part of corporations, companies or private individuals, etc., . . . ²² shall be referred to the Commission."

Similarly in the Venezuela Preferential Case, it is provided that "all claims" shall be submitted.

In regard to certain of the words in my draft of agreement, I beg to call your attention to the following language in the Oronoco case. The protocol provided that the claims shall be decided—

"Upon a basis of absolute equity without regard to objections of a technical nature or of provisions of local legislation."

In regard to these words, the Commission used the following language:

"Clearly the high contracting parties had in view the substance and not the shadow of justice. They sought to make the remedies to be afforded by the commission dependent not upon the niceties of legal refinement, but upon the very right of the case. The vital question in this, as in every other claim before this tribunal, is whether and to what extent citizens of the United States of America have suffered loss or injury; and whether and to what extent the Government of Venezuela is responsible therefor."

In the Pious Fund Case the arbitrators were required to make declaration that they "will impartially and carefully examine and decide to the best of their judgment and according to public law and justice and equity, . . . ²² upon all such claims."

[3.]—As to the method of appointing a third arbitrator in case the parties can not agree, I shall have to consult my Government. I apprehend that the suggestion contained in your draft should be entirely agreeable to my Government.

4.—The provision for the arbitration of a certain counter-claim will not be objected to by my Government. However, the nature of this claim must be expressed specifically and I have modified the draft accordingly.

5.—*Time.* The provisions of the draft which I had the honor to submit on May 2d [3d] made provision for a total time of eight months between the ratification of the agreement and the hearing of

²² Omission indicated in the original note.

the case. The draft sent by you extends this total time to twelve months. While no doubt this or even a longer time could be taken by counsel, I believe it to be unnecessary. I believe results more satisfactory to all parties will be secured if the hearing be hastened. I have therefore suggested that the total time be cut down to nine months.

6.—At the end of Article II, I have added two clauses.

(a) This clause is to the effect that each party will furnish evidence in its possession desired by the other. It seems to me that this is a proper provision. In ordinary judicial proceedings the other party is subject to subpoena. If arbitration is to be a successful method of adjusting international disputes, some such provision as this seems to be required as a substitute for the subpoena in ordinary judicial proceedings.

On this subject, I beg to call your attention to Article 4 in protocol providing for arbitration in the Pious Fund Case:

“Either party may demand from the other the discovery of any fact or of any document deemed to be or to contain material evidence for the party asking it; the document desired to be described with sufficient accuracy for identification, and the demanded discovery shall be made by delivering a statement of the fact or by depositing a copy of such document (certified by its lawful custodian, if it be a public document, and verified as such by the possessor, if a private one), and the opposite party shall be given the opportunity to examine the original in the City of Washington at the Department of State, or at the office of the Mexican Ambassador, as the case may be. If notice of the desired discovery be given too late to be answered ten days before the tribunal herein provided for shall sit for hearing, then the answer desired thereto shall be filed with or documents produced before the Court herein provided for as speedily as possible.”

(b) The other clause is a clause relating generally to the character of evidence that may be offered. I suggest this clause in line with my desire to eliminate all possible grounds for controversy over technicalities. I wish to obviate the possibility that either side may object to the character of evidence offered by the other.

7.—*Interest.* Instead of providing for 5% interest to run for [from?] one month after the award, I have provided that the interest run from the day of the award, at a rate to be fixed by the tribunal. The fixing of interest to run from the date of judgment is, I believe, universal in judicial proceedings. As to the rate of interest, we have seen such extraordinary fluctuation recently that it seems inadvisable at this time to fix the rate; rather it should be fixed by the prevailing rate of interest at the time of the rendition of the award.

8.—I have added a simple clause to Article IV to the effect that full effect shall be given to the decision without delay.

Trusting that Your Excellency will appreciate the friendly and consiliatory spirit in which my Government has met your propositions and that you will find it possible to agree to the proposed amendments which are intended only to clarify and not to alter the meaning of the draft agreement submitted by Your Excellency's afore-mentioned note, I avail myself [etc.]

H. BRYN

411.57 N 83/153

The Secretary of State to the Norwegian Minister (Bryn)

WASHINGTON, June 11, 1921.

SIR: I have the honor to acknowledge the receipt of your note of June 3, 1921, in which you refer to the arbitration of the claims of Norwegian subjects against the Government of the United States on account of the requisition of property by the United States Emergency Fleet Corporation, and make certain observations respecting the draft arbitration agreement enclosed with my note to you on May 28th.

You observe that the draft agreement, which was left by you at the Department, was not referred to in my communication just mentioned, but that you are assured that it has had the benefit of my consideration. No reference was made to it in the Department's note of May 28, because it had not been mentioned in any communication addressed by the Legation to the Department, which received some time ago a copy of it, which it was understood was given to the Department informally and was not presented formally for the Department's consideration. The Department has been pleased to give the draft careful examination, and as you have doubtless observed, portions thereof were incorporated, in the Department's counter-draft.

I have taken note of your statement to the effect that you observe that the element which your Government "has regarded of overshadowing importance, viz., the violation of the treaty existing between the two Governments is not referred to in the draft."

It would seem possible that there has been a misunderstanding between the Department and the Legation in this matter which it would be well to have cleared up before further steps are taken in the negotiations respecting arbitration. It was the Department's understanding, resulting from discussions with yourself and counsel for the Legation, that your Government was not disposed to press any issue of treaty violation. On that understanding the Department expressed its willingness to enter into negotiations for an arbitration of the entire number of claims which had been presented to the United States Emergency Fleet Corporation and to the Department

in behalf of the Norwegian claimants, including certain claims which, irrespective of the correctness or incorrectness of the interpretation of the Treaty of 1827, set forth in your note of December 2, 1919, could not possibly come within the terms of the Treaty. The Department presumes that your Government would not insist that the Government of the United States would be debarred under the treaty from requisitioning property owned by American corporations because of Norwegian interests in such corporations. And it appears obvious that Norwegian subjects who may have purchased certain property after requisition thereof could not complain that treaty rights possessed by them in relation to such property were violated by the requisition. It will probably be admitted therefore by the Norwegian Government that, even under its construction of the Treaty of 1827, some of the claims in question could not come within its terms. Without admitting that all of the claims which have been presented to this Government by the Legation are not within the principle of international law that a claimant against a foreign country must, as a general rule, exhaust his legal remedy in the appropriate tribunal of the country against which he makes the claim before he is entitled to the diplomatic intervention of his own Government, I deem it proper to state that, if it is intended that the question of treaty violation is to be raised in any way, the Department is not disposed to arbitrate such of the claims as clearly come within the operation of this well established rule. I should, therefore, like to be informed definitely on that point.

However, I will take the present opportunity to comment on the alterations in the Department's draft suggested by the Legation in the order in which they appear in your note under acknowledgment.

1. It does not appear to me that the revised language of the preamble you suggest has the effect of stating the nature of the claims in more "general terms", as you say, but rather in more specific terms. This may not necessarily be objectionable, but if the preamble, which is merely a statement of reasons for the negotiation of the agreement under consideration, is to contain details such as have been proposed by you, it would seem desirable that other parts of the treaty, such as that defining the duties of the arbitrators, should be set forth more in detail and not in the very general terms you have proposed as a substitute for provisions in the Department's draft. It is the Department's understanding, however, after consultation with legal representatives of the Legation, that the following substitute would be acceptable to you.

"The United States of America and His Majesty the King of Norway, desiring to settle amicably certain claims of Norwegian subjects against the United States arising, according to contentions of the Government of Norway, out of certain requisitions by the United States Shipping Board Emergency Fleet Corporation;"

2. I am not entirely clear regarding your observations respecting the provisions in Article I of the Department's draft defining the duties of the arbitrators; and although I believe that these provisions would afford a basis of arbitration entirely fair to the claimants, I am willing, with a view to meeting your desire in this matter, to substitute a provision of a more general character as follows:

"The tribunal shall examine and decide the aforesaid claims in accordance with the principles of law and equity and determine what sum, if any, shall be paid in settlement of each claim."

3. Although your note under acknowledgment contains a reservation with regard to the designation of the third arbitrator, since you have made no new proposal respecting this point, I assume that the Department's plan is not objectionable. Should the President of the Swiss Confederation not be acceptable to your Government, as a person to designate the third arbitrator, in case of a failure of the two Governments to agree upon one, the Department would be willing to have the designation made by His Majesty King George V of England.

4. The Department is agreeable to your proposal to designate specifically the claim referred to in Article I of the Department's draft.

5. The Department is preparing to meet the Legation's desire with respect to the shortening of the period of time intervening between the ratification of the agreement and the meeting of the arbitral tribunal, so that five months will be allowed for the presentation by each side of its case and one month for the delivery of the printed argument. The period provided after such alterations is the shortest one which, in the Department's opinion, can properly be fixed for the entire preparation of the case.

6. I am not disposed to agree to the provision suggested by you with respect to the obligation of each of the contracting parties to furnish evidence to the other. I have taken note of your comparison of the arbitral procedure in contemplation with judicial proceedings generally. Without entering into a discussion of this comparison, it may be observed, on the one hand, that the claimants have declined, evidently under advice from their Government, to present their case to the appropriate judicial tribunal, and on the other hand, that Government records generally are not public records in the sense that court records are public, or subject to production in court as other records not of a privileged character are subject to demand under subpoena. The broad provision suggested by you would doubtless cover many kinds of papers which either Government might very properly consider should not be subject to the

demand of the other. For this reason, and with a view to avoiding any possible future misunderstanding, it seems desirable not to incorporate into the agreement provisions such as those suggested by you with reference to this point.

I perceive no reason for the following unusual stipulations suggested by you:

"Each party shall have the right to submit, as evidence in the case, all documents, records, and other official or public statements, or facts, or affidavits bearing on the subject as it may consider necessary."

The Department's draft makes provisions for a full presentation of the case of each side with documentary evidence and with oral and written arguments.

7. It appears from the statements made to the Department that interest at the rate of five per centum to be paid on any award rendered, from the date of rendition to the date of payment, is considered by the Legation as inadequate. The Department is willing to agree to the rate of six per centum.

8. I would prefer to eliminate the phrase which you suggest that the award shall be given effect "without delay". It would seem desirable to avoid incorporating into the agreement any implication as to the necessity for stipulating against an unwarranted delay in the execution of the award.

I trust that negotiations respecting the proposed agreement may be speedily adjusted on the basis of the foregoing suggestions.

Accept [etc.]

CHARLES E. HUGHES

411.57 N 83/155

The Norwegian Minister (Bryn) to the Secretary of State

WASHINGTON, June 16, 1921.

MR. SECRETARY OF STATE: I have the honor to acknowledge receipt of Your Excellency's note of the 11th instant. I have noted with care the statements in your note with reference to the question of treaty violation. My Government already in my note of the 14th February this year agreed not to demand any formal decision regarding the alleged treaty violation, provided the Norwegian claims in question could be definitely disposed of by international arbitration. However, my Government in that note expressly reserved its right to refer to the anti-requisition clause in the treaty as a basis for the adjustment of the compensation.

During the negotiations which have taken place later between the State Department and the Legation however, my Government

has gone further and agreed to your desire that the court shall not in any way be invited to examine, discuss or decide upon the treaty violation question.

Since the parties are in agreement upon this point, it will be unnecessary for me to discuss in detail the remarks in Your Excellency's note in this connection and I therefore give you the formal assurance requested that the question of treaty violation is not to be raised in any way.

As to the other questions suggested in your note, I beg to state that my Government has not meant to insist upon any of the various propositions it has heretofore advanced but the purpose was to submit them to your consideration as a basis for an agreement drawn in a spirit of mutual concessions.

Accepting the conclusions expressed in your letter upon all other points, there are only two questions as to which I beg your further consideration.

One is the form of the statement of the issues to be arbitrated. On a separate memorandum,²³ I enclose statements taken from other arbitration agreements where you will see in what form the issues to be arbitrated have been consistently stated. In view of those precedents, I urge that the word "law" in "Article I" be eliminated. I beg to state that the word "law" as a basis for international arbitrations has not been applied in any of the arbitration agreements before the Permanent Court of The Hague, and as far as I can see it is not to be found in any of the other agreements mentioned by Moore in his *History and Digest of the International Arbitrations* to which the United States has been a party.

As the word "law" has thus not in any case where the United States has been a claimant against other countries been used I trust that the United States Government will not insist upon this word being applied in a case when another country is claimant against the United States. If the word "law" should be insisted upon, it ought to be described as "public law". This stipulation has been used in a few of the previous arbitration cases.

The other subject as to which I request your further consideration relates to evidence to be furnished. The two paragraphs which I suggested in my revision of your draft and which you now propose to eliminate, I believe would be useful additions. In this connection I beg to call your attention to certain provisions of other arbitrations to which the United States has been a party shown on the enclosed memorandum.²³

²³ Not printed.

On both of these points, I am appealing to Your Excellency's judgement and experience in the drafting of legal documents, rather than insisting upon my own views.

It is not my disposition to insist upon either of these points, but I earnestly hope that your more attentive consideration of the precedents cited and the meritorious character of the suggestions will lead you to modify somewhat the language employed.

Awaiting your decision on the points, I avail myself [etc.]

H. BRYN

411.57 N 83/155

The Secretary of State to the Norwegian Minister (Bryn)

WASHINGTON, June 29, 1921.

SIR: I have the honor to acknowledge the receipt of your note of June 16, 1921, with reference to the arbitration of claims presented by your Government against the Government of the United States on account of the requisition of property by the United States Emergency Fleet Corporation.

In view of the extended conversations that have been held with you at the Department, it would seem unnecessary to enter into any considerable, further discussion of the matters referred to in your communication.

You urge that the word "law" in Article I of the draft proposed by the Department be eliminated and state that this word "as a basis for international arbitrations has not been applied in any of the arbitration agreements before the Permanent Court of the Hague". As of possible interest in connection with this point, I beg to invite attention to Article III of the Agreement between France, Great Britain, Spain and Portugal for the Arbitration of Claims Relating to Religious Properties, signed at London [*Lisbon*], July 31, 1913. This Article, in a translation from the French which I believe to be accurate, reads as follows:

"The Tribunal shall examine and decide the aforesaid claims in accordance with the conventional law applicable thereto, or that failing, according to the general provisions and principles of law and equity."

Whichever term, "law" or "public law", might be used in the agreement, I presume that the Arbitral Tribunal would apply, as is desired, any principles and rules of law which, in its judgment, might be deemed applicable to the determination of the claims to be arbitrated. For reasons which have been indicated to you at

length I prefer the term "law." I feel certain that this term furnishes a basis of arbitration, grounded on precedent, and fair to both Governments in the light of the facts involved in the claims in question.

While I should have no objection to inserting an appropriate provision in the agreement with reference to the production of papers to which you refer, the particular provision which you have proposed is, for reasons that have been explained to you, unsatisfactory; and since, I understand, you do not desire to press this point, I refrain from delaying the signing of the agreement by submitting a counter-proposal or by entering into any further discussion of it.

I beg to enclose herewith a draft of an agreement²⁵ which is acceptable to the Department and which I understand meets with your approval. I shall be glad to sign it with you next Thursday afternoon at three o'clock if you will be good enough to call at the Department for that purpose.

Accept [etc.]

CHARLES E. HUGHES

Treaty Series No. 654

*Agreement between the United States of America and Norway,
Signed at Washington, June 30, 1921*²⁶

The United States of America and His Majesty the King of Norway, desiring to settle amicably certain claims of Norwegian subjects against the United States arising, according to contentions of the Government of Norway, out of certain requisitions by the United States Shipping Board Emergency Fleet Corporation;

Considering that these claims have been presented to the United States Shipping Board Emergency Fleet Corporation and that the said corporation and the claimants have failed to reach an agreement for the settlement thereof;

Considering, therefore, that the claims should be submitted to arbitration conformably to the Convention of the 18th of October, 1907, for the pacific settlement of international disputes and the Arbitration Convention concluded by the two Governments April 4, 1908, and renewed by agreements dated June 16, 1913, and March 30, 1918, respectively;

Have appointed as their plenipotentiaries, for the purpose of concluding the following Special Agreement;

²⁵ Not printed; text of agreement as signed, *infra*.

²⁶ Ratification advised by the Senate, July 27, 1921; ratified by the President, Aug. 10, 1921; ratified by Norway, July 28, 1921; ratifications exchanged at Washington, Aug. 22, 1921; proclaimed, Aug. 24, 1921.

The President of the United States of America: Charles E. Hughes, Secretary of State of the United States; and His Majesty the King of Norway: Mr. Helmer H. Bryn, His Envoy Extraordinary and Minister Plenipotentiary at Washington; Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed on the following articles:

ARTICLE I

The Arbitral Tribunal shall be constituted in accordance with Article 87 (Chapter IV) and Article 59 (Chapter III) of the said Convention of October 18, 1907, except as hereinafter provided, to wit:

One arbitrator shall be appointed by the President of the United States, one by His Majesty the King of Norway, and the third, who shall preside over the Tribunal, shall be selected by mutual agreement between the two Governments. If the two Governments shall not agree within one month from the date of the exchange of ratifications of the present Agreement in naming such third arbitrator, then he shall be named by the President of the Swiss Confederation, if he is willing.

The tribunal shall examine and decide the aforesaid claims in accordance with the principles of law and equity and determine what sum if any shall be paid in settlement of each claim.

The tribunal shall also examine any claim of Page Brothers, American citizens, against any Norwegian subject in whose behalf a claim is presented under the present Agreement, arising out of a transaction on which such claim is based, and shall determine what portion of any sum that may be awarded to such claimant shall be paid to such American citizens in accordance with the principles of law and equity.

ARTICLE II

As soon as possible, and within five months from the date of the exchange of ratifications of the present Agreement, each Party shall present to the agent of the other Party, two printed copies of its case (and additional copies that may be agreed upon) together with the documentary evidence upon which it relies. It shall be sufficient for this purpose if such copies and documents are delivered at the Norwegian Legation at Washington or at the American Legation at Christiania, as the case may be, for transmission.

Within twenty days thereafter, each Party shall deliver two printed copies of its case and accompanying documentary evidence to each member of the Arbitral Tribunal, and such delivery may be

made by depositing these copies within the stated period with the International Bureau at The Hague for transmission to the Arbitrators.

After the delivery on both sides of such printed case, either Party may present, within three months after the expiration of the period above fixed for the delivery of the case to the agent of the other Party, a printed counter-case (and additional copies that may be agreed upon) with documentary evidence, in answer to the case and documentary evidence of the other Party, and within fifteen days thereafter shall, as above provided, deliver in duplicate such counter-case and accompanying evidence to each of the Arbitrators.

As soon as possible and within one month after the expiration of the period above fixed for the delivery to the agents of the counter-case, each Party shall deliver in duplicate to each of the Arbitrators and to the agent of the other Party a printed argument (and additional copies that may be agreed upon) showing the points relied upon in the case and counter-case, and referring to the documentary evidence upon which it is based. Delivery in each case may be made in the manner provided for the delivery of the case and counter-case to the Arbitrators and to the agents.

The time fixed by this Agreement for the delivery of the case, counter-case, or argument, and for the meeting of the Tribunal, may be extended by mutual consent of the Parties.

ARTICLE III

The Tribunal shall meet at The Hague within one month after the expiration of the period fixed for the delivery of the printed argument as provided for in Article II.

The agents and counsel of each Party may present in support of its case oral arguments to the Tribunal, and additional written arguments, copies of which shall be delivered by each Party in duplicate to the Arbitrators and to the agents and counsel of the other Party.

The Tribunal may demand oral explanations from the agents of the two Parties as well as from experts and witnesses whose appearance before the Tribunal it may consider useful.

ARTICLE IV

The decision of the Tribunal shall be made within two months from the close of the arguments on both sides, unless on the request of the Tribunal the Parties shall agree to extend the period. The decision shall be in writing.

The decision of the majority of the members of the Tribunal shall be the decision of the Tribunal.

The language in which the proceedings shall be conducted shall be English.

The decision shall be accepted as final and binding upon the two Governments.

Any amount granted by the award rendered shall bear interest at the rate of six per centum per annum from the date of the rendition of the decision until the date of payment.

ARTICLE V

Each Government shall pay the expenses of the presentation and conduct of its case before the Tribunal; all other expenses which by their nature are a charge on both Governments, including the honorarium for each arbitrator, shall be borne by the two Governments in equal moieties.

ARTICLE VI

This Special Agreement shall be ratified in accordance with the constitutional forms of the contracting parties and shall take effect immediately upon the exchange of ratifications, which shall take place as soon as possible at Washington.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Special Agreement and have hereunto affixed their seals.

Done in duplicate at Washington this 30th day of June, 1921.

[SEAL]

[SEAL]

CHARLES E. HUGHES

HELMER H. BRYN

PANAMA

REAPPOINTMENT OF THE FISCAL AGENT, AND THE VINDICATION OF HIS LEGAL POWERS BY THE DEPARTMENT OF STATE

819.51/284 : Telegram

The Minister in Panama (Price) to the Acting Secretary of State

PANAMA, January 18, 1921—4 p.m.

[Received January 19—12:05 a.m.]

4. The following is sent for Fiscal Agent Ruan.

“Fiscal agent advised Panaman President he had decided that, upon expiration of his contract February 1st, he would not seek a renewal thereof. Panaman President replied that he would greatly regret to lose services of Ruan and requested him to reconsider his decision. After conferring with Fiscal Agent, American Minister called on the President and explained that Fiscal Agent felt that his salary of \$10,000 without allowances of any kind was inadequate; that, in fact, for the past two years it had not covered his expenses, and in view of the present excellent condition of the Panaman treasury, he considered that a salary of \$15,000 would be only commensurate with the duties and expenses of his position as well as a just recognition of the results of his past work. Panaman President did not seem inclined to look upon this suggestion with favor, but after some discussion said that he would submit the matter to his Cabinet. At a session of the Cabinet held today the suggested increase was not approved, in view of which Fiscal Agent requests me to inform the Department that he desires to leave Panama upon the expiration of his contract, or as soon thereafter as his successor may be designated. Morris [*Morrell*],¹ Assistant Fiscal Agent, already has accepted a position with a commercial firm and has notified the Panaman Government that he desires to leave not later than March 1st.”

PRICE

819.51/284 : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, January 27, 1921—6 p.m.

4. Your 4, January 18, 4 p.m.

Department regrets inability of President and Fiscal Agent to agree on salary, and will submit name of competent successor if

¹ Major A. R. Morrell.

Ruan's intention to leave Panama is in your opinion, irrevocable. Refer to Department's 51, December 7.²

COLBY

819.51/285 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, *January 28, 1921—10 a.m.*

[Received 4 p.m.]

7. Fiscal Agent submits following for response to Department's 4.

"Fiscal Agent has arranged with Panaman President to remain until March 1st under terms of present contract so as to dispose of important matters now pending and permit time for selection of successor but does not desire to continue after that date unless at salary of \$15,000. Suggest successor should be here to assume office March 1st."

I do not believe refusal to pay \$15,000 salary will be reconsidered by Panama. Bids for contracts building good roads will be opened February 18th. Fiscal Agent is a member of Commission. Panaman President yesterday gave notice in response to new proposal offered by International Banking Corporation to act as depository for year beginning next July that the Banco Nacional of the Government would take over the work at that time. These and other indications show the urgent need for a strong and able Fiscal Agent and assistant.

PRICE

819.51/287a : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, *January 28, 1921—5 p.m.*

5. Following telegram shown Department by International Banking Corporation agent in Washington:

"To the National City Company. Please advise immediately Mr. Jerome J. Wilbur following message from International Banking Corporation.

'Panama telegraphs President without consulting fiscal agent or Secretary of Treasury has today returned our offer *re* renewal depository contract to the latter with statement that time has arrived for government to support with its deposits its own national bank and instructing that arrangement be made to transfer account on June 30th. Secretary of Treasury says he will resign. Public opinion except politicians strongly against change. Prominent Panama merchants friendly to government privately stated willing to subscribe difference in salary desired by agent to retain him here. American Minister says he has done all he can. General belief is President would not renew contract at same salary without curtailing agents powers. Recommend you urge Department intervene.'

International Banking Corporation."

² Not printed.

Department desires verification of above reports and to know Fiscal Agent's views on advisability of transfer of funds alluded to in them.

COLBY

819.51/289 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, February 2, 1921—2 p.m.

[Received 11:57 p.m.]

10. Department's 5, January 28, 5 p.m. Panaman President has ordered transfer of depositary July 1st without consulting Fiscal Agent. Secretary of Treasury claims he was not consulted. It is believed statement of latter as to resigning was made under irritation and will not be carried out unless forced by repetition of like unpleasant treatment. Better business element adverse to transfer. I have conferred with Ramon Arias who proposed that difference in salary of Fiscal Agent be raised by Panaman merchants. . . . Fiscal Agent says he doubts whether with propriety he could accept it if raised. Panaman President agreed in three conferences I had with him to renew contract of Fiscal Agent and then asked latter in writing to reconsider his intention to resign but apparently irrevocably refuses to pay 15,000 salary. Resignation of Fiscal Agent deemed final. Fiscal Agent opposed to transfer of depositary because International Banking Corporation better equipped, can keep deposits in more liquid state and is removed from political influences. Prompt action in selecting new Fiscal Agent deemed very desirable.

PRICE

819.154/70 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, February 11, 1921—3 p.m.

[Received February 12—11:35 a.m.]

11. Dated January 18th and published in the *Official Gazette* dated February 2nd but just issued appears a decree signed by Panaman President and Secretary of Public Works regulating law 7 [8?] of 1920 known as "Good Roads Law". By said decree the Secretary of Hacienda is directed to turn over to the Good Roads Commission the funds at present available for road construction and those accruing in the future, the Commission being charged with the application, management and accounting of said funds. The funds when transferred are ordered to be deposited immediately in the Banco Nacional to be the special depository of the Commission

and thereafter will be withdrawn by check jointly signed by the President and treasurer of the Commission the latter official as yet not having been designated. Fiscal Agent had no information as to the decree until reading same in the *Official Gazette*. Upon bringing it to the attention of the Secretary of the Treasury he was informed that the Secretary had had no previous information about it. Fiscal Agent is of the opinion, in which I concur, that said provisions of the decree which remove completely from the control of the Secretary of the Treasury and the Fiscal Agent disbursement of the funds destined to construction, improvement and maintenance of roads are contrary to the provisions of fiscal code which delegate to Secretary of the Treasury, the management of the public funds and their disbursement and to articles 6 and 7 of Law 30 of 1918³ which provide that Fiscal Agent shall intervene in all accounts and claims proceeding from the various Secretaries of the Government and dependencies and shall certify to Secretary of the Treasury, balances justly payable thereon. Balance in the road fund January 31st amounted to \$2,300,000. Fiscal Agent is not inclined to comply with this decree unless the Department of State so directs. He requests instructions and urges that his relief be arranged by the Department at the earliest possible [moment?], declaring that the action of the Executive Power in decreeing important measures of this nature without consulting him has rendered his position here absolutely untenable. Further provisions of the decree requiring that in awarding contracts none may be let to a bidding company that has not registered in Panama its articles of incorporation, etc., and that when recourse is had to arbitration and disagreement results between the two arbitrators representing the contracting parties the umpire selected must be a Panaman. Might this not have the effect of discriminating adversely against American companies intending to bid on February 18th? Notice[s] of these conditions were not included in the published specifications. I recommend authority to make vigorous protest and await instructions.

PRICE

819.51A/-: Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, February 11, 1921—6 p.m.

8. Mr. John S. Hord, former Collector Internal Revenue in the Philippine Islands and past President of the Bank of the Philippine Islands, is recommended by Department to succeed Mr. Ruan as Fiscal Agent. Please inform President Porras that Mr. Hord has

³ *Foreign Relations*, 1919, vol. II, pp. 686 ff.

been selected from among a number of suitable persons as being the best qualified. He speaks Spanish well and is highly recommended by Doctor Rowe.⁴ Mr. Hord is willing to go to Panama under the same conditions as Mr. Ruan but desires to return to the United States for one month in May to settle personal matters.

Please cable early reply as Mr. Hord desires to be informed at an early date of the President's decision in view of other arrangements which he has pending. Cable also date of Ruan's sailing and port of landing in the United States.

COLBY

819.51/289 : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, February 11, 1921—7 p.m.

9. Your 7, January 28, 10 a.m., and 10, February 2, 2 p.m.

Inform Ruan that Department would be pleased to learn that he would reconsider his decision to resign. In view of your report, however, Department is giving serious consideration to question of appointment of successor to Ruan in case his decision is irrevocable and desires that you inform President that in view of the special relations existing between the Governments of the United States and Panama, the Department has been highly gratified at the admirable showing made in Panaman finances during the past year as a result of the Fiscal Agent's cooperation. Also call to President's attention that Fiscal Agent was appointed after the best interests of Panama were considered jointly by the Governments of the United States and Panama and that therefore the Department presumes that Panaman Government will wish to consider the recommendation of a Fiscal Agent, to be submitted soon, in the same spirit of cooperation which it manifested when Mr. Ruan was appointed. The financial straits in which the Government of Panama found itself immediately before the appointment of Mr. Ruan and the present excellent condition of the Panaman Treasury are ample evidence of the value of this position. You may inform President Porras that the Department has several men in view and will submit the name of the one who appears best qualified.

Department also hopes that President Porras will give due consideration to the Fiscal Agent's views on the transfer of funds referred to in your cable. Please cable Department a statement of the ownership and standing of the Banco Nacional.

COLBY

⁴Leo S. Rowe, Director General, Pan American Union.

819.51A/1 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, *February 15, 1921—2 p. m.*

[Received 8:30 p.m.]

14. Department's 8, February 11, 6 p.m. Panaman Minister for Foreign Affairs has given me what he termed confidential information that he was preparing answer to my note of Saturday presenting name of Hord for Fiscal Agent, stating that Panama desired and intended now to select and appoint a Panaman to the position admitting there was no objection personally to Hord, a stranger to them. I expressed thorough surprise and argued at length, including interest of our Government in Canal indebtedness particularly, and effect on road building, only response being that after two years training they felt able to handle their own finances and interpreted Law 30 as giving Department State right of selection only when Fiscal Agent was to be a foreigner. I learn confidentially that Panaman President asserted above position at Cabinet meeting yesterday without submitting proposal to discussion or vote.

PRICE

819.154/70 : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, *February 15, 1921—7 p.m.*

10. Your 11, February 11, 3 p.m.

Department regrets to be informed that Fiscal Agent has not been consulted prior to issuance of decree instructing Panaman Secretary of Treasury to turn over to road commission the funds available for road construction and suggests that you call President's attention to the importance in the interests of Panama of availing himself of the Fiscal Agent's services in matters of this character.

In view of the possible adverse discrimination implied in this decree against American companies intending to bid on February 18th and the fact that the conditions provided in the decree were not included in the published specifications, the Department authorizes you to make such protest as you may deem warranted by the circumstance. You may also inform President Porras that Department will be pleased to learn that the execution of this decree has been stayed until the arrival in Panama of Mr. Ruan's successor.

COLBY

819.154/71 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, February 16, 1921—2 p.m.

[Received February 17—11:35 a.m.]

17. Department's 10, February 15, 7 p.m. Newspaper and other criticism was aroused by decree and amended decree was issued ordering road funds to be kept with other Treasury funds in bank to be selected by Panama President, checks on same to bear joint signature of president of Road Commission and Fiscal Agent. Provision requiring deciding arbitrator to be Panaman was annulled. While largely restoring powers of Fiscal Agent amended decree leaves Secretary of the Treasury ignored. President of Commission is Secretary of Public Works and pliable to wish of Panaman President.

Resignation of Secretary of the Treasury today gave bad health as the reason. Real cause, well known, is treatment like this and his disagreement with Panaman President regarding fiscal agency and such policies.

PRICE

819.154/72 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, February 18, 1921—noon.

[Received 8:06 p.m.]

19. Supplementing Legation's 17, February 16, 2 p. m. Pursuant to steps initiated by me Road Commission entered on record resolution that 45 days would be given foreign bidding company in which to register its articles of incorporation, et cetera, in Panama after its bid might be provisionally accepted.

PRICE

819.51A/2a : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, February 18, 1921—5 p.m.

11. The Department desires you to obtain an audience of President Porras at the earliest opportunity to ascertain whether the report which reaches us is correct, that he proposes to appoint a new fiscal agent in disregard of any recommendations that we might have to offer. We are much concerned at this intelligence and have had some difficulty in crediting it. Without at this moment emphasizing the provisions of Article 1 of Law Number 30 of 1918 with which the reported intention of the Government of Panama would seem

clearly to conflict, it seems to us that the excellent results of Mr. Ruan's work and the value to Panama of an enlightened and absolutely disinterested administration of her finances would be so apparent that a complete reversal of policy would hardly be thought of. It seems regrettable that so salutary a reform should be deliberately undone and that the accumulated results of sound administration should prompt any one to reverse a policy that has proved so good.

Before discussing the matter more fully we would like to have confirmation of this report and an expression from President Porras personally on the subject.

COLBY

819.51A/2 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, February 18, 1921—5 p.m.

[Received 10:50 p.m.]

20. Formal note from Panaman Minister for Foreign Affairs just received states that Panaman President, in view of Law 30 of 1918 authorizing him to name or contract for a Fiscal Agent, national or foreigner, and of present one [*sic*], having organized a group of young Panamans capable after two year training of carrying on the fiscal affairs has decided, inspired by national convenience and love of country, to appoint a Panaman as Fiscal Agent and that services of Mr. Hord will therefore not be needed, that Panaman President deems legislators in phraseology of law intended preference to Panaman, that law does authorize but does not require appointment to be made. The note does not name the man selected.

It was asserted that the most earnest and emphatic action by the Department is the only thing that may prevent this appointment of a Panaman and that a prompt decree appointing him may be expected unless steps are taken immediately.

PRICE

819.51A/4 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, February 21, 1921—9 p.m.

[Received February 22—12:45 p.m.]

22. Two hours conference with Panaman President this afternoon ended by him stating that he would consider matter further,⁵ conferring with advisers and Cabinet and would see me February 25th,

⁵ See Department's telegram no. 11, Feb. 18, p. 606.

3 p.m. In the course of it in addition to contentions heretofore reported he argued that Law 30 was unconstitutional in authorizing appointment of a foreigner with the powers given therein; stated that he had the written opinion of many lawyers and others upholding his interpretation of article 1 of the Law; that public sentiment strongly favored appointment of a Panaman; offered to employ Mr. Hord to reorganize Banco Nacional and as his personal adviser if we would not insist upon American Fiscal Agent. Then proposed arbitration of the whole matter and took occasion to remark that if we imposed the matter upon them he would protest to the world. Additional strong cablegram again solicited.

PRICE

819.51A/5: Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, February 23, 1921—3 p.m.

[Received 10:40 p.m.]

24. Supplementing Legation's February 21, 9 p.m. Fairly reliable information received that Panaman President has declared that on Friday he will firmly refuse to appoint American as Fiscal Agent.

Legal representative of Panaman President in draft of Law 30 responded to request of the latter for interpretation article 1 that he [was] not obligated to have a Fiscal Agent but if one was employed the Department of State must be deferred to and given privilege of selecting the man who would be found acceptable to Panaman President. I suggest pressure through Panaman Chargé d'Affaires and Secretary Alfaro,⁶ now in the United States, as well as additional cable to Legation.

PRICE

819.51A/4: Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, February 24, 1921—6 p.m.

13. Your 22, February 21, 9 p.m.

Your report of interview with President Porras is difficult for us to understand. Our suggestions were dictated by the most disinterested concern in the interests [*welfare*]⁷ of Panama and in the sense [*success*]⁷ of the President's administration. Our expression

⁶ Dr. Ricardo Alfaro, Minister of Interior and Justice.

⁷ Correction authorized in telegram, Feb. 25, from the Department.

of concern arose from a report of a proposed step on his part which seemed to us to be distinctly a step backward and a return to practices from which Panama had already suffered acutely and been rescued with effort, not to say difficulty. We do not place our position solely or exclusively upon what we are advised is clearly the illegality of his course, although that, it would seem to us, should be controlling. We might add that the law in question was passed by the Panama Legislature in response to a special message from the President declaring the necessity for it and the demand for it in the public interest. The reported comments of the President upon your representations are wholly irreconcilable with the impressions that we have long entertained of him and with the indications and gratifying assurances he gave us on the occasion of his recent visit. We do not desire to go beyond an expression of genuine solicitude and earnest desire that he should pursue the right course in this matter. We think that if he realizes that we are carefully refraining from any suggestion of insistence, although we are deeply concerned that he shall adopt our suggestion, he will see the importance and wisdom of reexamining his proposed course in the light of what we say. We are thinking of Panama's credit and of its solvency and of the expenditure of its public moneys under circumstances and accompanied by difficulties and guarantees that leave no room for speculation as to the propriety and integrity of its fiscal conduct. The Department considers it of the utmost importance that the fiscal agent to be appointed by President Porras should have no affiliations with local political parties and that Mr. Hord uniquely fulfills the requirements of the position from every standpoint, including experience and capacity. Furthermore, he would be in a position as fiscal agent to render invaluable service in the reorganization of the Banco Nacional. In addition, Mr. Hord would be in a position, by reason of his position as fiscal agent and his connection with the bank, to train up one or more men of Panama who would command general confidence as fiscal agents in the future and be worthy of this trust. This would be one of the tasks within Mr. Hord's instructions and clearly one of the purposes with which he will undertake his duties.

We see no objection to your exhibiting this message to President Porras with the assurances of the friendly disinterestedness with which we urge upon his consideration the recommendation which we here repeat.

COLBY

819.51A/4: Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, March 16, 1921—5 p.m.

29. Please refer to Department's cables No. 13 of February 24, 6 p.m. and No. 14 of February 25, 7 p.m.⁸ Department desires that you press this matter with all the insistence consistent with courtesy and report by cable.

HUGHES

819.51A/13: Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, March 28, 1921—10 a.m.

[Received 2:15 p.m.]

78. Department's 29, March 16, 5 p.m., complied with. I was authorized Saturday through Panaman Minister for Foreign Affairs to offer \$12,000 salary to Fiscal Agent Ruan to continue but latter refuses renewal of contract for less than \$15,000. I shall continue pressing matter.

PRICE

819.51/298

The Secretary of State to the Minister in Panama (Price)

No. 794

WASHINGTON, March 29, 1921.

SIR: The Department acknowledges the receipt of your despatch Number 2903 dated February 17th,⁹ relative to the order of the President of Panama that Panaman Government funds be transferred on July 1st next, from the International Banking Corporation to the Banco Nacional.

The Department has given careful consideration to the report on the Banco Nacional, submitted by the Assistant Fiscal Agent to the Secretary of the Treasury, which accompanies your above mentioned despatch. It is believed that the interests of the Panaman Treasury would be served in the most adequate manner by postponing the transfer of Panaman Government funds to the Banco Nacional until the reorganization of this bank has been effected. The Department deems that in addition to measures of internal reorganization intended to introduce up-to-date methods of management and account-

⁸ Latter not printed.⁹ Not printed.

ing, there appears to exist a need for safeguards that will insure the complete severance of the bank management from local political influence. Until these reforms have actually been introduced, the transfer to the Banco Nacional of Panaman Government funds now deposited with the International Banking Corporation is liable to affect adversely the flourishing condition in which the Panaman Treasury has found itself for some time past, as a result of the cooperation of an American Fiscal Agent.

In view of these considerations, the Department desires that you avail yourself of an early opportunity to discuss the matter with President Porras, in order to bring the Department's views to his attention, in doing which the Department desires that you remind him once more of the deep interest which this Government has always entertained in all matters affecting the welfare of his country.

I am [etc.]

CHARLES E. HUGHES

819.51A/14 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, March 31, 1921—2 p.m.

[Received 4:50 p. m.]

81. Panaman President has agreed to appoint Addison T. Ruan Fiscal Agent for another term of two years counting from February 1st last at salary of \$12,000 with \$3,000 additional allowance for expenses. Nothing remains but drafting and signing contract practically on same terms as old with possibly small changes. Expected to be acceptable to both parties, it constitutes another tribute to the firm but courteous policy followed by the Department which I communicated in another note Monday and by conference.

PRICE

819.51A/14 : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, April 4, 1921—5 p.m.

32. Your 81, March 31, 2 p.m.

Department hopes that Ruan's new contract will be signed without delay and that changes therein to which you refer do not alter the main conditions which have hitherto determined the nature of the services to be rendered to Panaman Government by Fiscal Agent. Please notify Department by cable as soon as contract has been signed.

HUGHES

819.51A/15 : Telegram

The Minister in Panama (Price) to the Secretary of State

BALBOA, April 8, 1921—5 p.m.

[Received 11:45 p.m.]

86. Department's 32, April 4, 5 p.m.

New contract with Ruan, Fiscal Agent, signed by him and Secretary of the Treasury has just been approved by Panaman President and so indorsed. Contract excepting increase of salary is the same as former represented by despatch 2262 February 10, 1919¹⁰ with the following material changes only: Fiscal Agent agrees to advise Banco Nacional on all banking questions and to instruct two employees of the Treasury that they may be prepared at the termination of his contract, salary of assistant left unnamed the understanding is that he is to be a Panaman.

PRICE

819.51/298suppl. : Telegram

The Secretary of State to the Minister in Panama (Price)

WASHINGTON, May 14, 1921—6 p.m.

No. 46. Department informed that Cabinet vote decided transfer to National Bank of Government funds deposited with International Banking Corporation. Please refer to instruction Number 794 of March 29, 1921, and inform President that in the interests of Panaman finances this transfer should not take place until the reorganization of the National Bank is effected. Department considers that such a reorganization cannot be assured by June 30th and will be pleased to learn that the Panaman Government has decided to postpone this transfer until at least another fiscal year has elapsed.

HUGHES

819.51/305 : Telegram

The Minister in Panama (Price) to the Secretary of State

[Extract]

PANAMA, May 16, 1921—9 a.m.

[Received 4:15 p.m.]

103. Department's 46, May 14, 6 p.m. I complied with Department's instruction number 794, March 29, . . . Department's instruction not received until nearly a month after its date. In the

¹⁰ Not printed.

meantime, however, informal efforts had been put forth. Panaman President declared that he must comply with public sentiment in this matter at least and transfer funds, that bank [had] been reorganized and would in addition now have the active aid of Fiscal Agent, that manager and directorate were of such high grade that there would be no danger from political influences, that road funds particularly would be treated as sacred and most of them be left with International and other local banks at interest as they now are, . . .

PRICE

819.51/306 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, May 18, 1921—9 a.m.

[Received 1:15 p.m.]

107. Supplementing my 103, May 16, 9 a.m. I communicated Department's telegram 46, May 14, 6 p.m., duly Monday morning and followed it up with all possible efforts but Panaman President took the position reported in my cipher telegram 103 even more emphatically.

Contract between the Panaman Government and manager of the Banco Nacional to act as Government depository for four years was signed Monday afternoon. Late yesterday the directorate approved same.

PRICE

819.51/306

The Secretary of State to the Minister in Panama (Price)

No. 804

WASHINGTON, June 1, 1921.

SIR: The Department refers to your cables No. 103, May 16, 9 a.m. and 107, May 18, 9 a.m., relative to the transfer of Government funds from the International Banking Corporation to the National Bank of Panama, and notes your report that President Porras had declared to you that road funds now deposited with the International Banking Corporation would be maintained with this Bank as in the past. The Department will be pleased to learn that the statement by President Porras, referred to above, is to be considered as an expression of his Government's desire to continue depositing, with the International Banking Corporation, the funds to be applied to road building which will accrue in the future.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

819.51/315 : Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, June 23, 1921—9 a.m.

[Received 11:05 p.m.]

116. American Fiscal Agent requests me to send following:

International Banking Corporation signed with the Secretary of the Treasury June 15th, agreement whereby Government balances with that bank of June 30th, next, would remain with it as follows: \$2,000,000 as a fixed deposit for six months and approximately \$1,000,000 subject to check as needed. The agreement has not as yet received approval of the President which is necessary to complete it and seems Secretary of the Treasury now requests of the bank a letter interpreting the agreement to the effect that after June 30th, next, funds on deposit will be subject to the sole order of the Secretary of the Treasury. It is a condition of the deposits at present that their withdrawal can be effected only on joint signature of Secretary of the Treasury and Fiscal Agent and Law 30 of 1918, article 6, provides that Fiscal Agent shall legalize by his countersignature all warrants of Secretary of the Treasury. I consider essential that all funds of the Treasury should continue to be subject to the countersignature of the Fiscal Agent and most desirable that the balances with the International Banking Corporation which include some \$2,700,000 of road funds already obligated by contract remain with that bank until needed. If transferred to Banco Nacional they would be subject to any interpretation of law or contract that the Executive might make, and further would be subject to loan or investment by the directors of the bank without control by the Fiscal Agent. It is probable that Executive will insist upon transferring these funds to the Banco Nacional on June 30th, unless there is accepted the condition that they will remain subject to the sole order of the Secretary of the Treasury. I respectfully and earnestly recommend the Department intervene to prevent this. Ruan.

PRICE

819.154/79 : Telegram

The Acting Secretary of State to the Minister in Panama (Price)

WASHINGTON, June 25, 1921—5 p.m.

54. Your 115, June 21, 2 p. m.¹¹

Inform appropriate officials that Department expects that provisions of Law 30 of 1918 will be maintained and that the Panaman Government will abstain from action tending to impair American Fiscal Agent's contract.

FLETCHER

¹¹ Not printed.

819.51/316: Telegram

The Minister in Panama (Price) to the Secretary of State

PANAMA, June 25, 1921—8 p.m.

[Received June 27—9:20 a.m.]

117. Contract referred to in 115¹² and 116 returned to International Banking Corporation today approved by the President but with a letter from Secretary of the Treasury canceling from July 1st former order requiring countersignature Fiscal Agent and directing that all funds left with said bank after said date must be considered subject to checking by the sole signature of Secretary of the Treasury.

PRICE

819.154/83

The Minister in Panama (Price) to the Secretary of State

No. 3101

PANAMA, September 20, 1921.

[Received October 17.]

SIR: In my cable No. 115 of June 22nd, 9 a.m. [June 21st, 2 p.m.] I had the honor to inform the Department of the contemplated resignation of Mr. Beardsley, Chief Engineer of the Central Commission of Roads, because of the President's petty interference and attempted domination of his work and also of Mr. Ruan's letter to the President stating that he would resign unless a retraction and explanation of his (the President's) criticisms as to the auditing of the road work was made. Mr. Ruan has received a satisfactory explanation, but Mr. Beardsley who though receiving an explanation, sees no change in the President's attitude has sent in his resignation, at the same time asking for a thirty days leave with pay, his resignation to take effect at the conclusion of the leave. As the enclosed correspondence indicates,¹² the resignation has not been accepted but the leave has been granted and Mr. Beardsley plans to leave Panama for the United States on September 22nd, leaving Mr. R. H. West, Assistant Chief Engineer, in charge of the road work.

In a conversation which I had with Mr. Beardsley recently, he assured me that his decision was final and that he would not return to Panama. He hoped that Mr. R. H. West, who will undoubtedly apply for the position, might be his successor and heartily recommended him.

¹² Not printed.

I have the honor to enclose (enclosure No. 1) herewith, a letter from Mr. Beardsley enclosing the correspondence which has taken place between him and the President of the Republic in this regard.¹³

I have [etc.]

WM. JENNINGS PRICE

ACQUISITION BY THE UNITED STATES OF LANDS ON LAS MINAS
BAY AND THE ISLAND OF TABOGA¹⁴

811f.812/914

The Panaman Chargé (Lefevre) to the Acting Secretary of State

[Translation¹⁵]

D-No. 39

WASHINGTON, *January 24, 1921.*

EXCELLENCY: I am instructed by my Government to inform Your Excellency that under date of December 20, 1920, Mr. C. A. McIlvaine, Executive Secretary of the Government of the Canal Zone, sent to the Department of Foreign Relations of my country a note couched in the following terms:

"Mr. Secretary: The district engineer advises this office under date of the 16th instant that adjustment of claims is now being made to enable the taking over of the proposed reservation of 200-foot hill, east of Colon, in the Las Minas Bay region of the Republic of Panama. A description of the proposed reservation is enclosed herewith, together with two blue prints of the Las Minas Bay region on which is shown in red the area to be taken over, containing approximately 125 hectares.

To prevent the further filing of small claims by 'squatters' notification is hereby given of the intention of the United States Government to assume jurisdiction over the tract set forth in the attached description, in accordance with the provisions of the treaty between our respective Governments."

Without any answer being returned to that note by the Department of Foreign Relations of Panama, because the President of the Republic had not yet had time to consider in Cabinet the grave matter involved, under date of the 30th of the same month of December, the Acting Governor of the Panama Canal, Col. Jay J. Morrow, wrote directly to the President of the Republic, Dr. Porras, another communication in which he says the following:

"My Dear Mr. President: By virtue of the provisions of Article II of the Hay-Varilla Treaty,¹⁶ I have the honor to inform you that certain lands in the Las Minas Bay region east of Colon as indicated

¹³ Not printed.

¹⁴ Continued from *Foreign Relations*, 1920, vol. III, pp. 314-322.

¹⁵ File translation revised.

¹⁶ *Foreign Relations*, 1904, p. 543.

on the enclosed blueprint have been taken over by the United States for purposes of defense of the Panama Canal.

The area above the mean high-water line of the tract referred to is 125 hectares, and is comprised within the boundaries of the Ensenada de las Minas de Santa Rita estate as the same is shown on the Harrison-Arosemena map of 1862. The boundaries of the water and land area taken are as follows: (here follows the description of the tract).

The owners of property or improvements to property within the area defined will be properly compensated therefor by the United States."

So we have it that while under date of December 20, the Executive Secretary of the zone announced to the Government of Panama, the intention of the United States of acquiring certain lands for the defense of the Canal, ten days later Governor Morrow announced that the land had already been taken without any account whatever being made of the consent of the Republic of Panama.

Now Article II of the Canal Treaty provides that the Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the ten-mile-wide zone, which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the Canal. But the Government of Panama holds that it is for the two Governments to determine in some form when a territory sought by the United States under the treaty is or is not convenient and necessary for the construction, conservation, operation, sanitation or protection of the Panama Canal, for it is impossible to suppose that a treaty may be carried into effect by one of the parties only. Neither can it be admitted that the Government of the United States is empowered to determine alone by and for itself when any part of the Panaman territory is necessary or convenient for any of the purposes above described and not only determine the question, but also take possession of that territory. Such power would, if we may say so, be monstrous and absurd in point of law, because on the one hand it cannot be admitted that one nation may, by a public treaty which guarantees its independence agree to clauses that would be tantamount to its civil death, and on the other hand the United States would have it in its power to do away totally with the Republic of Panama, if it decided by and for itself that it needs the whole of the Republic for the Canal.

The Government of Panama holds, therefore, that the taking of possession notified by the Governor of the Canal in his note of December 30 last is purely an act of force executed by representatives of the Government of the United States upon the Republic of Panama, without that Republic's consent and in violation of the Canal Treaty; and against that act, which will not be sanctioned by the

Government of Panama as long as no understanding of some kind shall have been reached with the Government of the United States with respect to the interpretation and application of Article II of the Canal Treaty and its correlative Articles VII and XXV, the Secretary of Foreign Relations of my country enters through me a most formal and energetic protest.

My Government also holds and I venture very respectfully to call Your Excellency's attention to that point that no matter in what form or on what occasion stipulations of the Canal Treaty have to be applied, these matters are plainly diplomatic questions which must be handled in Panama through the American Legation and in the Department of State through this Legation and therefore it is to be hoped that the practice which has been observed on previous occasions of handling exclusively diplomatic questions through civil authorities under the War Department, such as those of the Canal Zone, will cease.

Trusting that this incident will be satisfactorily adjusted in accordance with the ideas hereinabove expressed, I avail myself [etc.]

J. E. LEFEVRE

819.52/151

The Panaman Chargé (Lefevre) to the Secretary of State

[Translation *]

D-No. 67

WASHINGTON, February 8, 1921.

EXCELLENCY: I have the honor to inform your Excellency that the 15 hectares of land which were provisionally ceded by the Government of Panama to that of the United States on Taboga Island by Decree No. 15 of the 12th of June, 1920, have already been occupied by the Canal authorities, and as the ceded area consists of various strips which run across several pieces of property in various parts, thus rendering useless the remainder lying between those strips, the loss caused by that occupancy has covered more than the 15 hectares mentioned, and the said losses should therefore be compensated together with the land that has been occupied.

On the other hand, as I informed Your Excellency in my note D-No. 39 of January 24 last, the Canal authorities occupied 125 hectares of land in Las Minas Bay, Province of Colon, and besides the necessity of applying the proper legal proceedings to that occupancy, justice demands that indemnity be paid in the amount they are worth as well as the improvements made thereon.

* File translation revised.

It so happens also that the Mixed Commission created under Articles VI and XV of the Canal Treaty and operating until the year 1920, when it terminated its labors, left pending various cases that must be settled.

In view of the foregoing my Government thinks that the time has come to reestablish the Mixed Commission referred to by Articles VI and XV of the Canal Treaty above mentioned, and I have received instruction to make a formal application in that sense which I now do by means of this note.

My Government also informs me that as soon as the reestablishment of the Mixed Commission above referred to is agreed to, it will appoint the two commissioners belonging to the Republic of Panama in that tribunal, and I take pleasure in making this known to Your Excellency for all pertinent purposes.

I avail myself [etc.]

J. E. LEFEVRE

811f.812/914

The Under Secretary of State (Davis) to the Panaman Chargé (Lefevre)

WASHINGTON, *February 12, 1921.*

SIR: I have the honor to acknowledge the receipt of your note D-No. 39 dated January 24, 1921, relative to the manner in which the area of the 200-ft. hill east of Colon in the District of Las Minas has been transferred to the Canal Zone under the terms of Article 2 of the Treaty of 1903. The matter is receiving the attentive consideration of the interested officials of this Government and steps are being taken to perfect arrangements which, it is hoped, will prove satisfactory to all concerned in the harmonious execution of the stipulations of the Treaty of 1903. I desire to add that due consideration will be given in this connection to the suggestion in your note of January 24th as to procedure in cases of transfers of land.

Accept [etc.]

NORMAN H. DAVIS

411.19 L 22/957

The Secretary of State to the Panaman Chargé (Lefevre)

WASHINGTON, *February 16, 1921.*

SIR: I have the honor to acknowledge the receipt of your note D-No. 67 of February 8, 1921, in which, under instructions from your Government and on the ground that the Government of the

United States has recently taken over private property on Taboga Island and in Las Minas Bay, Province of Colon, you make application for the reestablishment of the Mixed Claims Commission referred to in Articles VI and XV of the Treaty of 1903.

In reply I beg to advise you that the matter has been taken up with the appropriate branch of this Government and will be given due consideration, after which the Department will take pleasure in advising you further.

Accept [etc.]

For the Secretary of State:

NORMAN H. DAVIS

Under Secretary

411.19 L 22/962

The Panaman Chargé (Lefevre) to the Secretary of State

[Translation ¹³]

D-238

WASHINGTON, June 6, 1921.

EXCELLENCY: I have the honor to inform Your Excellency that I have received from my Government many inquiries as to the progress made by the undersigned in his application presented to Your Excellency in note D-67 of February 8, last, in which I officially transmitted my Government's request that the Mixed Commission created by the Canal Treaty be reestablished for the reasons stated in the note.

I very respectfully take the liberty of asking Your Excellency kindly to let me know what steps have been taken by the United States Government in the matter dealt with in my aforesaid note D-67 of February 8, last, so as to enable me to forward to my Government the information that Your Excellency may be able to impart to me.

I avail myself [etc.]

J. E. LEFEVRE

411.19 L 22/961

The Secretary of State to the Panaman Chargé (Lefevre)

WASHINGTON, June 24, 1921.

SIR: The Department acknowledges the receipt of your communication D-238 dated June 6, 1921, and refers to its note of February 16, 1921, written in reply to your communication D-No. 67 dated February 8, 1921, in which, under instructions from your Government and on the ground that the Government of the United States

¹³ File translation revised.

had lately taken over private property on Taboga Island and in Las Minas Bay, Province of Colon, you made application for the reestablishment of the Mixed Claims Commission referred to in Articles 6 and 15 of the Treaty of 1903.

The matter has since been taken up with the appropriate branch of this Government, and it is found that the expense of a Joint Commission is not warranted by the value of the private property taken over. It is believed, moreover, that any claims now pending or that may arise can be settled satisfactorily, speedily, and economically through diplomatic channels without the operation of a Joint Commission.

Accept [etc.]

CHARLES E. HUGHES

411.19 L 22/963

The Panaman Chargé (Lefevre) to the Secretary of State

[Translation]

D-372

WASHINGTON, August 26, 1921.

EXCELLENCY: I have the honor to notify Your Excellency that as soon as I received your esteemed note of June 24 last, I sent a copy of the document to my Government for its information and proper action, as I duly informed Your Excellency.

On the 8th of this month my Government answered me on the subject, stating that, while reserving the right to ask later on that the Mixed Commission provided by the Canal Treaty meet to consider the pending questions and while taking into account the fact that the owners of the condemned land in Taboga Island are inclined to settle directly with the Canal authorities in accordance with proposals made to them by the latter, my Government has decided to suspend for the present the action which it was taking through this Legation in order to have the aforesaid Mixed Commission meet; however, it has resolved at the same time to support the action of the Taboga islanders to the end that the Canal authorities, who appear to have suspended their proposals of direct settlement between them and the condemned property owners, may come to a final agreement on the subject without delays which are detrimental to the Taboga inhabitants.

Accordingly my Government asks me to endeavor to secure the cooperation of the Department under Your Excellency's worthy charge for the purpose of inducing the War Department to give the necessary instructions to the said Canal authorities to reach a direct settlement with the interested Taboga islanders in the matter, on the basis which these authorities themselves had suggested and which

appear to be acceptable to the Tabogans, but without this implying that Panama waives the right to ask that the Mixed Commission meet if it should be necessary.

I consider that the satisfactory settlement of the questions pending in connection with the occupation of certain lands in Taboga will be mutually beneficial to our respective Governments, for which reason I doubt not that Your Excellency will see that the Secretary of War complies with this just demand of my Government, and thank Your Excellency accordingly in advance.

I avail myself [etc.]

J. E. LEFEVRE

411.19 L 22/963

The Secretary of State to the Panaman Chargé (Lefevre)

WASHINGTON, September 21, 1921.

SIR: I have the honor to acknowledge your note of August 26, 1921, in which you request this Department to suggest to the War Department that instruction be given to the authorities of the Panama Canal to enter into negotiations for a direct settlement of the claims of certain residents of Taboga Island against the Canal Zone authorities. You state that you believe that such direct negotiation would produce a satisfactory settlement of these claims, and that such a settlement would be agreeable to your Government without implying that your Government renounces the right of asking that the Mixed Commission be called together if it should prove necessary.

I take pleasure in informing you that a copy of your note was forwarded to the Secretary of War, and that the Secretary of War has transmitted the correspondence in regard to the matter to the Governor of the Panama Canal with instructions to enter into direct negotiations with the residents of Taboga Island who have claims against the United States Government, along the lines previously suggested by the Canal Zone authorities.

Accept [etc.]

For the Secretary of State:

HENRY P. FLETCHER

BOUNDARY DISPUTE WITH COSTA RICA

(See volume I, pages 175 ff.)

PARAGUAY

REPRESENTATIONS BY THE UNITED STATES IN FAVOR OF THE REVIVAL OF THE ASUNCIÓN PORT CONCESSION

834.156/112a : Telegram

The Acting Secretary of State to the Minister in Paraguay (Mooney)

WASHINGTON, January 6, 1921—6 p.m.

2. See previous correspondence regarding Asunción Port Concession.¹

A set of financially responsible men, including Charles M. Barnett, George D. Graves, C. E. Bockus, and others, who have formed new Asuncion Port Corporation, represent to Department that they desire to take up at once work originally contemplated by concession, and that any intervening rights of International Products Company and Swift Company have been or can be entirely protected by agreement among the interested parties. They further represent they have information President of Paraguay favors resumption of work by present interested persons. Department desires you ascertain fully from Paraguayan Government if it favors a renewal of work along lines originally contemplated, also that you inform Department concerning your views as to advisability from standpoint of American commercial interests of informal action on part of Department in assisting in execution of proposed works.

DAVIS

834.156/116

The Minister in Paraguay (Mooney) to the Acting Secretary of State

No. 738

ASUNCIÓN, January 19, 1921.

[Received February 27.]

SIR: I have the honor to refer to Department's cabled instruction No. 2 dated January 6, 1921 and the cabled despatch of this Legation No. 4, dated January 19, 1921,² both on the subject of the construction and operation of a river port at the city of Asunción under

¹ *Foreign Relations*, 1920, vol. III, pp. 323 ff.

² Not printed.

a concession heretofore granted by the Paraguayan Congress to the Construction and Engineering Finance Company of New York.

As stated in my cablegram I had a personal conference with Doctor Manuel Gondra, the President of Paraguay, deeming that from such source I could learn most reliably the attitude of the Paraguayan Government in regard to the project. If, as represented to the Department by the concessionaire, Doctor Gondra favors a resumption of this activity, he probably wants it to take place under some new grant or arrangement between the port company and the Paraguayan Government, as he was quite vigorous in his defense of the decree of President Franco revoking the concession on account of default,⁸ as by him alleged, committed by the concessionaire company, and, while he did not commit himself positively, it is my opinion that he will be very reluctant to revoke that decree. He did not appear to be unfriendly to the port company, expressed much friendship for the Mr. Barnett now connected therewith, and seemed to recognize a base equity abiding in the company on account of its previous connection with the project, but, at the same time, contends that it has been guilty of such laches as to entirely lose its rights, and thinks that it should treat now *de novo* for the construction of the port. In such new negotiation I believe that he would be disposed to consider the port company as occupying a position of some vantage. It is barely [*sic*] possible, though I consider it most highly improbable, that sufficient pressure may be brought to bear to induce him to restore the port company to its original rights by a revocation of the Franco decree, but, if so, it is quite certain he would want to forestall public criticism by some modification of the original terms of the franchise.

The Paraguayan public seems to have lost all interest in the improvement of the Asunción port, the reason being that the river traffic has been practically suspended for the past year on account of labor troubles. No passenger boats, which are also the boats carrying the mails, express, and light freight, have plied between Asunción and Buenos Aires since February 1920, and no prediction is made as to when they will resume service. The present port is of adequate capacity to accommodate the small number of cargo boats now using the same, and the activity of river transportation is now so negligible that it engages very small public attention. However it is likely that an affirmative effort to rehabilitate the port concession would probably call forth violent public protest as it did when the last attempt was made. It is my opinion that a new port in Asunción operated under American management and capital, of fairly liberal policy, imposing no unduly onerous conditions on

⁸Decree of Feb. 21, 1918, effective June 18, 1918.

traffic, . . . would make for the advancement of American commercial interests in Paraguay, and that such a company should receive the informal assistance of the Department, and, under instructions of this Department, of the American Diplomatic and Consular officers located in Paraguay. I also believe that a serious, business-like advocate, of impressive qualities, confining himself to the merits of the proposition, might be able to redeem the Construction and Engineering Finance Company from its present position, generally believed by the Paraguayan public to be one of discredit, and secure for it satisfactory rights either in the nature of a new grant, or the rehabilitation of the old concession, but the latter would probably be in a more or less amended form.

The local manager of the International Products Company, an American concern reincorporated in Paraguay, makes no secret of the fact that his company will, to the utmost degree it can, resist the revival of the Construction and Engineering Finance Company's port concession unless it excludes, not by separate contract but by a stipulation actually amended into the instrument of concession, the property of the company and particularly a port it has already constructed at San Antonio, within the zone of the original Construction and Engineering Finance Company's Concession, both for private and public service. This objecting company has a very ambitious programme for its future activity in Paraguay, operating already a meat plant at San Antonio, a *tanina* plant at Puerto Pinasco, owning large cattle ranges, soon to establish a boat line, which, aside from serving its own ends, intends to gradually engage in public carriage, and having many other activities in contemplation. Its influence is such that it has secured the location of a branch of the Paraguayan custom house at San Antonio, where it has recently established a port of entry and despatch. It already has an investment of over \$12,000,000. gold in its various activities in Paraguay and is seeking further capital for the development of its plans. Doctor Eusebio Ayala, late Minister of Exterior Relations for Paraguay, resigned his post to enter the service of this company to which he is now devoting his entire attention.

I have [etc.]

DANIEL F. MOONEY

834.156/130 : Telegram

The Secretary of State to the Minister in Paraguay (Mooney)

WASHINGTON, *May 14, 1921—5 p.m.*

18. After several Conferences with the officials of the Department, the Asunción Port Concessions Corporation, the new Company seeking to revive the port works concession, has submitted a formal

statement in writing to the Department, covering the following points:

1. The Corporation is ready to proceed with the work immediately the concession is reinstated.
2. The Corporation will not assign the concession, but on the contrary will build and operate the port.
3. The Corporation and the International Products Company have deposited with the Department a signed statement⁴ that on May 13th the above mentioned Corporations entered into an agreement in settlement of their differences.

The Banking firm of Blair and Company, Incorporated, which firm the Department understands will finance the new project, has submitted the following statement in writing:

"We have known some of the officials of the Asuncion Port Concession Corporation well and favorably for a number of years, and should that Corporation receive from the Government of Paraguay certain concessions, for which we understand it is negotiating, we have no doubt of its ability to obtain the financing necessary in connection with the construction of the Port of Asuncion."

You are therefore instructed to arrange an interview with President Gondra at which you will present Dr. Baque, and state to the President that in view of the assurances submitted to the Department and in view of the willingness of the Corporation to have such changes made in the concession as may be reasonable and necessary, the Department hopes that the Government of Paraguay may find it possible to reach an agreement with the Asuncion Port Concession Corporation under which the latter may proceed to carry on the projected work in such a way as to benefit Paraguay as well as the American interests involved.

HUGHES

834.156/134

The Minister in Paraguay (Mooney) to the Secretary of State

No. 806

ASUNCIÓN, June 8, 1921.

[Received July 27.]

SIR: I have the honor to inform you that in accordance with the Department's telegraphic instruction No. 18, dated May 19 [14], 1921, I have to-day presented Doctor Santiago Baque, the attorney of the Asunción Port Concession Corporation, to President Gondra, and at the same time acquainted him of such pertinent information concerning the position taken by my Government in reference to the reinstating of the concession as conformed with the Department's instruction.

⁴Not printed.

It is my firm belief that it is very probable an understanding may be reached facilitating the reviving of the concession, but the question of time in reference to the negotiation thereto is an extremely indeterminate question and immediately any developments are realized, this Legation will advise you in the premises.

I have [etc.]

DANIEL F. MOONEY

834.156/148 : Telegram

The Chargé in Paraguay (Dickson) to the Secretary of State

ASUNCIÓN, December 2, 1921—noon.

[Received 9:30 p.m.]

41. Your 25, November 30, 6 p.m.⁵ Paraguayan Government inform me of their readiness to negotiate for a new continuation of *modus vivendi* to overcome difficulties in former concession as follows:

Firstly, to limit the contract to the construction of the first section of the port works, article 4 of the concession, together with the corresponding dredging works.

Secondly, to pay for the cost of the work by means of Paraguayan Government bonds guaranteed by duties and tariffs to be deposited as established in the law of concession as a security.

In a conversation with the President today he intimated that it would be impossible for any Paraguayan Government to reinstate the former concession without Congressional consent which he states impossible to consider and can not annul the decree canceling concession by President Franco. A new contract recognizing the work already completed together with suggested modifications would receive his support in presenting and passing through Congress convening in April, which is likely to be the quickest method of obtaining concession.

DICKSON

DISCREPANCIES BETWEEN THE ENGLISH AND SPANISH TEXTS OF THE EXTRADITION TREATY OF MARCH 26, 1913, BETWEEN THE UNITED STATES AND PARAGUAY⁶

235.11 B 76/40 : Telegram

The Acting Secretary of State to the Minister in Paraguay (Mooney)

WASHINGTON, January 13, 1921—1 p.m.

3. Department informed that William H. Bricker, who recently escaped from Argentine authorities while being held on extradition request of the United States, has been found in Paraguay. Request

⁵ Not printed.

⁶ For English text of treaty, see *Foreign Relations*, 1914, p. 1053; the English and Spanish texts are printed in U. S. Treaty Series, No. 584.

Bricker's provisional arrest and detention, with view to extradition on charge of perjury, stating that warrant has been issued from a United States Court for his arrest on this charge.

DAVIS

235.11 B 76/90

The Minister in Paraguay (Mooney) to the Secretary of State

No. 794

ASUNCIÓN, May 9, 1921.

[Received June 28.]

SIR: In confirmation of cablegram of this Legation, No. 19, dated May 8th at 12 o'clock, noon,¹ I have the honor to inform you that Doctor William H. Bricker, alias William H. Moore, a criminal fugitive from Pennsylvania, left Asunción on the 8th inst. for Buenos Aires en route for the United States. He was in the custody of Mr. Fred C. Voigt, an officer of the Philadelphia police Department, who, as a matter of precaution, was accompanied by a Paraguayan officer to the Argentine border, and will be accompanied by an Argentine officer from there to Buenos Aires.

The criminal Bricker finally contributed to his own extradition in the way of waiving further contest after the crumbling of a number of preliminary defenses he sought to interpose. The extradition, which was formally granted by the Paraguayan Court, was upon the application that he be extradited to receive sentence under his conviction for abortion in the Courts of Pennsylvania, and to answer to the charge of an indictment for a second offense of the same nature, pending in the same jurisdiction. No disposition was made of the application for his extradition on the charge of perjury. This application is still pending and the accused has refused to waive any defenses he may have hereto. This Legation is of the opinion that, under the illiberal construction controlling proceedings of a criminal and quasi-criminal nature, perjury, so designated, is not an extraditable offense under the Extradition Treaty between the United States and Paraguay.

I have [etc.]

DANIEL F. MOONEY

235.11 B 76/90

The Secretary of State to the Chargé in Paraguay (Dickson)

No. 183

WASHINGTON, July 11, 1921.

SIR: The Department has received Mr. Mooney's No. 794, of May 9, in further relation to the extradition of William H. Bricker, alias William H. Moore, and in reply directs you to report upon

¹Not printed.

what Mr. Mooney based his opinion that "perjury, so designated" is not an extraditable offense by treaty between the United States and Paraguay.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

235.11 B 76/93

The Chargé in Paraguay (Dickson) to the Secretary of State

No. 890

ASUNCIÓN, *September 23, 1921.*

[Received October 26.]

SIR: I have the honor to acquaint you with reference to my despatch No. 864 of August 29th^{*} and of a conversation I have had with the Sub-Secretary of the Foreign Office, Señor E. Egusquiza, at which time we viewed the original treaty of extradition between the United States and Paraguay and expressed our opinion respecting Article II paragraph 19, as published in the pamphlet series No. 584.

The question of interpretation of paragraph 19 from Spanish into English is not exactly the same but as the original treaty signed by Nicolay A. Grevstad and Doctor Eusebio Ayala is in both English and Spanish the Paraguayan Government withhold [*will hold?*], according to Mr. Egusquiza's interpretation of the matter, that False Testimony is the same as Perjury according to the English version of the definition of Perjury.

Mr. Egusquiza also pointed out that Doctor Eusebio Ayala, the Paraguayan signatory of the treaty was sufficiently well versed in the English language to be certain of the exact meaning thereof.

I have [etc.]

SAMUEL S. DICKSON

235.11 B 76/94

The Chargé in Paraguay (Dickson) to the Secretary of State

No. 929

ASUNCIÓN, *October 23, 1921.*

[Received December 3.]

SIR: I have the honor to refer to this Legation's despatch No. 890 of September 23rd and in connection therewith beg to transmit herewith enclosed a copy of a translation of a letter addressed to me by Dr. Eusebio Ayala, with reference to the treaty of extradition existing between the United States and Paraguay.

* Not printed.

The communication in question was written in response to an expressed desire on my part, that Dr. Ayala be good enough to explain the exact meaning of the translation in Spanish of Article II paragraph 19, and in order to make the two texts coincide, I respectfully suggest that the Department observe the notations of Dr. Ayala and instruct me with reference to such disposition as it may care to make in the premises.

I have the further honor to transmit herewith enclosed a Spanish text of the Treaty of Extradition between Paraguay and Spain⁹ as referred to in the translation submitted of Dr. Ayala's letter.

I have [etc.]

SAMUEL S. DICKSON

[Enclosure—Translation—Extract]

Dr. Eusebio Ayala to the Chargé in Paraguay (Dickson)

MY DEAR MR. DICKSON :

In the case of Article II No. 19 of the Treaty it has not been possible to make the two texts coincide. Perjury is not punishable according to the Paraguayan Code and its inclusion for Paraguay would be absolutely worthless. An offence greatly resembling perjury was substituted; namely, false testimony, but this brings up another question; a case of extradition for perjury could not be attended to by the Paraguayan Courts because the Spanish text does not mention perjury, but instead, false testimony, and the Courts have to apply exclusively the National text.

The offence of perjury is more comprehensive than that of false testimony. The former includes any false declaration made before the authority under oath and false testimony is a false declaration before justice. According to the Paraguayan Code false testimony is classified as a crime against the administration of justice.

In order to make the two texts coincide, it would be necessary to change the English text, changing the word "perjury" for an expression equivalent to "false testimony".

The Paraguayan Government has observed these objections or difficulties, which are difficult to overcome, especially in bilingual treaties, and in order to make them clear, has been thinking of changing the structure of the treaties, by omitting the enumeration of offences which is the cause of the difficulties.

In accordance with this criterion, the undersigned signed with the Ambassador of Spain the Treaty of June 23rd, 1921 [1919?], Article

⁹ Not printed.

II of which literally said: ["In accordance with the clauses of this treaty, the facts that authorize the delivery of persons accused and sentenced will be: I. As regards the presumed delinquents, the offences which according to the penal law of the requesting nation are subject to a punishment, causing privation of liberty, not less than two years or other equivalent punishment; 2. As regards the sentenced delinquents, such offences as are punishable within one year of the same punishment as a maximum."]

This form, or another similar one, in my judgement, is the best way to avoid any conflicts due to the lack of perfect coincidence between the two texts.

Yours very truly,

EUSEBIO AYALA

235.11 B 76/94

The Secretary of State to the Chargé in Paraguay (Dickson)

No. 194

WASHINGTON, December 9, 1921.

SIR: The Department has received your despatch, No. 939 [929], of October 28, 1921, in further relation to the question which arose in connection with the application for the extradition of William H. Bricker, whether the offense of perjury is made extraditable by treaty between the United States and Paraguay. You enclosed a translation of a letter addressed to you by Doctor Eusebio Ayala, who signed the treaty in question on behalf of Paraguay, and who expresses the view that perjury is not so made extraditable since the offense so designated in the English text is not enumerated in the Spanish text, which, however, covers the offense of false testimony, that resembles the offense of prejury, but is less comprehensive, and for the further reason that perjury is not punishable by the Paraguayan Code.

Doctor Ayala also cites the word "burglary" in the English text of the Treaty, which he states is improperly translated in the Paraguayan text by the words "violation of domicile". However, he points out that this discrepancy is not serious since these offenses are defined alike in both texts of the Treaty.¹⁰

Doctor Ayala further refers to the difficulties which exist in framing treaties of this character arising from the differing systems of legislation and the differences in language, and he points out that with a view to overcoming such difficulties he signed June 23, 1921 [1919?], with the Spanish Ambassador an extradition treaty which does not enumerate the offenses covered thereby, but provides with

¹⁰ This paragraph summarizes the omitted portion of Dr. Ayala's letter.

respect to persons charged with crimes, that all offenses subject in the legislation of the demanding Government to punishment by imprisonment for not less than two years, shall be extraditable, and that, in the cases of persons convicted of crimes, all offenses punishable by imprisonment for not less than one year shall be extraditable.

Inasmuch as the discrepancy in the texts of the treaty between the United States and Paraguay appears to be serious in its nature only with regard to the offense designated in the English text as perjury, the Department does not think it would be advisable at this time to attempt to remedy such discrepancy, which could only be done by a new treaty to be submitted to the Senate of the United States. However, the Department has made careful notation of the statements of Doctor Ayala relative to this discrepancy.

The Department has noted with interest the arrangements made between Paraguay and Spain respecting the offenses covered by the treaty of extradition.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

PERSIA

PERSIAN OVERTURES LOOKING TOWARD THE APPOINTMENT OF AMERICAN ADVISERS TO THE PERSIAN GOVERNMENT

891.00/1171 : Telegram

The Minister in Persia (Caldwell) to the Acting Secretary of State

TEHERAN, *January 6, 1921—10 a.m.*

[Received January 8—3:42 a.m.]

3. Situation in the Middle East undoubtedly approaching grave turning point. With the withdrawal of the British forces from north Persia, Anglo-Persian agreement¹ becomes impossible of execution and the British Legation here admits that it means sacrifice of British interests throughout Persia except extreme south. British Minister states that even if Medjlis were to meet at once and ratify the agreement it would be too late as his Government had apparently decided not to assume any responsibility which might involve it in protecting Persia against possible Bolshevik invasion.

In view of the fact that the American people seem to take lively interest in the possibilities of certain natural resources of Persia I venture to suggest that the present moment furnishes unparalleled opportunity to establish this interest in practical form.

Immediate and most pressing need of the Persian Government is a number of military officers to take the place of the Russians recently dismissed. They are determined not to employ British and the latter claim even were they now asked they would not accept. If the Persian Government could at once contract privately for the services of at least 30 experienced American officers to reorganize and command the Persian forces it may yet be possible to prevent disturbances locally and above all to prevent Persia from being driven into the arms of Soviet Russia. They should arrive here not later than April, that is to say just before British complete their evacuation. Moral effect of announcing such a step, which need not of course involve the American Government, would be enormous as Persians of all classes still have unbounded confidence in America and would probably rally to the support of American officers with sufficient enthusiasm to bring new life into the body politic and act as deterrent to any designs the Bolsheviki may have. And with the ever-present danger of Bolshevism the world can hardly afford

¹ Of Aug. 9, 1919; *Foreign Relations*, 1919, vol. II, p. 703.

to allow such moral values to remain unused. Furthermore, as the Persian Government is about to conclude a convention with Soviet Russia the presence of Americans would be that [*the*] test of the latter's sincerity as regards promise of nonintervention provided the British leave the country. The Persian Government would of course also ask for American financial and other technical experts but the most urgent demand is giving [*getting?*] military officers to maintain discipline during the critical stage of transition.

Unless some such measures be adopted it is difficult to see how utter collapse of the Government can be avoided. The decisions of the next few weeks will determine the fate of this part of the world for a generation and if we intend to participate in its economic development no more favorable moment will ever present itself to lay the foundation.

As it is probable that the Persian Government will approach the Legation on the subject the Department's views would be greatly appreciated. It is also respectfully suggested that in the meantime the British Government be sounded as to its attitude in the event of Persian request for American advisers. The Legation understands from the British Minister that there might be no objection as Great Britain had virtually decided to abandon Persia to her fate.

CALDWELL

711.91 : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, June 21, 1921—4 p.m.

[Received June 23—9:43 p.m.]

35. During a recent audience with the Shah and conversations with the Minister of Foreign Affairs both expressed the hope that relations between the United States and Persia will become more intimate and that it will be possible to find American agricultural advisers as well as a financial expert to head a Persian bank. They also intimated readiness to grant liberal concessions for oil, railroads, mines, et cetera in return for loans and they invite American experts to explore the country and to negotiate regarding terms.

As the Persian Medjlis will be opened tomorrow and that body will presumably be favorably disposed toward American interests no time should be lost if we intend to participate in the economic development of Persia. I have so far always answered evasively but with a little encouragement it should be possible to accomplish a great deal.

The British appear to be reconciled to the fact that they cannot now hope for exclusive privileges in north Persia but in the interest of civilization it would be regrettable if the Persians gained the

impression that we were particularly anxious to thwart British plan on general principles, an impression which the attitude of this Legation during the last few years has done much to create and perpetuate and which undoubtedly contributed towards *rapprochement* between Persia and Soviet Russia. For purely geographic reasons the British will always have a certain legitimate influence here which generally speaking is wholesome and serves as an antidote to Bolshevism. If therefore American capital desires to invest in north Persia it might perhaps be advisable to sound London and possibly invite cooperation as otherwise the Persians are certain to try the time-honored Oriental practice of playing one against the other.

I understand the Persian Minister to Spain now in London will soon proceed to Washington to negotiate for American advisers and it is intended that he remain there as Minister.

ENGERT

891.01A/23

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

No. 436

LONDON, September 6, 1921.

[Received September 22.]

SIR: With reference to my telegram to the Department No. 699 of August 23, 10 a.m.,² concerning Persian affairs, and as supplementary to my despatch No. 410 of August 26th last,² I have the honor herewith to transmit a memorandum of a further conversation between the newly appointed Persian Minister to the United States and Mr. Post Wheeler.

I attach also two telegrams from Teheran, published in today's *Times*.²

I have [etc.]

For the Ambassador:

POST WHEELER
Counselor of Embassy

[Enclosure]

Memorandum by the Counselor of the Embassy in Great Britain (Wheeler)

LONDON, July 25, 1921.

This morning His Excellency, Mirza Hussein Khan Alaï, Persian Minister in Madrid, called upon me again with reference to his conversation of July 18th.

He stated that he had just received news of the confirmation of his appointment as Persian Minister at Washington and that he expects to sail on the S.S. *Berengaria* on August 6th next.

² Not printed.

He said that he had received further telegrams from his Government with reference to the matters he had talked of with me during his previous call. These somewhat modified or amplified the Persian Government's plan as then outlined.

He put particular stress in the conversation that followed upon Persia's desire to maintain the very friendliest relations with Great Britain, and upon her lack of any idea of entangling the United States in Persia's affairs to her disadvantage. The Anglo-Persian Agreement, signed in August 1919, with the proviso (according to the Persian Constitution) that it must be submitted for ratification to the Persian Parliament, had awakened suspicion in France, and more especially in Russia, and in fact in the United States itself. The Persian Parliament had refused even to consider it, and finally, when the British Government was pressing for its execution and had already begun to send experts to Persia, had, in agreement with Great Britain, declared it to be null and void. Great Britain, he said, saw very clearly the situation.

Another reason for Persia's feeling against British advisors was the rivalry of Russia, which at the present moment existed in Persia. After the Russian revolution the succeeding Governments in Russia had declared the old Russo-Persian Agreement of 1907 to be abrogated and recently the Soviet Government had assured Persia of her desire to arrive at arrangements which would not infringe upon Persia's liberty or independence. She had also written off Persia's debt to her and had given back to Persia's keeping the concessions which had been transferred to Russians covering roads, oils, mining, etc. Russia is at present very jealous of Great Britain in Persia and would consider the presence of British experts as a threat to herself.

Persia, threatened and even invaded in the North, has been forced to arrive at some *modus vivendi* with Russia and self-protection requires that she take into account this Russian jealousy of Great Britain. She desires to see no other Power assuming a preponderance in Persia and the only alternative which suggests itself to the Persian Government is to have the friendly cooperation of the Government of the United States, which Power is disinterested and possesses the entire confidence of the Persian people and Parliament. It was thought also by the Persian Government that the present friendliness of Great Britain's feelings towards the United States would make impossible any irritation over the appointment of American experts in Persia.

His Excellency then touched upon the question of the loan of which he spoke last week. His Government he said had concluded that Persia's need was for a substantial sum of (say) one hundred million dollars. This would be used mainly to start works of repro-

duction. In order to establish a financial equilibrium, the Government's intention was to use a portion of this sum, (something under three million pounds) for the payment of the old national debt to Great Britain. Three quarters of the whole would be devoted purely to productive works. The Persian Government would guarantee this loan, not only by the income from the Northern oil, but also by the income from the tobacco monopoly (£200,000) and from Customs (£900,000.—this sum being at present greatly under par). Altogether there would be available an annual sum of seven and one half million dollars to guarantee the loan.

The United States would have, also, further guarantees of moral character; the financial advisor would be an American. Some guarantee lay in the fact that the Persian Government was now engaging Swedish officers to reorganize thoroughly the country's military forces and its *gendarmerie*.

The loan, he added, could be supplied in portions as needed, spread over a term of years.

He next spoke of the National Bank which Persia desired to establish. This was formerly the Russian Bank, instituted by the Russian Imperial Government, which had been returned to Persia by the Soviet Government. They were particularly desirous that this Bank should be managed by an American expert. While this Bank would sell shares, in the syndicates which would exploit the concessions, to Persian and foreign capital, the Persian Government itself intended to participate and to devote a certain sum under the loan to the use of the Bank, as capital for the purchase of shares in these syndicates.

In closing, His Excellency stated that owing to financial stress the keen desire of his Government was to obtain an early advance of say five million dollars on the larger loan projected—an advance which might be guaranteed by the proceeds of the Southern Oil.

He again expressed his hope that the Ambassador would be able to see him and give him some counsel—which was all the more desired by him now that he was to take up the position of Persian Minister to the United States.

POST WHEELER

891.01A/22 : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, September 8, 1921—9 a.m.

[Received September 10—1:15 a.m.]

54. Armitage-Smith, British financial adviser to the Persian Government, and his assistants have been dismissed and are leaving Persia.

ENGERT

891.51/230: Telegram

*The Chargé in Persia (Engert) to the Secretary of State*TEHERAN, *September 15, 1921—8 p.m.*

[Received September 16—5:53 p.m.]

57. The Shah sent for me this afternoon and expressed the hope that now that the British financial advisers had definitely severed their connection with the Persian Government it might be possible to obtain Americans to take their places. His Majesty then reiterated some of the statements reported in the Legation's 35, June 21, 4 p.m.

ENGERT

891.51A/9

Memorandum by the Assistant Secretary of State (Dearing)[WASHINGTON,] *November 10, 1921.*

The Persian Minister called upon me today to say that he had received urgent telegrams from his Government and that he would be obliged if we could name a financial adviser as soon as possible. It was requested that he be named without specific statement as to his powers because he was needed at once. The Minister indicated that his Government would accept any suggestion the Department might make with regard to salary and added that the functions, powers, etc., of the adviser could easily be arranged with the Persian Government as soon as he could be appointed. The Minister referred to the fact that his Government needed financial assistance at once and seemed to feel that it was chiefly on account of the need of paying the Persian Army. Later telegrams which he has left at the Department indicate a fear of the Government at present in power that they may lose control unless the Army is paid. The Minister indicated that while he had approached various bankers and oil men he had not been able to get very far with them.

He told me that the British had asked for the Khostaria oil concession⁵ for the Anglo-Persian but that his Government had replied with absolute finality that the concession could not be given to the Anglo-Persian Company and that it had reverted absolutely to the Persian Government. The Minister said that his Government had appealed to the British to help them in their financial situation but that the British had said they could do nothing and had practically invited them to seek assistance elsewhere. This would seem to indicate that there need not necessarily be much danger of treading on British toes if financing is arranged in America.

D[EARING]

⁵ *Foreign Relations*, 1920, vol. III, p. 351.

891.51A/159

Memorandum by the Under Secretary of State (Fletcher)[WASHINGTON,] *November 29, 1921.*

After dinner at the Persian Legation last night, I had a conversation with the Minister on the subject of the appointment of an American financial adviser to Persia. The Minister informed me that his Government was very anxious to appoint an American financial adviser, and that he had been told by the State Department in conversations with Mr. Dearing, Mr. Robbins and others that a list was being prepared and would be submitted to him. I told him that I had understood that the matter had been discussed with him, but that on mature reflection, the Department felt that it would be inadvisable to have a financial adviser appointed before the arrival of the American Minister in Persia. I told him that Mr. Kornfeld⁶ enjoyed the confidence of the President; that in view of our previous experience in Persia I felt that we should proceed with the utmost caution so that whatever was done would be to the permanent benefit of both countries. The Minister seemed very disappointed, and said that he felt, because he had already telegraphed his Government that an adviser would be suggested by the State Department, that his Government would not understand and would criticize him. I told him I would be very glad to explain through our Chargé at Teheran any difficulty arising on this score.

He then asked if it would be possible that an adviser would be selected who might accompany our new Minister to Persia. I told him that I was not inclined to approve of this course either, as I wished to have the new Minister make a thorough investigation of conditions there, so that the State Department could act intelligently in its dealings with Persia. I pointed out to him that any loan which might be floated in this country would need to be approved by the State Department, and that our approval would necessarily be contingent upon the reports of the new Minister, and that I did not see that any time would be gained by the appointment of an adviser at this time. The Minister asked whether it would be necessary to have the Government's approval of a loan made by private companies. I replied that if private companies wished to make a loan or advance from their own resources the approval of this Department would not be necessary. The Minister said that he had already employed Mr. Shuster,⁷ who was helping him with his nego-

⁶ Joseph Saul Kornfeld, appointed Minister to Persia Nov. 9, 1921.

⁷ William Morgan Shuster, Financial Adviser to the Persian Government, 1911-1912; see *Foreign Relations*, 1911, pp. 680 ff.

tiations with the oil companies and others who might be interested in Persian concessions and Persian finance.

I promised the Minister that he would have an opportunity to confer with Dr. Kornfeld, who is expected in Washington within the next week.

H[ENRY] P. F[LETCHER]

**PERSIAN EFFORTS TO INTEREST AMERICAN OIL COMPANIES IN
THE EXPLOITATION OF NORTHERN PERSIA***

891.6363 Standard Oil/13

The Acting Secretary of State to the Minister in Persia (Caldwell)

No. 176

WASHINGTON, January 17, 1921.

SIR: Reference is made to the Department's telegram No. 27, dated November 17, 1920,⁹ relative to the possible confirmation of the Anglo-Persian Agreement¹⁰ by the Persian Medjlis and its possible bearings upon the petroleum situation in the northern provinces, to the Department's mail instruction No. 163 of November 11, 1920,¹¹ relative to the possibility of the extending of financial assistance by American private interests to Persia, and to your telegram No. 45, of December 4, 1920,¹¹ stating that you have discussed petroleum matters confidentially with the Persian Prime Minister and Minister of Foreign Affairs and that you believe it advisable that any interested American company should have a representative in Teheran as soon as possible.

In an interview at the Department on December 16, 1920,¹² the Persian Minister at Washington stated that he was making efforts to obtain permission to visit Persia soon, and that during his stay in Persia he would work for the granting of an oil concession in the northern provinces to American interests.

At a conference at the Department on January 11, 1921, Mr. E. J. Sadler of the Standard Oil Company of New Jersey stated that his company was not prepared at present to send a representative to Teheran or to interest itself in the matter of extending financial assistance to Persia.

* For previous correspondence regarding American participation in petroleum exploitation in Persia, see *Foreign Relations*, 1920, vol. III, pp. 347 ff.

⁹ *Ibid.*, p. 355.

¹⁰ For previous correspondence regarding the Anglo-Persian Agreement, see *ibid.*, pp. 344 ff.

¹¹ Not printed.

¹² See memorandum of Mr. A. C. Millspaugh, Office of the Foreign Trade Adviser, Dec. 17, 1920, *Foreign Relations*, 1920, vol. III, p. 356.

When the Department receives further information regarding the plans of any American company relative to petroleum concessions in Persia, you will be informed. You are requested to keep the Department fully and promptly informed regarding any developments in connection with this subject or with the Anglo-Persian Agreement. You are requested further to transmit to the Department such detailed statements as are readily available of the revenues and disbursements of the Persian Government during the past decade, an exposition of the public debt situation, a discussion of projects for new taxes, financial commitments and pledges to foreign governments, and the possibility of obtaining as security for future loans pledges of any particular sources of revenue, such as customs receipts. In obtaining this information you will take care not to convey the impression that this Government or American private interests propose or favor any financial arrangement with Persia.

I am [etc.]

For the Acting Secretary of State:

VAN S. MERLE-SMITH

891.6363 Standard Oil/19

The Consul General at London (Skinner) to the Acting Secretary of State

No. 10735

LONDON, *January 21, 1921.*

[Received February 3.]

SIR: I have the honor to state that on the above date I cabled the Department reporting that the North Persia Oils Limited had taken over Russian oil interests in Northern Persia. The Department will recall that the Anglo-Persian Oil Company Limited already possesses exclusive rights in Persia except as to the five Northern provinces. Apparently these five Northern provinces, to a considerable extent, have been brought within the orbit of Anglo-Persian operations, that is to say, British Government operations, by the purchase just mentioned.

The North Persia Oils Limited was incorporated on May 8, 1920, with an authorised capital of £3,000,000. At a meeting of the Directors, held on November 30th, the following statement was made:—

“The total number of Ordinary Shares allotted is 3,000,000, of these 1,500,000 Shares were allotted for cash, and the amount paid up on 1,499,993 was 2s. per Share and on 7 Shares 20s. per Share, and 1,500,000 have been allotted as fully paid in part payment of the consideration payable under the Agreement for Sale dated 25th March, 1920.

"The total amount of cash received by this Company in respect of the above-mentioned Shares allotted is £150,006 6s.

"The following is an Abstract of the Receipts and Payments referred to above:—

RECEIPTS		
	£	s. d.
2s. per Share paid on Allotment of 1,499,993		
Ordinary Shares of £1 each	149,999	6 0
20s. per Share paid on Subscribers' Shares.	7	0 0
	150,006	6 0
PAYMENTS		
	£	s. d.
Part Purchase Price of Concession	100,000	0 0
Preliminary Expenses	30,259	5 6
Duty on Contract of Sale	9,500	10 0
General Expenditure	1,069	13 5
Balance, represented by—		
(1) Cash on Deposit with Anglo-Persian Oil Co. Ltd . £9,000	0 0	
(2) Cash in Bank	176 17	1
	9,176	17 1
	£150,006	6 0

"The preliminary expenses incidental to the formation of the Company are estimated to amount to £30,300."

The Directors of the Company are Sir Charles Greenway, who is also Chairman of the Anglo-Persian Oil Co., Ltd., John B. Lloyd, and Duncan Garrow, who are also Directors of the Anglo-Persian Oil Co., Robert I. Watson, of the Burmah Oil Co. Ltd., and C. I. Djakelly and A. M. Khoshtaria, apparently Russians or Persians.

The vendors of the rights in Persia seem to have been given one-half of the shares in the new company and the other half have been taken over principally by the Anglo-Persian Oil Company, in which true control is vested.

In view of the troubled political conditions in Persia the Northern part of which particularly is said to be overrun by the Bolsheviks, it will be very interesting to observe the course of events as to this company, and particularly to learn whether Persia is as much disturbed as seems to be the case.

In the meantime the press reports that no action has been possible, thus far, in Persia, in the direction of ratifying the Anglo-Persian Agreement.

In this connection I call the Department's attention to my 9582 of May 14th last,¹³ wherein I announced the formation of the North Persia Oils Limited, giving such details as were available.

I have [etc.]

ROBERT P. SKINNER

¹³ Not printed.

891.6363 Standard Oil/23 : Telegram

*The Chargé in Persia (Engert) to the Secretary of State*TEHERAN, *May 14, 1921—9 a.m.*

[Received May 15—2:30 p.m.]

23. Anglo-Persian Oil Company has had a representative here since March 25th, to negotiate for ex-Russian and other oil concessions in north Persia. He is apparently not making much headway as he has repeatedly approached me with a view to ascertaining whether American capital would be disposed to participate. He claims personally to be in favor of such participation but that his company until quite recently was opposed.

Since my arrival last October I have occasionally informally mentioned to leading Persians desirability of American exploitation of north Persia oil in the sense of the Department's telegraphic and mail instructions. At first they were somewhat hesitant fearing offend the British but gradually grew bolder and now openly advocate concessions to Americans. If American interests are in earnest they should at once send a carefully chosen representative with full powers but his mission should not be disclosed too soon. Anglo-Persian Oil Company is in strong position because it is constantly advancing funds to the Persian Government. American companies would therefore have to be ready to do the same as soon as concessions are obtained.

Admitting the political uncertainty of the future and even the possibility of Bolshevism in Persia it would obviously be an advantage to have concessions from an avowedly anti-Bolshevik Government to be used at some future time aside from the fact that the presence of American interests might enable Persia to resist Soviet influences more successfully.

ENGERT

891.6363 Standard Oil/30 : Telegram

*The Chargé in Persia (Engert) to the Secretary of State*TEHERAN, *September 4, 1921—10 p.m.*

[Received September 7—10:15 a.m.]

52. British Minister tells me confidentially that his Government has instructed him to protest against Russian oil concessions being transferred to American concern.

I am also informed that French interests are seeking the same concessions.

ENGERT

891.6363 Standard Oil/33½ : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, September 21, 1921—9 p.m.

[Received September 23—1:45 a.m.]

59. My 52 September 4, 10 p.m. Persian Government officially replied to British Minister that as it had never recognized Russian concessions, British claims based thereon are void.

ENGERT

891.6363 Standard Oil/37

*The British Ambassador (Geddes) to the Secretary of State*¹⁹

No. 750

His Britannic Majesty's Ambassador presents his compliments to the Secretary of State and has the honour to draw attention to the following circumstance:

Reliable reports have been received by His Majesty's Government to the effect that the Persian Government is offering to an American group an oil concession in Northern Persia on the ground that the former Russian rights, acquired by a Russian subject named Khosh-taria, have lapsed. His Britannic Majesty's Ambassador is instructed to point out that these rights were taken over in proper form some time ago by a British firm and that His Majesty's Government have left the Persian Government in no doubt that the British right to the concession is valid and, if questioned, will receive official support.

His Majesty's Ambassador has the honour to add that he has been instructed to bring these facts in the friendliest way to the notice of the United States Government, so that any American parties contemplating the acquisition of this concession, which is thus being irregularly offered by the Persian Government, should be in no doubt as to the real position.

WASHINGTON, October 7, 1921.

891.6363 Standard Oil/39 : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, October 14, 1921—10 a.m.

[Received October 15—6:22 a.m.]

62. British Chargé d'Affaires has received instructions to reemphasize protest referred to in the Legation's 52, September 4th, and 59, September 21st.

ENGERT

¹⁹ Left at the Department by H. G. Chilton, Counselor of the Embassy.

891.6363 Standard Oil/37

The Secretary of State to the British Ambassador (Geddes)

WASHINGTON, October 15, 1921.

MY DEAR MR. AMBASSADOR: I beg to acknowledge the receipt of Mr. Chilton's informal communication, dated October 7, 1921, calling attention to reports which have been received by the British Government to the effect that the Persian Government is offering to an American group an oil concession in Northern Persia and setting forth that petroleum rights in this region were taken over in proper form some time ago by a British firm. It is further stated that the British Government has left the Persian Government in no doubt that the British right to the concession is valid and, if questioned, will receive official support.

I am not sufficiently informed at this time to express an opinion on the legal status of any of the contracts to which Khoshtaria may have been a party or which may have been transferred to him; but, from the information in my possession, there would seem to be, in the case of some of these contracts, a basis for a reasonable doubt with regard to their validity. For example, the fundamental law of Persia requires that the granting of all concessions shall be subject to the approval of the National Consultative Assembly; and it is understood that certain of the concessions alleged to have been granted to Khoshtaria have never received the required approval.

I shall be grateful, accordingly, if, in the interest of a mutual understanding in this matter, you would be kind enough to inform me whether it is the opinion of the British Government that all legal requirements necessary for the granting or transfer of the concessions have been fulfilled, and, if so, upon what facts such opinion is based.

It is believed appropriate in this connection to refer to the exclusive control already possessed by the Anglo-Persian Oil Company over the production and transportation of petroleum throughout the greater part of Persia. Recognition of the claims now advanced by that company in the northern provinces would apparently result in the complete exclusion of American companies from Persia, so far as petroleum development is concerned. In an official memorandum on the petroleum situation, which you kindly transmitted to me on July 27, 1921,²⁰ I have noted certain statements regarding the attitude of the British Government with respect to petroleum concessions in Persia. I feel justified, accordingly, in assuming that unless the claims in question could be properly established there would be

²⁰ Memorandum and covering note of July 27, 1921, not printed. The memorandum was a British Government publication: *Despatch to His Majesty's Ambassador at Washington enclosing a Memorandum on the Petroleum Situation* (London, H. M. Stationery Office, 1921). Miscellaneous No. 17. Cmd. 1351.

no purpose on the part of the British Government to employ its influence to prevent the enjoyment by American citizens of such opportunity as remains for acquiring a minor participation in the petroleum industry of Persia.

I am [etc.]

CHARLES E. HUGHES

891.6363 Standard Oil/39½

The Chargé in Persia (Engert) to the Secretary of State

[Extract]

No. 748

TEHERAN, *October 24, 1921.*

[Received January 24, 1922.]

SIR: Referring once more to the Department's Instruction No. 184 of April 9, 1921,²¹ I have the honor to enclose herewith translations of further documents²² . . .

I have [etc.]

C. VAN H. ENGERT

[Enclosure—Translation]

Decree of the Persian Council of Ministers, July 27, 1918

TO THE MINISTRY OF FOREIGN AFFAIRS AND THE MINISTRY OF PUBLIC WORKS, COMMERCE, AND AGRICULTURE: Whereas the treaties, agreements, and concessions taken from Persia during the last hundred years by the despotic Russian Government and its people had been secured from Persia either by duress and force or through illegitimate means, such as threats and bribes, and are against the interests of Persia;

Whereas the Great Powers of the world have, since the beginning of the present war, in various ways announced to the people of the world the protection, integrity, and economic and political independence of the weak nations;

Whereas the new Government of Russia has announced as its goal the liberty and integrity of the nations, and has particularly, repeatedly, officially and unofficially announced the abrogation of all concessions and treaties which had been taken from Persia by the Russians;

Whereas the above-mentioned concessions, in addition to having been forcibly taken from Persia—against the interests of the coun-

²¹ Not printed.

²² Only one printed.

try—together with those secured from Persia after the establishment of the Persian Constitutional Government—against the provisions of the Constitution—have either not been put into force, or have been very badly executed, or their provisions have not been complied with: not only the defined rights of the Government have not been respected, but in many cases these concessions by transfer or abuse of their provisions, have been the source of political and economic difficulties and pretexts, injuring the integrity of the country and the interest of the people;

Whereas the Government and people of Persia have the same right as all other nations and governments to be benefitted by their resources and their natural liberty;

Therefore, the Council of Ministers, at their meeting of Asad 4, 1297 (July 27, 1918), equal to Shaval 18, 1336, have resolved the abrogation of all above-mentioned treaties, agreements and concessions. The Ministry of Foreign Affairs is hereby instructed to announce the text of this decision to all the officials and representatives of foreign governments at the court of Persia, and to all Persian Ministers at the courts of foreign governments. The Ministry of Public Works, Commerce and Agriculture is to inform the public of the same through its proper means.

The original of this decision is kept in the files of the President of the Council of Ministers.

NAJAF-GHOLI, SAMSAM-OS-SALTANEH
President of the Council of Ministers

891.6363 Standard Oil/42

The Chargé in Persia (Engert) to the Secretary of State

No. 758

TEHERAN, November 16, 1921.

[Received February 3, 1922.]

SIR: Referring further to the question of the so-called Khochtaria petroleum concessions in North Persia, I have the honor to report that at yesterday's session of the Persian Medjliss a question was asked the Prime Minister by Sardar Moazam, Vice-President of the Medjliss, as to whether anything had been done in connection with these oil concessions "which, contrary to the laws, had been given to Khochtaria in the absence of the Medjliss". In reply, the Prime Minister said: "This matter is now under discussion, but the Government has already announced that the concessions being illegal they are therefore null and void".

I have [etc.]

C. VAN H. ENGERT

891.6363 Standard Oil/44 : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, November 22, 1921—9 p.m.

[Received November 24—4:40 a.m.]

71. Persian Medjlis this afternoon passed unanimously bill granting Standard Oil Company 50-years' concession for petroleum exploitation in the five provinces of north Persia. Persian Government to receive minimum of 10 percent on gross earnings. Other details of the concession to be submitted to the parliament later.

May I again urge that the company send immediately one of its best men to represent it locally as the Legation has already gone as far as it properly can in pushing this matter through.

ENGERT

891.6363 Standard Oil/45

The Chargé in Persia (Engert) to the Secretary of State

No. 763

TEHERAN, November 23, 1921.

[Received February 14, 1922.]

SIR: Referring to the Legation's telegram No. 71 of November 22nd, 10 [9] p.m., I have the honor to transmit herewith translation of the proceedings in the Persian Medjlis at its session yesterday afternoon,²⁴ when the Prime Minister rushed through the bill granting to the Standard Oil Company a concession for fifty years for the exploitation of mineral oil in the provinces of Azerbaijan, Guilan, Asterabad, Mazanderan, and Khorassan in North Persia.

A translation of the Bill itself, based upon the Persian text furnished to the Legation by the Secretariat of the Parliament is also enclosed herewith. It appears that Article 3 as at first submitted by the Prime Minister mentioned the Persian Government's share as a "minimum of ten per cent" of the gross receipts of the company. But when it was found that there was some doubt in the minds of some of the members of Parliament as to the sufficiency of this percentage, the wording was changed [to] "over ten per cent", the intention being to raise the minimum share accruing to the Government to a figure higher than ten per cent, and which is to be determined later.

I have [etc.]

C. VAN H. ENGERT

²⁴ Not printed.

[Enclosure—Translation]

Bill Passed by the Persian Mejliss, November 22, 1921, Granting Concession to the Standard Oil Company

1.—The Persian National Assembly approves of granting to the Standard Oil Company, an American concern, a concession for the exploitation of petroleum in the provinces of Azerbaijan, Guilan, Astrabad, Mazanderan, and Khorassan under the following terms:

2.—The duration of this concession to be fifty years.

3.—The Persian Government shall be entitled to over ten per cent of all petroleum and petroleum products obtained from the wells, before any expenses are deducted.

4.—Other terms of the concession, such as the cession of the Government's portion—in case the Government deems that proper—the manner of ascertaining by the Government of the earnings of the company, and the conditions under which this concession may be annulled, and other terms, shall be prepared by the Government and after agreement with the above Company shall be submitted to the Medjlis for approval.

5.—The Standard Oil Company shall have no right whatsoever to transfer this concession to any government or company or person. Also any participation of other capital must have the consent of the Persian National Assembly.

891.6363 Standard Oil/47 : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, November 26, 1921—9 p.m.

[Received November 27—11:22 p.m.]

73. Legation's 71, November 22. Bolshevik Minister without awaiting instructions from Moscow lodged formal protest against concession on the ground that the treaty between Persia and Soviet Russia of last February not having been ratified all Russian rights in Persia were in full force and that even had the treaty been ratified concession would be violation of article 13. Persian Government replied that Khochtaria concession never was valid and is therefore not affected by the treaty. I believe Rothstein is using incident to press for ratification of the above treaty which is unlikely without important modification.

British Legation has been instructed to state to the Persian Government that the concession is considered an unfriendly act and the French Legation has made similar statement.

The Prime Minister in a personal letter to me states, "I wish to reiterate to you that the Government with Parliament are firmly resolved to stand by their decision". Minister of War who is virtually dictator was orally even more emphatic.

Persian press and public received the news enthusiastically but there is a slight undertone of anxiety as to Russia's next move.

ENGERT

891.6363 Standard Oil/56

The Chargé in Persia (Engert) to the Secretary of State

No. 771

TEHERAN, December 3, 1921.

[Received March 28, 1922.]

SIR: With further reference to the Legation's telegram No. 73 of November 26, 9 p.m., I have the honor to transmit herewith copy of a letter dated December 2, 1921²⁵ addressed to me by the British Chargé d'Affaires in Teheran, together with its enclosures consisting of copies of two notes which he presented to the Persian Prime Minister and the Minister of Foreign Affairs,²⁶ respectively, on November 25, 1921, on the subject of the oil concessions of North Persia.

These notes were presented to the Persian Government under instructions from the British Foreign Office to protest against the grant to the Standard Oil Company of a concession covering the oil of the northern provinces which the British Government considers "to be entirely indefensible and extremely unfriendly to his Majesty's Government" and to state that the British Government "will continue to uphold the prior right of the British group".

As soon as the Legation has obtained copies of the Persian reply to these notes they will be transmitted to the Department.²⁵

I have [etc.]

C. VAN H. ENGERT

[Enclosure]

The British Chargé in Persia (Bridgeman) to the Persian Prime Minister (Ghevam-os-Saltaneh)

TEHERAN, 25 November, 1921.

YOUR HIGHNESS: I beg Your Highness to be so good as to refer to the correspondence between this Legation and the Ministry for Foreign Affairs on the subject of the Khoshtaria concession, and espe-

²⁵ Not printed.

²⁶ Note to Minister of Foreign Affairs not printed.

cially to Mr. Norman's notes of 6th October 1920 and 2nd September and mine of 13th October 1921. Your Highness will have seen from these papers that my Government maintain the absolute validity of the rights, duly acquired by purchase, of the A[nglo-] P[ersian] O[il] C[ompany] to this concession, and do not admit the contention of Your Highness' Government that the concession is invalid because it was not approved by the Majlis (which was not sitting at the time) and because the Russian Soviet Government renounced concessions granted to Russian subjects during the Imperial regime in Russia. H.M.G. cannot allow the rights of British subjects to be infringed by any arrangements subsequently entered into between the Persian Government and third powers.

In view of these representations already made to the Persian Government, and of which Your Highness personally must have been fully cognizant, His Majesty's Secretary of State for Foreign Affairs has directed me to inform Your Highness that he considers the action taken by Your Highness, in proposing to the Majlis the grant to an American Company of an oil concession covering the northern provinces of Persia, and thus directly conflicting with the rights legally acquired by a British Company, to be entirely indefensible and extremely unfriendly to His Majesty's Government.

Lord Curzon has also instructed me to renew the official protests referred to above, stating that His Majesty's Government will continue to uphold the rights of the British Company, and I am accordingly addressing a note to His Excellency the Minister for Foreign Affairs in that sense.

I avail myself [etc.]

R. BRIDGEMAN

891.6363 Standard Oil/64 : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, December 9, 1921—9 p.m.

[Received December 11—12:09 a.m.]

78. Thompson, representing Sinclair Oil Company, arrived to negotiate for northern oils apparently unaware of concession to Standard Oil Company. If the latter has not yet closed deal the Legation feels very strongly it should at once come to an understanding with Sinclair Corporation as any appearance of rivalry at this time may locally have deplorable results and prevent American participation altogether.

ENGERT

891.6363 Standard Oil/65 : Telegram

The Secretary of State to the Chargé in Persia (Engert)

WASHINGTON, December 13, 1921—6 p.m.

44. Your 78 December 9, 9 P.M.

Department knows of no rivalry. Endeavor discreetly and if possible in cooperation with Thompson to prevent any local appearance of rivalry.

HUGHES

891.6363 Standard Oil/73 : Telegram

The Secretary of State to the Chargé in Persia (Engert)

WASHINGTON, December 20, 1921—2 p.m.

48. Your 81 December 17, 9 A.M.²⁹

Department understands that active negotiations are only with Standard. Sinclair representative told Department on December 16 that Thompson had been instructed to take no action at Teheran except to inform Persian Government that Sinclair had made offer to Shuster. Carefully avoid being drawn into any negotiations at Teheran and observe strict impartiality as regards the two companies. See Department's 42 November 28, 6 P.M.²⁹

HUGHES

891.6363 Standard Oil/76 : Telegram

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

[Paraphrase]

LONDON, December 20, 1921—3 p.m.

[Received 3:27 p.m.]

989. The Foreign Office, in reply to friendly question, used a tone of some sharpness in alluding to the notification addressed informally by the British Embassy to the Department on the 7th of last October.³⁰ I have learned, that copy of Department's note of October 15³¹ has been transmitted to Foreign Office by Geddes, but they seem to wish to refrain from comment until their own reply is ready, and are disinclined to discuss, at least informally, the legality of British claims. I was told privately by official of Foreign Office that Greenway of Anglo-Persian and Bedford of

²⁹ Not printed.³⁰ *Ante*, p. 644.³¹ *Ante*, p. 645.

Standard Oil had met in London recently, and that it was understood they had arrived at informal agreement to operate jointly. This understanding may put stop to dissensions. The same official stated his supposition that delay in replying to Department's note of October 15 might be due to expectation of cooperation between the two interests. My own opinion is that this suggestion is used as a feeler and is prompted by desire for such an agreement, and does not indicate that an agreement already exists.

My note no. 287 of November 17³² is yet unanswered.

HARVEY

891.6363 Standard Oil/82 : Telegram

The Chargé in Persia (Engert) to the Secretary of State

TEHERAN, December 22, 1921—11 a.m.

[Received December 23—9:29 a.m.]

83. Department's 42,³³ 44 and 48 have been carefully complied with but the Legation can only repeat warning contained in its 78, December 9, 9 p.m., as the British Government is pressing for repayment of advances and Persian Government has already resumed negotiations with the Anglo-Persian Oil Company. Thompson seems able and discreet and is being given every proper facility by the Legation. He is evidently preparing for a prolonged stay.

Government circles much disappointed at the delay and the question is asked whether action of the Medjlis was not too rash. . . .

ENGERT

891.6363 Standard Oil/83

Memorandum by the Assistant Secretary of State (Dearing)

[WASHINGTON,] December 22, 1921.

THE SECRETARY: Mr. Fletcher³⁴ called me in on the morning of December 17th to take part in a conversation he was having with Mr. Chilton and Mr. Broderick of the British Embassy who had been requested by the British Ambassador to come to the Department and inquire regarding the initiative the Persian Government had been taking with American oil companies concerning concessions for oil in the five northern provinces of Persia.

Mr. Chilton and Mr. Broderick were informed that the Persian Minister had approached the Department and that the Department

³² *Ante*, p. 89.

³³ Not printed.

³⁴ Under Secretary of State.

was interested but that it had no intention whatever of lending itself to any Persian scheme which might create bad relations with the British Government. It was stated that the Department was much interested in having oil opportunities throughout the world open to everyone on a basis of equality and that it was hoped that the British would abide by that principle in Mesopotamia and in Palestine. It was intimated that more basis for doing business under the equality of opportunity idea could in all probability be found for the north Persian situation.

Mr. Chilton and Mr. Broderick said nothing with regard to equality of opportunity in Mesopotamia and Palestine and in taking leave gave the impression of being reassured with regard to north Persia. It was understood that if other developments made it necessary to do so, the Department would be glad to have further talks with the British Embassy.

D[EARING]

[The memorandum was referred to the Under Secretary of State, who added the following note:]

I would add to this memorandum that Mr. Chilton and Mr. Broderick informed me that they had been advised that the Anglo-Persian Oil Company and the Standard Oil Company had come to an agreement whereby their interests in the Persian fields would be pooled, and said that the Ambassador would like to be assured that this met with the approval of the Department. I replied that while the Department had had some unofficial reports tending to confirm this, it would be necessary to know how far the agreement affected the rights of other American companies interested in this field before it would be possible to express an opinion, but that as a matter of principle the Department saw no objection to American and British oil companies cooperating if no other question was involved except mere cooperation.

H[ENRY] P. F[LETCHER]

891.6363 Standard Oil/86

The British Ambassador (Geddes) to the Secretary of State

No. 965

WASHINGTON, December 31, 1921.

MY DEAR MR. SECRETARY: As you are no doubt aware the Counsellor and Commercial Counsellor of this Embassy had an interview on the 17th instant with the Under Secretary of State and the Assistant Secretary of State on the subject of the negotiations which have recently been taking place between the Anglo-Persian Oil Company

and the Standard Oil Company regarding the Oil concessions in Northern Persia.

It was suggested by Mr. Broderick that, if it became necessary for either the United States Government or His Majesty's Government to take any action in connection with the Northern Persia concessions, neither Government should take any definite step without first informing the other.

Mr. Fletcher and Mr. Dearing both agreed to this as well as to the suggestion that nothing should be done to encourage the Persian Government in the efforts they are undoubtedly making to play off the United States Government against His Majesty's Government.

I have the honour to convey to you the sincere thanks of my Government for this undertaking given by Mr. Fletcher.

I am to state that Lord Curzon will certainly take no definite step in Oil concession matters in Northern Persia without informing the United States Government, and I am to add that His Lordship is glad to feel that he may expect reciprocity in this matter. Lord Curzon is particularly gratified to learn that the United States Government will not encourage any endeavours on the part of the Persian Government to play off the United States Government against His Majesty's Government.

Believe me [etc.]

A. C. GEDDES

PERU

APPOINTMENT OF AN ADMINISTRATOR OF CUSTOMS BY THE GOVERNMENT OF PERU

823.51/179 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, June 7, 1921—3 p.m.

[Received June 8—12:11 a.m.]

45. Foundation Company of New York informs President of Peru group of bankers prepared finance contract that company and other requirements provided Peruvian Government agrees appoint as administrator of customs the nominee for such post by State Department.

President Leguia asks me inform Department he accepts condition but desires administrator to be nominated immediately so that he may be functioning in office before loan is made and not appear connected with it. This will obviate wounding sensibilities of those who, whether for political reasons or otherwise, may be sensitive about sovereignty. Then when the loan is being arranged it can be conditioned upon such administrator or his successors, nominated by the Department, remaining in office until the debt is discharged.

The President expresses his fullest confidence in the Department's choice and says the powers of such administrator may be made far-reaching.

Please refer my despatch number 634, May 16, 1921.¹

GONZALES

823.51/185 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, August 24, 1921—noon.

[Received 3:55 p.m.]

63. My 45, June 7, 3 p. m. President has asked several times if the Department had replied regarding nomination customs administrator.

GONZALES

¹Not printed.

823.51/185 : Telegram

The Secretary of State to the Ambassador in Peru (Gonzales)

WASHINGTON, September 7, 1921—5 p.m.

44. Your 45, June 7, 3 p.m., and 63, August 24, noon.

You may inform the President that after the most careful consideration of the requirements of the position which the Peruvian Government intends to create, the Department takes pleasure in recommending for the post of Administrator of Peruvian Customs, Dr. W. W. Cumberland, whose past experience includes service as Associate Professor of Economics at the University of Minnesota, Economic and Financial Expert on the American Commission to Negotiate Peace, 1919, Financial Expert on the American Military Mission to Armenia, Financial Adviser to the American High Commission in Constantinople, and Foreign Trade Adviser of the Department of State, which latter position Dr. Cumberland is now filling. The Department's recommendation has already been informally conveyed through the Peruvian Ambassador to Señor Fuchs.²

You will understand that Dr. Cumberland cannot commit himself with regard to the acceptance of the post to be created by the Government of Peru, in spite of the attraction of the possibility of service in it, until he ascertains the amount of the compensation that the Government of Peru will offer, and until he is advised just how, in the sense indicated in the last sentence of your telegram number 45, of June 7, 3 p.m., the powers of the Administrator of Customs are to be made far-reaching. It is suggested that authority be given to the Peruvian Ambassador here to take these details up directly with Dr. Cumberland.³

HUGHES

823.51/190 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, September 20, 1921—noon.

[Received 5:10 p.m.]

70. Your September 17, 6 p. m.⁴ Administrator will have power reform present system levying customs duties, to study tariffs and suggest modifications, to recommend appointment of clerks. Except [for] Minister of Finance who is, under the Constitution, responsible to Congress, Administrator will be head of customs, but

² Fernando Carlos Fuchs Carrera, former Secretary of the Treasury.

³ Last paragraph paraphrased.

⁴ Not printed.

he will be practically the head as he will meet with President in conference each week. If under developing New York plan a bank is organized here Administrator may sit as director if desired.

Salary \$16,000 gold.

Immediate action urged.

GONZALES

823.51/190 : Telegram

The Secretary of State to the Ambassador in Peru (Gonzales)

WASHINGTON, September 22, 1921—6 p.m.

48. Your 70, September 20, noon.

General conditions outlined satisfactory to Dr. Cumberland. Please cable whether Peruvian Ambassador will be empowered by cable to discuss details and sign contract.

HUGHES

823.51/191 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, September 23, 1921—2 p.m.

[Received 5:15 p.m.]

71. Your 48, September 22, 6 p. m. Cable instructions to Peruvian Ambassador to sign contract going forward tomorrow.

GONZALES

823.51/191 : Telegram

The Secretary of State to the Ambassador in Peru (Gonzales)

[Paraphrase]

WASHINGTON, October 7, 1921—6 p.m.

50. Your 71, September 23, 2 p. m.

Cumberland has given draft of contract to Peruvian Ambassador who has cabled the important features to his Government and has requested instructions. If the contract is approved, discreetly suggest to the President that the Ambassador be authorized to sign immediately.

HUGHES

823.51/196

The Administrator of Customs for Peru (Cumberland) to the Secretary of State

WASHINGTON, October 31, 1921.

SIR: I take pleasure in transmitting herewith for the records of the Department a copy of a contract which was signed on October 28, 1921, between Ambassador Pezet, acting for the Republic of Peru,

and myself, under the terms of which I shall assume the duties of Administrator of Customs for Peru.

Very truly yours,

W. W. CUMBERLAND

[Enclosure]

Contract between the Republic of Peru and William W. Cumberland

This Contract, made this twenty-eighth day of October, in the year A. D. 1921, by and between the Government of the Republic of Peru, acting through its duly authorized agent, His Excellency Senor Don Federico Alfonso Pezet, Ambassador Extraordinary and Plenipotentiary of Peru in charge of the Embassy of Peru in Washington in the District of Columbia, United States of America, and William Wilson Cumberland, a resident of the City of Washington, and a citizen of the District of Columbia of the United States of America, Witnesseth, That:

WHEREAS, by a law of October, 1921, the President of Peru has been authorized to appoint an Administrator of Customs of the Republic of Peru, this law reading as follows:

"ARTICLE I.

"The Executive is hereby authorized to make the reforms it may deem necessary in the organization, regulation and procedure affecting the Customs so as to simplify and accelerate its operations and improve the service. To this effect the Executive may engage in a foreign country an adequate and proper personnel to direct matters relating to the Customs Service.

"ARTICLE II.

"For the effects that this authorization and the reforms may occasion the Executive will dispose of the sums fixed in the General Budget of the Republic assigned to the Customs service and if these funds should not be sufficient a supplementary credit will be opened for the sum that may be considered indispensable to cover such expenses.

"ARTICLE III.

"The use made of this authorization will be referred to Congress at its next ordinary session."

WHEREAS, The Government of the Republic of Peru has requested the Honorable the Secretary of State of the United States of America to nominate a properly qualified Financial Expert to serve as Administrator of Customs of the Republic of Peru, and

WHEREAS, the Honorable the Secretary of State has suggested William Wilson Cumberland as a suitable person to serve as the said Administrator of Customs of the Republic of Peru, and

WHEREAS, by a letter, dated September 30, 1921, His Excellency Senor Don Federico Alfonso Pezet, Ambassador Extraordinary and Plenipotentiary, duly authorized, has formally requested the said William Wilson Cumberland to become Administrator of Customs of the Republic of Peru;

NOW THEREFORE, in consideration of the covenants, recited hereinafter, entered into between the said Republic of Peru and the said William Wilson Cumberland, each of the other, it is stipulated and agreed:

1. That, the said Republic of Peru does hereby appoint, designate and engage the said William Wilson Cumberland to be and to serve as Administrator of Customs of Peru for a minimum period of three full years, to be computed from the date on which the said William Wilson Cumberland shall depart from the City of Washington to proceed to the Republic of Peru, and at the termination of the period of three years for an additional period of two years, provided the additional period of service is acceptable to both the said Republic of Peru and the said William Wilson Cumberland.
2. That, the said William Wilson Cumberland agrees faithfully to serve the Republic of Peru in the above mentioned capacity of Administrator of Customs and obligates himself to comply with all of the duties and to discharge all of the functions as set forth in the subsequent paragraphs of this contract, and to obey in the performance of his duties all lawful instructions of the President of Peru and the Minister of Finance of Peru.
3. That, the said Republic of Peru does hereby agree to pay annually to the said William Wilson Cumberland as salary and compensation for his services as said Administrator of Customs, the sum of Sixteen Thousand Dollars in gold of the United States of America (\$16,000), said sum to be payable in twelve equal installments on the last day of each calendar month;
4. That, the said Republic of Peru further agrees to pay to the said William Wilson Cumberland all reasonable and necessary traveling expenses of himself and of his immediate family from the City of Washington, District of Columbia, United States of America, to the City of Lima, Peru, and in like manner to pay to the said William Wilson Cumberland all reasonable and necessary traveling expenses of himself and of his immediate family from the City of Lima, Peru, to the City of Washington, District of Columbia, United States of America, at the expiration of three years of service as provided for in this contract or upon its earlier or later termination as provided herein.
5. That, the said William Wilson Cumberland shall in the exercise of his functions as hereinafter described be responsible only to the President of Peru and to the Minister of Finance of Peru, and that in the event of disagreement between the Minister of Finance and the said William Wilson Cumberland in respect of questions within the competence of the latter, the said William Wilson Cumberland shall have the right to present his views both orally and in writing to the President of Peru;

6. That, for the better performance of his duties, the said William Wilson Cumberland shall be entitled to meet the President of Peru and the Minister of Finance of Peru in conference at least once a week and at other times shall be entitled to send communications to them in writing;

7. That, the said William Wilson Cumberland shall, *inter alia*, and subject to the stipulations of paragraph five above, assume the office of Administrator of Customs, with full authority to revise the present system of collecting the revenues and of covering them into the public treasury, shall study the present system of import and export duties and charges and suggest modifications thereof, shall have authority to propose the appointment, promotion, demotion, transfer or dismissal of employees in the customs service, shall have authority to assure the lawful collection and safeguarding of the customs revenues by proper police protection by land and by sea, shall be consulted in advance of administrative action or recommendations in regard to all financial policies of the Republic of Peru, and shall become a director of any government financial fiscal agency which the Republic of Peru may establish;

8. That, the said William Wilson Cumberland is hereby authorized at the expense of the Republic of Peru to engage in the United States of America for a period not greater than three years an expert auditor at a salary of not to exceed Seven Thousand Five Hundred Dollars (\$7,500) per annum, a customs inspector at a salary not to exceed Six Thousand Dollars (\$6,000) per annum, a statistician at a salary not to exceed Five Thousand Dollars (\$5,000) per annum, and a private secretary at a salary not to exceed Three Thousand Dollars (\$3,000) per annum, plus reasonable and necessary traveling expenses from their respective cities of residence to Lima, Peru. Each of the above officers is to be under the exclusive direction and control of the said William Wilson Cumberland, and shall be subject to dismissal by him or by the Government of Peru provided the incompetence of any of the above mentioned officers be duly established;

9. That, the said Republic of Peru agrees to assign a Peruvian legal expert to the said William Wilson Cumberland, to advise him regarding the laws governing the administration of revenues of the Republic;

10. That, the said William Wilson Cumberland and the persons engaged by him under the authority of paragraphs eight and nine hereof, shall have full and immediate access to all documents, records, laws and decrees, including the books and records of account between the Republic of Peru and all designated Government depositories, relative to the disposition of the customs revenues of the Republic of Peru and to all port facilities, warehouses and other properties connected with the collection of customs revenues;

11. That, the said William Wilson Cumberland shall be fully reimbursed for his necessary expenditures for travel, subsistence and lodging whenever his duties take him outside of the Capital of Peru;

12. That, the said Republic of Peru at its expense agrees to provide the said William Wilson Cumberland, and the agents specified in paragraphs eight and nine of this contract, with suitable offices, office furniture, supplies and clerical assistance;

13. That, the said William Wilson Cumberland shall be entitled to leave of absence with pay for one calendar month during each year of this contract;

14. That, the Republic of Peru without due cause may at any time terminate this contract upon the payment of the full amount of the salary herein specified for the three years for which the present contract is to run, and subject to the stipulations of paragraph four hereof; furthermore, that for just cause, which shall be presented in writing to the said William Wilson Cumberland, this contract may be terminated at any time, and in this event the said Republic of Peru shall pay to the said William Wilson Cumberland three months' salary and the traveling expenses stipulated in paragraph four hereof;

15. That, the said William Wilson Cumberland may, after a period of eighteen months after the date upon which this contract comes into force, terminate his connection with the Republic of Peru, provided that he has presented to the President of Peru in writing his reasons for believing that his further service would not promote the financial welfare of the Republic of Peru, due to lack of cooperation in his work on the part of the Government of Peru. In this event the Republic of Peru will indemnify the said William Wilson Cumberland to the extent of six months' salary from the date on which his work as Administrator of Customs ceases;

16. That, the said William Wilson Cumberland during the continuance of this contract shall in no way be connected with or receive employment or compensation from any foreign corporation which may undertake work for the Republic of Peru or which may become interested in any financial arrangements with the Republic of Peru;

17. That, the said William Wilson Cumberland hereby agrees, during the continuance of this contract, to use his best efforts and endeavors for the promotion of the finances and revenues of the Republic of Peru, and, in general, within the scope of his proper activities, to promote the welfare, happiness, prosperity and progress of the citizens of Peru and the honor and prestige of the lawfully constituted Government of the said Republic.

IN TESTIMONY WHEREOF the parties hereto have hereunto set their hands and seals this [28th] day of October, A. D. 1921.

For the Republic of Peru

F. A. PEZET

*Ambassador Extraordinary
and Plenipotentiary of Peru,
Washington, D. C.*

WILLIAM WILSON CUMBERLAND

Witnesses:

ARTHUR N. YOUNG

A. C. MILLSPAUGH

WITHDRAWAL OF THE PERUVIAN GOLD GUARANTEE DEPOSITS
FROM THE NATIONAL CITY BANK OF NEW YORK

823.51/173 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, May 4, 1921—11 a.m.

[Received 12:55 p.m.]

35. My 26, April 7, 6 p. m.⁴ Rumor in banking circles that gold reserve fund in New York to be transferred to London and through that transaction cause drafts for profit of £600,000 sterling be thrown on this market, has caused advance 30 points in Peruvian pounds. Am seeing President at noon.

GONZALES

823.51/174 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, May 4, 1921—10 p.m.

[Received May 5—9:45 a.m.]

37. President appears consider business needs of the country oblige him transfer gold reserve in New York to London. Says would be glad if Lima banks permit him to transfer in New York £4,000,000 gold now held inactive here [*there*].

GONZALES

823.51/183

The Ambassador in Peru (Gonzales) to the Secretary of State

No. 639

LIMA, June 14, 1921.

[Received June 30.]

SIR: Referring to the attempted financial transactions between the National City Bank of New York and the Government of Perú, I have the honor to state for the information of the Department, that on May 21st the head of the branch of the National City Bank here called on me, said that the Government was going to draw about \$800,000. accumulated interest on its gold deposit in his bank in New York and, he was afraid, was going to allow a British bank (the Anglo-South American) to handle the money; that as the deposit was in the parent bank and the parent bank had paid this

⁴ Not printed.

interest, it would be a reflection on the American bank if the business of transfer were now taken out of its hands.

This appeared reasonable, and I presented the matter in a personal note which Minister of Foreign Relations Salomón, whom I saw that night when signing the Landreau Protocol,⁵ promised to hand the President the following day—Sunday. On Monday Minister Salomón told me the President charged him to tell me he appreciated my arguments fully and had desired to do just what I suggested, but that the terms of the American banks, as well as all the others except the Anglo-South American, were too hard to comply with, and conform to his duty to the public treasury.

The following day, May 24th, Mr. Calvin, head of the National City Branch, asked me to accompany him to the Palace as he had an acceptance from his bank on the proposal to make a 600,000 pound loan, and as he feared the British were using pressure to get this loan he wished my support. I accompanied him to the palace and on the way informed him of the President's reply concerning the transfer of funds from New York to Lima. Mr. Calvin regretted to so express himself about the Chief-executive of a country, but declared the President's statement totally devoid of truth as he said he had been given no opportunity to make the financial transfer.

At the palace Mr. Calvin presented a cablegram from his bank in New York in which it agreed to make a loan of 600,000 pounds, secured by the Peruvian guano tax (the income from which has been running around 150,000 pounds annually) also by the interest to be paid on the ten or eleven millions gold held on deposit by the bank in New York, and the pledge that the gold would remain there until the debt were extinguished. Mr. Calvin was charged by the New York bank to satisfy himself as to legal points. The bank agreed to pay at least four and one half percent on the deposit.

"All right", said the President. "Let your lawyer examine into the matter; there can be no difficulties. And you may have the bonds prepared for payment in dollars or in pounds as you prefer."

When Mr. Calvin retired, I, desiring to get to the bottom of the matter of the transfer of the interest treated of above, expressed regret to the President at his inability to give the business to an American bank. "I was exceedingly sorry" he said, "but they made it impossible for me. When we decided to draw the interest, it was necessary, in order to prevent the exchange going against us, to keep the transaction quiet and to make small drafts. I directed the treasurer to present a draft for \$25,000. to Mr. Calvin's bank first, and then to try other banks. The best offer he could get from any of them except the Anglo-South American was to sell us Peruvian pounds at \$4.20 when the quoted market that day was \$4.00

⁵ May 21, 1921, see *post*, pp. 671 ff.

or less. I made a very satisfactory transaction through the British bank ”.

Later, in explanation to me, Mr. Calvin stated that when the treasury offered him New York exchange the market was in a nervous condition and he answered that he was “not interested”.

Four days after the President had accepted the proposition made by the National City Bank, the representative of the bank here informed me they had encountered an obstacle in the fact that the government could not guarantee leaving the deposit in New York for any stated period, as the Lima banks could, under the law, require the return of the gold to Perú if conditions demanded it, and that while such call was improbable, in the next few years, it was possible. And, he said, that while the tax on the guano had produced 150,000 pounds annually, or 25 percent a year of the loan asked for, it would very probably decrease. I pointed out that even without the interest on the gold deposit, which would amount to a half million a year and without the advantage of an American bank holding the gold so long as it was in a foreign country, the guano tax, should it decrease thirty-three and one third percentum would pay eight percent interest and pay the principal within nine years.

On June 1, eight days after I had accompanied Mr. Calvin to the palace, the President sent for me to say that the National City Bank had not responded; that he could not understand their extraordinary timidity. Because of its apparent desire to negotiate with him, and in his wish to deal with an American bank he had lost several weeks of valuable time; that the Banco Mercantile of New York had indicated interest in a loan, and he would now give them a chance; if they did not respond, he would be forced to put himself in the hands of the English who had been making insistent advances for weeks past.

Mr. Hill, Manager of the Banco Mercantile (allied with the Guaranty Trust Company) visited the President with a proposition for a loan on the evening of June 1st. They seemed to be agreed on the essentials, according to Mr. Hill, and he cabled his New York bank. After two more cables asking for reply, the bank cabled on June 10th, that it must have a deposit equal to the loan during the life of the loan. According to Mr. Hill, he had thoroughly explained to the New York bank before that bank made its original offer, the legal impossibility of the Peruvian Government's guaranteeing a deposit in New York for any fixed period. He could not understand this exaction, and was afraid the President would doubt his good faith. He cabled the bank again, but on this date, June 15, has had no reply.

I have [etc.]

WILLIAM E. GONZALES

823.51/184

The Ambassador in Peru (Gonzales) to the Secretary of State

No. 650

LIMA, July 5, 1921.

[Received July 20.]

SIR: Referring to my dispatch No. 639, of June 14th, relating [to] the efforts of the Peruvian Government to obtain a Centennial loan, I have the honor to report that no loan was obtained from the Anglo-South American Bank. Whether the time was too short, or what other obstacle appeared, I am not informed.

The President then ordered the conversion into sterling of the twelve millions gold reserve deposit in New York. The National City Bank, where the deposit rests, applied for the privilege of making the conversion. It would not bid for the entire amount, but proposed to convert, as opportunity offered. One million was converted by the National City Bank at the rate of 3.76½. The Bank of England then offered to take all the dollars at the rate of 3.75 sterling, and the President gave it the business.

The paper profit to Peru of something like six hundred thousand pounds resulting from this transaction, belongs to the Committee of Vigilancia, as gold guarantee for the circulation issued. This money was then loaned the Government by the Committee, on the guarantee of the tax receipts from the sale of guano.

So in this round about way the Government has secured the funds needed for the expenses of the moment.

I have [etc.]

WILLIAM E. GONZALES

**REPRESENTATIONS BY THE UNITED STATES ON BEHALF OF THE
ALL AMERICA CABLES, INCORPORATED**

823.73 All America Cables Co./12: Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, March 30, 1921—11 a.m.

[Received 3:40 p.m.]

17. Peruvian authorities on the point of closing contract with Marconi Company for taking over, developing and operating Peruvian wireless service. I had hoped the All America Company was seriously desirous of securing this concession, but my information is [that] it is deterred by cost problem.

GONZALES

823.73 All America Cables Co./13: Telegram

The Secretary of State to the Ambassador in Peru (Gonzales)

WASHINGTON, March 31, 1921—4 p.m.

18. Department's March 30, 4 p.m.,⁶ and your March 30, 11 a.m. You are instructed to state to the President in a further audience, that this Government trusts that the Peruvian Government will at least delay the closing of the rumored contract with the Marconi Company until an opportunity is given to American companies which may be interested to make propositions to the Government of Peru for the administration of the postal and land telegraph services or for the operation of wireless services. You may also state that the Department is advised that the All America Cables Company, in accordance with Clause 3 of the Company's concession, had advised the Peruvian Government that it had decided to take up its wireless rights for the installation of a service to the north within the six months specified. In the opinion of the Company, this action preserved its wireless rights, and it would appear that the contract which it is rumored the Peruvian Government is on the point of signing with the Marconi Company would invade the legal rights of this American company.

The Department considers this question of great importance inasmuch as American companies interested would be prevented from operating in Peru for a long term of years if this monopolistic contract with this British company were to be agreed to by the Peruvian Government.

HUGHES

823.73 All America Cables Co./14: Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, March 31, 1921—9 p.m.

[Received April 1—9:40 a.m.]

20. My 17, March 30, 11 a. m., your March 30, 4 p. m.⁶ Contract as you understand it is a fact. Understand Sir William Slingso been working on matter since 1919. From time to time past ten months representatives All America Cables Company got me arrange interviews for them with President to discuss matter of operating cable and telegraphs but never laid plans before me. Three days ago when I told them [*him*] President United States was in-

⁶ Not printed.

terested matters affecting wireless he stated All America people never had indicated least interest in anything but retaining alive clause in their concession to operate north from Callao and he had twice given extension of time for them to comply, the second extension yet being in force.

I am disposed to believe Mr. Baker, manager cable company here, an Englishman well known to Sir William, has favored contract with British company. President stated today the telegraph and postal service in the country was in such disgraceful condition that change was imperative and it could only come about under direction foreigners and that he would rather have put Americans in control.

GONZALES

823.73 All America Cables Co./15 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, April 1, 1921—3 p.m.

[Received 9:50 p.m.]

21. Your 18, March 18 [31], 4 p. m. Contract signed by Minister of Interior and special representative Marconi Company. President will withhold signature for number of days. He made following statement:

The All America Company is assignee another company whose contract contains clause compelling company establish wireless communication north from Callao to Panama in event such communication became general in world. Year ago All America was asked by Government if prepared to fulfill obligation. Replied was not but would give answer six months. At the end of six months Government again asked for answer and company said could not state what would do until knew findings of International Conference on wireless to be held Washington which would assign each country radius activity; that assignment for Peru might not interest company. In the meanwhile wished hold concession good.

President states that a month before he authorized conclusion of negotiations with Marconi Company he urged Lima manager Baker to tell him if All America would comply and Baker said impossible to give answer.

President states emphatically All America has not advised him it has decided to take up its wireless rights but states that it still has opportunity for action. He says that contract with Marconi not a monopoly for them but is to operate and extend the Government's plants. I showed President copy of contract I had obtained privately containing no provision against operating wireless north or referring to existing concessions. He promised to see that such provision be inserted.

The most important provision in the contract regarding wireless is requiring that the company build station or remodel existing station with sufficient power to communicate with stations at Buenos Aires.

GONZALES

823.73 All America Cables Co./16 : Telegram

The Secretary of State to the Ambassador in Peru (Gonzales)

WASHINGTON, April 4, 1921—6 p.m.

21. Your April 1, 3 p.m.

You are instructed to state to the President that this Government would appreciate the continued withholding of his signature to the tentative contract signed by the Minister of the Interior with the representative of the Marconi Company temporarily. You should state that the Department is advised by the All America Cables Company that it has notified the Peruvian Government in writing, some months ago, that it intended to take up its wireless rights under its cable concession and that it is anxious to dispel the apparent misunderstanding of its position by the Peruvian Government. You should inform the President that this Government would deeply regret the granting by the Peruvian Government of a concession to the Marconi Company which would prevent American radio companies from operating in Peru and that the Department believes that propositions will be made in the near future by American companies to the Peruvian Government for the right to operate in Peru. You may likewise add that from the advice received by this Government, there is not sufficient traffic in Peru to make it possible for two companies to operate international radio installations in that Republic, and that in view of the rights already held by the All America Cables Company, it would seem highly desirable that the national radio service and the international radio service in Peru should be operated either by that company or by some company associated with it.

It is possible that the All America Cables Company may be able to effect arrangements with the Radio Corporation so as to lead to an association with the former company in operating the radio service in Peru. As soon as an understanding on this point has been reached, you will be advised by cable.⁷

Report to the Department by cable the result of your conference with the President and keep the Department closely advised of all developments in the situation.

HUGHES

⁷ After the two telegrams, below, from the Ambassador, no further instruction on this subject was sent him.

823.73 All America Cables Co./17 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, April 6, 1921—5 p.m.

[Received 11:58 p.m.]

23. Your April 4, 6 p.m. Saw President today, said he had already cabled full statement to Ambassador in Washington. Stated he would withhold signature for time but had incurred moral obligations to Marconi people and if a strong American company could give him grounds for changing plans already perfected it must act promptly. His preference for United States companies was so strong that he would strain points to have them operate in everything but he had to consider interests of country and while operation of the land telegraph and postal business by outsiders was imperative the agent of All America Cables Company had told him some time ago his company could not undertake such operation.

Doubtless the Marconi Company would not have interest in operating the land wires and postoffice without the wireless, therefore an offer by Americans to have force should include the three.

GONZALES

823.73 All America Cables Co./24 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, May 1, 1921—noon.

[Received May 2—9:20 a.m.]

34. Your April 30, 6 p.m.⁹ Hearing President had approved Marconi contract, I called on him and he confirmed report. I expressed surprise this final action taken without previous notice to me as at our last conference on the subject nearly three weeks ago matter was left open for American bids. He expressed great regret but said that after representative of All America Cables had the previous week presented to him all exceptions taken by that company to Marconi contract and he had acted favorably on those exceptions and the representative of the company had expressed satisfaction and stated that his company had no interest in the part of Marconi undertaking for operating telegraph and postal department, he, the President, supposed Department's interest in matter was ended.

GONZALES

⁹ Not printed.

PROTOCOL BETWEEN THE UNITED STATES AND PERU, MAY 21,
1921, PROVIDING FOR THE ARBITRATION OF THE LANDREAU
CLAIM

423.11 L 23/297

*Memorandum by Mr. Hallett Johnson of the Division of Latin
American Affairs, Department of State*

[WASHINGTON,] *January 10, 1920.*

A memorandum is attached herewith giving the origin and early history of the Landreau claim. As is shown by the negotiations carried on in 1912 and 1913, Peru has in effect admitted certain liability, and the method of adjusting the claim is really the only matter now requiring settlement. The negotiation began with the admission of Peru of a liability to the American claimants. (See Memorandum of February 5, 1914, File No. 423.11 L 23/253 1/2 and 423.11 L 23/244a.¹⁰)

During the years 1912 and 1913 negotiations were carried on for the conclusion of a protocol and several draft protocols proposed by the two governments were considered.

On November 15, 1913 an instruction¹⁰ was sent to Minister McMillin enclosing a copy of a proposed protocol of September 21, 1912,¹⁰ and instructed him to state that the United States expected it to be used as a basis for arbitration.

In a telegram from Peru dated January 29, 1914¹⁰ the Minister reports no progress toward obtaining acceptance of the protocol for arbitration owing to so many changes in the portfolio of Foreign Affairs of Peru.

On December 7, 1919 a telegram¹⁰ was received from the American Minister stating that a new protocol, following practically the same lines of the others, had been received from the Minister of Foreign Affairs which proposed to submit the question, *re* settlement of Landreau case, to The Hague Tribunal.

On December 10, 1919 a despatch¹⁰ was received from the American Minister at Peru enclosing a note from the Minister for Foreign Affairs, in which was enclosed a protocol, which, in the opinion of the Peruvian Government, may serve as the text for the arbitral convention in the final disposition of this claim.

H[ALLETT] J[OHNSON]

¹⁰ Not printed.

[Enclosure]

JANUARY 10, 1920.

During the years of 1844-1859, John T[héophile] Landreau, a Frenchman domiciled in Peru, made extensive explorations along the coasts and adjacent islands of that country and that in the course of these explorations he discovered large and valuable deposits of guano; that finding himself financially crippled because of the expenditures incident to these explorations, he applied, in 1858, to his brother, John C[elestine] Landreau, then residing in Louisiana, U.S.A., for financial assistance, which assistance was granted by his brother John C., who in return for this assistance was to share equally with John T., any reward which the Peruvian Government might allow for these discoveries.

In 1865, John T. after having ineffectually attempted to secure a recognition under the laws of Peru of his right to compensation for his discoveries, entered into a contract with the Government of Peru by which Peru, in terms of its own choosing, stipulated to pay to Landreau an average of six per cent of the net proceeds of the first five million tons of guano shipped from the deposits of guano discovered by him; that the consideration, upon Landreau's part, was the furnishing to the Peruvian Government of a list of his discoveries, and that list was furnished; that in making this contract John T. acted in two capacities, — as a principal (for himself), and as an agent for an undisclosed principal (his brother, John C.), and that Peru has since had full and repeated notice of the American interest in the contract then made with the Peruvian authorities. The records also show that in 1868 the Peruvian Government sought illegally to repudiate this contract of 1865; that beginning with 1869-1870 that country made extensive shipments of guano from the Landreau deposits, the shipments apparently equalling and in all probability far exceeding the five million tons stipulated in the contract; and that it then neglected and refused and has ever since neglected and refused, though repeatedly requested so to do, to pay to the American claimants their share of the proceeds of the guano so sold.

The essential facts set forth above have been admitted by Peru in the governmental order that accompanied the settlement which that Government made with J. T. Landreau in 1892. They not only admitted that Landreau had made important discoveries, but gave figures as to the amount of guano shipped from them. This order also states that the contract of 1865 was valid; that large sums were due under the contract; that Landreau had exhausted his remedies before Peruvian Tribunals, and that therefore that clause of the contract which forbade an appeal to diplomatic intervention was nullified and the matter was ripe for consideration by the Foreign Offices of the two Governments.

The Peruvian Government had notice of the American interest, as shown by the fact that in 1874 and again in 1877 the Peruvian Foreign Office acknowledged the receipt of documents expressly setting forth the American interest in the Landreau claim, the instrument transmitted in 1877 being a copy of a contract by which the Landreau brothers readjusted their respective interests, and by the further fact that from 1874 to 1890 the matter of the American interests in the Landreau claim was, through diplomatic channels, otherwise repeatedly called to the attention of the Peruvian Foreign Office by the American representative.

The Department was unable to assent to the contention of the Peruvian authorities that the settlement of 1892 with J. Theophile Landreau was to be regarded as a liquidation of the entire Landreau claim, and that, therefore, Peru's recognition and satisfaction of the American claimants in this case would amount to a double payment of a single claim. On the contrary, the Department insisted that as the Peruvian Government had been repeatedly informed of the existence of the American interest by documents deposited in the archives of the Peruvian Foreign Office, it was not competent for that Government and J. Theophile Landreau to enter into any settlement of the Landreau claim that could be legally or equitably regarded as a satisfaction of the American interests. There is nothing in the records to show that either party was or pretended to be authorized to represent in the settlement of 1892, this interest which the Peruvian Government is seeking to bar.

423.11 L 23/294

The Secretary of State to the Ambassador in Peru (Gonzales)

No. 1

WASHINGTON, May 6, 1920.

SIR: Mr. Smith's despatches Nos. 431 and 432, of December 10, and December 17, 1919,¹¹ concerning the proposed arbitration of the Landreau claim against Peru, were duly received, and the Protocol submitted by the Peruvian Government providing for arbitration by The Hague Tribunal, a copy of which accompanied your despatch of December 10, has been carefully considered.

I am very much gratified that the Peruvian Government has shown in a definite and concrete way its willingness to submit this long-standing claim to arbitration, with a view not only to doing justice to the claimants, but also to removing, once for all, a question concerning which there has been for many years a divergence of opinion between this Government and the Government of Peru. However,

¹¹ Neither printed; William Walker Smith had been Chargé at Lima.

taking into consideration all of the facts and circumstances, I believe that it would be more convenient and less expensive to both of the Governments concerned to have this matter settled by a special arbitral Commission, to sit at some place in the Western Hemisphere, rather than to submit it to The Hague Tribunal. Accordingly, the Department has drawn up a new Protocol, providing for the submission of the case to a Commission to sit at Habana, Cuba, and duplicate copies of this Protocol are enclosed herewith.¹³ If, for any reason, the Peruvian Government objects to having the Commission sit at Habana, this Government will agree to either Caracas, Venezuela, or Ottawa, Canada.

It is deemed advisable to submit the whole question of the claim for arbitration to the Commission upon its merits, rather than to attempt to specify the various points concerning which there has been disagreement. It will remain for the agents of the two Governments to discuss these points before the Commission. Therefore, this Government is willing to omit from the Protocol any statement involving an admission of liability on the part of Peru, although such admission appears to have been contained in the note of August 13, 1912,¹³ from the Peruvian Foreign Minister to the American Minister, and the Protocol which was proposed by the Peruvian Foreign Minister at about the same time, and communicated to the Department in the Legation's telegram of September 21, 1912.¹³ In short, it is proposed to submit to the Commission the whole question of liability, and not merely the question of the amount.

As you will note, the proposed arbitral Commission is to be composed of three members, one to be selected by each Government interested, and the third to be selected by the first two, from among the nationals of The Netherlands, Norway, or Denmark.

The fourteenth Article of the proposed Protocol contains a specific provision for the compensation to be granted to the Commissioners. While the Department is inclined to believe that it is well to include such a provision in the Protocol, in order to avoid any possible misunderstanding, it does not insist upon its inclusion.

You will please present this matter at your earliest opportunity to the Peruvian Foreign Minister, in accordance with the foregoing statement, and inform the Department fully in writing of his reply. It would also be well for you to telegraph briefly the substance of the reply.

With reference to the suggestion in Mr. Smith's despatch of December 10, last, I believe that it would be well for you to avail yourself of a suitable opportunity to mention this matter informally to

¹³ Not printed.

the President, who has already shown a desire to have the claim settled.

For your information I enclose a copy of a memorandum prepared in the Department, May 6, 1920,¹⁴ giving a brief review of the Landreau claim, and the various attempts to have it settled. For further information you are referred to the Department's instruction, No. 60, of December 16, 1908,¹⁴ to Minister Combs, and the exhaustive memorandum which accompanied it.

I am [etc.]

BAINBRIDGE COLBY

423.11 L 23/313 : Telegram

The Ambassador in Peru (Gonzales) to the Acting Secretary of State

LIMA, December 30, 1920—3 p.m.

[Received January 1, 1921—1:10 p.m.]

141. Your May 6, and subsequent concerning Landreau claim.¹⁵ New Foreign Minister strongly antagonistic to claim. After repeated conferences and notes have eliminated objections and reduced his amendment to point I consider probably satisfactory to Department as follows:

Insert 9th line of preamble between "1875" and "which" following: "and out of the document of release granted the Peruvian Government by John Théofile Landreau under date of September 16th, 1892,".

Substitute for section 1 "the questions to be determined by the arbitral commission are first, whether the release granted Peruvian Government in 1892 by John Théofile Landreau eliminated any claim which John Celestine Landreau the American citizen might have had against the Peruvian Government, and [second], if all claims were not thereby extinguished, what sum if any is equitably due the heirs or successors of John Celestine Landreau."

Eliminate section 5 as unusual for such papers and would be considered reflecting dignity arbitration proposed.¹⁶

Section 8, two secretaries excessive for this work. If members of board cannot act President of Commission be authorized appoint secretary of his own nationality.

Section 11, first paragraph considered place Peru unfavorable position. As United States has reply to Peruvian answer Peru wishes a reply to that reply. Second paragraph on account of distance of

¹⁴ Not printed.

¹⁵ Instructions of May 6, only, printed.

¹⁶ Section 5 provided that each Commissioner should sign a written declaration that he would decide impartially, this signed declaration to be filed with the Secretaries of the Commission.

Washington the time limit fixed for Peru's answer and rejoinder should be greater by thirty days for each.

Section 14 substitute simple statement each Government pays its own arbitration expenses and one-half common expenses.

I assume our prime object is to let all questions be submitted special arbitration board sitting at Habana and the details or technicalities not affecting main issue unimportant. If above amendments are accepted I will redraft protocol and get it signed within two weeks. I urge early action Department so there may be no loss of progress made through possible change personnel of Peruvian Government.

GONZALES

423.11 L 23/313

The Secretary of State to the Ambassador in Peru (Gonzales)

No. 34

WASHINGTON, February 7, 1921.

SIR: The Department has received your telegram No. 141, of December 30, 1920, in reply to its instruction No. 1, of May 6, 1920, concerning the Landreau claim against Peru. The changes proposed by the Peruvian Government in the protocol for arbitration have been presented to the attorneys of the claimants, and, as a result, an amended protocol has been drawn up, a copy of which is enclosed herewith.¹⁷ As you will note, the protocol has been amended substantially in accordance with the suggestions of the Peruvian Government, although reference to the document of release granted the Peruvian Government by John Théophile Landreau under date of September 16, 1892, has been inserted in Article I, rather than in the preamble, which of course is merely a statement of the reasons why the parties enter into the agreement.

With reference to the last Article of the protocol (Article XIV of the original protocol, which has become Article XIII in the amended protocol), it is deemed desirable to specify whether or not the salaries and necessary expenses of the three commissioners are to be included in the common expenses of the Arbitration. Therefore, the Department has inserted the following statement in the Article mentioned:

“Each Government shall pay the salary and expenses of the Commissioner appointed by it, but the salary and expenses of the third Commissioner shall be included in the common expenses of the Arbitration.”

In Article II the provision concerning the selection of the third Commissioner has been amended by substituting Great Britain for Norway.

¹⁷ Not printed.

In Article X the period within which further documents, evidence or correspondence shall be furnished, when called for by the Commission, has been changed from ninety days to sixty days, with a view to preventing unnecessary delays. It is believed that sixty days is sufficient for this purpose.

In Article XI, the statement that "the decision of the Commission shall be rendered within four months from the date of its first meeting" has been modified by the addition of the words, "unless the Commission, for reasons which shall be communicated to both Governments, shall find it imperatively necessary to extend the time." It was apprehended that unforeseen exigencies might arise which would make it impossible to reach a decision within the period of four months.

I may add that some minor changes in wording have been made in the protocol. Thus in the Preamble and in Article I the words "heirs or successors" have been changed to "heirs or assigns". This particular change was made because of the possibility that the word "successors" might be mistranslated in Spanish as relating merely to inheritance. If the Peruvian authorities should question this change you may explain it accordingly.

Please take this matter up at your earliest opportunity with the Peruvian Foreign Minister, endeavor to obtain from him an early reply as to whether he agrees to the amended protocol, and whether the President of Peru is willing to sign it, and inform the Department by telegraph.

I am [etc.]

For the Secretary of State:
NORMAN H. DAVIS

423.11 L 23/317 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, March 16, 1921—11 a.m.

[Received 3 p.m.]

14. Your instruction number 34, February 7, regarding protocol of arbitration Landreau claim. This draft is satisfactory and the Peruvian Government prepared to sign on the return of the Minister for Foreign Affairs from three weeks vacation. Only change necessary will be substitution for the first six words of twelfth article the following: "the amount granted by the award if any." It is held that any finding would be an award.¹⁸

GONZALES

¹⁸The Ambassador was instructed on March 31, 1921, to sign the protocol with the change suggested.

423.11 L 23/318 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, April 9, 1921—9 a.m.

[Received 4:59 p.m.]

27. *In re* Landreau claim. Is there any objection part United States to Commission sitting in country third member or president of board? It is argued this would enable more distinguished man to be secured.

GONZALES

423.11 L 23/318 : Telegram

The Secretary of State to the Ambassador in Peru (Gonzales)

WASHINGTON, April 16, 1921—2 p.m.

23. Your 27, April 9, 9 a.m.

Department agrees to amendment Landreau protocol to provide for Commission sitting in country third member or president of board.

HUGHES

423.11 L 23/325

The Ambassador in Peru (Gonzales) to the Secretary of State

No. 635

LIMA, May 24, 1921.

[Received June 8.]

SIR: I have the honor to enclose the signed Protocol for the arbitration of the Landreau Claim against the Government of Perú.

Article IV of the draft furnished by the Department has been changed to conform to the authorized provision that the commission should sit in the country where its president should reside.

Article VII was changed from "the Commission shall keep a record of its daily proceedings" to read, "the Commission shall keep a record of all its proceedings". This was advisable because the Spanish translation of the former would seem to require "daily" meetings.

In Article X the Peruvian Government objected, on ground of equity, to the United States and Perú each having four months in which to present the answer to the others answer, when at least a months' time would be lost to Perú in the time of transit from Washington to Lima and return. They asked for five months, not because more than three months was necessary but for equality. I changed the time of the answer of the United States to three months; leaving that for Perú at four months, and added to the end of the

first paragraph for Article X: "The allegations and documents of each party shall be presented at least in quintuplicate."

Article XII is changed from "The Award, if there be one, shall be made payable," to read "The amount granted by the Award, if there should be any, shall be made payable."

Article XIII is changed so as to provide that the salary of the Secretary be included with that of the third commissioner in the common expenses of the arbitration.

I understand that the protocol will be "initialed" by the President on May 26th.

I have [etc.]

WILLIAM E. GONZALES

[Enclosure]

*Protocol between the United States of America and Peru Providing for the Arbitration of the Landreau Claim against Peru; signed at Lima, May 21, 1921*¹⁹

The Government of the United States of America and the Government of the Republic of Peru, not having been able to reach an agreement concerning the claim against Peru of the heirs and assigns of the American citizen, John Celestin Landreau, arising out of a decree of October 24, 1865, of the Government of Peru, providing for the payment of rewards to John Teophile Landreau, brother of John Celestin Landreau, for the discovery of guano deposits, and out of contracts between John Teophile Landreau and John Celestin Landreau entered into on or about April 6th, 1859, and October 29th, 1875, which claim is supported by the Government of the United States, have resolved to submit the question for decision to an International Arbitral Commission, and to that end have named their respective plenipotenciaries, that is to say, the President of the United States, William E. Gonzales, Ambassador of the United States at Lima, and the President of Peru, doctor Alberto Salomon, Minister of Foreign Relations, who, after having exchanged their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

The questions to be determined by the Arbitral Commission are: First. Whether the release granted the Peruvian Government in 1892 by John Teophile Landreau eliminated any claim which John Celestin Landreau, the American citizen, may have had against the Peruvian Government, and if all claims were not thereby extinguished then, second: what sum if any is equitably due the heirs or assigns of John Celestin Landreau.

¹⁹ In English and Spanish; Spanish text not printed.

ARTICLE II

The Commission shall be composed of three members as follows:

The Government of the United States and the Government of Peru shall each, within thirty days after this Protocol becomes effective, appoint one Commissioner, and these two shall, within ninety days after this Protocol becomes effective, select a third Commissioner, who shall act as President of the Commission, and shall be a national of either Denmark, Great Britain or the Netherlands.

If, at the termination of the ninety days period just mentioned, they are unable to agree upon a third Commissioner, he shall be selected, within a further period of thirty days, by the Queen of the Netherlands, provided she is willing.

ARTICLE III

All vacancies occurring from death, resignation or otherwise, in the membership of the Commission, shall be filled as was the original appointment, within thirty days from the occurrence of such vacancy.

ARTICLE IV

The Commission shall, with the consent of the respective Government, meet at the residence place of the President of the Commission, within sixty days after the case is ready for consideration, according to the 2nd paragraph of article X of this protocol, and shall hold all of its sessions in the same place.

ARTICLE V

The concurrent action of any two members of the Commission shall be adequate for a decision on all matters coming before them, including the making of the final award.

ARTICLE VI

The Government of the United States and the Government of Peru shall each be entitled to appoint an Agent for the presentation and argument of its case before the Commission.

ARTICLE VII

The Commission shall keep a record of all its proceedings. For this purpose the President of the Commission shall appoint a Secretary who shall be of his own nationality.

ARTICLE VIII

In the presentation of its documents, evidence, correspondence or arguments to the Commission, either party may use the English or the Spanish language.

ARTICLE IX

Either party may demand from the other the discovery of any fact or of any document deemed to be or to contain material evidence for the party asking it. Any document desired shall be described with sufficient accuracy for identification, and the demanded discovery shall be made by delivering a statement of the fact or by depositing a copy of such document (certified by its lawful custodian, if it be a public document, and verified as such by the possessor, if a private one) to the Foreign Office of the demanding Government which shall be given opportunity to examine the original through its duly accredited diplomatic representatives. If notice of the desired discovery be given too late to be answered ten days before the Commission herein provided for shall sit for hearings, then the answer desired thereto shall be filed with or documents produced before the Commission as speedily as possible.

ARTICLE X

The case of the United States and supporting evidence shall be presented to the Government of Peru through its duly accredited representative at Washington as soon as possible, and, at the latest, within four months, from the date when this agreement becomes effective. The Government of Peru shall submit in like manner, through its representative at Washington, its full answer to such case within five months from the date of the presentation of the case of the United States. The Government of the United States shall present in like manner its reply to the answer of the Peruvian Government, which reply shall contain only matters in reply to the case of the Government of Peru, within three months from the date of the filing of the Peruvian answer, and Peru may, in like manner, within four months, present a reply to the reply of the Government of the United States. The allegations and documents of each party shall be presented at least in quintuplicate.

The case shall then be ready for consideration by the Commission, which shall hear arguments by the Agents of the respective Governments, and, in its discretion, may, after convening, call for further documents, evidence or correspondence from either Government; and such further documents, evidence or correspondence, shall if possible be furnished within sixty days from the date of the call. If not so furnished within the time specified, a decision in the case may be given without the use of said documents, evidence or correspondence.

ARTICLE XI

The decision of the Commission shall be rendered within four months from the date of its first meeting, unless the Commission, for reasons which shall be communicated to both Governments, shall find

it imperatively necessary to extend the time. The decision, when made, shall be forthwith communicated to the Governments at Washington and Lima. It shall be accepted as final and binding upon the two Governments.

ARTICLE XII

The amount granted by the award, if there should be any, shall be made payable in gold coin of the United States, at the Department of State, Washington, within one year after the rendition of the decision by the Commission, with interest at six per centum per annum, beginning to run one month after the rendition of the decision.

ARTICLE XIII

Each of the parties hereto shall pay its own expenses and one-half of the common expenses of the Arbitration. Each Government shall pay the salary and expenses of the Commissioner appointed by it, but the salary and expenses of the third Commissioner and of the Secretary shall be included in the common expenses of the Arbitration.

In faith whereof, they have drawn up the present protocol, in duplicate, in like terms in English and Spanish, signing and sealing it with their private seals, in Lima, this twenty-first day of May one thousand nine hundred and twenty one.

WILLIAM E. GONZALES [SEAL]
A. SALOMÓN [SEAL]

423.11 L 23/328a : Telegram

The Secretary of State to the Ambassador in Peru (Gonzales)

WASHINGTON, June 20, 1921—4 p.m.

33. This Government has appointed Mr. Barton Smith Commissioner in Landreau Arbitration. Inform Peruvian Government and ask for name of Peruvian Commissioner.

HUGHES

423.11 L 23/329 : Telegram

The Ambassador in Peru (Gonzales) to the Secretary of State

LIMA, June 21, 1921—3 p.m.

[Received June 22—9:25 a.m.]

50. Department's 33, June 20, 4 p.m. Peruvian Government has appointed Señor Carlos Prevost Commissioner in Landreau arbitration.

GONZALES

423.11 L 23/325 : Telegram

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

WASHINGTON, July 8, 1921—3 p.m.

383. The United States has concluded a protocol with Peru for the settlement of the so-called Landreau claim of this Government against Peru. The protocol provides that one arbitrator shall be named by the United States and one by Peru and these arbitrators shall select a third who shall be a national of Denmark, Great Britain or Netherlands. The language of the proceedings shall be Spanish or English. Immediately endeavor discreetly to obtain information regarding availability of a British subject possessing proper qualifications for position of arbitrator and telegraph such information for Department's use in making suggestions. Repeat, *mutatis mutandis*, Copenhagen, number 32, The Hague, 45 . . .

HUGHES

423.11 L 23/347a : Telegram

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

WASHINGTON, August 9, 1921—3 p.m.

460. Department's 383, July 8, regarding Landreau claim. Viscount Robert B. Finlay has been suggested as arbitrator. The two Governments could undoubtedly agree on his selection if he would be available. Communicate personally with him at once, explaining that great amount of time on his part would probably not be required; that in case of his selection conference would sit in England about one year hence, and that protocol of arbitration provides for decision within four months from date of sitting. Telegraph reply immediately as selection must be made by August 21.

HUGHES

423.11 L 23/350 : Telegram

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

LONDON, August 16, 1921—noon.

[Received August 16—10:42 a.m.]

681. Your 473, August 15, 5 p.m.²⁰ I am in receipt of a letter from Lord Finlay which states as follows:

"I should esteem it an honor if I should be selected as the third arbitrator on the Landreau claim and shall be prepared to undertake the duties of the office."

WHEELER

²⁰ Not printed.

423.11 L 23/350 : Telegram

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

WASHINGTON, August 18, 1921—3 p.m.

484. Your 681, August 16, noon.

Communicate with Lord Finlay and say that you are authorized to state to him that Mr. Barton Smith, the American arbitrator, and Mr. C. A. Prevost, the Peruvian arbitrator, have selected him as the third arbitrator, and are very glad to learn that his designation is acceptable to him. State also in this connection that the Government of the United States is much gratified that he is willing to act in this matter. Add that details regarding the conduct of the arbitration will, of course, be appropriately communicated to him later.

HUGHES

THE TACNA-ARICA QUESTION

(See Volume I, pages 237 ff.)

POLAND

REGULATION OF PRIVATE REMITTANCES FROM THE UNITED STATES¹

860c.516/40 : Telegram

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

WARSAW, February 4, 1921—11 a.m.

[Received 7:56 p.m.]

26. My telegram number 354, July 8, 6 p.m.² Rybarski³ leaves [for] Paris to sign comprehensive agreement on remittance question with Guaranty Trust Company. Have not seen terms but officially informed agreement has been approved by the Department. Request information for my guidance.

GIBSON

860c.516/40 : Telegram

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

WASHINGTON, February 25, 1921—8 p.m.

42. Your 26, February 4, 11 A.M.

1. Remittance agreement between Poland and Guaranty Trust Company was examined by Department and certain amendments were suggested and were accepted by Guaranty. Thereupon Department stated that it did not oppose contract, but specifically reserved full liberty of action should undesirable developments occur in the future. Department has not given formal or informal approval.

2. Informed by Bank that contract has been signed. Copy of contract forwarded by pouch.

3. Department's attitude in not opposing agreement was induced by serious depreciation of Polish mark and consequent obstacle to development of American commerce with Poland. For some time to come remittances are likely to constitute an important factor in sustaining Polish-American exchange. Under system now in vogue, commissions and charges of certain types of financial institutions seriously prevent remittances from exerting their full and proper support to Polish exchange, and also are unjust to remitting public.

¹ For previous correspondence, see *Foreign Relations*, 1920, vol. III, pp. 407 ff.

² *Ibid.*, p. 419.

³ Roman Rybarski, Polish Vice Minister of Finance.

4. Plan discussed in your 354 of July 8, 6 P.M., contemplated establishment of possible discrimination against certain American citizens and corporations in Poland. This obviously was unacceptable to American Government. Under present plan Polish Government has designated the Guaranty Trust Company as fiscal agent to distribute remittance forms in the United States. "All banks, bankers and other institutions dealing in exchange shall, upon request, be furnished by the Agent (Guaranty Trust Company) with official remittance forms, notified of the basic rate or retail rate then in effect, and informed that such remittances may be made by drawing upon any designated paying agency of the Republic of Poland." Both the American bankers and the remitting public are thus protected from exploitation and from discrimination as to rates of exchange by reason of the carefully limited powers of the Polish Government and its fiscal agent. Provision is made for insuring an equitable rate of exchange.

5. You might point out to proper Polish authorities that this Government reserves right to protest against present agreement if it develops monopolistic or undesirable features either in Poland or in the United States.

COLBY

860c.516/42

The Polish Minister (Lubomirski) to the Secretary of State

WASHINGTON, February 28, 1921.

The Minister of Poland presents his compliments to the Secretary of State, and takes great pleasure in informing him that the Minister of Finance has ratified the contract entered into between the representatives of the Government of Poland and the Guaranty Trust Company of New York, which, it is hoped, will greatly facilitate remittances between the United States and Poland.

As soon as the signed contract is in hand, a copy of same will be forwarded to the Secretary of State.

860c.516/44

The Assistant Vice President of the Guaranty Trust Company of New York (De Lima) to the Secretary of State

NEW YORK, March 15, 1921.

[Received March 18.]

MY DEAR MR. SECRETARY: We attach, for your information, agreement, signed on the 19th day of February, 1921, between the Republic of Poland and the Guaranty Trust Company of New York.

We would appreciate an acknowledgment of the enclosure at your early convenience.

We have [etc.]

E. DE LIMA

[Enclosure]

Agreement Made by the Republic of Poland and the Guaranty Trust Company of New York, February 19, 1921

This Agreement, dated February nineteenth, 1921, made by the Republic of Poland (hereinafter termed "Republic"), acting by His Excellency Roman Rybarski, Vice-Minister of Finance, of the Republic of Poland, thereunto duly authorized by law, and Guaranty Trust Company of New York, a corporation having its principal place of business in the City of New York, State of New York, United States of America, (hereinafter termed "Agent").

WHEREAS the Republic is desirous of facilitating the remittance of funds from the United States of America to the Republic of Poland; and

WHEREAS owing to the fact that there has been no government regulation in the Republic covering such remittances and, without such governmental regulation, supervision and assistance, the ordinary banking facilities in the Republic are insufficient to insure prompt and adequate service covering the receipt and payment of such remittances; and

WHEREAS the Republic has determined to put into effect within ninety days from the date of the agreement rules and regulations covering the receipt of remittances in the Republic of Poland from the United States of America, so that no such remittances may be received and paid unless made on official government forms of the Republic, forwarded to a paying agent appointed by the Republic of Poland, and unless cover against such remittance is placed to the credit of the Republic with an agent of the Republic in the United States of America, and

WHEREAS Republic has requested Guaranty Trust Company of New York to assist it in establishing and maintaining an adequate system covering remittances from the United States of America to the Republic and has also requested it to act as its agent as hereinafter set forth;

Now, therefore, in consideration of the premises and of the mutual promises herein contained, the parties hereto agree as follows:

First. The Republic agrees to adopt and transmit to the Agent official forms of checks, drafts, or such other remittance forms as may be necessary or advisable, to be used in the remittance of funds from the United States of America to Poland within ninety days after the date of this agreement. Such forms shall be printed in the

Polish and English languages, and shall call for payment at the paying agencies of the Republic in Poland appointed as hereinafter set forth. The Republic will appoint a sufficient number of banks and reliable paying agencies in Poland, to act as agents for the payment of such drafts and remittances as may be sent from the United States of America. From time to time the Republic will notify the Agent of the names of such paying agencies in Poland, of new appointments, and of revocations of appointments, so that at all times the Agent shall have a full and correct list thereof.

Second. The Agent from time to time will compute the rate of exchange (such computations to be submitted to the representative of the Minister of the Republic in the United States of America or of the acting head of the Legation of the Republic in the United States of America for his concurrence and approval) based on which remittances covered by the terms of this agreement are to be settled. The Basic Rate as computed by the Agent shall, after the concurrence of the Minister's Representative has been received, be reported to the Governor of the Federal Reserve Bank, New York, or to such other person as may be mutually agreed upon by the parties hereto, who shall have power to amend same if in his opinion it is out of proportion with the current market rate. The Governor of the Federal Reserve Bank or such other person as may be mutually agreed upon shall also have authority to compute the Basic Rate should the Agent and the Representative of the Minister fail to agree on same, but shall be under no liability whatsoever for any action taken by him in computing or amending the Basic Rate. This rate of exchange, both for checks and cables, hereinafter called the "Basic Rate" or "Wholesale Rate" shall be based from time to time on current market rates for remittances from other countries to Poland, and shall not be increased unreasonably over such market rates. The Basic Rate of exchange shall be fixed as frequently as variations of the market make necessary. The Agent will use its best efforts to compute the Basic Rate as above set forth, but shall be under no liability for any mistake of judgment so long as it uses good faith in computing the Basic Rate as aforesaid. In case the Minister of the Republic or the acting head of the Legation shall fail to appoint a representative to whom the Agent may submit in New York the computation for the Basic Rate for the concurrence and approval of such representative, the Agent itself may compute and announce such Rate without having the concurrence and approval of any representative of the Republic. The Agent is authorized to make from time to time reasonable rules and regulations covering the computing and announcement of such rate, the distribution of remittance forms, receipt of monies covering remittances, and other matters covered by

this Agreement. The "Basic Rate" or "Wholesale Rate" is the rate which shall be charged as hereinafter provided in Article Seventh of this Agreement to banks, bankers and or other institutions having what is known as a "Country Bank Drawing Service"; the rate to be charged all other banks, bankers, financial or other institutions or persons shall be an amount five per cent. (5%) Minimum 25 cents U.S. Currency per remittance in excess of the Basic or Wholesale Rate and shall be known as the "Retail Rate".

Third. All banks, bankers and other institutions dealing in exchange shall, upon request, be furnished by the Agent with official remittance forms, notified of the Basic Rate or Retail Rate then in effect, and informed that such remittances may be made by drawing on any designated paying agency of the Republic of Poland, and remitting, at the time such remittances is forwarded, to the Agent in New York City for the account of the Republic an amount of dollars in New York funds calculated upon the Basic Rate or Retail Rate, as the case may be, then in force equal to the amount so remitted. Similar forms shall be furnished upon request, and information given as to the remittances by draft or cable transfer. The dollars so received by the Agent to cover such a remittance or draft or cable transfer shall be held in a special account until the Agent has been notified of the payment in Poland of such draft; after such notification, such dollars, less the Agents remuneration, shall be transferred to the general checking account of the Republic with the Guaranty Trust Company of New York. The Republic agrees that at least 20% of the dollars received and placed to its general account shall be used for the purchase of merchandise and supplies in the United States, or for the payment and discharge of obligations incurred by the Republic in the United States of America.

Fourth. The Republic hereby appoints Guaranty Trust Company of New York its official agent in the United States of America for the distribution of official remittance forms, the quotation of the Basic Rate and Retail Rate, and the handling of all transactions subject to this agreement and in any way connected with the remittance of money (except United States Post Office Orders) from the United States of America to Poland. Within ninety days after the date of this agreement, the Agent will create and maintain in New York City an adequate department for the handling of all business covered by this agreement. The Agent will also furnish to the Republic advisory assistance for the creation of departments in paying agencies nominated by the Republic in Poland for the handling of such remittances when received in Poland, and the Republic will allow proper facilities in Poland and will provide office accommodations for such representatives as the Agent may employ in Poland.

The Agent further agrees to pay the cost for all printing of the official remittance forms and other stationery for such remittance business in the United States of America, for all clerical hire and other expenses in connection with the business in the United States, and will pay the commissions of the Polish banks acting as paying agents for the Republic, provided that such commissions shall be one per cent (1%) of the amounts paid for the cashing of drafts and effecting cable transfers and one three-quarters per cent ($1\frac{3}{4}\%$) minimum ten marks of the amounts paid for the effecting of post remittances. The Agent will allow the Republic facilities for the verification of all items in respect to transactions covering the remittance of funds to Poland, and will, if so required, furnish free of charge office space for a reasonable number of Polish government employees for that purpose.

Fifth. Guaranty Trust Company of New York hereby accepts the appointment of official Agent of the Republic under the terms of this agreement. The Agent may appoint sub-agents in other cities of the United States of America to assist it in the distribution of official remittance forms, quotation of the Basic Rate and Retail Rate, and to receive monies covering the remittance of funds to Poland; but the compensation and expenses of such sub-agents shall be assumed and paid for by the agent, out of the compensation received by it from the Republic.

Sixth. The Agent will allow interest on all funds of the Republic received from the sale of exchange, pursuant to the terms of this agreement, at a rate not less than the rate fixed by the New York Clearing House for banks and bankers checking account, such interest, however to accrue from the date of the payment of remittances to the beneficiaries thereof and the transfer of such funds from the special account hereinbefore referred to, to the general credit of the Republic. The Agent will also allow interest on all such funds while in such special account at a rate of one per cent. per annum less than the rate so allowed on such funds placed to the general credit of the Republic.

Seventh. The Republic agrees to keep on deposit with the agent, and in the special account above referred to, an amount in dollars equal to the value of all remittances outstanding and unpaid. As compensation for its services and for the expenses incurred by the Agent under the terms of this agreement, the Republic will pay the Agent a commission of 5% of the amount of all moneys received by the Agent on account of remittances made to the Republic such amount may be charged against and deducted monthly from the special account of the Republic with the Agent. It is agreed that the above remuneration shall be paid out of the dollar cover or, in

case such cover shall not be sufficient to provide for the remuneration of the Agent, the Republic will otherwise provide for the payment of such remuneration, and that no charge therefor shall be collected of either the remitter or the payee.

Eighth. Since certain banks, financial and other institutions in the United States of America are engaged in the business of selling exchange in large amounts, on what might be considered a wholesale basis, and have what is commonly known as a "Country Bank Drawing Service", the rate at which such banks having such Country Bank Drawing Service, including the American Express Company and C. B. Richard & Co. and other similar concerns, may purchase exchange shall be the Basic Rate in effect from time to time, the rate to all other banks, financial or other institutions not having what is commonly known as a Country Bank Drawing Service shall be the Basic Rate as in effect from time to time plus an increase of not more than five per cent. (5%) minimum 25¢ U.S. Currency per remittance and this latter rate shall be known as the "Retail Rate". The Agent agrees that it will not sell any exchange on Poland to any bank, banker, financial or other institution, having what is commonly known as "Country Bank Drawing Service", at a rate less than the Basic Rate, nor will it sell such exchange to any bank, banker, financial or other institution or person, not having a "Country Bank Drawing Service", at a rate less than the Retail Rate, and all sales by the Agent shall be for the account of the Republic, and the proceeds of such sales when received by the Agent shall be treated by it in the same manner as though such exchange had been sold by a person other than the Agent and the proceeds to cover the exchange so sold had been remitted to the Agent in accordance with the terms of this agreement.

Ninth. It is agreed that the Agent shall act as Agent only of the Republic and that nothing in this agreement shall be construed as relieving the Polish Banks, the Polish Post Office or any other paying agency in Poland, of any of the duties or responsibilities which they may now or hereafter have under the laws of Poland. It is further agreed that the Republic will indemnify and save harmless the Agent from any claim or liability, which may be incurred by it by reason of the failure of any paying agency of the Republic of Poland to duly and properly pay all moneys remitted on official forms which call for payment on such agent, and from all other claims and liability that the Agent may incur by reason of acting under the terms of this agreement, except only any such claims as may arise against it for its own wilful misconduct. The Agent may advise with counsel and shall be protected in any action taken or suffered by it in good faith and in accordance with the

opinion of its counsel. The Agent, being a trust company incorporated under the laws of the State of New York, is subject to the jurisdiction of the Superintendent of Banks of the State of New York. The Agent, accordingly, shall be under no liability for any action which it may take or for refraining to take any action pursuant to the request or direction of the Banking Department of the State of New York or the Government of the United States of America.

Tenth. The Republic agrees not to make, during the life of this agreement, without the concurrence of the Agent, any contract or agreement with others or effect any transaction which will in any way conflict with or impair any of the terms of this agreement, or prevent or impede the Agent in rendering efficient and adequate service under the terms of this agreement, or which will restrict the powers and duties of the Agent hereunder.

The purpose of this agreement is to create an adequate means for the remittance of funds from the United States of America to Poland and a free and unrestricted market in the United States of America for Polish exchange. The price of exchange to dealers is to be based upon the current market rates in European countries. The Republic will not restrict the Agent to distributing official forms and quoting the rates in effect from time to time to any special group of dealers in the United States of America but the Agent always shall be permitted to distribute such forms and quote such rates generally. Nor shall the Republic attempt to restrict nor require the Agent to attempt to restrict the price at which exchange bought by dealers or others may be re-sold.

Eleventh. This agreement shall take effect immediately upon the execution of the same by the Vice-Minister of Finance of the Republic, and shall continue in force for five years thereafter. Provided, however, that the Agent may at any time resign and be discharged from its duties hereunder by mailing written notice of such resignation to the Minister of the Republic in the United States of America or to the Acting Head of the Legation of the Republic in the United States of America, such resignation to take effect on the date specified therein, and in no event less than six months from the date of the mailing of such notice, and provided further that the Republic may terminate this agreement after and not until it has been in full force and effect for a period of eighteen months by mailing written notice of such termination to the Agent at its principal office in the City of New York to take effect on the date specified therein and in no event less than six months from the date of the mailing of such notice. After the date specified in any

such notice the Agent shall have no authority to continue to act under the terms of this agreement as the official Agent of the Republic but nevertheless it shall hold the moneys received by it in a special account hereinbefore referred to until notified that the remittances covered by the moneys in the special account have been paid and the moneys in such special account transferred to the general account of the Republic as hereinbefore provided.

Twelfth. It is understood that where the terms "remittance" and "remittances" occur in this agreement, they shall be held to cover any type of transaction involving the transmission of funds from the United States to Poland, whether by check, draft, cable or post office remittance (other than United States Post Office money Orders) or any other form of transfer.

Thirteenth. Nothing in this agreement is to be construed as preventing the Agent from maintaining its Country Bank Drawing Service as heretofore, or engaging in the sale of Polish exchange upon the same relative basis as other banks operating a Country Bank Drawing Service, but all such sales, as provided in Article Eighth hereof, shall be for the account of the Republic.

Fourteenth. It is specifically agreed that the interpretation and construction of this contract shall be exclusively governed by the laws of the State of New York, and though signed in Paris (owing to the temporary presence in that City of the Representative of the Republic of Poland and Mr. Willis H. Booth, Vice-President, representing the Guaranty Trust Company of New York), the French Laws shall in no way apply to this agreement and the French Courts shall have no jurisdiction in any matter relating thereto.

Fifteenth. Should this agreement, or the execution or carrying out of the same at any time be subject to any registration or other the taxes in the Republic of Poland, the same shall be paid by the said Republic.

In witness whereof this agreement has been duly executed by the parties hereto as of the date first above mentioned.

THE REPUBLIC OF POLAND

By ROMAN RYBARSKI, *Vice-Minister of Finance*

Witness:

BATES WYMAN

GUARANTY TRUST COMPANY OF NEW YORK

By WILLIS H. BOOTH, *Vice-President*

Witness:

DR. JAN ADAMSKI

ETIENNE MARKOWSKI

860c.516/53 : Telegram

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

WARSAW, April 23, 1921—5 p.m.

[Received April 24—12:19 a.m.]

86. My 84, April 22, 6 p.m.⁵ On March 31st Minister of Finance informed trade commissioner American banks would be subjected to same regulations as Poland banks, especially bank of issue law of March 23, 1920. Stated banks not possessing agreements for conducting business would be required to liquidate and that no new permits would be granted. This decision based on view that Guaranty Trust agreement offers most advantageous method of conducting remittance business and that without intention of creating monopoly it is Government's desire to turn maximum amount of business through that channel. It is my belief that if Guaranty plan works well next step will be to require liquidation of all other American banks. While this phase has not taken definite form, I assume it would be objectionable to Department as constituting monopoly. Department may wish to give me instructions as to course I should follow if general liquidation is ordered.

GIBSON

860c.516/53 : Telegram

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

WASHINGTON, April 30, 1921—noon.

102. Your 86, April 23, 5 p.m. If American banks subject themselves to regulations of March 23, 1920, will they be permitted legally and actually to join syndicate of paying banks in Poland, or will they be obliged to liquidate completely?

HUGHES

860c.516/57 : Telegram

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

WARSAW, May 7, 1921—11 a.m.

[Received May 8—12:32 a.m.]

103. Department's 102, April 30, 12 a.m. I learn informally from both the Ministry of Finance and the Syndicate that American banks are free to join under the same conditions as Polish banks. Am awaiting formal assurance in this sense.

GIBSON

⁵ Not printed.

860c.516/134

The Secretary of Commerce (Hoover) to the Secretary of State

WASHINGTON, May 27, 1921.

DEAR MR. SECRETARY: I understand you are inquiring for information with regard to the Polish exchange agreement with the Guaranty Trust Company.

My impression is that this agreement is advantageous both to the Polish residents in the United States and to the people of Poland. Its primary object was to secure that Polish remittances from the United States to relatives in Poland were placed in such position that they could be interpreted into dollar purchases in the United States.

Prior to this agreement remittances to Poland were made through many hundred different agencies, many of them corrupt, and a great bulk of the money found its way through Scandinavian, Dutch, French, Swiss and other banks into Poland. The economic result of the former method of remittance was that the Poles in Poland obtained a call upon these intermediary countries for commodities and not directly upon the United States, the dollar purchasing power having been left in the hands of the intermediary bank. If the Polish Government possessed credit in the United States this might not matter but as it stands this is practically their only dollar resource.

Under the present plan the Polish Government expends accumulated remittances in purchasing American commodities, transports these commodities to Poland, sells them to the population, takes the money received and meets the remittances. It has and will enable the Polish Government to meet many of its requirements in the United States that could not otherwise be accomplished.

All together it is my feeling that the arrangement is an advantageous one, in fact such an arrangement was advised by me as vitally necessary as early as March 1919 although of course I made no suggestion as to any special bank.

Yours faithfully,

HERBERT HOOVER

860c.516/94: Telegram

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

WARSAW, June 24, 1921—9 p.m.

[Received June 25—9:17 a.m.]

150. My number 103, May 7th, 11 a.m. At the request of Guaranty Trust Minister of Finance proposes to issue an order that no money remitted from the United States with the exception of United States

money orders may be paid in Poland unless transmitted on official government forms. He requests me to ascertain whether Department objects to this step, which is obviously intended to create monopoly for Guaranty Trust Company.

GIBSON

860c.516/100

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

No. 846

WARSAW, June 25, 1921.

[Received July 17.]

SIR: I have the honor to refer to the Department's cabled Instructions Nos. 94, of April 21 last,^a and 102, of April 30, and to my cablegrams Nos. 84, of April 22,^a 86, of April 23, and 103, of May 7, in connection with the status of American banks in Poland, and to transmit herewith for the Department's information copy of a communication addressed to the Ministry for Foreign Affairs on May 9, repeated in substance on June 13. The reply of the Polish Government under date of June 24, in copy and translation, is also enclosed.

It will be observed that the Polish Government does not formally commit itself on the principle of American participation in banking operations of the character in question, but states merely that when the matter arises it will be given consideration in the spirit of reciprocity.

Inasmuch as this communication is at variance with the informal assurances previously received, I am again approaching the Foreign Office in an endeavor to obtain a more satisfactory solution.

I have [etc.]

HUGH GIBSON

[Enclosure 1]

The American Legation to the Polish Ministry for Foreign Affairs

F.O. No. 650

NOTE VERBALE

The American Legation has the honor to inform the Ministry for Foreign Affairs that it has received from its Government an inquiry as to whether American banks will be permitted regularly and actually to join the syndicate of paying banks in Poland, if they subject themselves to the regulations of March 23, 1920, or whether, on the other hand, they will be obliged to liquidate completely.

The Legation understands informally that any American banks wishing to join may do so under the same conditions as banks of

^a Not printed.

other nationalities, but in order that an appropriate reply may be made to the inquiry mentioned it will be appreciated if the Ministry for Foreign Affairs will be good enough to transmit an official assurance in this sense.

WARSAW, *May 9, 1921.*

[Enclosure 2—Translation *]

The Polish Ministry for Foreign Affairs to the American Legation

No. BE/4808

NOTE VERBALE

In reply to the note verbale of the Legation of the United States under date of June 13, 1921, No. 677,^s the Ministry for Foreign Affairs has the honor to communicate the following, based on the information obtained:

The Syndicate of Polish banks in question (Syndykat Przekazowy Banków Polskich, Spółka Akcyjna), conformably to its by-laws, enclosed, is a joint stock company of which the Polish banks are until now exclusively the stockholders.

The eventual question of the accession of foreign banks has not yet been discussed, for until the present no foreign bank is operating in Poland, with the exception of certain banks of the former Austro-Hungarian Monarchy, which are obliged to liquidate their affairs within a given time, or indeed may be "nostrifiées" (assimilated by Polish interests.)

Concerning the American banks, the Ministry of Finance is unaware that any American bank has solicited a concession in Poland.

In general, the question of permitting foreign joint-stock banks to do business in Poland has not yet been regulated by judicial decision; it is however certain that the future limitations on this subject, depending upon the conventions to be concluded between Poland and the respective States, will at all events be based upon the principle of complete reciprocity.

WARSAW, *June 24, 1921.*

860c.516/94 : Telegram

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

WASHINGTON, *July 6, 1921—7 p.m.*

156. Legations 150, June 24, 9 pm.

Provided Polish Government grants equitable treatment to American banks willing to do business in Poland in accordance with law of

* File translation revised.

^s See first sentence of despatch n^o. 846, June 25, from the Minister in Poland, p. 696.

March 23, 1920, by permitting them to join syndicate of paying banks in Poland, the Department offers no objection to the order indicated.

HUGHES

860c.516/100

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

No. 1116

WASHINGTON, August 6, 1921.

SIR: The receipt is hereby acknowledged of your despatch No. 846 of June 25, with which you transmitted copy of a note from the Polish Foreign Office dated June 24, on the subject of the participation of American banks in the syndicate of banks effecting payments in Poland of drafts and remittances from the United States. It is noted that in this Note Verbale the informal assurances given by the Polish Government that American banks might join the paying syndicate are not confirmed, but that it is indicated that when the matter arises it will be given consideration in the spirit of reciprocity.

You are instructed to address a note to the Polish Minister for Foreign Affairs expressing the surprise and disappointment of the American Government at this attitude. You will point out that this Government has not opposed the attempts of the Polish Government to formulate some arrangement for the remittance of funds from this country to Poland which would be satisfactory alike to the Polish Government and the American banks and which would protect the remitting public.

In an attempt to meet the difficulties arising from the large number of remittances from the United States to Poland, the Polish Government negotiated and signed a contract with the Guaranty Trust Company. Considerable opposition has been expressed to this agreement on the ground that it constituted a monopoly, and various requests were made that the State Department should cause its cancellation. The Department adopted the attitude that the question of the legality of the contract in the United States under Federal or State laws was a question for the decision by the courts, but that it would be directly concerned with respect to its operation in Poland should it develop that American interests in that country were suffering from discrimination or injustice.

The Department further relies on the assurances given on March 31 to the American Trade Commissioner by the Polish Minister of Finance (See Legation's telegram No. 86, April 23, 5 p.m.) that American banks would be subjected to the same regulations as Polish banks according to the law of March 23, 1920, and the informal assurance given to the American Minister early in May by both

the Ministry of Finance and the syndicate, (See Legation's No. 103, March [May] 7, 11 a.m.) that American banks were free to join the syndicate under the same conditions as Polish banks.

In its telegram No. 42 of February 25, 9 [8] p.m., the Department clearly indicated that, should monopolistic or other objectionable features develop, this Government reserved full liberty of action. It accordingly appears only just to inform the Polish Government in all seriousness that if American banks are excluded from the paying syndicate, the Department will carefully consider whether this does not constitute a development which would call for renewed consideration of its attitude toward the contract by this Government.

You are further instructed to bring this matter to the attention of the representative in Poland of the Guaranty Trust Company, and clearly indicate to him that persistence in the present apparent attitude of the Polish Government might necessitate a protest on the part of this Government against the contract referred to. You will keep the Department fully informed as to future phases of this subject.

I am [etc.]

CHARLES E. HUGHES

860c.516/113 : Telegram

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

WARSAW, August 31, 1921—7 p.m.

[Received September 1—6:52 a.m.]

199. Department's instructions 1116, August 6th. See my despatch number 892, August 8th.⁹ Inasmuch as Minister of Finance apparently anxious to wreck Guaranty contract request authorization to change representations outlined in the last paragraph in such a way as to eliminate all reference to Guaranty contract and intimate that Department might be obliged to reconsider its entire attitude towards the question of remittances to Poland. I believe this would obviate all undesirable encouragement to Minister of Finance.

GIBSON

860c.516/113 : Telegram

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

WASHINGTON, September 6, 1921—4 p.m.

186. Your 199, August 31, 7 p.m.

In your discretion, make representations as you suggest.

Your 892 not yet received.

HUGHES

⁹ Not printed.

860c.516/120

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

No. 940

WARSAW, September 9, 1921.

[Received September 28.]

SIR: With further reference to the Department's instruction No. 1116 of August 6th, I have the honor to transmit herewith enclosed copy of a note¹⁰ which I have today addressed to the Minister for Foreign Affairs in regard to the participation of American banks in the syndicate of banks effecting payments in Poland of drafts and remittances from the United States.

I last night received the Department's instruction No. 186 of September 6th, 4 p.m., authorizing me, in my discretion, to alter the representations outlined in the last paragraphs of the Department's instruction under reference. It will be observed that in the last paragraph of my note I have availed of this authorization to eliminate all reference to the Guaranty Trust contract, stating instead that the Department may be obliged to reconsider its entire attitude toward the question of money remittances from the United States.

I shall not fail to bring this matter to the attention of the Guaranty Trust Company's representative in Warsaw as desired by the Department.

I have [etc.]

HUGH GIBSON

¹⁰ Not printed.

RUSSIA

CONTINUED JAPANESE OCCUPATION OF RUSSIAN TERRITORY¹

Protests by the United States and by the Far Eastern Republic—Negotiations at Dairen for an Understanding between Japan and the Far Eastern Republic

861.00/8032 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, *January 27, 1921—5 p.m.*

[Received January 27—2:53 p.m.]

41. My 34 [35], January 22, 4 p.m.² In reply to interpellations during the opening debates of the Diet Premier Hara after reviewing the history of Siberian expedition and the reasons for the retention up to the present time of Japanese troops in Vladivostok and vicinity, stated that in order to prevent the disturbed conditions in Siberia from affecting Japan troops must be retained there until tranquillity is restored.

The Minister of War in reply to an interpellation in connection with the shooting of Lieutenant Langdon³ stated that although it had not yet been determined who was the first to shoot, he doubted whether it was the Japanese sentry. He added that in compliance with the request of the dean of the consular corps in Vladivostok the Japanese forces had been taking steps to preserve order there.

BELL

861b.01/4 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

TOKYO, *March 23, 1921—9 p.m.*

[Received March 23—5:32 p.m.]

106. A bulletin was issued today by the War Office which gave gist of what is stated to be an announcement made March 21 by the Japanese command in Russian Sakhalin. It stated that in accord

¹ For previous correspondence, see *Foreign Relations*, 1920, vol. III, pp. 481 ff.

² Not printed.

³ See pp. 354 ff.

with the statement already made last year with regard to the temporary occupation of important areas in Sakhalin, the Japanese Government in the near future will station troops at De Kastri, Mago, Nikolaievsk, Sophiisk and other important areas. It is hoped by thus introducing civil administration temporarily to maintain peace and order.

The announcement requested the Russian people living in these districts to place, therefore, complete trust in the Japanese troops, in sympathy with the true motive which prompts the proposed action and to attend as usual to their respective business.

Last autumn the places which the above announcement mentions were all temporarily evacuated. See Embassy's telegram no. 360 of July 23, 1920.⁴

BELL

861b.01/5 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, March 29, 1921—6 p.m.

[Received March 29—10:16 a.m.]

117. My 106, March 23, 6[9] p.m. Military attaché today informed by War Office that troops which will occupy points mentioned on mainland will be detached from force now based at Alexandrovsk in Russian half of Sakhalin Island and that contrary to press reports troops on island will not be proportionately increased.

BELL

861.00/8696a

*The Department of State to the Japanese Embassy*⁵

MEMORANDUM

The Government of the United States has been apprised that the Japanese Government made on March 23rd, through the Ministry of War, a public statement to the effect that the Japanese Command in Russian Saghalin would, in accordance with the declaration of last year (presumably that of July 3, 1920⁶), announcing the temporary military occupation of important districts in Saghalin, station troops in the near future in Nikolaievsk, De Castries, Mago, Sophiesk and other important districts to maintain peace and order

⁴ *Foreign Relations*, 1920, vol. III, p. 520.

⁵ Handed by the Secretary of State to the Japanese Ambassador, June 3.

⁶ *Foreign Relations*, 1920, vol. III, p. 516.

in those localities by temporarily establishing a system of civil administration.

In addition this Government has been informed of the statement made by the Japanese War Office to the American Military Attaché, regarding the *coup d'état* attempted at Vladivostok on the night of March 31st,—only a few days after the announcement above described,—and that Japanese troops would allow no further fighting in the zone occupied by them.⁷

These declarations bring forward the correspondence which took place between the Governments of the United States and of Japan in July and August last, regarding the action of the Japanese Government in occupying Nikolaievsk and the northern half of the island of Saghalin in reprisal for the affair at Nikolaievsk.⁸ They also fix attention upon the understanding of 1918, between the Governments of the United States and Japan, (which was for the purpose of assisting the Czech soldiers in Siberia), and the public statement of the Japanese Government of August, 1918,⁹ reaffirming its avowed purpose to respect the territorial integrity of Russia and to abstain from all interference in her internal affairs, and declaring again that upon the accomplishment of the objects of the undertaking for the aid of the Czechs, all Japanese troops would be withdrawn from Russian territory, leaving wholly unimpaired the sovereignty of Russia in all its phases, whether military or political.

Since this Government is a party to the understanding of 1918 and to the obligations to the people of Russia thereby implied, it feels it should in frankness make clear its views on those developments in Siberia which appear to it to be at variance with the spirit of that joint undertaking.

It will be recalled in this connection that the Government of the United States in January, 1920, issued orders for the complete evacuation of all American troops from Siberia,¹⁰ inasmuch as the mission of aiding the Czechs during their stay in Siberia had been practically fulfilled. Before the first of June, 1920, all American troops had been withdrawn, and the evacuation of the Czechs was shortly thereafter accomplished. The Government of the United States expected that the withdrawal of the American troops would be followed by a complete withdrawal of Japanese troops, if not very soon then at least within a reasonable period of time.

Instead, Japanese troops were not withdrawn but additional extensive territory has been occupied by them. A considerable portion of this territory is now being placed under a civil administra-

⁷ Telegram no. 123, Apr. 1, from the Chargé in Japan, p. 721.

⁸ *Foreign Relations*, 1920, vol. III, pp. 516 ff.

⁹ *Ibid.*, 1918, Russia, vol. II, p. 324.

¹⁰ *Ibid.*, 1920, vol. III, p. 487.

tion functioning under authority of the military occupation, lending to the occupation an appearance of permanence, and indicating a further encroachment upon Russian political and administrative rights.

The Government of the United States would be untrue to the spirit of cooperation which led it, in the summer of 1918, upon an understanding with the Government of Japan, to despatch troops to Siberia, if it neglected to point out that, in its view, continued occupation of the strategic centers in Eastern Siberia,—involving the indefinite possession of the port of Vladivostok, the stationing of troops at Khabarovsk, Nikolaievsk, De Castries, Mago, Sophiesk and other important points, the seizure of the Russian portion of Saghalin, and the establishment of a civil administration which inevitably lends itself to misconception and antagonism,—tends rather to increase than to allay the unrest and disorder in that region.

The military occupation in reprisal for the Nikolaievsk affair is not fundamentally a question of the validity of procedure under the recognized rules of international law, nor of any redistribution of Russian administrative areas such as was referred to in the Japanese Embassy's memorandum of August 13, 1920,¹¹ which in the case of Nikolaievsk (as this Government is informed) was adopted as a temporary measure for the convenience of the Russian administrator. The issue presented is that of the scrupulous fulfilment of the assurances given to the Russian people, which were a matter of frank exchanges and of apparently complete understanding between the Governments of the United States and of Japan. These assurances were intended by the Government of the United States to convey to the people of Russia a promise on the part of the two Governments not to use the joint expedition, or any incidents which might arise out of it, as an occasion to occupy territory, even temporarily, or to assume any military or administrative control over the people of Siberia.

In view of its conviction that the course followed by the Government of Japan brings into question the very definite understanding concluded at the time troops were sent to Siberia, the Government of the United States must in candor explain its position and say to the Japanese Government that the Government of the United States can neither now nor hereafter recognize as valid any claims or titles arising out of the present occupation and control, and that it cannot acquiesce in any action taken by the Government of Japan which might impair existing treaty rights, or the political or territorial integrity of Russia.

¹¹ *Foreign Relations*, 1920, vol. III, p. 522.

The Government of Japan will appreciate that in expressing its views the Government of the United States has no desire to impute to the Government of Japan motives or purposes other than those which have heretofore been so frankly avowed. The purpose of this Government is to inform the Japanese Government of its own conviction that in the present time of disorder in Russia, it is more than ever the duty of those who look forward to the tranquilization of the Russian people and a restoration of normal conditions among them, to avoid all action which might keep alive their antagonism and distrust towards outside political agencies. Now especially it is incumbent upon the friends of Russia to hold aloof from the domestic contentions of the Russian people, to be scrupulous to avoid inflicting what might appear to them a vicarious penalty for sporadic acts of lawlessness, and above all to abstain from even the temporary and conditional impairment by any foreign power of the territorial status which, for them as for other peoples, is a matter of deep and sensitive national feeling transcending perhaps even the issues at stake among themselves.

WASHINGTON, *May 31, 1921.*

861.00/8826a

The Department of State to the Japanese Embassy

WASHINGTON, *June 18, 1921.*

It was stated in the press in Japan during January, 1921, that General Semenoff,¹² since his arrival in Port Arthur on December 6, 1920, had come to a definite understanding with General Chang Tzo Lin, the Chinese Governor-General of Manchuria. As a result of this understanding it was expected, according to this press report, that General Semenoff would resume his activities in the near future. There was an account of a dinner given by General Semenoff to a large company, at a Japanese restaurant in Port Arthur, at which General Ogata, the Commander of the Port Arthur forts, responded on behalf of the guests to a speech made by Semenoff. In the course of his speech the Japanese officer said that, although Semenoff's activities during the past four years had not been crowned with success, he had no doubt that the influence and popularity of the Cossack Ataman would result in bringing the Trans-Baikal district under his sway. He is credited with saying further that the present was simply a period of preparations for future activities and that

¹² Gregory Semenov, ataman of the Far Eastern Cossacks.

he hoped General Semenov would carefully lay his plans in order to win the final victory. In the event of Semenov's resuming activities, he (General Ogata) believed that Japan would take some positive step.

During April the press in Japan referred to the extraordinary war estimate of 100,000,000 yen, passed by the Japanese Diet, and called attention to the inclusion therein of expenditures necessary in connection with the stationing of Japanese troops in Sakhalin, the inauguration of civil administration in that province, the building of permanent barracks at Nikolaievsk, Decastri and Alexandrovsk, the making of roads connecting these places, and the construction of telegraph lines.

Aside from the press reports of which the foregoing are cited merely as examples, information reached this Government from sources not of a public character. From Port Arthur word was received of a letter said to have been despatched by General Semenov to the Japanese Minister of War. According to the report, this document contained the statement by General Semenov, that General Tachibana, the Japanese Commander-in-Chief in Siberia, had approved the formation of a so-called League to Combat Communism, composed of the Japanese military, General Semenov, the Chinese Governor-General of Manchuria (Chang Tzo Lin), the Orenburg, Trans-Baikal and Ussuri Cossacks, and the Russian anti-Bolshevik elements in Manchuria. Reference was made to the fact that the Japanese Imperial military command would take upon itself the initiative of establishing this League.

Other reports coming from private, and possibly unreliable sources, referred to plans alleged to have been made by the Japanese military authorities for the concerted action of Japanese forces with Generals Ungern-Sternberg¹³ and Chang Tzo Lin in Mongolia and Manchuria, and the forces of General Semenov, the late General Kappel,¹⁴ and other anti-Bolshevik leaders in Siberia. Reports of this character were received with special frequency and from a diversity of sources at the time of the conference of Japanese military and civil authorities at Tokyo in May, at which it was understood that Japan's future policy in Siberia would be considered. Many of these reports sought, possibly maliciously, to attribute to the Japanese military leaders a purpose of creating and maintaining unrest in Eastern Siberia as an argument for still longer delaying the withdrawal of the Japanese military forces.

¹³ Baron Ungern Sternberg, formerly a captain in the Russian Imperial Army in Siberia, had entered Mongolia and taken Urga.

¹⁴ Gen. Vladimir Oskarovich Kappel, who died early in 1920, had commanded a force in support of Admiral Kolchak.

861.00/8797.

The Japanese Embassy to the Department of State

MEMORANDUM

The Japanese Government have carefully considered the Memorandum of the State Department dated May 31, 1921, dealing with the situation in Eastern Siberia. Sincerely appreciating the desire of the American Government to avoid all action which might keep alive the antagonism and distrust of the Russian people on the Siberian problem, the Japanese Government feel it due, on their part, to state as fully as possible the position and aims of Japan on the points raised in the Memorandum.

The communication under review apparently makes no distinction between the military expedition to Siberia, originally undertaken as a joint enterprise of Japan and the United States in 1918, and the occupation of the Russian Province of Sakhalin by Japanese troops consequent upon the Nikolaievsk incident of 1920. In the estimation of the Japanese Government, these two questions are wholly unrelated to each other, and call for separate consideration.

The military expedition to Siberia was admittedly based on a mutual understanding between Japan and the United States. In January, 1920, however, the United States ordered the withdrawal of its forces without any previous communication with Japan, and even without awaiting the complete departure of Czecho-Slovak troops. Such an unexpected withdrawal of American forces naturally caused a serious dislocation in the disposition of Japanese troops to whom the duty of guarding several points along the Trans-Siberian Railways had been assigned under inter-Allied arrangements. That situation was frankly pointed out by the Japanese Ambassador in the course of his conversation with the Secretary of State on January 10, 1920, and the Memorandum of the Japanese Embassy dated January 22, 1920,¹⁵ contains a record of what then took place between them.

The last column of Czecho-Slovak troops safely embarked from Vladivostock in September, 1920. Ever since that time, Japan has been looking forward to an early opportune moment for the withdrawal of her troops from Siberia. The maintenance of such troops in a foreign land is for her a costly and thankless undertaking, and she will be only too happy to be relieved of such responsibility. In fact, the evacuation of the Trans-Baikal and the Amur Provinces was already completed last year. The only district which now remains

¹⁵ *Foreign Relations*, 1920, vol. III, p. 497.

to be evacuated is a southern portion of the Maritime Province around Vladivostock and Nikolsk.

It will be appreciated that for Japan the question of the withdrawal of troops from Siberia is not quite as simple as it was for the United States. In the first place, there is a considerable number of Japanese residents who had lawfully and under guarantees of treaty established themselves in Siberia long before the Bolshevik eruption, and were there entirely welcomed. In 1917, prior to the joint American-Japanese military undertaking, the number of such residents was already no less than 9717. In the actual situation prevailing there, those Japanese residents can hardly be expected to look for the protection of their lives and property to any other authorities than Japanese troops. Whatever regions those troops have evacuated in the past, have fallen into disorder, and practically all Japanese residents have had precipitately to withdraw, to seek their personal safety. In so withdrawing, they have been obliged to leave behind large portions of their property, abandoned and unprotected, and their homes and places of business have been destroyed. While the hardships and losses thus caused the Japanese in the Trans-Baikal and the Amur Provinces have been serious enough, more extensive damages are likely to follow from the evacuation of Vladivostock, in which a larger number of Japanese have always been resident and a greater amount of Japanese capital invested.

There is another difficulty with which Japan is faced in proceeding to the recall of her troops from the Maritime Province. Due to geographical propinquity, the general situation in the districts adjoining Vladivostock and Nikolsk is bound to affect the security of the Korean frontier. In particular, it is known that those districts have long been the base of Korean conspiracies against Japan. Those hostile Koreans, joining hands with lawless elements in Russia, attempted last year to invade Korea through the Chinese territory of Chientao. They set fire to the Japanese Consulate at Hunchun, and committed indiscriminate acts of murder and pillage. At the present moment they are under the effective control of Japanese troops stationed in the Maritime Province, but they will no doubt renew the attempt to penetrate into Korea at the first favorable opportunity that presents itself.

Having regard to the foregoing considerations, the Japanese Government have felt bound to exercise precaution in carrying out the contemplated evacuation of the Maritime Province. Should they take hasty action without adequate provision for the future, they would be delinquent of their duty of affording protection to a large

number of their nationals resident in the regions in question and of maintaining order and security in Korea.

It should be made clear that no part of the Maritime Province is under Japan's military occupation. Japanese troops are still stationed in certain places of that Province but they have not set up any civil or military administration to displace local authorities. Their activity is confined to measures of self protection against the menace to their own safety and to the safety of their country and nationals. They are not in occupation of those districts any more than American troops could be said to have been in occupation of the places in which they were formerly stationed.

The Japanese Government are anxious to see an orderly and stable authority speedily re-established in the Far Eastern possessions of Russia. They have shown readiness to lend their good offices for promoting the reconciliation of various political groups in Eastern Siberia. But they have refrained from supporting one faction against another. It will be recalled, for instance, that they withheld all assistance from General Rozanow against the revolutionary movements which led to his overthrow in January, 1920. They maintained an attitude of strict neutrality, and refused to interfere in those movements, which it would have been quite easy for them to suppress, if they had so desired. They held consistently to the same policy of non-interference in the recent *coup d'état* at Vladivostock. Political strife among Russians was then entirely left for them to settle, and only the use of arms by any faction threatening the safety of the population in Vladivostock was checked.

The Japanese Government desire to add, for the confidential information of the American Government, that they have now under serious contemplation practical plans which would justify them in effecting at an early date the complete withdrawal of Japanese troops from the Maritime Province, with reasonable precaution for the security of Japanese residents and of the Korean frontier regions.

The occupation of certain points in the Russian Province of Sakhalin is wholly different, in nature and in origin, from the stationing of troops in the Maritime Province. History affords few instances similar to the incident of 1920 at Nikolaievsk, where more than seven hundred Japanese, including women and children, as well as the duly recognized Japanese Consul and his staff, were cruelly tortured and massacred. No nation worthy of respect will possibly remain forbearing under such a strain of provocation. Nor was it possible for the Japanese Government to disregard the just popular indignation aroused in Japan by the incident. Under the actual condition of things, Japan found no alternative but to occupy,

as a measure of reprisal, certain points in the Province of Sakhalin in which the outrage was committed, pending establishment in Russia of a responsible authority with whom she can communicate in order to obtain due satisfaction. Her position on this question is explained in the declaration of the Japanese Government of July 3, 1920;¹⁶ and it is believed that such measures as Japan has taken have the sanction of international law.

Nothing is further from the thought of the Japanese Government than to take advantage of helpless conditions in Russia for prosecuting selfish designs. Japan believes that she has shown every sympathetic interest in the efforts of patriotic Russians aspiring to the unity and rehabilitation of their country. The military occupation of the Russian Province of Sakhalin will naturally come to an end as soon as a satisfactory settlement of the question shall have been arranged with an orderly Russian Government.

WASHINGTON, July 8, 1921.

861.00/8827

The Japanese Embassy to the Department of State

AIDE-MEMOIRE

The Japanese Ambassador did not fail to call the attention of his Government to the reports mentioned in the informal Memorandum of the State Department dated June 18, 1921, relative to certain proceedings of the Japanese military authorities in Eastern Siberia. In answer to the points raised in that communication, he is now informed to the following effect:—

The War Office at Tokyo telegraphically inquired of General Ogata at Port Arthur the nature of the speech which he is alleged to have delivered on the occasion of the dinner given by General Semenov in that City towards the beginning of this year. General Ogata in reply has submitted a report, by which it is made clear that his speech was entirely misrepresented in the newspapers, and that he made no remarks in encouragement of political or military plans of General Semenov.

On the contrary, the Japanese military authorities at Port Arthur have consistently discouraged all activity of General Semenov in that direction. When it was known in the latter part of January last, that he was contemplating departure from Port Arthur to join with the group of the late General Kappel at Vladivostock, the

¹⁶ *Foreign Relations*, 1920, vol. III, p. 516.

Japanese authorities gave him a warning in disapproval of such a scheme. Upon the warning being unheeded, they sent him a notice in unequivocal terms that he could no longer count on Japan even for the protection of his personal safety. It was not possible for them, within the limits of law, to proceed any further, by way of placing him under arrest or detention in Port Arthur.

In disregard of all restraining counsel, he finally made his way to Vladivostock. There he was met with a protest from the Japanese military command against his landing at that port, which would have no doubt added to the complications of the situation.

These are the facts. The insinuation in the press reports which are quoted in the Memorandum of the State Department is entirely misdirected, and does injustice to the correct attitude of the Japanese military authorities towards General Semenov.

It is true that the extraordinary military expenditures of Japan for the current fiscal year include those connected with the stationing of her troops in the Russian Province of Sakhalin and the administration necessary for the effective occupation of certain points in that Province, as well as the building of barracks and the improvement of the means of communication in the occupied districts. The position of Japan in the matter of such occupation is defined at some length in the Memorandum of the Japanese Embassy dated July 8, 1921. The occupation naturally carries with it the exercise by the occupying forces of certain administrative functions within the districts in question. It is further evident that the rigor of climate, the sparseness of population and the inefficiency of the means of communication in the occupied territory make it absolutely necessary for Japanese troops to be provided with barracks and with better telegraph service and roads, if the occupation, however temporary, is to be maintained. Expenditures for such purposes cannot be avoided.

Nothing is known in Tokio about the League to Combat Communism, mentioned in the Memorandum under review. The War Office is, however, satisfied that General Tachibana has never allowed himself to take part in, or to give approval to the formation of the League.

Reference is further made in the Memorandum to the plans which the Japanese military authorities are reported to have in mind for a concerted action with Generals Ungern-Sternberg and Chang-Tzo-Lin and certain anti-Bolshevik leaders in Siberia. The reports are as unfounded as they are mischievous.

Japan is materially interested in an early stabilization of the situation in Eastern Siberia. Continued disorder in the territory close

to her border only tends to aggravate her own difficulties. Nothing can be more repellant to her aims and policy than to create and maintain unrest in that region as an argument for delaying the withdrawal of her forces.

WASHINGTON, *July 14, 1921.*

861.00/8874

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

No. 266

LONDON, *July 15, 1921.*

[Received July 27.]

SIR: I have the honor to transmit herewith, as of possible interest to the Department, the official report of Questions and Answers in the House of Commons on July 6th, regarding the movement of Japanese troops in certain portions of Eastern Siberia.

I have [etc.]

(For the Ambassador)

[No signature indicated]

Counselor of Embassy

[Enclosure]

*Questions and Answers in the British House of Commons,
July 6, 1921*

EASTERN SIBERIA

LIEUT.-COMMANDER KENWORTHY asked the Under-Secretary of State for Foreign Affairs if the Imperial Japanese Government has given any assurances to His Majesty's Government regarding the occupation of the Russian half of the island of Saghalien, the city and port of Vladivostok, and portions of the maritime province by Japanese troops; what is the nature of those assurances; and whether the annexation of the Russian half of the island of Saghalien by Japan is to be recognised?

THE UNDER-SECRETARY OF STATE FOR FOREIGN AFFAIRS (Mr. Cecil Harmsworth): The Japanese Government has informed His Majesty's Government that, in view of the disturbed state of Eastern Siberia, it feels compelled to keep garrisons at Vladivostok, Saghalien, and at various points in the Maritime Province, until a satisfactory settlement can be arrived at with the legitimate Russian Government. So far as His Majesty's Government are aware, the island of Saghalien has not been annexed to Japan.

861a.01/60 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

Tokyo, August 7, 1921—6 p.m.

[Received August 7—5:32 p.m.]

265. Legation at Peking sends following telegram to be repeated to Department as its no. 282, August 7, noon.

Japan now ready to negotiate, says Yourin.¹⁷ Form of negotiations dependent upon American interest in them. Yourin will have to concede more if the United States does not take such interest.

BELL

861.00/8903 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

Tokyo, August 8, 1921—4 p.m.

[Received August 8—1:12 p.m.]

266. Japanese Vice Minister for Foreign Affairs told me today informally that Japan intends to withdraw from Vladivostok at the opportune moment. He said, however, that the Japanese can not evacuate until they receive satisfactory guarantees with regard to the position of Japanese interests and subjects after the Japanese troops have left. It was intimated that for this reason the Japanese would not evacuate in the immediate future.

BELL

861.00/8939

The Japanese Ambassador (Shidehara) to the Secretary of State

WASHINGTON, August 22, 1921.

DEAR MR. SECRETARY: I have just received from Tokio a telegraphic communication bearing on the situation in Eastern Siberia. It being the desire of my Government to keep you informed of the general line of action which they propose to take on the Siberian situation, I venture to enclose herewith a Memorandum giving a paraphrase of the communication. The information which it contains is not intended for publication, and I shall feel much obliged if you will consider it as confidential.

Believe me [etc.]

K. SHIDEHARA

¹⁷ Ignatius Yurin, president of the mission of the Far Eastern Republic to China.

[Enclosure]

Memorandum by the Japanese Embassy

In the Memorandum of the Japanese Embassy dated July 8, 1921, reference was made to the fact that already a year ago the Japanese military forces had been completely withdrawn from the Trans-Baikal and the Amur Provinces, soon after the fulfilment of their mission of rendering assistance to the homeward departure of Czecho-Slovak troops from Siberia. It was further explained that only in the southern portion of the Maritime Province the actual conditions which then prevailed compelled Japan to continue for the time being the stationing of a sufficient number of troops to provide against the impending menace to the security of her Korean frontier and to the lives and property of several thousands of her nationals who had long established themselves in and around Vladivostock. It was added that in the meantime, Japan was looking forward to an early opportunity which would enable her to carry out with assurance the recall of her troops from the Maritime Province.

Towards the fall of last year, a number of independent local authorities who had formerly held their own in various parts of Eastern Siberia amalgamated and developed into a unified body known as the Far Eastern Republic, with the seat of its Government at Chita. That Government has convoked a constitutional assembly and has declared itself in support of a system of non-communistic democracy. Evidently it has not yet gained substantial stability, but it represents at the present moment the sole *de facto* authority of any organized form in Eastern Siberia. It recently approached the Japanese Government with overtures to open negotiations looking to the establishment of the relations of amity and commerce between Japan and Eastern Siberia. The Japanese Government, willing to join in any reasonable attempt to put an end to the present unsatisfactory situation in Siberia, have decided to accept the invitation and have appointed a delegation to meet with the representatives of the Chita Government. A conference will shortly be held at a convenient place in the Kwantung Province.

The proposed conference has essentially in view the conclusion of commercial arrangements, the removal of the existing menace to the security of Japan and to the lives and property of Japanese residents in Eastern Siberia, the provision of guarantees for the freedom of industrial undertakings in that region and the prohibition of Bolshevik propaganda over the Siberian border. These negotiations are in no way intended to secure for Japan any right or advantage of an exclusive character. They are solely actuated by a desire to adjust provisionally some of the more pressing questions by affecting Japan's national safety and welfare.

Should the conference succeed in arranging suitable provisions on the line above indicated, the Japanese Government will at once proceed, in pursuance of their declared policy, to the complete withdrawal of Japanese troops from the Maritime Province.

The question of redress for the massacres at Nikolaievsk is admittedly one which the Chita Government, under existing conditions, is in no position to take up. The settlement of that question has therefore to be reserved for a later occasion.

WASHINGTON, August 22, 1921.

861a.01/67: Telegram

The Consul at Harbin (Jenkins) to the Secretary of State

HARBIN, August 31, 1921—6 p.m.

[Received August 31—4:29 p.m.]

Petroff, Chairman Council of Ministers Far Eastern Republic, and Kraajew Nikoff [*Kozhevnikov*], Assistant Secretary of State, arrived in Harbin yesterday from Chita *en route* to Dairen where they expect to confer with Japanese. Party had some difficulty with maritime customs but matter finally arranged and they expect continue journey today. Legation informed.

JENKINS

861a.01/74: Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, September 15, 1921—3 p.m.

[Received 3:22 p.m.]

299. Your 148, September 7, 2 p.m., and my despatch number 926 of September 9¹⁸ now in transit. Japanese press reports that although Chita representatives are favorable to recognition of Japanese demands regarding fishery, mining, forestry and other rights difficulties in reaching a final agreement are anticipated owing to the fact that Japan is unwilling to deal with Chita on a basis which would imply recognition of Chita as an independent country. Nevertheless I am reliably informed that Japanese Government is now attaching more importance to the conference than it has previously while press expresses optimism as to satisfactory outcome. War Office has informed military attaché that the eighth division which was to have replaced the eleventh at Vladivostok will not be mobilized for the present.

¹⁸ Neither printed.

Your 149, September 9.¹⁹ Consul at Dairen reports:

"September 14, 3 p.m. Yurin states that probably no objection Caldwell's visit. Question of right of navigation Amur by Japan and cession northern Sakhalin being referred to Chita and Tokyo. Chita delegates contend Amur question cannot be arranged as treaty exists with China thereon but Japanese state that the matter can be arranged by Japan with China if Chita willing to permit navigation. Replying to my personal observation that in view of the Washington Conference Chita should not grant territory or rights, Yurin stated absolutely necessary Chita enter into trade relations with some country and that Japan is only nation willing to enter into negotiations and she naturally wants attach concessions therefor. If Chita unwilling to permit concessions Japan will break off negotiations and if nothing comes out of Washington Conference it is clear will demand even greater concessions later. However, if Chita allowed to have representatives sent to Washington they can afford to break off present conference with Japan.

Yurin is undoubtedly trying play the army [*America?*] against Japan but in my opinion the only way to prevent cession administrative or territorial rights to Japan is to permit the despatch of informal representatives to Washington.^[2]

BELL

861a.01/144 : Telegram

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

TOKYO, December 11, 1921—10 a.m.

[Received December 11—7: 14 a.m.]

416. Limitation of armaments. My 415, December 10th, last paragraph.²⁰ Official statement by War Department appears today as follows:

"A partial relief of the Japanese troops stationed in the locality of Vladivostok [the time for] which arrived some time ago has so far been postponed in view of the negotiations on commercial relations and other problems now in progress at Dairen with the Chita government. For the moment however the probable date of conclusion of the Dairen conference cannot be predicted while the relief of troops in question can no longer be postponed.

In these circumstances the Japanese Government have determined to carry out the relief in question, it being understood that the number of troops of Japanese expeditionary forces after this partial relief has been effected will remain the same as hitherto.

As has been repeatedly declared by the Japanese Government the political situation in eastern Siberia has not yet been stabilized and the danger to which residents and traffic are still exposed coupled

¹⁹ Instructing Caldwell to proceed to Chita, p. 745.

²⁰ Not printed.

with the existing menace on the frontier compels the Japanese Government to maintain the troops in their present station.

The Japanese Government will immediately withdraw the troops in the event of general security being assured in Siberia against the dangers indicated above."

WARREN

861a.01/156

Mr. A. Yazikoff to the Secretary of State

WASHINGTON, December 20, 1921.

SIR: I beg to enclose herewith the appeal of the National Assembly of the Far Eastern Republic, dated December 9th, 1921. This appeal deals with the policy of the Japanese Government on the territory of the Far Eastern Republic.

I am [etc.]

A. YAZIKOFF

*Chairman of the Special Trade Delegation of the
Far Eastern Republic to the United States*

[Enclosure]

*Appeal to All Nations by the National Assembly of the Far Eastern
Republic*

The National Assembly which was elected by the entire population of the Russian Far East and which is vested with full power is compelled once more to lodge a decisive protest against Japanese aggression in the Russian Far East. The aggression has aroused the extreme indignation of the National Assembly.

It is now the fourth year that foreign troops have invaded the Russian Far East. The Japanese sword is suppressing the will of the Russian people. We, the elected representatives of the Russian Far East, from the provinces of Maritime, Saghalien, Priamur, Amur, TransBaikal, PriBaikal, remember very well all stages of the Japanese intervention; all the atrocities committed by the Japanese against the Russian people in the Far East. All the members of the National Assembly are ready to testify to the Japanese endeavors to strengthen and continue their intervention by falsehoods, deceits and atrocities. The Japanese are aiming to seize our territory and turn it into a Japanese colony. We also have in our possession a great number of documents regarding the Japanese schemes to seize our territory.

Japanese troops continue to pour into Vladivostok. Japan controls the entire Russian-Pacific coast. The attack against the

Japanese troops in Nikolaevsk in 1920 was the result of Japanese provocation. The Japanese are building fortifications, are digging trenches and putting up barbed wire on Russian territory. Russian rivers have been mined by the Japanese. The mouth of the Amur River has been closed to Russian ships and made a base for attacks upon us. In order to extend their occupation the Japanese seized Saghalien and are exercising all the civil and military authority there. They are disposing of forestry, fishing and mining resources. Russians are prohibited from entering Saghalien without Japanese permission. Russians are arrested on suspicion of having relations with the legal Russian government.

By prolonging civil war the Japanese create conditions warranting the continuation of intervention; by ruining the economic life of the Russian Far East they aim to spread their own influence.

The Maritime Provincial Assembly which was elected by the entire population of the province was endeavoring to establish a democratic rule through a Constituent Assembly, devising means for the unification and pacification of the country, but the Japanese frustrated their attempts by assisting reactionaries in the *coup-d'état* in Vladivostok and along the Ussuri Railroad.

Contrary to the agreement of April 29th which provided that no armed forces be permitted in the Japanese zone, the Japanese have been allowing and aiding in organizing and maintaining anti-government forces. This paralyzed the efforts of the government to restore normal life and frustrated all attempts to eliminate the marauding bands.

On May 29th, the Russian militia which was despatched to Nikolsk-Ussuriisk was disarmed by the Japanese who allowed the town to be captured by the Semenovites. The Japanese prevented the search for arms in the house of a Japanese subject on Komarovsky Street, and arrested all our armed detachments and the commanding staff. During the *coup-d'état* of May 26th, the Japanese disarmed and arrested the government troops who were resisting the Merkulov rebels.

The seizure of the Maritime province and the introduction of the rule of Semenov proved that Japan's aggressiveness in the Russian Far East is not objected to by other powers.

At the Dairen conference between Japan and the Far Eastern Republic, the Japanese tried to obtain the consent of the Far Eastern Republic that Japanese troops should remain in Siberia, that fortifications of Russian cities be destroyed and that the Japanese should obtain all concessions in the territory along the Tartar Straights—all of which means loss of Russian sovereignty and dependence on Japan economically and politically. Failing in this the Japanese

rendered assistance to Merkulov to launch an attack for which the Japanese supplied munitions; and the entire responsibility for this attack rests upon the Japanese.

The Russian people of the Far East repeatedly protested to the whole world against the Japanese atrocities. We protest against the Washington Conference discussing questions in which we are vitally interested without our participation. We strongly protest against the continued presence of Japanese troops on Russian territory, which is an encroachment upon our sovereignty and independence.

Chairman: SUHOVY

<i>Members:</i> BORODOVKIN	YAKIMOV
DUMKIN	ANZIFEROV
SAYAPIN	SHERTGOV
FEDOROV	NIKIFOROV
MER	LUKYANCHIKOV
LOBODA	DOMBINO

Dated at Chita, December 9th, 1921.

861a.01/162 : Telegram

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

[Paraphrase]

TOKYO, December 24, 1921—5 p.m.

[Received 6:10 p.m.]

433. From Caldwell, December 22, 9 p.m.

“By an unofficial memorandum and in conversation I have been informed by the Minister for Foreign Affairs²⁶ that the Japanese at the conference at Dairen have become more insistent in their demands since the Washington Conference opened and that they now positively demand certain previously discussed concessions which heretofore they seemingly were willing to modify. The attack in the Maritime Province²⁷ has happened at the same time, and Japan is believed to be responsible for this. It is the opinion of the Minister for Foreign Affairs that these Japanese actions must harmonize with the Washington Conference attitude in spite of the fact that since their object is a violation of Russian interests and rights, they are contrary to the American statement of September 16²⁸ with regard to protecting Russian rights at the Washington Conference.

By permission but confidentially the Minister for Foreign Affairs informed me that the most objectionable of the Japanese demands

²⁶ Of the Far Eastern Republic, Chita.

²⁷ See telegram no. 421, Dec. 14, 1921, from the Ambassador in Japan, p. 732.

²⁸ See telegram no. 545, Sept. 17, to the Ambassador in Great Britain, vol. I, p. 69.

being insisted upon at Dairen, which prior to the Washington Conference Japan seemed willing to change, are as follows:

1. The port of Vladivostok must become purely commercial.
2. Recognition of the open-door policy. Commercial and industrial restrictions applicable to aliens must not be applied to Japanese who must in this respect be placed in a position no worse than that of citizens of the Far Eastern Republic. In addition the Japanese are to have the right of coastwise trade and of navigation under their own flag on the Sungari and Amur Rivers. They likewise are to have the right to own land.
3. The Far Eastern Republic must not become communistic.
4. The Far Eastern Republic and Japan are each to recognize present rights of citizens or subjects no matter how acquired.
5. All present fortifications on the Pacific coast must be destroyed by the Far Eastern Republic, which must construct no new fortifications. To this demand a note is added allowing Japanese in Far Eastern Republic territory in a military capacity, but from the Russian text it is not clear whether this would apply only to individuals or to armed military units.

I was informed by the Minister for Foreign Affairs that previously Japan seemed willing to accept an assurance that the Chita government would not pursue warlike aims in place of number 5. Now, however, this demand is given the form of an ultimatum.

The Minister commented on his Government's wish for close relations with the United States and also upon the fear that finally it may become necessary to establish relations."

WARREN

RESTORATION OF WHITE RUSSIAN CONTROL IN VLADIVOSTOK

861a.01/27: Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, March 29, 1921—11 a.m.

[Received March 29—3:30 a.m.]

114. Following from American consul at Vladivostok:

March 28, 2 p.m. Kozhevnikoff, Assistant Minister of Foreign Affairs Chita government who lives in railway car here, sent wife and children to Shanghai last week. This is doubtless in compliance with instructions. His government has always warned its representative here to be ready to run. *Far East Tribune* editorial entitled "Will to Struggle" declares that Chita government cannot be realized and an independent government cannot be established while any Japanese forces remain.

Cabinet of provincial administration has been reorganized with minor changes. Its subordination to the Chita government is accepted and it may be an improvement . . .

Referring to Department's March 25, 6 p.m. instructing to avoid actions that might be construed as recognition. I have frequently insisted to the Chita representative and all local authorities that this

question belongs exclusively to the Department and that representative last week assured me that he understood it. Repeat to Department.

BELL

861.00/8428 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, April 1, 1921—11 a.m.

[Received April 1—4 a.m.]

122. Following from American consul, Vladivostok.

March 31, 3 p.m. On receiving report of a *coup d'état* local authorities arrested considerable number last night and uncertain [*sic*] persons forcibly, released them shortly afterward. Today the Japanese disarmed militia and other persons. Parliament now in special session. Latest reports indicated complete bewilderment as to who made the alleged effort to overthrow local authorities. Japanese authorities are reported to have explained they must disarm everybody until they ascertain the facts. Settlement probably will come from Russo-Japanese Boundary Commission. . . .

More when definite information available. Repeat to Department.

BELL

861.00/8430 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, April 1, 1921—noon.

[Received April 1—10:07 a.m.]

123. My 122 April 1, 11 a.m. Military attaché has been informed by the War Office that fighting was started by Kappel²⁹ troops at Vladivostok and Nikolsk in an attempt to overthrow Vladivostok government and that both factions were disarmed by Japanese troops who will allow no further fighting in the zone which they occupy.

BELL

861.00/8630 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, May 26, 1921—11 a.m.

[Received May 26—5:10 a.m.]

186. The following telegram has been received from American consul, Vladivostok.

“May 25, 11 p.m. Tuesday Nikolsk militia surrendered to the Kappel commander by order of the chief of police and the property

²⁹ Gen. V. O. Kappel, who died early in 1920, had commanded troops in support of Admiral Kolchak.

owners requested Kappel forces to maintain order. A new government has not been organized and the President of the Maritime Province's Administration declaring all of the governmental institutions there remain under him, a company political police has been sent there from here. Maritime Province authorities here requested the Japanese to protect them. Relations between the Kappel and the Semenoff³⁰ forces at Nikolsk are reported to be strained. Unconfirmed reports state that surrender of militia extended to Spaskoe. Usury railway has formally announced strike committee. Nikolsk events simultaneous with the despatch of 600 Japanese forces to Anuchino where there is a large number Partisans. . . . Telegraphic communication reopened to Nikolsk. Vladivostok quiet. Repeat to Department. ["]

BELL

861.00/8635 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, May 26, 1921—10 p.m.

[Received May 26—4:05 p.m.]

187. Following just received from consul, Vladivostok:

"May 26, 4 p.m. Kappel troops control Vladivostok though fighting continuing. Non-Socialist organizations have proclaimed provisional Priamur government and have directed that criminal proceedings be begun against all members of the three local governments in power since January last year.

Fighting began 10 o'clock with the release of nineteen officers on the main street. Political police still hold one of the police stations but probably will be taken or killed tonight. All of the principal buildings flying the flag of the empire.

Commander of the army has just arrived seeking refuge which I refused. Repeat to Department. Macgowan. ["]

BELL

861.00/8646 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

TOKYO, May 27, 1921—5 p.m.

[Received 6:05 p.m.]

188. Last paragraph of my no. 186, May 26. It is stated by the War Office that no Japanese troops have been sent to Anuchino, there having been no necessity for such action.

³⁰ Gregory Semenov, ataman of the Far Eastern Cossacks.

My no. 187, May 26. Military attaché has been informed by War Office that they think Semenov is back of this movement. It was added that in case a new government is set up and becomes firmly established in the Maritime Province Japan will not permit its forceful overthrow by the Chita government. It is also the opinion of the Russian military attaché that Semenov is backing this movement. He also thinks that the Kappel troops will serve under him willingly and that he will be joined by the Torsiveri [*Ussuri?*] and other Maritime Province Cossacks. Recent published statements by Semenov have indicated that he was preparing for action, although it is not reported that he has as yet left Port Arthur.

Nevertheless the Japanese General Staff affect the belief that Semenov is not connected with this affair. Several times lately in talking with our military attaché they have even alleged that American support was to be given to Semenov in his schemes.

BELL

861.00/8645 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, May 27, 1921—10 p.m.

[Received May 28—4:52 a.m.]

189. Following from Vladivostok:

"May 27, 5 p.m. Night quiet, fighting resumed 8 o'clock in the morning lasted thirty minutes. By noon the Japanese disarmed police barracks where the late ministers gathered. Total casualties perhaps twenty. Situation insecure."

BELL

861.00/8674 : Telegram

The Acting President of the Technical Board (Johnson) to the Secretary of State

HARBIN, June 1, 1921—10 a.m.

[Received June 3—1:14 p.m.]

... Negotiations in progress between the Chita government and the Kappel leaders which [*will?*] undoubtedly lead to understanding thus eliminating Semenov.

Referring to my cable of May 13, 4 p.m.,³² no particular change in the Chinese Eastern situation. Export movement continues unmolested via Vladivostok. Persistent rumors here that Japanese banks prepared to advance two and a half million yen to the Chinese Eastern about June 10, presumably on arrangement with the Chinese Minister of Finance. No details as to terms.

JOHNSON

³² Not printed.

861.00/8666: Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

TOKYO, June 2, 1921—11 a.m.

[Received 3:27 p.m.]

192. My No. 188 of May 27. It is now stated by the War Office that a battalion of Japanese troops did arrive at Anuchino on a practice march at the time when disorder was occurring at Nikolsk.

The military attaché was informed this morning by the War Office that on May 29 Semenov left Port Arthur and that the next day he sailed from Dairen for Vladivostok with a considerable amount of arms and ammunition and accompanied by about 200 officers. He is due at Vladivostok tomorrow.

BELL

861.00/8679: Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, June 4, 1921—noon.

[Received 2:31 p.m.]

194. The following telegram has been received from American consul at Vladivostok:

“June 3, 5 p.m. Repeat to Department.

Semenoff arrived on steamer flying flag of Japan preceded by a considerable number of his forces in small detachments and the local authorities say that he has 500 rifles concealed here whereas local authorities have only 225 armed forces, whom the Japanese forbid to use politically. Local authorities related history of the case, having wasted resources Semenov practically bankrupt and his army owes million and half yen for supplies. Non-socialist organizations repeatedly sent to Dairen to dissuade him from any revolutionary expedition but his representatives in order to continue to receive his money fabricated popular demands for him to come. Savilleff his lieutenant is reported to have frankly declared that he could get all supplies needed if he held Vladivostok two weeks.

Before leaving Port Arthur Semenov concerted with the Russians there. They have formed preliminary slate of the government with Paul Ivanoff premier. Half a dozen joining Semenov military forces in coercing local authorities were arrested. His officers proclaimed him commander in chief and supreme ruler canceling promise to support local authorities when he started, and threatened to arrest local authorities, military forces and civilians. Told me they intend civil war and expect Japan to supply ten to twenty million yen. They propose attack Habarovsk from both sides using Partisans of the Amur and then Chita from three directions and wished to know the attitude of the United States. I referred to official publication.

Japanese authorities declared that they tried dissuade Semenoff but could not use force.

In view of the elections to be held soon to settle matter and the statement of local authorities and other information, consular corps fearing danger to life and property of citizens and foreign residents unanimously passed resolution Semenoff ought to be instructed not to land in Maritime Province and his forces here and elsewhere should be disarmed; and forwarded resolution to the local authorities for such action as may be appropriate.

. . . Arrival of Semenoff alarmed the population, extremists workmen declare that they will accept local authorities.

Principal officers of the previous administration departed under the protection of the Japanese to Harbin or Habarovsk.[?]

BELL

861.00/8680 : Telegram

The Minister in China (Crane) to the Secretary of State

PEKING, June 6, 1921—6 p.m.

[Received June 6—1:27 p.m.]

213. Mission of Far Eastern Republic presents strong protest against recent Japanese *coup* in Vladivostok, states it considers all nations participating in Allied intervention in Siberia are equally responsible for grave consequences of that intervention and hopes that the United States will consider it its duty to do everything in its power to effect early withdrawal of Japanese troops from Russian territory. Mission states similar protest being lodged with the British Legation.

CRANE

861.00/8691 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, June 7, 1921—noon.

[Received 2:05 p.m.]

196. The following telegram has been received from the American consul at Vladivostok:

“June 6, 5 p.m. Repeat to Department. Semenoff brought suite, about sixty including twenty-three generals.

Head of local authorities spent six hours aboard Semenoff's ship Sunday. Semenoff [is said to have admitted that he was not commander in chief or] supreme ruler, that arrival was untimely and promised he would not interfere with affairs at Vladivostok and he immediately after printed a proclamation partly in this sense though in the name of “Staff of commander in chief of all the armed forces of the Russian eastern borderland and field [hetman of all the Cossack armies.” Is said to have promised to leave Vladivostok but did not say when.] Local authorities puzzled.

Civilians from Harbin released. One of them just told me Semenov and civilian adherents want to go beyond Iman to fight Bolsheviks in southern Maritime Province under the existing local authorities and desired view of the United States Government.

Japanese authorities have informed Semenov in writing they consider him private citizen, would give him no support by authority and are not tolerating armed forces south of Iman.

Semenov soliciting interview with the consular corps.[""]

BELL

861.00/8692 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

[Paraphrase]

TOKYO, June 7, 1921—6 p.m.

[Received 7:40 p.m.]

197. Last paragraph my no. 192 of June 2. The military attaché has been informed by the War Office that the Japanese military attaché in Washington was called in by you and that you spoke to him on this subject very strongly. The War Office was greatly disturbed to have the American Government think that the Japanese acted in an unneutral way. They state that according to more recent information it is indicated that Semenov took supplies but did not take arms and ammunition, and that only about sixty officers accompanied him. Japanese authorities for the last few days have insisted that they are keeping strictly neutral in Vladivostok, that they sought to persuade Semenov not to leave Port Arthur, and that they are putting difficulties in the way of his landing. Nevertheless it is true that Semenov did leave Port Arthur, sailing on a Japanese ship which he chartered.

BELL

861.00/8701 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, June 9, 1921—5 p.m.

[Received June 10—12:47 a.m.]

194. There is no truth in reports which have appeared in the press that a large part of General Wrangel's troops will be sent to Siberia by the Japanese to reenforce anti-Bolshevik forces there. Both Japanese High Commissioner and General Wrangel's staff deny this report and state that it is possible that a small number of Russians, possibly as many as 4,000 who originally came from Siberia, will be sent back to Vladivostok. At present no ships or funds are available for this purpose.

BRISTOL

861.00/8702 : Telegram

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

LONDON, June 10, 1921—5 p.m.

[Received 9:20 p.m.]

471. Today's newspapers publish an exchange of notes between Tchitcherin and Lord Curzon dated June 1 and June 9 respectively. The Soviet note transmitted through Krassin³³ which the Foreign Office informs me has been handed in identic form also to the French and Italian Foreign Offices declares that the Bolshevik regime at Vladivostok was overthrown under the protection of the Japanese whom it charges with a desire to conquer Siberia, that the French are assisting the Japanese plans and that Great Britain has exhibited "hostile activity" toward the Soviet Government.

Lord Curzon's reply returns to Krassin the Soviet note as unacceptable and declines to enter into any correspondence concerning these "entirely baseless charges."

Full text by pouch.³⁴

HARVEY

861.00/8703 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

Tokyo, June 12, 1921—10 p.m.

[Received June 12—2:06 p.m.]

200. Following from consul, Vladivostok.

"June 12, 11 a.m. Wednesday, secretary of Semenov visited consular corps and requested its mediation between the local authorities and the hetman. Consular corps refused. The secretary explained hetman demanded recognition as the head of the government and commander in chief with exclusive control foreign affairs.

Foreign affairs would surely include sale goods at Vladivostok and of concessions. Newspaper reports Japanese merchants already commenced negotiating with the hetman promising supplies and money against the delivery in Japan of the Vladivostok stores.

The local authorities remain uncompromising.

Conference of representatives Cossack armies Friday adopted a resolution requesting that Semenov go away and requesting all of the units to obey Verzhbitsky.³⁵ Hetman is said to have only 1,400 followers but they are armed and it is said arms and ammunition including machine guns are being sent aboard ship.["]

BELL

³³ L. B. Krassin, leading member of the Soviet delegation which concluded a trade agreement with Great Britain Mar. 16, 1921; he remained in Great Britain as Soviet trade representative.

³⁴ Not printed.

³⁵ Of the Kappel forces.

861.00/8732 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, June 20, 1921—8 p.m.

[Received June 20—4:51 p.m.]

212. The following telegram from American consul at Vladivostok:

“June 20, 1 p.m. Repeat to Department. Hetman Thursday demanded \$200,000 and part of the stores at Vladivostok and a permission to leave for Hailar threatening to overthrow the government unless they agreed by noon. Friday Colonel Gomi of the Japanese staff informed head of the local government that the hetman must be permitted to land somewhere in the Maritime Province because he is in want and America had refused a visa and thereby would not admit him. The local authorities answered that hetman might go to Posiet Bay pending decision of the constituent convention, the government supporting him and his convoy, provided that he agreed to keep quiet and the Japanese guarantee it. No reply has been received.”

BELL

861.00/8760 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, June 29, 1921—9 a.m.

[Received June 29—6:31 a.m.]

222. Following from Vladivostok.

“June 28th, 11 a.m. Semenoff Sunday night proceeded to Grodekovo.”

BELL

861.00/8799 : Telegram

The Consul at Harbin (Jenkins) to the Secretary of State

HARBIN, July 11, 1921—5 p.m.

[Received July 11—3:25 p.m.]

Semenoff who is now established at Grodekovo is endeavoring arrange for transportation his troops through Manchuria to Trans-Baikal. If successful this could only result in renewal lawless seizures merchandise and general disorganization of communication with Trans-Baikal. Believe Chinese authorities should be urged not permit Semenoff troops pass through Manchuria.

JENKINS

861.00/8799 : Telegram

The Secretary of State to the Chargé in China (Ruddock)

WASHINGTON, July 13, 1921—6 p.m.

196. It is reported from Harbin that Semenoff is endeavoring to arrange for the transportation of his troops through Manchuria to the Trans-Baikal. Urge upon Chinese authorities desirability of preventing this. Lawless seizures of merchandise and general disorganization of communication and transport would certainly ensue.

HUGHES

861.00/8929

The Chargé in China (Ruddock) to the Secretary of State

No. 1395

PEKING, July 15, 1921.

[Received August 18.]

SIR: I have the honor to refer to the Department's telegram of July 13th, 6 p.m., No. 196, regarding the efforts of Ataman Semenoff to arrange for the transportation of his troops through Manchuria to the Trans-Baikal. During an interview with the Minister for Foreign Affairs on July 13th, I had brought up with him this question as reported to me by the American Consul at Harbin under date of July 11, 5 p.m. Dr. Yen informed me that the Central Government had received assurances from Marshal Chang Tso-lin that he would not permit a single Semenoff soldier to be transported over the Chinese Eastern Railway. This statement I telegraphed to the Consul at Harbin under date of July 13, 4 p.m., with the request that he communicate it to the Department of State and to Mr. Stevens, President of the Inter-Allied Technical Board, and I assume that the Department has received it in due course.

Upon the receipt of the Department's telegraphic instruction under reference I confirmed to Dr. Yen, in writing, the statement which he made to me orally and conveyed the expression of the Department's interest in the matter. A copy of my informal communication on this subject to Dr. Yen is enclosed herewith.³⁸

I have [etc.]

A. B. RUDDOCK

³⁸ Not printed.

861a.01/64a : Telegram

The Secretary of State to the Consul at Vladivostok (Macgowan)

WASHINGTON, August 26, 1921—2 p.m.

Does Vladivostok acknowledge authority of and consider itself a part of Far Eastern Republic? What is status of officials of latter at Vladivostok? Do Vladivostok representatives sit in Constituent Assembly at Chita? Who collects and disposes of customs at Vladivostok? What if any is area of Vladivostok authority?

HUGHES

861a.01/65 : Telegram

The Consul at Vladivostok (Macgowan) to the Secretary of State

VLADIVOSTOK, August 27, 1921—1 p.m.

[Received August 27—9:37 a.m.]

95. Department's telegram of August 26, 5 [2] p.m. 1. No. 2. Independent. 3. No. 4. Local government at Vladivostok calling itself Priamur Provisional Government. 5. Area bounded on west by Pogranichnaya and extends to Usury north, Suchan east, Posiet south.

This government originated three months ago through revolt against a local government which acknowledged Chita government and which still controls remainder of Maritime Province.

MACGOWAN

861a.01/65 : Telegram

The Secretary of State to the Consul at Vladivostok (Macgowan)

WASHINGTON, September 1, 1921—6 p.m.

Your 95, August 27, 1 p.m.

1. Does deposed Vladivostok government now functioning in Maritime Province cooperate with Moscow? 2. Does its territory include Kamchatka, Anadir and mainland Sakhalin? 3. Is its territorial control effective? 4. In what respect does it differ from Chita? 5. What are its relations with present Vladivostok government? 6. With Japan? 7. Has it separate government organization, army and capital?

Cable reply to above and mail despatch covering detailed history of Siberian governments supplementing your despatch 85, of January 15, 1921.³⁹

HUGHES

³⁹ Not printed.

861a.01/69 : Telegram

*The Consul at Vladivostok (Macgowan) to the Secretary of State*VLADIVOSTOK, *September 3, 1921—2 p.m.*

[Received September 3—9:39 a.m.]

96. Department's telegram of September 1, 6 p.m.

1. No.

2. Anadir is virtually independent because it is inaccessible. Russians cannot go to Sakhalin, Nikolaievsk, Kamchatka, Okhotsk, without a Japanese visa and the Japanese Government are in control there. Vladivostok government still maintains flickering communication with the whole Russian seacoast up to and including Kamchatka.

3. Area of this government mainly within the zone of operations of Japan. Japanese authorities allow this government too few rifles to control brigands or to hold off Partisans and the Red Army. If the Japanese evacuate Chita government probably will dispossess this government unless they agree.

4. It is anti-socialistic.

5. None whatever. Moscow, Chita are determined to suppress this government. To this end they are negotiating with the Japanese at Dairen. By withholding arms the Japanese can easily ruin this government at any moment and this may be accomplished soon.

6. The Japanese dominate Usury Railway up to Iman. Japanese capitalists negotiating a loan to this government secured by government goods including 16,000 tons of rails prices [*sic*]. . . .

7. Yes.

MACGOWAN

861a.01/69 : Telegram

*The Secretary of State to the Consul at Vladivostok (Macgowan)*WASHINGTON, *September 8, 1921—3 p.m.*

Your 96 September 3rd, 2 p.m. evidently refers to the present Vladivostok Government, while Departments September 1, 6 p.m. refers to former Vladivostok Government.

HUGHES

861a.01/73 : Telegram

*The Consul at Vladivostok (Macgowan) to the Secretary of State*VLADIVOSTOK, *September 10, 1921—9 a.m.*

[Received September 10—2:07 a.m.]

97. Your telegrams September 8, 2 [3] p.m., September 1, 6 p.m.

1. Yes. 2. No. 3. Between Iman and Habarovsk. 4. Subordinate. 5. Obedient. 6. Hostile employing terrorism. 7. Organization rudimentary since May, Partisans, county seat.

MACGOWAN

861a.01/148: Telegram

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

Tokyo, December 14, 1921—10 a.m.

[Received December 14—4:17 a.m.]

421. Following from American consul, Vladivostok, dated December 13, 11 a.m.

"The local authorities confirm the report Habarovsk has been taken by the so-called White Partisans. It is reported some of the Red forces retired into China. Revolts spreading regularly ahead of the Kappel detachments, are now reported across the Amur. Repeat Department.["]

WARREN

DESIRE OF THE FAR EASTERN REPUBLIC TO ESTABLISH RELATIONS WITH THE UNITED STATES ⁴⁰

861a.01/45

The Minister in China (Crane) to the Secretary of State

No. 975

PEKING, March 29, 1921.

[Received April 27.]

SIR: With reference to the Legation's telegram No. 131, of March 28th, 5 p.m.,⁴¹ I have the honor to transmit herewith a translation copy of a communication dated March 26th, 1921, from Ignatius L. Yourin, who styles himself the President of the Mission of the Far Eastern Republic to China. The original signed copy of the note was in the Russian language and was accompanied by an unsigned English translation of which the enclosed is a copy.

I have [etc.]

(For the Minister)

A. B. RUDDOCK

[Enclosure—Translation]

Mr. Ignatius L. Yourin to the American Minister (Crane)

MONSIEUR LE MINISTRE, At the request of the Government and the people of the Far Eastern Republic I have the honour to communicate to you their sympathy and friendly feelings which I beg you to transmit to the Government and the people of the United States.

The Far Eastern Republic being against an armed intervention and interference with its domestic affairs, is trying to come to an

⁴⁰ For papers concerning the establishment of the Far Eastern Republic, see *Foreign Relations*, 1920, vol. III, pp. 545 ff.

⁴¹ Not printed.

understanding and enter into normal economic relations with her neighbours. The Russian people of the Far East are firmly convinced that all the recent misunderstandings could be regarded as a matter of the past and be forgotten, and that from now on they might not only live in peace with the American people, but also obtain their friendly help in the building of a new democratic State.

The Constituent Assembly elected by universal suffrage and now holding its sessions, has granted to the people all civil rights, has proclaimed the inviolability of private property and has introduced in the province of economic policy freedom of trade and the *porte ouverte* principle. The enormous natural resources of the Far East, the large stores of coal and petroleum in Kamchatka and Saghalien, the gold ores in the Amur region and the rare Wolfram ores in Transbaikalia, the immense wealth of fish, furs and timber—all these are open to private capital, and the Government of the new Republic is trying to create conditions favourable for the exploitation of these resources and for the application of foreign capital in the Far East.

The Government of the Far Eastern Republic has expressed its readiness to grant economic concessions to foreign capitalists for the exploitation of the natural resources, for the extension of railway and telegraph lines, and for the development of industry. The Constituent Assembly which represents all the classes of the population, has very emphatically pointed out the necessity of building up an independent government upon the above principles, and looks forward to the cooperation of the United States of America.

The very fact that even now many large American industrial organizations are successfully carrying on negotiations for the exploitation of the petroleum resources, as well as for securing concessions, shows how important it is for the interests of the two countries to come into a closer contact. A firm ground for the realization of the proposed work and assurance for the future can only be obtained by having Government guarantees, which would be the result of a mutual understanding reached between the Governments of the two countries.

The Far Eastern Republic has for the short period of her existence proved her vitality and has always shown resistance to all those who have tried to force their will upon her. The young Republic hopes to meet with the support of the truly democratic countries and considers as a matter of prime importance a close relationship between the Far Eastern Republic and America, because only through such a relationship can the mutual position be defined in the face of any possible conflicts which may take place in the Far East.

As the Far Eastern Republic owing to her isolation was unable to bring to light her aims and purposes, it now seems most expedient

that an end should be put to such isolation, and that the United States Government should be reliably informed of the newly organized State from Government sources. For this purpose the Government of the Far Eastern Republic considers it necessary to exchange representatives with the United States of America.

The Government of the Far Eastern Republic conceives the aim of her Mission to America that of clarifying the matters of political and governmental relationship and also regards the problem of the Mission that of entering into commercial agreements, achieving economic contact between the Far Eastern Republic and the United States, inviting foreign capital for the development of industry, signing contracts for concessions, realizing the possibilities of large trade exchange, obtaining information with regard to the possible application of American capital to the exploitation of the natural resources of the Far Eastern Republic, investigating the principal markets for the purpose of establishing commercial relations, and finally that of creating in conjunction with the Government of the United States general conditions for *rapprochement* based on the mutual understanding and confidence of the two Republics.

I have the honour to request Your Excellency to bring this communication to the attention of your Government, and to inform them that an American representative duly accredited to the Government of the Far Eastern Republic will be welcomed in Chita, and to ask the American Government whether it will agree to receive our Mission in Washington.

May I express the hope, Monsieur le Ministre, that in view of the importance of all the matters referred to above, you will exert all possible efforts for their early solution, and that you will consent to inform me of the reply of the Department of State as soon as you have received it.

I avail myself [etc.]

[IGNATIUS L. YOURIN

*The President of the Mission
of the Far Eastern Republic to China]*

PEKING, *March 26th, 1921.*

033.61a11/— : Telegram

Mr. Alexander M. Krasnoshchekov to the Secretary of State

CHITA [*undated*].

[Received April 1, 1921—4:17 a.m.]

Allow me in the name of the Far Eastern Republic and the Constituent Assembly now in session to ask you to deliver to your Government the following request: The Constituent Assembly composed in

its greatest majority of peasant representatives considering the ways and means for mutual information and for the establishment of peaceful commercial and political interrelation with the United States of America and especially for the close study of the highly developed structure of the economic organization of the industrial and particularly agricultural life so important for the regeneration of the Far East, considers advisable the sending of a special Assembly commission mostly peasant accompanied by an attaché of the Ministry for Foreign Affairs into the United States. An answer to this request which I hope will be favorable would be appreciated in the nearest future before the close of the Assembly which will take place in the early spring. Particular arrangements about the number and composition of the commission could be, in case of favorable decision, made through the consul of the United States America at Vladivostok.

Chita, March 28, 1921.

*Minister for Foreign Affairs,
Far Eastern Republic,
KRASNOSCHEKOFF*

861a.01/29 : Telegram

The Secretary of State to the Chargé in Japan (Bell)

[Paraphrase]

WASHINGTON, April 6, 1921—6 p.m.

66. A decision has been reached by the Department to have an observer go to Chita. The Department has asked the War Department to send the military attaché in Japan or one of his assistants for this work, as it is thought best that the observer should be familiar with conditions in Japan and with the Japanese. It is understood that Davis⁴² is the one chosen. Telegraphic instructions are being sent to Burnett⁴³ by the War Department to confer with you regarding instructions to be given to Davis.

Tell Davis that the sole purpose of his mission is to obtain information as to existing military, economic and political conditions in what is known as the Far Eastern Republic. Warn him in his informal relations with the local authorities to carefully avoid any statements regarding the possible future policy of the United States regarding Siberia.

You may at your discretion tell the Japanese Foreign Office that the United States is sending an officer to act only as an observer.

⁴² Maj. W. J. Davis, assistant military attaché.

⁴³ Lieut. Col. Charles Burnett, military attaché.

Specifically the Department desires if possible to learn:

1. The details of the existing system of government, such as qualifications for voting; tendencies toward democracy, if any; nature and relative power of the political parties and of party leaders; rights of private property.
2. To what extent Japanese influence is felt at Chita.
3. The same as to Semenov's influence.
4. The same as to the influence of the Russian Soviet Government.
5. Immediate trade possibilities.
6. Whether it is advisable to encourage American business men to go Chita.
7. Whether the *status quo* is likely to continue.
8. Whether it is advisable to have the United States station at Chita a consular officer.

The War Department will instruct Davis to report to you. Information should be shared with Burnett. The Military Intelligence Division here will be informed by the Department.

HUGHES

861a.01/31 : Telegram

Mr. Alexander M. Krasnoshchekov to the Secretary of State ⁴⁴

PEKING [undated].

[Received April 12, 1921—11:09 a.m.]

I have the honour to transmit herewith for the information of your Government a copy of the declaration of the Constituent Assembly of the Far Eastern Republic addressed to all the nations and governments of the world and a copy of the memorandum addressed to the Government of the United States of America.

KRASNOCHKOFF

*Minister of Foreign Affairs
of the Far Eastern Republic*

CHITA, *March 22nd, 1921.*

DECLARATION OF THE CONSTITUENT ASSEMBLY OF THE FAR EASTERN
REPUBLIC

To all governments and nations of the world:

The two and half years' heroic struggle by the revolutionary people of the Russian Far East against the hated regime of the usurping atamans and their adherents has ended in a complete victory of the people. Owing to the international situation and with a view to

⁴⁴ Evidently transmitted from Peking by the Mission of the Far Eastern Republic to China.

preventing the Far East from becoming a permanent base of warfare against Soviet Russia, the people of the Russian Far East have given up their sacred wish of an immediate reunion with their mother country Russia and have entered upon the course of establishing within the territory of the Russian Far East an independent sovereign republic. The independence of this Republic was recognized by the Socialist Federated Republic of Russia in its act of May 14th, 1920. To form a government and to enact fundamental laws of the Republic the Constituent Assembly was elected by the free will of the people of the Far Eastern Republic expressed by universal, equal, direct and secret ballot and by proportional representation with no distinction of nationality, sex or religion. Considering the creation of such a government as will secure the full rights of the people by promoting stability and complete freedom of creative initiative of all citizens in the territory of the Far Eastern Republic to be its momentous task the Constituent Assembly hereby solemnly declares to the entire world: that:

1st. The whole of the territory of the former Empire of Russia east of the River Selenga and Lake Baikal to the Pacific Ocean including the regions of Baikalia, Zabaikalia, Amur, Priamur and Maritime Province and the northern part of Sagalien Island is hereby declared under the jurisdiction of the independent sovereign democratic state of Far Eastern Republic.

2d. By virtue of an agreement the demarcation line between the Soviet Republic of Russia and the Far Eastern Republic is drawn as follows: From the River Selenga from its exit from Mongolia to the administrative boundary of the former Selenginsk, Barguzinsk and Verkhneudinsk Counties, following the boundary of these countries [*counties*] to Lake Baikal then eastward through the middle of Lake Baikal along the old boundary between the Yakutsk, Zabaikal, and Amur districts to the watershed between the rivers Kiran and Pesma along the watershed of these rivers to the shores of the Okhotsk Sea and the Cape of Mejeland including all the islands south of the Cape of Mejeland.

3d. The sole masters exercising the sovereign rights within this territory are the people who inhabit it and consequently the presence of an armed force of a foreign power in their territory or interference by a foreign power with the internal affairs of the country is not only regarded as an encroachment on the rights of the Russian people in the Far East but as an act of gross violence and usurpation and as a violation of fundamental international rights.

4th. All the treaty rights of the former Empire of Russia in the leased territory of the Chinese [Eastern Railway] revert to the Government of the Far Eastern Republic and are therefore subject to

revision conjointly by the Governments of the Far Eastern Republic, the Socialist Federated Soviet Republic of Russia, and the Republic of China.

5th. Hereafter the supreme power in the territory of the Far Eastern Republic must belong to the people and no one else.

6th. The form of government the foundation of which the Constituent Assembly has been called to lay will rest on the principles of real democracy and self-government ensuring the sovereignty of the entire population and the irrevocable rights of the toiling majority whose will has been expressed directly through their representatives elected according to the principle of universal, direct, equal and secret ballot and with due consideration to the principle of proportional representation guaranteeing the rights of the minority.

7th. Considering the individual self-assertion of the community and the free expression of initiative, whether by individuals or groups, as a necessary condition of the development of the country the Constituent Assembly, by abolishing all class distinction and privileges, guarantees all political freedom to the population such as personal immunity, freedom of the press and speech; of meeting; union, strike; conscience and movement.

8th. Corporal and capital punishment, the remnant of the old regime, are hereafter abolished.

9th. Having set upon the peaceful reconstruction of economic and political life of the country the Constituent Assembly declares that the civil strife has ended and that all political offenses are forgiven by decree of amnesty which the Constituent Assembly is going to issue without delay.

10th. The institution of private ownership remains untouched the Government guaranteeing full immunity to all citizens of the Republic as well as to the citizens of foreign countries who may come to live there. The limitation of the rights of private property may be extended only in the interest of the general public and only in cases provided by law.

11th. Land being the vital force of the entire population the natural resources of land and water are hereby declared the property of the people and therefore cannot become private property. Pursuing the economic policy of the open-door and equal opportunities for foreign industry and trade and endeavouring to resume economic relations with other nations on a basis of mutual exchange the Government of the Far Eastern Republic will take every possible measure to make the terms appealing to foreign capital and foreign initiative for the development of the natural resources of the country without violating the sovereign rights of the people of the Russian Far East and the laws for the preservation of the rights of the workmen.

12th. All small national minorities in the territory of the Far Eastern Republic are hereby granted the right of autonomy which is considered as a necessary measure for independent development of their national capacity. On the basis of firm insistence upon their sovereign rights and by their incessant efforts to establish themselves on peaceful principles the people of the Far Eastern Republic will build their relations with neighbouring nations upon the foundations of mutual understanding and respect, confidence and peaceful cooperation. The Constituent Assembly continues its task with the belief in the creative power of the revolutionary people of the Far East and in their readiness to defend their rights and their peaceful labour.

For the Constituent Assembly of the Far Eastern Republic. President Shiloff; Secretary Uchovii [*Sukhovy?*], Chita, March 22nd, 1921.

To the Government of the United States of America.

MEMORANDUM

In the official declaration of the American Government which was received at Vladivostok on August 5th, 1918, it was stated that the United States and Japan were the only countries at the time which were in a position to act in Siberia with sufficient forces even to achieve such a modest task as the one the Government of the United States has put before itself.⁴⁵ The Government of the United States proposed therefore to the Government of Japan that both countries should send a military force of several thousand men to Vladivostok to cooperate in the occupation of the city with the view of guarding the rear for the Czecho-Slovak troops who were advancing eastward. The Japanese Government agreed to that proposal. The Government of the United States declared to the Russian people in a most frank and solemn manner that it did not aim at infringement upon the political sovereignty of Russia, that it did not want to interfere with her domestic affairs even within those limited areas which the American troops might be forced to occupy, and that it had no intention to encroach upon the integrity of Russian territory at that time or in the future; that the American Government aimed exclusively at helping the Russian people in the manner most acceptable to them in their efforts to regain control of their own affairs, their territory and their destiny. It was understood that the Japanese Government would issue a similar [statement]. The declaration of the American Government established the following facts: That the American troops landed at Vladivostok to assist the Czecho-Slovaks; that the American Government proposed to the Japanese Government to send

⁴⁵ *Foreign Relations, 1918, Russia, vol. II, p. 328.*

its troops into Russian territory and that the former is therefore responsible for the further stay of the Japanese troops in the territory of the Far Eastern Republic; that the American Government has solemnly guaranteed its noninterference with Russian affairs and the inviolability of Russian territory. Under these conditions America invited Japan to cooperate in the matter of assisting the Czecho-Slovaks. At about the same time (in August) the Japanese Government in its official declaration repeated the above statement.⁴⁶ Not going into details of the said history of the intervention it is enough to say that at the end of 1919 and at the beginning of 1920 the Allies have one after another withdrawn their troops from Siberia. The last transport of American troops left Vladivostok in March, 1920, and soon after that the remainder of the Czecho-Slovak forces left our country. The Japanese troops have not been withdrawn; Japan has brought out pretext after pretext to justify their stay—Japanese interests in eastern Siberia; the possible menace to Korea and Manchuria and the unsafe conditions menacing the life and property of her citizens. Instead of the evacuation of the Japanese troops we witnessed the events of April 4th and 5th, 1920, with all the later results, and in July last Japan occupied the Saghalien district. The Japanese troops were withdrawn from Trans-Baikalia and the district around [Khabarovsk] while the Maritime Province is still occupied by them. The Maritime Province is now the only place where the criminal counter revolutionary bands of Semenov are murdering and terrorizing the population. There as in Saghalien the people do not feel themselves any longer the masters of their own land. The Japanese activity in the Maritime Province, especially their interference with railway affairs, forced the members of the inter-Allied Technical Board to adopt a resolution asking their respective Governments whether it would be expedient to continue their work in view of the interference of the Japanese Command. The American Government made no statement to the Russian people of the Far East at the time of the departure of the American troops. It is therefore not quite clear to the people of the Russian Far East whether the American Government had achieved the purpose for which it sent troops to Siberia. Does the American Government consider that the Allied intervention has come to an end. In the declaration of March 14th, 1919, with regard to the establishment of the Inter-Allied Technical Board it was stated that this arrangement for the board would become invalid as soon as the Allied troops should be recalled from Siberia. The fact of the Inter-Allied Technical Board remaining in Siberia would indicate that the intervention continues with American participation. The

⁴⁶ *Foreign Relations*, 1918, Russia, vol. II, p. 324.

representatives of the Russian people in the Far East are compelled by the present circumstances to request of the American Government an explanation of the following:

(1) Does the United States Government adhere to its declaration of August 5th, 1918?

(2) If it does then how does the United States explain the continuance of the intervention after the evacuation of the Czechoslovak troops?

(3) If it does not adhere to that declaration then when will the United States Government declare with the same solemnity that the intervention has ended?

(4) When will the United States Government which invited the Japanese Government to a military cooperation in the Russian Far East require a definite end to the intervention which began in 1918 by that invitation? In spite of the numerous obstacles which have been put and are put before the people of the Russian Far East in their efforts to unite they have found strength enough to achieve their aim. By the will of the entire people of the Russian Far East, without distinction of classes and nationalities, the Constituent Assembly has now been convoked on the principle of universal suffrage. The Constituent Assembly has confirmed the independence of the Russian Far East and the formation of a democratic Far Eastern Republic. The Russian Socialist Soviet Federative Republic has recognized the independence of the democratic Far Eastern Republic and now the Constituent Assembly which represents the people and expresses their will expects the United States of America to accord recognition to the Far Eastern Republic.

For the Constituent Assembly of the Far Eastern Republic:
(Signed) Shiloff, President; (signed) Suchovy, Secretary.

Authenticated by Kozhevnikoff, Assistant Minister of Foreign Affairs of the Far Eastern Republic.

Chita, March 22nd, 1921.

121.54/1968 : Telegram

The Secretary of State to the Chargé in Japan (Bell)

[Paraphrase]

WASHINGTON, April 14, 1921—6 p.m.

68. After conferring with the War Department, this Department has requested that Abbott⁴⁷ and Davis be sent for the purpose of gathering the information described in our no. 66 of April 6, 6 p.m. They will act under the instructions contained in that telegram.

⁴⁷ James F. Abbott, commercial attaché at Tokyo.

It is not the wish of the Department to detail a consular officer for a mission of this kind.

Abbott and Davis should go to Vladivostok direct from Tokyo and from there to Chita. They should stay in the Far Eastern Republic only long enough to gather the desired information.

The Department does not wish to have this action attract undue attention. Informally and only for its information you may notify the Japanese Foreign Office.

Harbin, Vladivostok and Peking should be informed.

HUGHES

121.54/1974a : Telegram

The Secretary of State to the Chargé in Japan (Bell)

WASHINGTON, April 23, 1921—6 p.m.

74. For your information. Repeat to Vladivostok.

Although Davis and Abbott should already understand from previous instructions that their duties are solely investigational, inform them upon their arrival that Department does not desire this occasion to be used for the active furtherance of business interests, nor should they be accompanied to Chita by business men.

Report full name, nationality and business of interpreter.

HUGHES

861a.01/58

Mr. Ignatius Yourin to the Secretary of State

PEKING, April 27, 1921.

[Received June 27.]

SIR: I am very glad to avail myself of the kindness of Mr. Roy Anderson⁴⁸ to send you this letter. At the present moment such an opportunity is especially to be appreciated, for there is still no normal communication and the existing method of information is neither correct nor devoid of partiality.

It is quite true that the telegraph and press information which reaches us is also neither complete nor trustworthy. But it would be an error to suppose that because of the meager information in our possession and of the lack of normal economic and other relations we have any feelings of enmity or estrangement towards America. The real state of affairs in the Russian Far East is far

⁴⁸ American citizen, long resident in China.

from being such, and I avail myself of the present opportunity to communicate to you the true feelings and attitude of our country towards America.

The question of entering into closer relations with America is a matter of great importance for us not only from the point of view of international politics, but also from the fact that it has a very important bearing upon the life of every citizen of the Russian Far East. The new republic which I have the honour to represent in Peking is in exceptional economic circumstances. The fact of her being thinly populated and also that of her immense natural resources are raising the problem of the utilization of these resources for the benefit of the people. It is the aim both of the people and of the Government to industrialize the country in order to attain prosperity and welfare. But the industrialization of the country is impossible without the participation of foreign capital, a fact which has been fully realized both by our people and Government. And for that we look towards America. The capital of our immediate neighbour, China, is still too limited to be of much value to us. . . . During the same years we began to regard America from a different viewpoint than that from which we looked upon Japan. We knew that the American people were the first to put an end to the useless and unjust intervention which was profitable only to those who did not expect to come to a frank and honest understanding with the people of the Russian Far East. We are not ignorant of the American system of Government, American technical achievements and American methods. Russia who is now short of goods knows the value of American goods. It is this that attracts the attention of the people of the Russian Far East and induces them to look for a closer cooperation with America. Our people are convinced that America has no aggressive designs in the East. The Russians do not oppose America's interests in the Far East, but on the contrary are ready to encourage in every possible way those who have not lost their heads in this time of general confusion and who are aiming at the economic development of the Far East, and are ready to come to our country for friendly cooperation. These considerations are forcing our Government to look for a closer relationship with the United States of America.

It has always seemed to the people of the Russian Far East that America is interested in the Far East, and that the system of government in the Russian Far East whether Soviet, democratic or Japanese could not be a matter of indifference to America. . . . I doubt whether it is for the interest of America to show to the Russian Far East that the fate of the latter does not concern her, or

to cast the Russians aside, thus forcing them to remain indifferent to America, or even compelling them to throw themselves on the side of the enemy in the face of possible conflicts in the East. It is the moral support of America that will gain the sympathy of the people of the Russian Far East. And in all other respects America must be equally interested in the Far Eastern affairs. All that having been taken into consideration has caused the people of the Russian Far East to urge their Government to enter into closer relations with America.

It is the first time after years of political slavery and economic stagnancy that the wish of the people to labour peacefully and to develop the resources of their country has been strongly expressed. The recent years of intervention and civil war have strengthened the desire of the people to establish such a government as would give them the possibility for peaceful labour and development. The Constituent Assembly of the Far Eastern Republic, elected by universal suffrage, is now aiming at affording the people the opportunity to achieve that end, and as one of its first steps in that direction has made an appeal, of which you no doubt are aware, to the people and Government of the United States.

I avail myself of this opportunity to communicate to your Government that a closer union and cooperation with America is still the wish of the people of the Russian Far East, and that such a union and cooperation is a matter of vital importance to the welfare of the Russian Far East, and also to state that the people and the Government of the Far Eastern Republic are anxiously awaiting America's reply.

Wishing you success in your work and trusting that the interests of both your country and your people will point you to the road of friendly assistance and cooperation with the Russian people of the Far East,

I remain [etc.]

IGNATIUS YOURIN

*President of the Mission of the
Far Eastern Republic to China*

121.54/1987 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, May 24, 1921—12 a.m.

[Received May 24—6:10 a.m.]

182. My 172, May 21, noon.⁴⁹ Abbott and Davis arrived Chita 20th.

BELL

⁴⁹ Not printed.

861.00/8729 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, June 19, 1921—6 p.m.

[Received June 19—2:10 p.m.]

211. Abbott telegraphs from Chita under date of June 17th that the town is quiet and that Ungern's⁵⁰ forces were confronted [*defeated*] by Red Army near Verkhneudinsk June 6th.

BELL

861.00/8798 : Telegram

The Chargé in Japan (Bell) to the Secretary of State

TOKYO, July 9, 1921—3 p.m.

[Received 5:18 p.m.]

237. Following from Davis, Abbott at Harbin:

"July 6th, arrived today. Conditions in Chita continue normal and are improving commercially. Majority of [outside] press reports wholly untrue. No internal disturbances and government confident of ability to cope with Ungern and [Semenov] barring unforeseen complications. . . . Kraussnochokoff [*Krasnoshchekov*] now in Chita. He does not desire so much formal recognition by the United States as permission to send a delegation to America to state their [case and their] needs promising to abstain absolutely from propaganda. He is also keenly desirous that America announce the terms of her participation in the Siberian intervention, failure to do so puts America in the position of approving the action of her ally Japan since no public statement accompanied the withdrawal of our troops. Japan and Semenov influence in Chita insignificant, . . . Prospects for harvest good. No reason why Americans should not travel freely. Paper money abolished and hard money scarce which limits trade. Good opportunities for investment development. We think [status quo] will be maintained. Moscow decision reserved, Crane left Chita July 2nd for Petrograd. Abbott hopes to leave for America early in August."

Davis and Abbott arrive in Tokyo July 13th.

BELL

123 C 12/129a : Telegram

The Secretary of State to the Chargé in Japan (Bell)

[Paraphrase]

WASHINGTON, September 9, 1921—6 p.m.

149. You are to instruct Consul John K. Caldwell to go to Chita, Siberia, with as little delay as possible, on special duty. He is to

⁵⁰ Baron Ungern Sternberg, formerly a captain in the Russian Imperial Army, was advancing from Urga, in Mongolia, which he had captured in February 1921.

stay there until given further orders, which will probably be about January 1. He will then either return directly to the Embassy or to his present station, Kobe. While at Chita he will not engage in routine consular functions, limiting his activities to informal association with local authorities and others and to friendly observation. At his discretion in case of necessity he may exert his influence to protect American private interests.

It is assumed that considering the friendly purpose of his visit, no objection will be made by the so-called Far Eastern Republic, and that, without bringing up the issue of recognition, it will willingly maintain informal contact with him.

Instruct our consul at Dairen, Kirjasoff, that he should informally and discreetly immediately advise Kojevnikoff or another agent of the Far Eastern Republic at the Dairen conference that we are sending Caldwell to Chita for the purposes mentioned. Care will be exercised by Kirjasoff not to give the impression that the United States contemplates granting recognition to the Far Eastern Republic. Kirjasoff on his own responsibility may interpret the sending of a consular officer of rank to Chita as indicating friendly interest. Kirjasoff will say to the Chita delegates, giving it as his personal opinion, that if arrangements were made which might place the administrative or territorial integrity of Eastern Siberia in danger or change the status of Russian rights and interests it would be unfortunate, especially in view of the coming Washington Conference.

At your discretion you may inform the Japanese authorities that Caldwell is being sent as an observer temporarily to Chita. Consul Kirjasoff should give the same information in answer to any questions on the matter which the Japanese delegates at Dairen may ask him.

Instruct Vice Consul Thomas upon return Consul at Harbin to accompany Caldwell to Chita and remain there under his orders until further instructions. Instruct Vladivostok to send Monroe to Harbin to replace Thomas.⁵¹

HUGHES

500a4/191: Telegram

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

Tokyo, September 23, 1921—6 p.m.

[Received September 23—1:11 p.m.]

313. Following telegram received from consul, Dairen.

⁵¹ This paragraph not paraphrased.

"September 23, 11 a.m. Referring to the American Government's apparent refusal to permit Far Eastern Republic to send delegates to Washington Conference,⁵² Yourin inquires if there is any objection to send trade mission from Chita.

WARREN

123 C 12/132 : Telegram

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

[Paraphrase]

WASHINGTON, September 27, 1921—4 p.m.

164. Your telegrams 312⁵³ and 313 of September 23. The following is for repetition to Peking as Department's 265, with such further information as you may need to add regarding the purposes of Caldwell's visit, to enable the Legation to understand this instruction.

Inform Yourin when he returns to Peking that you understand Consul Caldwell is starting for Chita and express your personal opinion that the Chita authorities would be well advised not to raise any complications but to allow him to go to Chita without hindrance. This communication to Yourin should be made unofficially and informally by such method as seems best.

Doubtless the conditions under which individual Russians are granted visas to enter the United States are generally understood in the Far East.

HUGHES

861a.01/39 : Telegram

The Minister in China (Schurman) to the Secretary of State

[Paraphrase]

PEKING, October 4, 1921—10 a.m.

[Received October 4—4:40 a.m.]

343. My 340, October 1, via Tokyo.⁵³ Much more importance is attached by intelligent public opinion here, American included, to the Far Eastern Republic as a factor in the problems of the Far East than by public opinion in the United States. Such opinion here holds that not receiving a mission for strictly commercial purposes nor giving an invitation to the Washington Conference has a tendency to throw the Far Eastern Republic into the arms of the Japanese. It was stated to me last Friday by Yourin himself that American action to help his people might be taken too late. I learn

⁵² See telegram no. 545, Sept. 17, to the Ambassador in Great Britain, vol. I, p. 69.

⁵³ Not printed.

from other sources that there is a danger of the Far Eastern Republic reaching an agreement with Japan before the Washington Conference convenes. This would be done by the cession of Northern Sakhalin to the Japanese. Probably no such cession would be made if the United States could admit a commercial mission.

SCHURMAN

861a.01/89 : Telegram

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

WASHINGTON, October 4, 1921—2 p.m.

173. For your information; repeat to Peking:

Your 340, October 1⁵⁵ and 343, October 4, 10 a.m.

As intimated in Department's 265,⁵⁵ visas will be granted upon individual application to responsible persons of good record whom the Far Eastern Republic may care to send to the United States for commercial purposes. The Department would extend them informal assistance but no official recognition. This coincides with facilities afforded Baltic States and other unrecognized governments.

HUGHES

123 C 12/140 : Telegram

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

TOKYO, November 4, 1921—10 a.m.

[Received November 4—3:41 a.m.]

369. My 367, November 1, 10 a.m.⁵⁵ Caldwell arrived Chita November 2.

WARREN

861a.01/112 : Telegram

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

[Paraphrase]

TOKYO, November 10, 1921—11 a.m.

[Received November 10—6:02 a.m.]

379. Following summarizes telegram from Caldwell dated November 4:

Purpose of his visit to Chita was explained by Caldwell to the Minister of Foreign Affairs, Janson. The latter did not raise question of recognition but said in reply that it was his hope that permanent commercial relations between the United States and Chita might be the outcome of Caldwell's visit. Late arrival of some

⁵⁵ Not printed.

delegates has delayed opening of National Assembly. Referring to telegraphic instructions from the Department to the Consul at Vladivostok, Caldwell requested Janson to give him copies of treaties or agreements arrived at between the Chita government and any other or information concerning them. The Minister of Foreign Affairs replied that none had been made. He also said that although he could not supply a copy of any agreement being negotiated he would give Caldwell information concerning the general character of such agreements. Janson also said that at the conference at Dairen Japan had made some concessions and he thought that the Chita government and Japan would reach some agreement there. The authorities at Chita seem very friendly and are eager to give assistance. Caldwell is sending his telegrams to Harbin consulate from where they are relayed as it is not possible to telegraph further from Chita. I am enclosing complete text in a despatch.⁵⁶

WARREN

861b.6363/8 : Telegram

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

[Paraphrase]

Tokyo, November 14, 1921—4 p.m.

[Received 5:25 p.m.]

384. Caldwell telegraphs as follows under date of November 10, 1 p.m.

"I called today on the Minister for Foreign Affairs,⁵⁷ at his request, with reference to the agreement which the Far Eastern Republic is about to conclude with the Sinclair Oil Corporation for a concession in the Russian portion of Sakhalin Island. Our Commerce Department and other departments have received information already regarding this. I was asked by the Minister for Foreign Affairs what was my opinion as to the attitude of the American Government regarding such a concession. He wished especially to be informed as to whether to expect it to receive active support. In reply I said that I was not able to give an opinion regarding the support which might be expected for this special case. I added that I would report to the Department on this matter and that generally the American Government is ready to support any American interests abroad if they are legitimate.

My attention was called by the Minister to a Tokyo telegram appearing today in a local paper which reported a rumor to the effect that President Harding and the Japanese Ambassador in the United States had agreed that in the Far East Japan should have special privileges for her development. The Minister referred also to several recent press reports which predict Washington Conference ac-

⁵⁶ Not printed.⁵⁷ Of the Far Eastern Republic, China.

tion regarding Siberia. The Chita government believes that a free hand will be given to Japan in Siberia, which will be a serious disadvantage to the Chita government. The result is a feeling in the Government of much uneasiness if not actual distrust with regard to the intentions of the American Government as to Siberia. Such action as the Chita government fears on the part of the American Government, I have pointed out, would be in contradiction to the American Government's declarations regarding its Russian attitude. It would have a good effect, however, if some further reply could be authorized which would express even more definitely the attitude of our Government on this particular occasion or else in this connection repeat a general statement which has been given already.["]

WARREN

861a.01/120 : Telegram

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

WASHINGTON, November 15, 1921—7 p.m.

196. Your 384 November 14, 4 p.m., for Caldwell

"Your November 10, 1 p.m., action approved. Position of this Government at the Washington Conference with reference to Russia was set forth in the announcement of September 19⁵⁸ (Department assumes Caldwell has copy of statement referred to.) No foundation whatever for statement regarding alleged understanding between President and Japanese Ambassador here. You may so inform Chita authorities if you think advisable."

HUGHES

861a.01/216

Memorandum by the Acting Chief of the Division of Russian Affairs, Department of State (Poole)

[WASHINGTON,] December 8, 1921.

MR. FLETCHER: On December 7, there called at the Russian Division of the State Department the special trade delegation of the Far Eastern Republic to the United States consisting of:

Chairman—Mr. Alexander A. Iazikoff,

Members—Peter N. Karavaeff, Boris E. Skvirsky.

I received the delegation informally, Messrs. Jameson and Kleifoth of the Russian Division and Mr. E. T. Williams of the Conference section of the Far Eastern Division, being present. Mr. Skvirsky not only acted as interpreter, but also took the leading part in presenting the views of the delegation.

He stated that the object of the mission was twofold, political, and commercial. On the political side they were interested in present-

⁵⁸ See telegram no. 545, Sept. 17, to the Ambassador in Great Britain, vol. I, p. 69.

ing their case to the United States Government and to the Conference, giving all available data regarding conditions in the Far Eastern Republic with a view to securing recognition of their country, and the withdrawal of the Japanese troops from Siberia. They desired to establish normal relations with the United States.

From the commercial angle they desired to arrange for resumption of trade relations but did not go into details due to lack of time during the interview.

I pointed out that no delegations from countries not recognized by the United States would be received officially by this Government, nor by the Secretary of State, but that the Russian Division of the State Department would be pleased to discuss matters informally with the Representatives from Chita. Mr. Skvirsky stated that the delegation realized that the United States could not receive them officially and that they would be pleased to discuss the matters informally with the Russian Division but desired to present their case to the Conference informally. He said the delegation would present their credentials to the Chief of the Russian Division if it were impossible to present them to the Secretary of State.

Regarding the Mongolian question Mr. Skvirsky gave a brief sketch of the history of the attack of Semenoff's lieutenant, Baron Ungern Sternberg, upon Urga and upon the Far Eastern Republic, the necessity of the Far Eastern Republic defending its lands, and the recent defeat of the Ungern troops by the joint military operations of the Soviet troops and those of the Far Eastern Republic. (See Memo. of Mr. E. T. Williams attached ⁵⁹).

I pointed out that the continued presence of Soviet Russian troops in Mongolia without a protest from the Far Eastern Republic placed the latter in an unfavorable light. It indicated that the Far Eastern Republic was a party to Russian Soviet aggression in Mongolia or at least did not object to it, while at the same time Chita was pressing for Japanese withdrawal from Siberia.

As regards the Chinese Eastern Railway I assured him that the purpose of the United States in joining with other powers in the plan adopted for allied supervision of the Chinese Eastern Railway in 1919, was to temporarily operate the Railway in the interest of the Russian people with a view to its ultimate return to those in interest, without the impairing of any existing rights.

This was our honest endeavor and it was suggested that the Chita Representatives give a frank statement of their attitude toward temporary international control of the Chinese Eastern. Mr. Skvirsky confirmed the information in the hands of the State Department that negotiations were being carried on between the Far Eastern Republic and China looking toward the protection of the

⁵⁹ Not printed.

rights of both countries in the Railway Zone. He said that a meeting or conference was scheduled to take place in the near future at Manchuli between the representatives of the two countries. He further remarked he would have to cable his Minister of Foreign Affairs at Chita regarding his country's attitude toward international control. He was given the substance of the telegraphic correspondence between the State Department and Consul Caldwell at Chita on this subject, but made no clear statement as to the attitude of his country. . . .

As to the Dairen Conference Mr. Skvirsky said the Japanese had presented a proposed treaty consisting of seventeen points with three additional secret clauses. The secret articles were:

1. That the Far Eastern Republic should dismantle all fortifications on the Siberian Pacific coast;
2. That the Chita Government should recognize as valid all treaties and agreements made by Japan with the various governments which had existed in Russia and Siberia, (not only the Czar and Kerensky Governments but also all provisional and minor governments such as the various governments at Vladivostok and the so-called governments set up by Semenoff and other Siberian leaders);
3. That the Far Eastern Republic agree not to station her troops within some thirty miles of the Korean border.

Among the seventeen points were provisions giving Japan navigation rights on the Amur, Sungari and Ussuri rivers. Mr. Skvirsky stated he would give us more detailed information regarding the Dairen Conference in the near future, but that the Far Eastern Republic had insisted upon Japan withdrawing its troops from Siberia on a fixed date, and would not agree to many of the Japanese demands.

D. C. P[OOLE]

CONTINUED REFUSAL BY THE UNITED STATES TO RECOGNIZE THE GOVERNMENTS IN THE BALTIC PROVINCES⁶¹

860p.01/8

*The Acting Secretary of State to the French Ambassador
(Jusserand)*

WASHINGTON, January 15, 1921.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of January 3, 1921,⁶² informing me that urgent representations have been made to the French Government by delegates of Latvia and Georgia looking towards the recognition of these States; that

⁶¹ Continued from *Foreign Relations*, 1920, vol. III, pp. 640-668.

⁶² Not printed.

this question, in the opinion of the French Government, can only be decided by an agreement between the Allied Powers; that such an agreement may be held to exist as a result of the decision of the League of Nations regarding the admission of these two countries into the League; and that, although the United States has not as yet ratified the Covenant of the League of Nations, the President of the Council, Minister for Foreign Affairs of the French Government, would be pleased to be acquainted with the views of the American Government in the premises and to know whether this Government considers possible and opportune a modification of the position it has hitherto taken towards the Governments of Latvia and Georgia.

This Government, as your Excellency is well aware, desires to act as far as possible in accord with the Governments with which it was associated in the war. It does not appear, however, that in the actual situation circumstances are so altered as to warrant a change from the attitude outlined in the note of August 10, 1920, regarding Russian affairs, addressed to his Excellency the Italian Ambassador,⁶³ with which your Government was duly acquainted.

Accept [etc.]

NORMAN H. DAVIS

860m.01/82

Mr. Jonas Vileisis to the Secretary of State

WASHINGTON, January 27, 1921.

SIR: Since I last had the honor of addressing you, two important communications from the American Government have been given to the public concerning its attitude towards questions involving Russia and the border States. I refer to Acting Secretary of State Davis's letter to Honorable Alton B. Parker, of January 8,⁶⁴ and the message of President Wilson to Mr. Hymans, of January 22 [18].⁶⁵ Both these communications contain statements which will have a hopeful and reassuring effect upon the people of Lithuania and, I may add, upon their sympathizers in the United States. Mr. Davis has stated that "There is no intention on the part of this Government 'officially to restore' the former boundaries of the Russian Empire, nor to impose on any of the non-Russian territories the rule of the Great Russians." President Wilson points out that "the present moment offers a peculiarly pressing challenge to an attempt at a general pacification on the Russian borders," and urges that the Powers of Europe join the United States in a declaration of policy calculated to secure such pacification.

⁶³ *Foreign Relations*, 1920, vol. III, p. 463.

⁶⁴ Not printed.

⁶⁵ *Post*, p. 924.

The Government of Lithuania is earnestly desirous of a return to peaceful conditions. All of its military efforts hitherto have been of a purely defensive character and the Lithuanian people will not take up arms, either of its own accord or at the instigation of any foreign power, in a war of aggression against any of its neighbors, nor will it willingly permit its neutrality to be violated for such a war.

Lithuania is the more desirous of peace because the past year has seen a remarkable growth of activity in the establishment of commercial relations with other countries, particularly with the United States, where a number of banking and other corporations have been formed among Americans of Lithuanian connections to transact business with Lithuania. With the large number of people of Lithuanian descent in the United States—in the neighborhood of one million—there is a hopeful future for these business enterprises, if only peace can be preserved.

On February 16, 1918, Lithuania declared its independence in the city of Vilna, which was declared to be the capital of the Lithuanian State. The Lithuanian Government approaches its third anniversary—February 16, 1921—with increased confidence in the future, notwithstanding the continued presence within the ethnographic boundaries of Lithuania, and far beyond the ethnographic boundaries of Poland (the Curzon-Polk line) of the rebel Polish General Zeligowski and his forces and notwithstanding the danger from Russia which is caused by this violation of Lithuanian neutrality on the part of Poland. The causes of the confidence of Lithuania are many, chief among them being the unshaken determination of the people to maintain their freedom. But it is respectfully submitted that a survey of the course of affairs in Lithuania during the past three years will show that the Lithuanian people have succeeded in setting up a stable, orderly government and that they have the power, as they have the right, to administer their own affairs with entire independence.

I have the honor, therefore, to renew my request that the Government of the United States recognize the independence of the Government of Lithuania. May I be permitted to suggest that if the Government of the United States should extend recognition to the Government of Lithuania at this time, it would come with peculiar graciousness and fitness at the anniversary of the declaration of Lithuanian independence.

With assurances [etc.]

J. VILEISIS

Representative of Lithuania in America

760n.61/6a : Telegram

The Secretary of State to the Commissioner at Riga (Young)

WASHINGTON, May 7, 1921—5 p.m.

61. Your 386, 387, 388, Hollyday's 193 and 198.⁶⁶ Report at once by cable briefly your opinion as to probability of any early Bolshevik effort military or peaceful to absorb Baltic States and probability of success as affecting possible recognition of Esthonia and Latvia by the United States.

HUGHES

760n.61/7 : Telegram

The Commissioner at Riga (Young) to the Secretary of State

RIGA, May 9, 1921—noon.

[Received 8:43 p.m.]

407. Department's 61, May 7, 5 p.m. There is no indication of intention Bolsheviks to endeavor effect through military measures conquest and absorption Baltic States. Intensive propaganda has been carried on by Bolsheviks for past year in each of the three states but with comparatively little success. These propaganda efforts are largely counteracted by the large number of nationals returning from Soviet Russia to Balkan [*Baltic*] States.

I unhesitatingly recommend immediate *de jure* recognition Esthonia and Latvia with recognition *de jure* of Lithuania coincidentally with or immediately following similar action by European powers. The present Government apart from [*sic*] Moscow must continue to move to the right or fall and our manufacturers and exporters interested in Russian trade should be establishing at Reval and Riga bases for future operations.

YOUNG

860n.01/32

The Russian Ambassador (Bakhmeteff) to the Assistant Secretary of State (Dearing)

WASHINGTON, July 1, 1921.

MY DEAR MR. DEARING: Referring to our recent conversation I take pleasure in forwarding herewith an *Aide Memoire* on the problem of the Baltic States. The point of view expressed therein is typical of Russian constructive opinion. The basic conceptions

⁶⁶ None printed.

found expression as early as March, 1919, in a communication addressed to the President of the Peace Conference by the Russian Delegation in Paris which unofficially represented national opinion during the negotiations of peace.

I am [etc.]

B. BAKHMETEFF

[Enclosure]

Aide Mémoire by the Russian Embassy

1. The fundamental feature of the problem of the so-called Baltic States is the temporary character of their present orientation. Their actual tendency to sever relations with Russia and gain complete independence is not based on permanent economic factors or deep-rooted historical traditions. These aspirations are but a consequence of the Bolsheviki success in Russia. Thus the case of Latvia, Estonia and Lithuania, as well as of the Caucasian republics, is essentially different from that of Poland and Finland. In the past the Baltic nationalities never exhibited any desire to separate from Russia. Their aspirations were directed toward national autonomy within a federated Russia. The justice and expedience of such a course was fully shared by Russian liberal and democratic opinion.

Shortly after the downfall of the Czar a temporary autonomous regime was established in the Caucasus and in those parts of the Baltic provinces which were not occupied by German armies. During the period of the Provisional Government the leaders of the Baltic nationalities asserted on repeated occasions their allegiance to a democratic Russia. The Constituent Assembly was to embody the idea of a Federal Russia in enactments of organic law. Accordingly soon after the elections, in which the peoples of the Baltic provinces participated on equal terms with the population of other parts of Russia, a special commission was formed of the elected members of the Constituent Assembly to formulate the clauses of the Constitution of Russia pertaining to federation. Among the members of this commission were representatives of the Baltic nations, who later became prominent leaders of the self-dependent States. The following formula was presented by the commission to the first and only meeting of the Assembly on January 18, 1918:

“The Russian State is hereby proclaimed to be a democratic federal republic which unites in insoluble union peoples and territories, sovereign within the limits established by the Federal Constitution.”

2. The prospect of a peaceful consummation was swept away by the advent of the Bolsheviki. The Constituent [Assembly] was dispersed and militant communism triumphed practically over the

whole of Russia. Rather early in the Bolsheviki period the peoples of the Baltic succeeded in freeing themselves from the communist yoke. Under the conditions of the moment the institution of self-dependent states was the only alternative. There was no Russia to deal and cooperate with. Thus, establishment of local government and resumption of economic activities was to be followed unavoidably by assertion of independence. Events in the Baltic regions differ but little from developments in the Caucasus, in the Cossack regions, Crimea, Ukraine and Siberia. Early in 1919 Bolsheviki Russia was surrounded by politically independent bodies. In the course of time these governments were swept away by the communists. Siberia and South Russia succumbed first. The Caucasian republics, in the interim recognized by the Powers, followed.

The Baltic States survived. But obviously it was not their military power which saved them from Bolsheviki onslaught. Neither, in the light of events in the Caucasus, was it respect for principle which prevented Moscow from overrunning these weak bodies. The survival of the Baltic republics reposes on expedience which actuated the Bolsheviki to use these buffer states as a means of communicating with the outside world. Moreover, Lenin's policy to establish relations with Great Britain naturally held him out of regions where British activities were supreme and where interference might jeopardise higher accomplishments.

3. The future will undoubtedly bring a reunion of the Baltic States with restored Russia. This reunion will probably materialize in the form of a broad federation, something like the United States of Russia, with the constituent parts possessing the largest measure of autonomy. Powerful economic factors will actuate such reunion. The Baltic seaboard is the natural outlet for the vast Russian hinterland; for the export of Russia's timber, grain, flax and dairy products. Psychologically there is nothing to interfere with such a reunion. There existed no animosity between the Baltic nationalities and the Russian people as such. The grievances of the Letts, Estonians and Lithuanians were directed against the autocratic regime and the landlord privileges which were just as obnoxious to the great majority of Russians themselves.

The independence of the small states could be maintained only artificially through the political and economic support of an outside power, actuated by a purpose of jeopardising the economic freedom of Russia and interfering with the liberty of her commercial intercourse. This would be a factor working against peace and the open-door and would pave the way to disturbance and contest.

4. Russian constructive opinion fully realizes the circumstances which caused the temporary severance of the Baltic States from

Russia. There is no hard feeling borne by the Russians toward these States. On the contrary, consolidation of self-government and development of economic activities is considered as a victory of democracy and law over tyranny and anarchy. Russian opinion, therefore, regards with satisfaction any assistance given to these States and would only welcome the establishment of such relations between these temporarily self-dependent States and the Powers as are customary between civilized nations.

The only point to which Russian opinion strongly objects is the recognition of the States in a form which would legalize their separation from Russia and grant them an international status of complete sovereignty and independence. Such a course, qualified as "dismemberment of Russia", has called for most emphatic protests from Russian bodies of all shades of political thought. The integrity of Russia is especially cherished by the new democratic nationalism which has sprung from the calamities and sufferings of the recent years. This nationalism, which with all certainty will continue to prevail in the forthcoming reconstruction, has expressed its deep and sincere appreciation of the noble and friendly attitude of the United States.

5. The Russians consider their country to be in a state of temporary illness. The triumph of the Bolsheviki is primarily the result of the incommensurable effort and sacrifice of the Russian people in the world war. The withdrawal of Russia was not an act of treason but a tragedy resulting from physical and moral fatigue. The Russians wish to feel that Russia's contribution is remembered and their country treated accordingly.

It would be a flagrant violation of the principle of political morality if advantage would be taken of the temporary disability of Russia for settlements which would prejudice Russia's position as a political and economic entity. It would evidence the fact that force and not law and justice continues to govern in international relations. The Russians maintain that Russia's rights should be kept in trust by the community of nations and that final settlements should be deferred until a time when decisions can be made with Russia's participation and consent.

Such a procedure can be opposed on the ground that the time of Russia's recovery is uncertain. Obviously it would be unfortunate if trusteeship of Russia's interest would materially interfere with actual settlements or would jeopardise the needs of living people. Fortunately in the case of the border provinces this problem can be practically solved without violating the principle.

Practical relations could be established between the Powers and the small nationalities to the extent of granting them all the privileges, which customarily follow recognition, with the express understanding, however, that such a measure is introduced as a provisional accomodation. A regime of this kind could be maintained for a period indefinite; it would answer practical requirements without questioning the time of Russia's recovery. The interests of Russia would be safeguarded provided it was made clear that the regime was provisional, that it did not imply recognition of sovereignty or the sanction of severance from Russia and that the final decision is to take place when circumstances will permit the participation of Russia.

6. As a matter of fact, should the status of the small States be established at this time on the basis of unreserved recognition, such solution would possess only a semblance of permanency and would last only while Russia remained inarticulate. Even now the Baltic States might be swept away if circumstances would warrant the expedience of an aggression by the Moscow Soviet. In the future a recovered Russia will not accept a situation established on an *ex parte* decision. So, in order to arrive at a peaceful solution, the Powers will have to retract their decision granting sovereignty or a situation will be created, whereby Russia will be returned to the problems of the past centuries with all the consequences of eventual political and military disturbances.

Unreserved recognition, moreover, is pregnant with complications of formal character. In this case reunion with Russia would mean a fusion of sovereign states. It would not remain a question between the Baltic States and Russia. It would become a case of international concern requiring international sanction. The case of reunion of Russia would be similar in this event to a presumable fusion of the Balkan States or to an union of Belgium and Holland. A Power, desirous of perpetuating the dismemberment of Russia, would have simply to oppose the change of the *status quo*.

7. In order to maintain avenues for a peaceful and natural consummation, Russia must be certain of an unhampered course towards fair and just solutions. Forms of "conditional" recognition have no precedents in diplomatic practices. But precedents were established in the past by settlements of problems of permanent character. The situation in Russia is unprecedented in its very essence. It is a process, unparalleled in magnitude, consequence and duration. It calls for methods and instruments singular and unusual.

[WASHINGTON,] June 30, 1921.

AMERICAN ATTITUDE OF RESERVE TOWARD TRADE RELATIONS
WITH SOVIET RUSSIA ⁶⁷

661.1115/266

*The President of the American Federation of Labor (Gompers) to
the Secretary of State*

WASHINGTON, March 15, 1921.

SIR: If it is not incompatible with the public interest would it be possible for me to secure information from your department relative to the situation in Soviet Russia?

There is much propaganda being circulated in the United States claiming that the demand for manufactured goods in Russia is so great and the purchasing power of the Russian Soviet government so vast it is almost impossible to determine the actual capacity of the Russian market to absorb goods of foreign manufacture. This scarcity of goods is laid to the blockade, which as I understand it was removed July 8, 1920. It is said that the pressing needs of the Russians are large quantities of the following:

Locomotives, cars, rails, tires, springs, etc. Tractors, plows, reapers, mowers, binders, harrows, and other tools, large and small, binder twine. Motor trucks. Leather goods: shoes, etc. Textiles. Chemicals, drugs, soap. Notions. Belting, all kinds. Oil well machinery and piping. Mining machinery. Rubber goods. Ties. Typewriters. Sewing machines. Surgical instruments. Machinery and machine tools of all sorts. Printing presses, and printing supplies. Small tools. Sheet iron. Tool steel. Camera and camera supplies, films, etc. Raw cotton.

It is also claimed that the Commissariat of Foreign Trade of the Soviet government has given orders for the purchase of the following in America:

Agricultural machinery, including tractors, mowers, binders, reapers, plows, cultivators, etc., specified orders to the extent of \$50,000,000; machine tools, between \$3,000,000 to \$5,000,000; small tools, files, drills, etc., between \$3,000,000 and \$5,000,000; 30,000 to 100,000 tons of rails; 10,000 tons of locomotive ties; 2,500 tons of spring steel for locomotive and car springs; 10,000 tons of sheet iron; 50,000 tons of oil piping.

These figures, it is claimed, do not represent all the orders that would be placed at once.

It is alleged that the Federal Reserve Board has refused to permit the transfer of funds to the United States from the Soviet Russian government in order to pay for the goods, although payment in gold is guaranteed. It is claimed that the American manufacturers are

⁶⁷ For previous correspondence concerning trade relations with Soviet Russia, see *Foreign Relations*, 1920, vol. III, pp. 701 ff.

prevented from accepting the gold on the probability that it was illegally acquired by the Soviet government.

It is also said that the following raw materials are ready for shipment to the United States if only the American government recognizes the Soviet government of Russia:

Lumber, unlimited quantities; Flax, 20,000 tons; Hemp, 10,000 tons; Furs, 9,000,000 pelts; Bristles, sorted and cleaned, 1,000 tons; Horse hair, 2,000 tons; Manganese ore, 250,000 tons; Asbestos, 8,000 tons; Hides, 3,500,000 skins; Platinum, large quantities; Petroleum and petroleum products, 2,000,000 tons.

Another claim made is that if the restrictions placed on trade with Russia were removed it would place in operation many mills, shops and factories now closed down and would give employment to the unemployed of America.

This propaganda is being widely circulated among labor organizations and I have received many letters asking me what is the truth. In this connection I have repeatedly called attention to the action of the American Federation of Labor convention at Montreal, June 7-19, 1920, as follows:

“Resolved, That the American Federation of Labor is not justified in taking any action which could be construed as an assistance to, or approval of, the Soviet government of Russia as long as that government is based upon authority which has not been vested in it by a popular representative national assemblage of the Russian people; or so long as it endeavors to create revolutions in the well-established, civilized nations of the world; or so long as it advocates and applies the militarization of labor and prevents the organizing and functioning of trade unions and the maintenance of a free press and free public assemblage.”

This resolution was based on a report made by the Executive Council of the American Federation of Labor and previously unanimously approved by the convention, as follows:

“Bolshevism has been a lure for some of our people and its doctrines have been propagated with great vigor. This hideous doctrine has found converts among two classes of people principally—those intellectuals, so-called, who have no occupation save that of following one fad after another, and those so beaten in the game of life that they find no appeal in anything except the most desperate and illogical schemes. The rank and file of the organized labor movement, as was to have been expected, has given no countenance to the propaganda of Bolshevism, but has, on the contrary, been its most effective opponent in America.”

Whether the statements in the circular are true or untrue, the widest publicity of the facts should be given. It would be more effective if it could be in official form. If that can not be done the proper knowledge should be transmitted to the various organizations

that have resolutions on the subject before them for approval or disapproval and only awaiting an answer from me as to the real situation.

I therefore request, if it is not contrary to the rules of the Department of State or if not against the public interest, that you furnish me with such information as you might have on the matter. I would also like to know the amount of exports and imports between the United States and Russia for a number of years preceding the war, as it is claimed these would be enormous because they have been enormous in the past.

This question is of vital interest to the people of the United States as they should not be misled by propaganda that is consciously or unconsciously directed to aid the Soviet government of Russia against the interests of our people. I therefore trust that I am not asking too much.

Yours very truly,

SAM'L GOMPERS

661.1115/264

The Secretary of Commerce (Hoover) to the Secretary of State

WASHINGTON, *March 16, 1921.*

DEAR MR. SECRETARY: In view of the British Government agreement for trade with Soviet Russia, I imagine the nationals of that government will now be allowed to take Bolshevik gold.

In the meantime the objections given by our State Department have been such that this gold cannot be marketed in the United States, there being one actual shipment lying in this country at the present time, which came through Esthonia.

While I understand it is the policy of the State Department not to enter into commercial agreements with the Bolshevik Russians, it is still the policy of the State Department to allow trade with Bolshevik Russia at the risk of the trader. This, however, cannot take place unless Americans can receive gold in payment as there are practically no other commodities in Russia for exchange.

If the British trade agreement allows British subjects to take this gold it would seem to me very unfair to continue our attitude in the matter. We could immediately start up some export to Bolshevik Russia if our people were allowed to receive Bolshevik gold. Such trade would, no doubt, pass through Riga and Finland.

I would be glad indeed if the State Department could take some action in this matter; otherwise, if it is true that this gold can be received by British merchants, it would all filter out through British

agencies and no doubt some portion of it would get to the United States through British intermediaries, to the damage of our citizens.

I hope you will have someone investigate this matter.

Yours faithfully,

HERBERT HOOVER

641.6131/19 : Telegram

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

[Paraphrase]

LONDON, *March 16, 1921—noon.*

[Received March 16—11 a.m.]

216. Trade agreement with Soviet Russia signed last night at Board of Trade. This information is from official source. I have informed Berlin, Copenhagen, Paris and Warsaw.

WRIGHT

661.1115/279 : Telegram

The Soviet Representative in Esthonia (Litvinov) to the Congress of the United States and President Harding

REVAL [undated].

[Received March 21, 1921.]⁶⁸

Have the honor transmit as instructed by my government following message,

LITVINOFF

*Plenipotentiary Representative
of Russian Republic to Esthonia*

“ March 20th.

From the first days of her existence Soviet Russia had nourished the hope of the possibility of a speedy establishment of friendly relations with the great Republic of North America and had firmly expected that intimate and solid ties would be created between the two republics to the greater advantage of both. At the time when the entente powers had begun their invasion of Soviet Russia unprovoked and without declaration of war the Soviet government repeatedly addressed itself to the American government with the proposal to adopt measures for the cessation of bloodshed. Even when the American troops together with the others participated in

⁶⁸ At the White House; copy transmitted to the Department Mar. 28.

the attack upon Soviet Russia the government of the Russian republic still expressed the hope of a speedy change of America's policy towards her and demonstrated this by its particularly considerate treatment of the Americans in Russia. But President Wilson who without cause and without any declaration of war had attacked the Russian republic showed during his whole administration a growing hostility towards the Russian republic. Soviet Russia hopes that the American republic will not persist in obdurately following this path and that the new American government will clearly see the great advantage for the two republics of the reestablishment of business relations and will consider the interests of both peoples which imperatively demand that the wall existing between them should be removed. The Soviet republic entirely absorbed in the work of internal reconstruction and of building up its economic life has not the intention of intervening in the internal affairs of America and the All Russian Central Executive Committee makes herewith a categorical declaration to this effect. At the present time after Soviet Russia has concluded treaties and established regular relations with numerous states the absence of such relations with America seems to Soviet Russia particularly abnormal and harmful to both peoples. The All Russian Central Executive Committee addresses to you the formal proposal of opening trade relations between Russia and America and for that purpose the relations between the two republics have to be on the whole regularised.

The All Russian Central Executive Committee, therefore, proposes to send a special delegation to America which will negotiate upon this matter with the American government in order to solve the question of business relations and of resumption of trade between Russia and America.

President of the All Russian Executive Committee, M. Kalinin; Secretary P. Zalutsky."

861.51/1002

The Assistant Secretary of the Treasury (Gilbert) to the Assistant Secretary of State (Dearing)

WASHINGTON, March 25, 1921.

DEAR MR. DEARING: As requested by you at our conference yesterday, I am writing to indicate the position of the Treasury Department with respect to Russian gold.

The Treasury acts in purchasing gold at United States Mints and Assay Offices under certain provisions of the Revised Statutes, particularly Sections 3519 and 3545. These statutes make it clear, first, that the transaction is not a mere minting operation but a pur-

chase, and second, that the Treasury is only authorized to accept deposits made by "owners" of gold. The Treasury is, therefore, concerned with the question of title, and in ordinary course receives an implied warranty of title from the person presenting the gold. This does not mean that United States Mints and Assay Offices demand an abstract of title for each lot of gold presented, but gold of doubtful title and gold known to have been unlawfully acquired is, of course, refused.

In view of the actions and theories of the so-called Soviet Government and the fact that the Soviets had never been recognized by the United States as even a *de facto* government, tenders of Soviet gold immediately raised the question of title. Since it was felt that this question was largely an international one, former Secretary Houston wrote to the Department of State under date of October 9, 1920,⁶⁹ stating that the Treasury Department did not care to purchase such gold unless absolutely satisfied as to title, and that no complications would arise by reason of its acceptance; and requesting advice as to whether there were any objections from the point of view of the State Department to the purchase of this gold by the Treasury, and further as to whether the Department of State would be prepared to assure the Treasury that the title to the gold in question, if purchased by the Treasury, would not be subject to attack internationally. The State Department replied in a letter from Mr. Merle-Smith to me, under date of November 8, 1920,⁷⁰ that the State Department felt that it would be inadvisable in the present circumstances for any branch or agency of the Government to assume the responsibility involved in the possession of gold which on its face indicates Soviet origin; and that the State Department could not give assurances that the title to such gold would not be subject to attack internationally. In accordance with this advice, instructions were issued to the United States mints and assay offices to purchase no gold known or suspected to be of Soviet origin. A copy of these instructions⁶⁹ was transmitted to the State Department. As to gold as to which a mere possibility of Soviet origin suggested itself, acceptance was authorized provided the gold was tendered by a responsible party accompanied by a certificate stating that the gold was not of Bolshevik origin and had never been in possession of the so-called Bolshevik Government of Russia, and warranting title to the United States.

Thereafter the question arose as to whether the Treasury Department would purchase gold bearing the official Swedish Mint mark, in view of information to the effect that the Swedish Mint has in

⁶⁹ Not printed.

⁷⁰ *Foreign Relations*, 1920, vol. III, p. 722.

some cases melted Russian rubles. I requested the advice of the State Department in the matter and Mr. Davis wrote me under date of December 16, 1920,⁷¹ stating that the State Department had no objection to the acceptance by United States mints and assay offices of gold under the coinage or mint mark of a friendly nation. Thereupon, the instructions to the mints and assay offices were modified to provide that gold bearing the official coinage or mint stamp of a friendly government would be considered as free from any suspicion or possibility of Soviet origin. A copy of these instructions was also transmitted to the State Department.⁷²

On January 11, 1921, I wrote Mr. Davis⁷³ stating that certain German gold marks shipped from Sweden had been tendered to the Assay Office and requested an expression of his views as to whether they might be considered as free from any suspicion of Soviet origin under the terms of his letter of December 16, 1920. Under date of January 14, 1921, he replied⁷³ that there was no objection from the point of view of the State Department to the acceptance of these gold marks by the New York Assay Office.

On March 15, 1921, I wrote the Secretary of State⁷¹ making reference to the previous correspondence and requesting the views of the State Department as to whether gold bearing the Mexican coinage or mint stamp might be deemed free of any suspicion of Soviet origin. No reply has been received to this letter.

On the general question of the purchase of Soviet gold, I think it is necessary to add that since the removal of restrictions on transfers of credit and exchange transactions on December 20, 1920, there are no governmental restrictions whatever upon American merchants who desire to trade with Russia. Exchanges of commodities are permitted, and there are no restrictions on ordinary credit and exchange transactions. Transfers of credit based upon Russian gold may be also made from any one of a number of European countries, without actual shipment of gold to this country. The Treasury has received a large number of inquiries from American manufacturers who have desired to take in payment for their goods Russian rubles now on deposit in this country. Even this is possible, if American manufacturers are willing to take the risk involved in the acceptance of Soviet gold, for there are no restrictions upon the import of gold into the United States or its acceptance by American manufacturers. The Treasury enters into the situation only when the attempt is made to transfer this risk to the Treasury, by tender of Soviet gold to a United States mint or assay office.

⁷¹ Not printed.

⁷² *Foreign Relations*, 1920, vol. III, p. 725.

⁷³ Letter not found in Department files.

The amount of Soviet gold in this country is comparatively small, probably not exceeding \$10,000,000, and most of the inquiries from American interests have been traceable to agents of the Soviet Government in this country who, it is believed, have been seeking to arouse sentiment looking toward a recognition of the Soviet Government. In addition, various dealers have made efforts from time to time to sell rubles on deposit in New York (purchased at a large discount) to the mints and assay offices by various means. The continuance of inquiries relating to the same lots of Soviet gold, however, indicates that the Treasury has been successful in avoiding its purchase. Efforts of these dealers to export these rubles to Canada for reimportation into the United States appear to have been thwarted by the ruling of the Canadian Mint that payment for rubles deposited with it will be made only by check on the Canadian Treasury. So far as the importation of Swedish stamped gold for sale to the mint is concerned the Treasury is informed that, while certain shipments are now on the way from Sweden, the recent publicity relating to Swedish stamped gold has reduced the discount at which it could be purchased there from 8 per cent to 1 per cent with the result that the transaction is no longer profitable to speculators and may not be repeated.

The Treasury desires to have the advice of the State Department as to whether the rulings previously made are still in accordance with the views of the State Department. I should also like to have the opinion of the State Department as to the following three questions:

(1) Can the State Department give the Treasury Department any assurance that the title to Soviet gold, if purchased by United States mints or assay offices, will not, by reason of its Soviet origin, be subject to attack internationally, or by any new Government of Russia, or by creditors of the old Russian Government?

(2) In the opinion of the State Department should the Treasury Department consider gold which bears the official coinage or mint stamp of a friendly nation as free from any suspicion or possibility of Soviet origin?

(3) If so, should it consider German gold marks and bars or coin bearing the official Mexican stamp as likewise free from any suspicion or possibility of Soviet origin.

Very truly yours,

S. P. GILBERT, Jr.

P.S. Since writing you the above, a Mr. B. Brasol has called upon me stating that he represented an association of 10 or more American individuals or corporations who had claims against the Czar's Government represented by Treasury certificates or bonds, which asso-

ciation had been formed for the purpose of enforcing their claims in the United States courts against Russian rubles and perhaps against Swedish stamped Russian gold now in this country.

661.1115/275a : Telegram

The Secretary of State to the Consul at Reval (Albrecht)

WASHINGTON, March 25, 1921.

You may hand to Litvinoff⁷⁵ the following statement which is made public here today:

“The Government of the United States views with deep sympathy and grave concern the plight of the people of Russia and desires to aid by every appropriate means in promoting proper opportunities through which commerce can be established upon a sound basis. It is manifest to this Government that in existing circumstances there is no assurance for the development of trade, as the supplies which Russia might now be able to obtain would be wholly inadequate to meet her needs and no lasting good can result so long as the present causes of progressive impoverishment continue to operate. It is only in the productivity of Russia that there is any hope for the Russian people and it is idle to expect resumption of trade until the economic bases of production are securely established. Production is conditioned upon the safety of life, the recognition by firm guarantees of private property, the sanctity of contract, and the rights of free labor. If fundamental changes are contemplated, involving due regard for the protection of persons and property and the establishment of conditions essential to the maintenance of commerce, this Government will be glad to have convincing evidence of the consummation of such changes, and until this evidence is supplied this Government is unable to perceive that there is any proper basis for considering trade relations.”

HUGHES

661.1115/277 : Telegram

The Consul at Reval (Albrecht) to the Secretary of State

TALLINN [REVAL], March 27, 1921—2 p.m.

[Received 3:07 p.m.]

As instructed I handed Litvinoff a copy of statement in your March 25th. He inquired whether this was an official reply to Moscow proposal and whether any other reply might be expected. I of course told him I had no information beyond what was contained in statement. Up to the present time I had avoided having any intercourse with Bolshevik delegation. Does Department author-

⁷⁵ Maxim M. Litvinov, Assistant Soviet Commissar for Foreign Affairs and Plenipotentiary Representative of the Soviet Republic to Esthonia.

ize me unofficially and personally to receive Litvinoff should he approach me with further proposals? This latter is but a hypothetical question regarding a contingency which may or may not arise.

ALBRECHT

661.1115/277 : Telegram

The Secretary of State to the Consul at Reval (Albrecht)

WASHINGTON, April 2, 1921—4 p.m.

Your March 27, 2 p.m.

You may receive informally and without comment any communication it is desired to transmit.

HUGHES

661.1115/266

The Secretary of State to the President of the American Federation of Labor (Gompers)

WASHINGTON, April 5, 1921.

SIR: The receipt is acknowledged of your letter of March 15, 1921, in regard to the trade relations between the United States and Russia.

I recognize the interest of the American people in the questions you raise and I take pleasure in replying in detail to them.

In reply to your first statement, it is evident that after years of war, during which normal industry was diverted to the production of war supplies and accumulated stocks were consumed, Russia does not now possess important quantities of commodities which might be exported. It should be remembered that in addition to the period of the war against Germany, Russia has now passed through more than three years of a civil war during which industrial activities have been almost completely paralyzed. In fact the devastation of industry in Russia has been so complete, the poverty of the country is so acute, the people are so hungry and the demand for commodities is so great that at present Russia represents a gigantic economic vacuum and no evidence exists that the unfortunate situation above described is likely to be alleviated so long as the present political and economic system continues. Though there is almost no limit to the amount and variety of commodities urgently needed by Russia, the purchasing power of that country is now at a minimum, and the demand must consequently remain unsatisfied.

In some respects the condition of Russia is analogous to that of other European countries. The war has left the people with di-

minished productive man-power and largely increased numbers of the disabled, the sick and the helpless. In one important respect, however, Russia's condition does not correspond to that of other belligerent states in the world war. While those states are taking such action as is likely to reestablish confidence, the attitude and action of the present authorities of Russia have tended to undermine its political and economic relations with other countries. The Russian people are unable to obtain credit which otherwise might be based on the vast potential wealth of Russia and are compelled to be deprived of commodities immediately necessary for consumption, raw materials and permanent productive equipment. The effect of this condition is that Russia is unable to renew normal economic activities, and apparently will be unable to obtain urgently needed commodities until credits may be extended to Russia on a sound basis.

It should not be overlooked that there has been a steady degeneration in even those industries in Soviet Russia that were not dependent upon imports of either raw material or partly finished products, nor in which has there been any shortage of labor. The Russian production of coal, or iron and steel, of flax, cotton, leather, lumber, sulfuric acid, or copper, of agricultural products, of textiles, and the maintenance and repair of railroad equipment, have degenerated steadily from their level of production at the time of the Bolshevik revolution. There can be no relation of the failure of all these industries to blockades or to civil war, for most of them require no imports, and the men mobilized since the Soviet revolution were far less in number than before that event.

During the existence of civil war in Russia, her ports were in the hands of anti-Soviet forces. However, trade with the world through Baltic ports was opened in April, 1920. Restrictions on direct trade with Russia were removed by the United States on July 8, 1920. The conclusion of treaties of peace with the Baltic States enabled Russia freely to enter upon trade with Europe and the United States. Both American and European goods have been sold to Russia, but the volume of trade has been unimportant due to the inability of Russia to pay for imports.

As suggested in your second statement, it is true that agents purporting to be representatives of the so-called Bolshevist Commissariat of Foreign Trade have placed immense orders for the purchase of goods in the United States, Europe and Asia. It is estimated that perhaps six and one half million dollars' worth of orders have been booked. But shipments as a result of these orders have been made only in small volume because the Soviet agents were unable either to pay cash or to obtain credit so as to insure the delivery of the goods ordered. The actual result of the placing of

these immense orders on the part of the Soviet regime has not, therefore, materially stimulated industry in the countries in which the orders were placed, but has chiefly resulted in further impairing the credit of the Soviet regime due to its inability to carry out the transactions which it had undertaken.

Much has been written about the large sums of Russian gold which have found their way abroad in exchange for foreign goods. In reality, such transfers of gold have been relatively small. According to the most liberal estimates the Soviet authorities do not now have in their possession more than \$175,000,000 worth of gold. It is apparent that the proportionate share of this amount of gold which might be expected to reach the United States, and even the immediate expenditure of all of this amount of gold in the United States, would not have a pronounced or lasting effect upon the advancement of American industry and trade, while its loss to Russia would take away the scant hope that is left of a sound reorganization of the Russian system of currency and finance.

In response to your question regarding the transfer of funds from Russia to the United States it may be stated that there are no restrictions on the importation of Russian gold into the United States, and since December 18, 1920, there have been no restrictions on the exportation of coin, bullion and currency to Soviet Russia or on dealings or exchange transactions in Russian roubles or on transfers of credit or exchange transactions with Soviet Russia. It is true that no assurances can be given that Russian gold will be accepted by the Federal Reserve Banks or the Mint, in view of the fact that these public institutions must be fully assured that the legal title to the gold accepted by them is not open to question.

It has often been stated that if the Government of the United States would recognize the so-called Soviet Government, Russia would immediately export immense quantities of lumber, flax, hemp, fur and other commodities. The facts in regard to supplies in Russia completely refute such statements. Russia does not today have on hand for export commodities which might be made the basis of immediately profitable trade with the United States. Furthermore, the transportation system is utterly inadequate to move any large quantity of goods either in the interior of Russia or to Russian ports. The export of such commodities as exist in Russia at the present time would result merely in further increasing the misery of the Russian people.

The issue of January 1, 1921 of "Economic Life", an official organ of the so-called Soviet Government, reports that the production of lumber amounted to seventy million cubic feet in 1920, as compared with four hundred million cubic feet in 1912. The production of lumber is, therefore, less than one-fifth of the pre-war level, even

though the lumber industry is in far better circumstances than other important Russian industries. This same situation is further illustrated by the following article appearing in the "Economic Life" of February 6, 1921:

"By December 20 the following supplies were gathered:

Horse hides	3, 831	12	per cent. of am't expected
Colt "	1, 142	35	" " " " "
Cattle "	22, 701	20. 6	" " " " "
Calf "	15, 679	14. 6	" " " " "
Sheep "	37, 771	58	" " " " "
Flax poods	22, 871	12	" " " " "
Hemp	6, 863	18	" " " " "
Bristles	99	14	" " " " "

"The Government of Ekaterinburg, which occupies a high place in furnishing food supplies, for several reasons has proven to be very weak in furnishing raw materials.

"During the past week the results of the work have become still smaller, reaching zero in some places, in spite of the extreme energy and intensity of the work."

Note is taken of the statement that if restrictions on trade with Russia were removed, many mills, shops and factories in this country, which are now closed, would resume operations, and unemployment would thereby be diminished. Even before the war, trade with Russia, including both exports and imports, constituted only one and three-tenths per cent. of the total trade of the United States. In view of the fact that the purchasing power of Russia is now greatly diminished, as compared with pre-war years, it is evident that at present even under the most favorable circumstances the trade of Russia could have but a minor influence on the industrial and agricultural prosperity of the United States. Under conditions actually prevailing in Russia, that trade is of even less importance; a statement amply demonstrated by the fact that though restrictions on trade with Russia have been eliminated, no business of consequence with that country has developed.

According to the reports of the Department of Commerce, our total trade with Russia for the fiscal year ending June 30, 1913, was as follows:

Imports from European Russia.....	\$26, 958, 690
" " Asiatic Russia.....	2, 356, 527
	<hr/>
	29, 315, 217
Exports to European Russia.....	\$25, 363, 795
" " Asiatic Russia.....	1, 101, 419
	<hr/>
	26, 465, 214
Total trade between Russia and the United States.....	\$55, 780, 431

The total imports into the United States for the fiscal year ending June 30, 1913, were \$1,813,008,234, and the total exports for the same year were \$2,465,884,149, the total of both imports and exports amounting, therefore, to \$4,278,892,383.

For the calendar year 1920, the total trade of the United States was:

Exports.....	\$8, 228, 000, 000
Imports.....	5, 279, 000, 000
Total.....	\$13, 507, 000, 000

Excluding Finland, the Baltic States, Armenia, and Georgia and Siberia for the periods when they have been free of Soviet Domination, the trade of the United States with Russia during 1920 was absolutely negligible, probably amounted to less than \$4,000,000.

Though figures for trade with Russia during that period are not available, there is every reason to believe that it was of far less relative importance than in 1913.

It is unquestionably desirable that intimate and mutually profitable commercial relations on an extensive scale be established between the United States and Russia, and it is the sincere hope of this Government that there may be readjustments in Russia which will make it possible for that country to resume its proper place in the economic life of the world.

I am enclosing herewith as of possible interest to you in this connection, copies of the Department's announcement of July 7, 1920,⁷⁶ of the Treasury Department's announcement of December 20, 1920,⁷⁷ of a statement made by Mr. Alfred W. Kliefoth, of the Foreign Trade Adviser's Office of this Department, before the Committee on Foreign Affairs of the House of Representatives,⁷⁸ and of an announcement made to the press by the Secretary of State, dated March 25, 1921,⁷⁹ also a brief statement of the total trade with Russia for the fiscal years ending June 30, 1911 and June 30, 1912.⁸⁰

I would also invite your attention to the recently published hearings of the Committee on Foreign Affairs of the House of Representatives, entitled "Conditions in Russia", and of the Committee on Foreign Relations of the United States Senate, entitled "Relations with Russia". The former was held in compliance with House Resolution No. 635, and the latter in compliance with Senate Joint Resolution No. 164.

I am [etc.]

CHARLES E. HUGHES

⁷⁶ *Foreign Relations*, 1920, vol. III, p. 717.

⁷⁷ *Ibid.*, p. 724.

⁷⁸ *Conditions in Russia* (Hearings before the House Committee on Foreign Affairs, 66th Cong., 3d sess., H. Res. 635), pp. 145 ff.

⁷⁹ See telegram, Mar. 25, to the Consul at Reval, p. 768.

⁸⁰ Not printed.

861.51/1002

The Assistant Secretary of State (Dearing) to the Assistant Secretary of the Treasury (Gilbert)

WASHINGTON, April 9, 1921.

MY DEAR MR. GILBERT: I beg to acknowledge the receipt of your two letters of March 25, 1921, regarding Soviet gold,⁸¹ the earlier of which sets forth the position of the Treasury Department with respect to the purchase of such gold, and raises three questions regarding which the opinion of this Department is desired.

In reply I desire to point out that it is my understanding that under the law the Treasury Department must determine for itself whether it will purchase or reject gold which is offered for sale to the United States Mints and Assay Offices. However, it is hoped that the possibility of international complications which might result from the purchase of gold which there is any reason to believe is of Soviet origin, will be given due consideration by the Treasury Department in determining what its practice with respect to the purchase of gold shall be. It would appear that the rulings which the Treasury Department has issued up to this time with regard to the purchase of Soviet gold, if followed in the future, would probably relieve the Government of any difficulties or embarrassment in this matter.

In reply to the three questions raised in the latter part of your earlier letter of March 25th, I beg to inform you that the opinion of this Department is as follows:

(1) The State Department cannot give any assurance that the title to Soviet gold will not be subject to attack, internationally, or otherwise.

(2) The State Department perceives no necessity for the Treasury Department inquiring into the origin of gold which bears the official coinage or mint stamp of a friendly nation. It is not considered that the purchase of gold of this description is fraught with the likelihood of international complications, as the purchase of gold of known Soviet origin would be.

(3) The State Department considers that the observations made in (2) are applicable to gold bearing the official German or Mexican mint stamps.

Paragraph (3) above, will also reply to your letter of March 15, 1921, with regard to Mexican gold.

With reference to the statement made in the Department's letter of November 8, 1920,⁸² that it was felt that it would be inadvisable

⁸¹ Second letter not printed.

⁸² *Foreign Relation*, 1920, vol. III, p. 722.

for any branch or agency of the Government to assume the responsibility involved in the possession of gold which on its face indicates Soviet origin, I may say that it is still felt that it would be unfortunate were any department of the Government to assist in any way in the dissipation of the Russian gold reserve by accepting gold known to be of Soviet origin in payment of goods, by purchase, or otherwise.

Although I believe that attempts on the part of this Government to prevent the dissipation of the Russian gold reserve would be futile, I am nevertheless of the opinion that this Government should keep itself technically free from any charge that it had assisted in the dissipation of this gold reserve.

I am interested to note by the postscript appended to your letter under acknowledgment that claims against the Czar's government will probably be brought in the United States Courts against the Russian gold now in this country.

I am [etc.]

F. M. DEARING

611.616/133

The Secretary of State to the United States Shipping Board

WASHINGTON, *April 13, 1921.*

GENTLEMEN: The Department begs to refer to a communication from the United States Shipping Board, dated March 30, 1921,⁸³ inquiring whether, from the point of view of this Department, it would be advisable for a Shipping Board vessel to lift a cargo of flax at Petrograd, and what complications might arise by so doing. Major Ruch, of the Shipping Board, has also inquired by telephone of the Russian Division of this Department as to the advisability of Shipping Board vessels carrying cargoes to Petrograd, Odessa and Novorossiisk.

In reply to these inquiries, you are informed that the State Department feels that it cannot under existing circumstances advise the Shipping Board to allow Shipping Board vessels to enter Soviet ports. Inasmuch as the Department has informed American business interests that, although there are no restrictions on trade with Russia, such trade will be entered into at their own risk and without the possibility of the Government affording them customary protection, it is obvious that agencies or departments of the Government engaging in such trade would also incur similar risks,—namely, in the case

⁸³ Not printed.

of individuals, detention and possibly imprisonment, and in the case of vessels, seizure,—and would involve a departure from the present policy.

I am [etc.]

For the Secretary of State:

F. M. DEARING

Assistant Secretary

861.51/1205 : Telegram

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

LONDON, July 14, 1921—5 p.m.

[Received 7:15 p.m.]

584. Embassy's telegram 361, April 28th, 5 p.m., and despatch number 4590, April 29th.⁸⁴ Judgment has been given in the test case, anticipated in paragraph 13 of the trade agreement, by which a holder of Russian 5 per cent bonds of 1906, issued under a ukase of the late Tzar sought to attach 7,500 gold imperial roubles which has formed a part of the gold reserve of the late Imperial Russian Government and which had been recently deposited by Krassin's⁸⁵ cashier in the Bank of England for safe keeping. The judgment denies that this gold was charged in favor of the bondholder with payment of all sums thereunder, and the question of the validity of the act of the Soviet Government by which it took possession and is now disposing of the gold reserve was not considered. No notice of appeal has been given. The effect of the judgment is to confirm the Soviet ownership of the gold. Satisfactory certificate of origin can now be given against which export licenses may be issued. To complete the test the actual gold which formed the basis of the action is to be sent to the United States by the Bank of England acting as agent. According to agreement Soviet gold intended for export must go through the Bank of England and I am assured by Sir Ernest Harvey, chief cashier, that export licenses will not be issued for gold bearing private assay marks.

In connection with the trade agreement the Treasury here agreed that the privilege of export license should be given Soviet for six months from time of importation. It is this agreement which is referred to by Krassin in his interview quoted by the letter of the Treasury Department which accompanied instruction number 6, of

⁸⁴ Neither printed.

⁸⁵ L. B. Krassin, leading member of the Soviet delegation which concluded a trade agreement with Great Britain Mar. 16, 1921; he remained in Great Britain as Soviet trade representative.

May 31.⁸⁶ It is insisted by the Foreign Office that this was not in the nature of a secret clause of the agreement but was a special Treasury ruling which can be revoked at any time and which was merely a recognition of the fact that in the marketing of its gold the Soviet Government was at a particular disadvantage. It is not anticipated by Treasury officials here that this judgment will result in the arrival in England of any great quantity of gold for export on the ground that it is not the Soviet plan to sell more than is absolutely necessary but rather, title having been established, to use it to cover commercial operations. Full text of judgment by pouch.⁸⁶

HARVEY

861.51/1257

The Under Secretary of the Treasury (Gilbert) to the Secretary of State

WASHINGTON, August 11, 1921.

SIR: By direction of the Secretary I am quoting for your further information in connection with the shipment of 7,500 gold imperial roubles from the Bank of England to Messrs. J. P. Morgan and Company, on the S.S. *Carmania*, the text of a letter received on August 10th from the Acting Superintendent of the New York Assay Office:

"This office was tendered today a deposit of Russian Gold Roubles of Soviet origin by J. P. Morgan & Company, consigned to them by the Bank of England and same was rejected."

Respectfully.

S. P. GILBERT, JR.

871.51/251

The Roumanian Legation to the Department of State

MEMORANDUM

It has come to the knowledge of the Roumanian Government that some of the gold that reaches the United States at present, is part of the Roumanian gold which was sent in 1916 to Moscow for safety, and is used by the Soviet Authorities to make payments abroad.

The Roumanian Government . . . considers himself obliged to formulate reservations as to its final distribution.

WASHINGTON, August 15, 1921.

⁸⁶ Not printed.

661.1115/344a

The Secretary of State to the Chairman of the United States Shipping Board (Lasker)

WASHINGTON, August 27, 1921.

SIR: In connection with my letters to you of August 9 and August 13, 1921,⁸⁸ with reference to the question of Shipping Board vessels entering Soviet ports, I now have the honor to summarize below the views of this Department, reached after a further consideration of this matter:

1. The Shipping Board may, if found desirable, allow its vessels to enter Soviet ports, but whenever possible it would seem advisable that they carry supplies for the American Relief Administration;
2. This Department would appreciate being advised in advance of actual sailings of the names of the vessels proceeding to Soviet ports, the destinations, the cargoes carried, the names of the shippers and consignees;
3. Shipping Board vessels should not be permitted to carry passengers from Soviet ports without referring the matter to this Department for its decision;
4. Except in cases of extreme emergency, Shipping Board vessels should not be allowed to ship seamen or discharge seamen in Soviet ports;
5. Shipping Board vessels may carry general cargo from Soviet ports;
6. Special precautions should be taken against stowaways and against the transporting of Bolshevik propaganda.

I have [etc.]

CHARLES E. HUGHES

661.1115/346

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 447

CONSTANTINOPLE, August 30, 1921.

[Received September 22.]

SIR: I have the honor to enclose herewith copy of "Special Report No. 1", dated 23 of August, 1921, marked confidential, prepared by Mr. Julian E. Gillespie, Assistant Trade Commissioner of this High Commission.

It is known that in this part of the world the different nationalities have made every possible endeavor to open up trade with the Caucasus States as well as with Soviet Russia. In general, it is known that such attempts have practically resulted in failure of any

⁸⁸ Neither printed.

considerable accomplishment. In some cases attempts were a complete failure.

The British Government completed a trade agreement which practically amounted to the recognition of the Soviet Russian Government and, if all reports are correct, British trade has profited little or nothing by this agreement. So far as trade through South Russia is concerned the British have failed.

The Italians have made a special effort to open up trade and have given particular attention to the Caucasus. Thus far they have not been very successful in their efforts, though they appear to have done more than any other nationality. The Germans and Swedes are also doing some business in the Caucasus.

From the best information obtainable it would seem that in these efforts of the different nationalities to open up trade with Soviet Russia and with the Caucasus there was a great deal of profiteering. Thus, the Caucasus Republics when they formed a trade union for foreign trade turned to Americans for assistance. Before this some gold had been brought from the Caucasus by the Italians, but it was utilized to pay for Italian goods and money was made on the gold transaction as well as upon the transaction in merchandise. The proposition made by Mr. Day is to utilize the gold obtained as a revolving credit for the establishment of a flow of trade between the Caucasus and the outside world.

This proposition of Mr. Day's seems to me to be a businesslike proposition that may open up trade based upon business principles without profiteering where the negotiations of trade conventions and other schemes have failed.

It has always been my opinion that the first steps in the reconstruction of Russia would be obtainable by establishing trade relations through private institutions based upon business principles and conducted in a fair way without graft or profiteering. I have felt that our American business men would probably be the first to accomplish this end, especially when they were backed by our Government, which consistently has stood out for certain well-established political and economic principles being recognized by Soviet Russia and the other Soviet Governments established in Russia.

The first step taken by Mr. Day to establish trade with the Caucasus Republics has been successful. If the contracts for concessions made by him with the representatives of these Caucasus Republics are lived up to, it seems to me that a big step will have been made in bringing about a reformed policy in these Soviet Governments, and this start may lead to a steady development of these three Republics into some form of recognizable governments by other countries.

It must be remembered that in the past contracts similar to these have proved to be of little or no value and have generally been repudiated by Soviet representatives who have violated all old-established rules in regard to contracts and economic dealings. In spite of this, it must be remembered that if a change does come in their methods of dealing, there must be someone that will be the first to recognize this change and to prove it. It may be that Mr. Day has struck the psychological moment. For the sake of the benefits to American interests and particularly for the beginning of reconstruction of some part of the old Russian Empire, it is to be hoped that Mr. Day will succeed.

In carrying out the Department's policy as I understand it, Mr. Day should receive the sympathy and encouragement of our Government so long as he follows the policy that we demand of a government in Russia which is a government of the people, by the people, and for the people and that such a government shall recognize the old-established principles of property rights.

I have [etc.]

MARK L. BRISTOL

[Enclosure]

Special Report by the Assistant Trade Commissioner at Constantinople (Gillespie)

No. 1

CONSTANTINOPLE, August 23, 1921.

AMERICAN PENETRATION IN THE CAUCASUS AND SOUTH RUSSIA

I have the honor to report the consummation of a contract between Henry Mason Day and the Autonomous Soviet Communist Republics of Azerbaidjan, Georgia and Armenia, whereby Mr. Day becomes virtually the fiscal agent and Minister of foreign trade for the Union of Foreign Trade between the three above-mentioned Caucasian Republics. The contract names Mr. Day as the Trustee for the above-mentioned countries and gives him, as the Representative of these countries, the control of all commodities to be exported, and makes him the purchasing agent for these countries. The signing of the above-mentioned agreement means that the United States controls and dominates the commercial activities and the economic resources of one of the richest territories in the Near East. In addition to being appointed the Trustee for the Union of Foreign Trade of Azerbaidjan, Georgia and Armenia, Mr. Day has been given the oil rights, lumber concession, licorice root and tobacco monopolies for the Caucasus.

On August 6th, Mr. Day left Constantinople on an American destroyer, accompanied by two representatives of the Union of Foreign Trade for Azerbaidjan, Georgia and Armenia for Batoum and Tiflis. While in Tiflis, the contract mentioned above was signed. On August 12th, the American destroyer returned to Batoum for Mr. Day and he proceeded to Constantinople with an initial deposit of gold to be expended by him as Trustee for these countries. A sum equivalent to Five Hundred Thousand Dollars in gold was brought to Constantinople, where it is deposited in the Imperial Ottoman Bank in his name as Trustee, to be used as a revolving fund for the purchase of supplies for these countries.

A partial list of the commodities offered and to be offered for sale by Mr. Day, Trustee, include four hundred thousand poods of Caucasian tobacco, one million poods of coal equal in quality to A No. 1 American Pocahontas, eight hundred thousand poods of licorice root, (on which one million dollars will be put up as a guaranty for delivery), one million poods of kerosene and important stocks of mazoot, machine oil, lubricating oil and spindle oil from Baku.

I beg to report further that I have been informed by reliable sources that the manganese rights at Poti, near Batoum, have been offered to the Germans. At the present time this concession is in Berlin. It is not believed, however, by local people that these rights will be acquired by the Germans. There are approximately three hundred thousand tons of ore now on the ground at Poti which will run better than 48% manganese.

In addition to having at his disposal Five Hundred Thousand Dollars, a credit of One Million Dollars has been opened at Batoum subject to his order. All of this money is to be used for the purchase of necessities and machinery, or articles of prime necessity. (See my letter dated March 11, 1921,⁸⁹ giving details of new import program of the Soviets.). One shipload of flour has been bought on the local market and is being sent to Batoum this afternoon. Two additional shiploads will be shipped next week. Negotiations are being entered into at the present moment by Mr. Day for the purchase of agricultural machinery, reapers, harrows, etc., etc. There is a stock of American agricultural implements in Constantinople which will be the first considered.

I desire to make clear Mr. Day's position. First, as an American citizen, he is acting fiscal agent and to all intents and purposes, an official of the three republics of Azerbaidjan, Georgia and Armenia. As a representative of these countries, he is in sole charge of disposing

⁸⁹ Not printed.

of all the stocks of raw material in the Caucasus. As an American citizen, a private individual Mr. Day has obtained these rights not for any one corporation or group, but while acting as a real government official of the countries named above, he hopes that all trade relations in these countries will be handled by American concerns. As the President of the American Foreign Trade Corporation, Mr. Day does not enter into the matter one way or the other. He may, however, as "Trustee", accept the proposals of the American Foreign Trade Corporation just as he would those from any other individual or corporation. I desire to state that in consideration for his services as Trustee and fiscal agent for Azerbaidjan, Georgia and Armenia, Mr. Day is receiving no compensation but is acting as if he were a public-spirited government official of these countries.

The conclusion of the contract between Mr. Day and the Union for Foreign Trade of Azerbaidjan, Georgia and Armenia marks an important epoque in American foreign trade. It places the United States in a preferred position; it is the beginning of the end of Italian commercial domination in the Caucasus, and is the strangulation of British influences. These statements are true, subject to the successful working out of the details of the contract, dependent upon financial support.

That the leaders of Bolshevism have seen their inability to maintain a Soviet Government in Russia as long as they continue their extreme policies of confiscation of private property, suppression of the freedom of the press and the principle of governing by small groups of individuals for their own benefits and not for the common welfare of the people, has been the belief of many for several months. It has been a matter of common knowledge that the extreme policies of Lenin and Trotsky were gradually being replaced by more liberal ones. One of the first instances of the Moscow Government's change in heart was its attitude toward the republics of Azerbaidjan, Georgia and Armenia. These three republics were all recognized autonomous states which accepted a form of Soviet Communist Administration, and while amenable to the jurisdiction of Moscow, there was little confiscation of private property and practically no reign of terror such as prevailed in other parts of the old Russian Empire, upon the acceptance of the Soviet regime by them. Each of these three republics when originally founded, attempted to organize themselves along the lines of the United States of America, adopting the principle of government by, of and for the people. These three republics have never been classed as part of Bolshevik Russia, but fall into a separate category of independent, autonomous republics which have been recognized by world powers as such, each of whom have [*has*] adopted a Soviet form of government.

Recently, the autonomous Soviet Communist republics of Azerbaidjan, Georgia, and Armenia, formed a Union for Foreign Trade. This was undoubtedly worked out and done with the consent of the Bolshevik Government in Moscow and probably upon the advice of Mr. Krassin. The move is undoubtedly a political one which they expect to further through commercial relations with the outside world.

Apparently, the Bolsheviks, seeing the failure of their present policies, have decided on another plan, namely, the establishment of autonomous Soviet Communist republics which permit free trade. The Union for Foreign Trade in the Caucasus is an experiment, and if successful in opening trade relations with the outside world, I am reliably and confidentially informed that on the Black Sea there will be within the next six months, seven similar autonomous independent states. All of these will be linked together in a manner similar to the Confederation of the colonies of the United States of America before the adoption of our Constitution. The first new autonomous state that will be formed will be Novorossisk. Mr. Day has been offered all concession there and has been requested to act for this proposed new state in the same capacity as he is at present for the States of Azerbaidjan, Georgia and Armenia. The proposed plans contemplate the independent states of the Crimea,—Rostov, Odessa, Nikolaev and others. Mr. Day believes that if the proper financial and governmental support is given him in America, that South Russia and the Caucasus will, in time, because of these trade relations, the investment of American capital and the control of the Baku and Grozny oil fields, the mineral resources of the Caucasus, the coal deposits of the Crimea and Novorossisk and other undeveloped resources in South Russia, become practically an American colony.

661.1115/346

*The Secretary of State to the High Commissioner at Constantinople
(Bristol)*

No. 85

WASHINGTON, November 1, 1921.

SIR: Receipt is acknowledged of your despatch No. 447 of August 30, 1921, transmitting a report by Mr. Gillespie concerning the agreement entered into by Mr. Henry M. Day and the Union of Foreign Trade of Azerbaijan, Georgia and Armenia.

The Department is desirous of receiving a copy of the contract referred to and wishes to be kept thoroughly informed concerning further developments in Mr. Day's scheme. Further information concerning the \$500,000 deposited in the Imperial Ottoman Bank,

in particular how it came into possession of the so-called governments of Azerbaijan, Georgia and Armenia, and the manner in which it is to be drawn upon, and concerning the \$1,000,000 credit opened in Batoum, is desired.

Though the Department desires to lend all proper support to American business men for the purpose of extending American trade, it should be pointed out that, in view of the unsettled political conditions in the Caucasus, and in view of the relations between this Government and Russia, unusual care should be taken that the action of American officials should not be construed as extending the official sanction of this Government to the negotiations between Mr. Day and the Caucasus republics. At the present time, Americans who enter into business relations with Soviet Russia or with the Caucasian Soviet Republics, or enter the territories under the control of these authorities, must do so on their own responsibility and at their own risk.

With reference to the final paragraph of your despatch No. 447 of August 30, you are therefore instructed to give no encouragement to Mr. Day that could be interpreted by him as a promise of governmental support or that would prompt him to enter into any kind of political activity in the belief that he was carrying out the policy of this Government toward Russia. Needless to say, it is the policy of this Government not to interfere in Russian internal political affairs.

Referring to the second paragraph on page 6 of your despatch No. 418 of August 18, 1921,⁹⁰ you are informed that restrictions upon the sale of war materials to Russia are no longer in effect.

I am [etc.]

For the Secretary of State:

F. M. DEARING

861.51/1325 : Telegram

The Consul General at London (Skinner) to the Secretary of State

LONDON, November 2, 1921—4 p.m.

[Received November 2—3:57 p.m.]

Through an intermediary, Klishko, one of three leaders of Soviet delegates in London in charge of commercial matters, has requested me to receive him in order that he may deliver text of Russian decree relative to recognition of Russian debts. I hear that he probably wishes also to discuss scheme of providing Russia with tractors and like commercial matters. Will the Department please advise me at once by cable whether to avoid meeting him altogether or to receive and listen to such statement as he may wish to make.

SKINNER

⁹⁰ Not printed.

861.51/1325 : Telegram

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

WASHINGTON, November 3, 1921—3 p.m.

630. Unless you perceive objection, in which case inform Department, deliver following to Consul General:

“Your November 2, 4 p.m. Do not take initiative but if Soviet delegate calls you may receive him informally and unofficially as you would any other private citizen, listening to what he has to say without, of course, committing yourself in any way. Use utmost discretion. This Government is not disposed to depart from its declaration of March 25 last ⁹¹ concerning trade with Russia, but will on the other hand let no opportunity pass of ascertaining practical means whereby the distress of the Russian people may be relieved and their political reestablishment hastened. Do not let delegate draw you into discussion of general Soviet-American relations, and avoid publicity.”

HUGHES

661.6215/1a

The Secretary of State to the Secretary of Commerce (Hoover)

WASHINGTON, December 1, 1921.

MY DEAR MR. SECRETARY: I send you herewith a memorandum which has been presented to me concerning the attitude which this Government should take toward cooperation with Germany and German business interests in developing future trade with Russia.

I am disposed to agree with the arguments put forth and the action suggested, but would, of course, like to know your views before proceeding with the matter. If you agree, copies of the memorandum will be furnished to the American Chargé d’Affaires and the American Consul General at Berlin for their confidential information and guidance. You might also care to furnish a copy, for the same purpose, to Mr. Cole.

I am [etc.]

CHARLES E. HUGHES

[Enclosure]

Memorandum by the Division of Russian Affairs, Department of State

It transpires, through reports reaching the Department of State, that there is a general desire in German commercial and business circles to obtain the cooperation of the United States and American

⁹¹ *Ante*, p. 768.

business enterprise in preparing for future trade with Russia, but at the same time an apprehension that cooperation will not be readily granted. This misgiving is in part a natural result of the war, but it is also due to uncertainty in the German mind concerning the attitude of the United States toward the interposition of Germany as a middleman in Russian-American trade.

Indirect trade by way of Germany was one of the outstanding facts in Russian-American trade relations before the war. A classical example is that of cotton. In addition to \$22,604,000 worth of cotton exported directly to Russia by the United States in 1913, Germany re-exported \$14,964,000 worth, which was almost entirely of American origin. A similar situation existed with respect to other important commodities, including copper, rubber, and agricultural machinery.

This indirect trade will inevitably develop once more, when conditions permit, owing to Germany's geographical propinquity to Russia, her complementary economic situation, and her vast experience of Russian trade. If this be accepted as inevitable, much can be gained by friendly cooperation with Germany. It is self-evident that the United States will benefit by everything (not directly inimical to its own interests) which will hasten the economic reestablishment both of Russia and of Germany and increase their purchasing power. If the attitude of the United States were understood to be friendly, the appropriate bureaus of the German Government might be led to disclose to the representatives of the United States their views on the development of the Russian situation and to confer with them concerning commercial and industrial projects. Such an interchange of views and information would be of distinct advantage to the United States, which has not so intimate a knowledge of Russia as has Germany. If the German Government felt that German re-exports of American goods to Russia were made with the knowledge and approval of this Government so far as they did not compete with direct American trade, this trade might be conducted on a basis of maximum advantage to the United States. For example, the re-export goods might be offered in Russia, to some extent, not as German, but as American products.

It is considered, in view of the foregoing, that a basis of cooperation with German officials and business men should be laid at once by removing from the German mind misapprehensions as to our friendly disposition, now that peace is signed, and our readiness to encourage indirect trade, whenever and wherever direct trade seems impossible. To this end it is recommended—

1. That the representatives of the United States in Germany be advised that this Government is not hostile to cooperation between

American and German business interests looking to future trade with Russia, nor to the conduct through German middlemen of so much of this trade as cannot be done directly with Russia, provided that the German middlemen play fair; and

2. That the American representatives be directed to avail themselves of suitable occasions for conveying this impression informally to German officials and prominent business men.

[WASHINGTON,] *November 28, 1921.*

661.6215/1

The Secretary of Commerce (Hoover) to the Secretary of State

WASHINGTON, *December 6, 1921.*

DEAR MR. SECRETARY: I am greatly obliged for your letter of December 1st enclosing memorandum on arrangements proposed by the Department of State for encouraging Germany as an intermediary for our future trade with Russia. I regret that I cannot agree with this program as being in American interest. The policies laid down in this Department for commercial and economic relationship to Russia are of an entirely different order.

Germany's position as an intermediary to Russia in a portion of our trade before the war was due to the hold that her distributing machinery and technology had attained at one time in Russia, and to the fact that Germany financed our exports to Russia. Both of these positions have been lost by Germany. Of more importance, however, is the fact that in the years immediately prior to the war the superior administrative technology of Americans was making vast inroad into German industrial domination of Russia. This was stimulated materially by the instinctively greater racial sympathy between Russians and Americans than between Germans and Russians. The matter was of so much practical importance that certain German establishments had, prior to the war, employed American agents to represent them and handle their business in Russia.

An examination of the entirely disinterested political relationship that location imposes upon Russia and the United States; the striking parallel of national economy of Russia and the United States; the uninterrupted friendliness of the United States and the Russian people; gives the United States certain undoubted commercial advantages. At the present moment, although other powers have recognized the present Russian government and we have refused to do so, yet Americans are infinitely more popular in Russia and our Government more deeply respected by even the Bolsheviks than any

other. The relief measures already initiated are greatly increasing the status and kindness of relations and their continuation will build a situation which, combined with the other factors, will enable the Americans to undertake the leadership in the reconstruction of Russia when the proper moment arrives. For us to align ourselves with the Germans today in any relationship to Russia would be a crushing disappointment to the Russians and would negate any values that have been so carefully built up in the past.

Of more tangible importance, perhaps, in the actual hard facts of commerce, is that permanent American foreign commerce can never be based upon the reshipment of goods at the hands of other nationalities. The hope of our commerce lies in the establishment of American firms abroad, distributing American goods under American direction; in the building of direct American financing and, above all, in the installation of American technology in Russian industries. We must, of necessity in the future finance our own raw materials into Russia and if our manufactured goods are distributed through German hands it simply means that when Germany has established trade of sufficient distribution to warrant her own manufacture we shall lose the market. I trust, therefore, that the policies initiated by this Department will be adhered to.

Yours faithfully,

HERBERT HOOVER

861.01/353 : Telegram

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

[Paraphrase]

LONDON, December 15, 1921—4 p.m.

[Received 8:45 p.m.]

977. I have received an unofficial request to be presented to you asking that Vladimir Vladimirovitch Ber and Leonid Krassin⁹² be afforded the opportunity to visit Washington. Ber is a Russian citizen who is stated to have held the rank of Councilor of State when the war started. He also is said to have held a controlling interest and to have been a director in several companies among them the Northeastern Ural Railway which ran from St. Petersburg to Ekaterinburg and the old Northern Trading, Industrial and Construction Company of St. Petersburg. For the last eight years he has lived in England and is at the head of the Standard Finance and Mercantile Agency, Limited, which was registered in March, 1921.

⁹² Soviet Commissar for Trade and Industry.

It is my personal belief that Ber's opinions may be taken as fairly representative of those held by a great many Russians of his class, Russians who at present live in exile from their country and who prior to the war were clearly Tsarist in sympathy. The assertion is made that there has been very generally an improvement in the mental attitude of Russians toward the Soviet Government, this change coming with the modification of the policies of that government and being true of Russians both within and outside of the country. It is also asserted that the existing Government of Soviet Russia, of which Krassin would be the spokesman, is now ready to propose a constructive policy to meet the requirements of foreign countries, that Ber has the qualifications to represent the attitude of those in exile, and that Ber and Krassin have come to an agreement regarding a proposed basis for cooperation and coordination which they think would prove to be acceptable to both. The time is now ripe, they urge, to give an opportunity to the American Government to review conditions directly with two representatives who have before held opposite views but who have the ultimate wish to advance international peace. If the desired permission is given, they say they could start at once, that they do not expect to stay in the United States more than two weeks, and that their only purpose in going would be to lay before the officials to whom they may be referred the outlines of the present status of Russia, as they see it, and of a constructive policy which in their opinion would be both acceptable to all sides and practicable. I agreed to forward this request but without recommending it.

HARVEY

861.01/353 : Telegram

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

[Paraphrase]

WASHINGTON, December 21, 1921—1 p.m.

691. With reference to your telegram 977 of December 15, 4 p.m., see Department's 630 of November 3, 3 p.m., particularly the penultimate sentence.

The Department must be given complete information as to the nature of the proposed basis for cooperation and coordination before Krassin's visit can be considered. Subject to conditions given in Department's no. 630, there is no objection Krassin's calling upon the consul general.

HUGHES

661.6215/1

The Secretary of State to the Secretary of Commerce (Hoover)

WASHINGTON, December 27, 1921.

MY DEAR MR. SECRETARY: I have received and carefully considered your reply of December 6 to my letter of the 1st, concerning the relation of Germany to future Russian-American trade and the policy to be adopted in that connection.

The importance of direct trade with Russia and the conditions which will favor its development were not absent from my mind when I sent you the memorandum concerning indirect trade through Germany. The suggestions contained in this memorandum assumed an understanding of the main facts brought out in your reply and dealt only with the attitude which this Government should adopt with respect to the supplemental movement of indirect trade which will inevitably exist in greater or less volume.

I do not believe that there is any essential conflict of ideas as to the main course of action to be pursued. Before the memorandum in question was prepared there had been informal consultations between subordinate officers of the Department of State and the Department of Commerce and it was thought that a general understanding had been reached along the lines laid down. The memorandum was submitted as a basis of final discussion, with the purpose especially of cultivating a free exchange of views and cooperation between the two Departments in matters of common concern.

I am [etc.]

CHARLES E. HUGHES

RELEASE OF AMERICAN CITIZENS HELD PRISONERS IN RUSSIA⁹⁸

361.11/3648 : Telegram

The Minister in Czechoslovakia (Crane) to the Acting Secretary of State

PRAGUE, January 11, 1921—2 p.m.

[Received January 13—12:42 a.m.]

3. I find that the Foreign Office would gladly extend any assistance in repatriating Americans in Russia or help them in any other way which might be desired through the Czecho-Slovak Red Cross representative in Moscow. There is no officially accredited representative

⁹⁸ For previous correspondence, see *Foreign Relations*, 1920, vol. III, pp. 668 ff.

of Czechoslovakia in Russia but for your confidential information this Red Cross representative takes care of certain matters for this Government there and is in direct communication with the Foreign Office in Prague. The Foreign Office informs me there are several hundred Russians in Czechoslovakia many of whom are prisoners who have not been returned to Russia nor are they included in the numbers of prisoners of war [now] being repatriated to Russia. I am reasonably confident that the Czecho-Slovak Government would offer some of these in exchange for some Americans if any who are held in Moscow provided that [the United States Government] informally [indicated] to the Czecho-Slovak Government that there was no objection.

CRANE

361.11/3648 : Telegram

*The Acting Secretary of State to the Minister in Czechoslovakia
(Crane)*

WASHINGTON, January 26, 1921—6 p.m.

8. Your No. 3, January 11, 2 p.m.

You may informally thank the Foreign Office for its proffer of assistance in repatriating Americans in Russia and assure them that the Department would appreciate any efforts they might see fit to make to this end.

The Department has deemed it unwise to single out any one individual American citizen for special consideration, but has based its endeavors on the broad ground of the question of principle. No Russians resident in this country, who are not under common law criminal prosecution, are prevented from returning to their country.

The Department suggests that you explain to the Foreign Office our practice in deporting objectionable aliens. In spite of provocation from the Soviets, this Government did not hold Martens as a hostage in reprisal.

The Department further suggests that it might be advisable for the Czecho-Slovak Red Cross representative to call to the attention of the Soviet authorities the widespread interest in this country in the fate of Mr. Kilpatrick⁹⁴ of the American Red Cross who was taken prisoner on the Crimean front and in spite of his Red Cross uniform is being held in Moscow. It is such incidents which render impossible any large scale relief work in Russia.

DAVIS

⁹⁴ Capt. Emmet Kilpatrick.

361.11/3675 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, February 26, 1921—3 p.m.

[Received 4:05 p.m.]

6. Your no. 9, February 18, 1[7] p.m.⁹⁵ Nansen⁹⁶ has received no telegram from Moscow regarding Americans since early part of December probably due to change in foreign policy. Nansen confidentially informed [that] Litvinov now strong factor in foreign policy and determined request recognition of Soviet Russia before dealing with foreign powers. Eiduch⁹⁷ informed Nansen no action likely to be taken until Harding inaugurated. Nansen not discouraged as to outcome of efforts and will again write Russian Foreign Commissariat requesting immediate action. I believe it unwise to have Nansen discontinue his work as Soviet Government may be postponing action until after new administration.

SCHMEDEMAN

361.11/3696 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, March 29, 1921—3 p.m.

[Received March 29—1:37 p.m.]

10. Referring to the several recent instructions for communication to Dr. Nansen regarding repatriation of American citizens in Russia. He asks me to inquire whether there is any likelihood that the Government of the United States will soon be willing to negotiate direct as the Soviets have frequently intimated a desire that it do so and, negotiations have [*having*] been quiescent for several months, this seems a favorable occasion for making the change if desired. He is entirely willing to continue his work if such is your wish.

SCHMEDEMAN

361.11/3697 : Telegram

The Minister in Czechoslovakia (Crane) to the Secretary of State

PRAGUE, March 30, 1921—5 p.m.

[Received 10:36 p.m.]

27. Your telegram number 17, February 28, 7 p.m.⁹⁵ The Foreign Office has learned that the attitude of the Soviets would be that the United States must treat with them directly on the question and

⁹⁵ Not printed.⁹⁶ Fridtjof Nansen, commissioner of the League of Nations to repatriate prisoners.⁹⁷ Alexander Eiduch, head of the Soviet Central Organization for Prisoners.

that the Americans are held more or less as hostages. The Czechs will continue their efforts but I do not expect success. There are no new names to report.

CRANE

361.11/3696 : Telegram

The Secretary of State to the Minister in Norway (Schmedeman)

WASHINGTON, April 5, 1921—5 p.m.

13. Your 10 March 29 3 p.m.

Inform Dr. Nansen that this Government would greatly appreciate his further efforts in this matter. You may invite his attention to the Secretary's statement of March 25th regarding trade with Russia,⁹⁸ copy of which was handed to Litvinoff by the Consul at Reval. Department assumes this has been published in full in Christiania.

HUGHES

361.11/3701 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, April 12, 1921—3 p.m.

[Received 8:44 p.m.]

12. Referring to the Department's cable number 13, April 5, 5 p.m. Nansen telegraphed Chicherin⁹⁹ April 7th as follows:

"Present American Government has requested me to try to obtain an agreement with you about release of American citizens in Russia. I hope you will now be able to allow all Americans leave Russia, in which case, I feel certain it will be possible to bring all Russians you desire back from United States. I am able inform you that prison sentences against Russian Communists have recently been greatly commuted. I can now send you new lists of Americans known to be in Russia whose release is desired. Would be much obliged for answer at your earliest convenience in order inform American Government."

Yesterday the following reply was received:

"April 9th. Thanks for friendliness. Our Government always glad to enjoy your cooperation but as for American Government we will wait until it enters itself into negotiations with our Government upon matter referred to in your radio. American consul has communicated with Litvinov in another matter. We cannot see why he should not enter into negotiations reciprocal repatriation."

⁹⁸ See telegram Mar. 25, to the consul at Reval, p. 768.

⁹⁹ George V. Chicherin, Soviet Commissar for Foreign Affairs.

Nansen says France was treated in about the same manner. He had been promised the release of all French in Russia but they were not released and negotiations were conducted through a French official owing to Russian insistence and the French Government at once stated that its fleet would bombard the towns on the Black Sea if the persons retained were not forthcoming immediately. As a result all were promptly released.

SCHMEDEMAN

361.11/3718 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, May 5, 1921—noon.

[Received, May 5—9:32 a.m.]

16. Referring to my cablegram number 12, April 12, 3 p.m. Nansen informs me that he has received a communication from the International Red Cross Committee at Geneva regarding Americans in Russia. Before taking action he desires to obtain information as to the position taken by you. He suggests that a message from you to him stating that you have not changed your attitude in the matter of direct negotiations with the Soviets would hasten action. He further suggests that if the State Department does not desire him to take further action a communication addressed to Litvinov through the American consul at Reval would very likely bring results. If such communication is sent to Reval, kindly inform me so that I may communicate contents to Nansen.

SCHMEDEMAN

361.11/3701 : Telegram

The Secretary of State to the Minister in Norway (Schmedeman)

WASHINGTON, May 10, 1921—noon.

19. Your No. 12, April 12, 3 p.m. and No. 16, May 5, noon. Please deliver the following message to Nansen:

“The Government of the United States appreciates very highly your friendly and humanitarian activity on behalf of the American citizens imprisoned or detained in Soviet Russia and asks that you continue to do everything possible to obtain their release, or the amelioration of their condition pending release.

Any suggestion from you concerning the most efficacious method of procedure will be welcomed. A condition precedent to any communication of any nature whatsoever between this Government and those who are responsible for the detention and imprisonment of the American citizens in Soviet Russia, is the safe delivery of these citizens into friendly hands beyond the Soviet borders. (Signed) Charles E. Hughes.”

Please say further to Nansen that as public opinion in the United States is becoming more and more exercised by the detention and imprisonment of American citizens in Soviet Russia, it would be desirable to make the foregoing message to him public in the United States, and ask if he believes that this would interfere with his efforts for the release of the Americans, or would in any way embarrass him personally.

Cable reply.

HUGHES

361.11/3724 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, May 12, 1921—3 p.m.

[Received May 12—2:39 p.m.]

19. Your 19, May 10, noon. Nansen much pleased with your message and sees no objection to publication. He thinks of sending the text to the Soviets.

SCHMEDEMAN

361.11/3729 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, May 19, 1921—3 p.m.

[Received 3:49 p.m.]

21. Dr. Nansen has received the following from Moscow.

“May 15th. Answering your wireless message of May 13th are [we] to understand that the detention of American citizens in Russia is the only hindrance to the resumption of trade and *de facto* relations between Russia and the United States of America.”

He wishes to reply personally and not on behalf of the Government of the United States that such detention is not the only hindrance but is a very serious one and that he fears if continued it will make the situation much worse. Before sending this he wishes assurances of your approval but believes his reply should be sent at the earliest possible moment.

SCHMEDEMAN

361.11/3729 : Telegram

The Secretary of State to the Minister in Norway (Schmedeman)

WASHINGTON, May 20, 1921—11 a.m.

20. Your No. 21, May 19, 3 p.m.

Nansen should reply personally that this Government declines to discuss any question of hindrance to resumption of trade or to

consider such resumption in any aspect until American citizens detained in Russia are released unconditionally.

HUGHES

361.1121 K 55/129 : Telegram

The Commissioner at Riga (Young) to the Secretary of State

RIGA, June 21, 1921.

[Received June 22—11:20 p.m.]

444. Letter dated June 5 just received from Kilpatrick and Estes² both then in the Moscow prison hospital and both apparently in serious physical condition. Kilpatrick who requests that his brother Doctor George Kilpatrick, Uniontown, Alabama, be notified was confined for some time underground without food. He states that it is too late to save him but requests United States Government to take immediately necessary measures for release Americans in prison in Soviet Russia. Estes writes American prisoners informed they will be held for exchange purposes. Receipt some of our food shipments acknowledged but inadequate to needs. States Americans are continually changed from place to place and information their whereabouts withheld from Latvian and Czecho-Slovak representatives thus delaying and rendering difficult distribution food supplies.

All of our information indicates that Americans in prison have received especially cruel and inhuman treatment following Cooper's³ escape and it is apparently certain that some of them at least cannot survive under present conditions.

YOUNG

361.1121 K 55/129 : Telegram

The Secretary of State to the Commissioner at Riga (Young)

WASHINGTON, June 23, 1921—5 p.m.

71. Repeat your No. 444, June 21, to Embassy London and Legation Christiania.

Is it possible, in your opinion, that effective pressure for release of Americans can be exercised by Baltic States in case they were asked to do so by this Government?

HUGHES

² Weston B. Estes, arrested upon entering Russia to take moving-picture films in the summer of 1920.

³ Capt. Merion C. Cooper, American citizen serving as aviator in the Polish Army, captured by Russians in July 1920 and imprisoned; escaped from Russia April 1921.

361.1121 K 55/129 : Telegram

The Secretary of State to the Minister in Norway (Schmedeman)

WASHINGTON, June 23, 1921—5 p.m.

28. Advise Nansen of substance of Riga's No. 444, June 21, which Riga is repeating to you and inquire if Nansen has made any progress toward release of Americans.

Let him know that situation reported by Riga is regarded by this Government as most serious and that consideration is being given to every possible means of terminating it.

HUGHES

361.1121 K 55/129 : Telegram

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

[Paraphrase]

WASHINGTON, June 23, 1921—6 p.m.

356. No. 444, June 21, from Riga will be repeated to you by the Commissioner there. It concerns the plight of Americans held prisoners in Russia.

Is there a possibility of bringing effective pressure through the British Government upon the Bolsheviki?

Direct negotiations by the United States with Krassin or any other agent of the Bolsheviki it is believed will not bring definite results. It is thought that the Bolsheviki would make such negotiations the occasion for discussing innumerable unconnected issues involving the general relations of the United States with the Russian Soviets.

In case you take this matter up with the British officials, it may not be improper to call their attention to the fact that in 1918 the American Consul at Moscow and American Red Cross representatives gave very active aid and protection to British subjects. Considering this aid, it is felt that an opportunity to use its influence with the Bolsheviki on behalf of our citizens would be welcomed by the British Government.

HUGHES

361.1121 K 55/130 : Telegram

The Commissioner at Riga (Young) to the Secretary of State

RIGA, June 24, 1921—1 p.m.

[Received June 25—5:06 a.m.]

446. Department's 71, June 23rd, 5 p.m. My telegram 444, June 21st, repeated to London and Christiania. I do not believe that such pressure as Baltic Provinces might be able to exert would be effec-

tive unless it included possible stoppage transit trade and this these states would hardly be prepared to do especially in view our attitude in matter of their recognition.

I believe they would be very willing to make official representations on our behalf but such representations would not in all probability be effective.

I suggest for Department's consideration that release of our citizens be immediately demanded through Bolshevik mission at Reval or Riga and that failing prompt compliance with this demand an embargo be at once placed on all shipments for Soviet Russia and the entry of American citizens into Soviet Russia prohibited.

YOUNG

361.11/3756 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, July 1, 1921—11 a.m.

[Received 7:30 p.m.]

31. Referring to the Department's number 28, June 23, 5 p.m. Nansen informs me that he has received no reply to his telegrams, that Litvinov seems opposed to the release of American prisoners and that it seems useless for him to send further telegrams unless Department has some new proposition to offer Russia. He believes that the Government should take extreme measures at least prevent American goods going to Russia. Also suggests following the plan adopted by France to force the release of French prisoners. See last paragraph in my cable 12, April 12, 3 p.m.

SCHMEDEMAN

361.11/3761 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, July 15, 1921—2 p.m.

[Received 10:38 p.m.]

33. Dr. Nansen received a long telegram on the 13th instant from Maxim Gorky ⁴ quoting substance of an appeal made to the United States through the Archbishop [of] Canterbury and Archbishop [Bishop] of New York asking for bread and medicinal preparations for Russian people a great part of whom are doomed to hunger and

⁴ See despatch no. 1869, July 15, from the Minister in Norway, p. 804.

death. Beet sugar crops of many provinces have been burned by drought. After consulting me Dr. Nansen sent reply to Gorky reading as follows:

“Have received your impressive telegram. Probability of people who can help materially now are Americans who have done unique charity work during and after war but serious obstacle will be that Americans citizens are retained in Russia and in Russian prisons. Must therefore most urgently advise that they be released at once, otherwise I fear you cannot expect much help from America. I am doing all I can to send food at once. Fridjof Nansen.”

SCHMEDEMAN

361.11/3762 : Telegram

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

[Paraphrase]

LONDON, July 16, 1921—10 a.m.

[Received 2:23 p.m.]

589. My no. 581, July 13.⁵ My suggestions were most cordially received by Lord Curzon who expressed most warmly his desire to help us in this matter. He is giving instructions to Hodgson, who is head of the Trade Commission leaving here for Moscow tomorrow, to do everything he can to secure the release of Americans detained in Russia or betterment of their conditions at least. Full lists and data are being supplied to Hodgson for his confidential use.

HARVEY

361.11/3763 : Telegram

The Minister in Norway (Schmedeman) to the Secretary of State

CHRISTIANIA, July 16, 1921—1 p.m.

[Received 10:15 p.m.]

34. Nansen has received telegram from Tchitcherin dated 10th reading as follows:

“We regret that our answer to your telegram of May 26th was not received by you but we cannot add anything regarding interned Americans to our communication previous to that date.” Tchitcherin.

SCHMEDEMAN

⁵ Not printed; see instructions in telegram no. 356, June 23, to the Ambassador in Great Britain, p. 797.

361.11/3766a : Telegram

The Secretary of State to the Consul at Reval (Albrecht)

WASHINGTON, July 25, 1921—3 p.m.

Deliver following message to Litvinov⁶ and telegraph Department when it has been done:

“The American Government is advised that, despite the repeated efforts of Doctor Nansen in its behalf to secure the release of the American prisoners in Russia, they are still held and in the most serious plight. In the name of humanity the American Government demands of the Soviet authorities that these prisoners be at once released. It is manifestly impossible for the American authorities to countenance measures for the relief of distress in Russia while our citizens are thus detained.”

Advise Commissioner, Riga.

HUGHES

361.11/3767 : Telegram

The Consul at Reval (Albrecht) to the Secretary of State

REVAL, July 26, 1921—5 p.m.

[Received 10 p.m.]

Message in your July 25, 3 p.m., delivered today to Stark who is in charge of Soviet mission during Litvinov's absence in Moscow. Stark said he would telegraph it immediately to Tchitcherin and deliver to me the reply thereto as soon as received.

ALBRECHT

361.1121 K 55/147 : Telegram

The Vice Consul in Charge at Reval (Perkins) to the Secretary of State

REVAL, August 8, 1921—5 p.m.

[Received August 8—4:50 p.m.]

The Soviet Mission here has just delivered to this office a copy of a telegram received from Litvinov in Moscow which reads as follows:

Inform at once the American consul enclosing copy of this telegram that all Americans in prisons and camps at Moscow are being

⁶ Maxim M. Litvinov, Assistant Soviet Commissar for Foreign Affairs and Plenipotentiary Representative of the Soviet Republic to Esthonia.

sent today to the frontier in number of six. Their names are Kilpatrick, Kalamatiano,⁷ Estes, Flick,⁸ D. Lamark,⁹ Haselwood. If other additional are found in Petrograd they will be included in the party. It is not [apparent omission] whether these men will be sent to Reval or Riga.

PERKINS

361.1121 K 121/42 : Telegram

The Consul at Reval (Albrecht) to the Secretary of State

[Extract]

REVAL, August 10, 1921—1 p.m.

[Received 7:30 p.m.]

Kalamatiano, Estes, Hazlewood, Flick, Kilpatrick and Lamark, American citizens released from prison, arrived this morning at Reval. . . . Hazlewood's real name is Russell Pattenger. . . . He was captured on January 22nd, 1920 while five hours from Red army at Vladivostok while member company A, Siberian replacement detailed for temporary duty base hospital 17 and gave name Thomas Hazlewood because required to sign paper he could not read.

ALBRECHT

361.11/3796 : Telegram

The Commissioner at Riga (Young) to the Secretary of State

RIGA, August 18, 1921—1 p.m.

[Received 2:09 p.m.]

490. *Izvestia* August 12 carries prominent notice official information Chicherin to effect American citizens may leave Russia after presenting satisfactory proof citizenship to Anglo-American Division Commission Foreign Affairs. Keeley¹⁰ telegraphs expects to leave within a few days.

YOUNG

⁷ Xenophon B. Kalamatiano, an American citizen, was arrested in Russia in 1918 on the charge of military espionage and imprisoned under death sentence.

⁸ John Flick, arrested upon entering Russia with Weston B. Estes in the summer of 1920.

⁹ Arrested in 1920.

¹⁰ Royal R. Keeley, who entered Russia in September 1919 to work for the Soviet Government, was arrested in May 1920 and imprisoned on the charge of sending out a false report on economic conditions.

361.11/3798 : Telegram

The Commissioner at Riga (Young) to the Secretary of State

RIGA, August 20, 1921—10 a.m.

[Received 6:33 p.m.]

491. The granting full facilities to Americans to leave Russia incorporated in the agreement to be signed this morning.¹¹ Keeley, whose arrival expected shortly, should be able give us accurate information regarding Bolshevik real attitude in matter Americans still in Russia.

YOUNG

361.11/3796 : Telegram

The Secretary of State to the Commissioner at Riga (Young)

WASHINGTON, August 22, 1921—5 p.m.

97. Your 490, August 18, 1 p.m., and 491, August 20, 10 a.m. Following for Miller¹² from Hoover:¹³

“ ‘Satisfactory proof of citizenship’ mentioned might possibly permit further detention of American citizens on technical grounds as many Americans have no doubt lost their identification papers. Others are wives and children of naturalized American citizens now in this country. Under present famine conditions it would seem distinctly advantageous to Bolsheviks to allow these people to leave. Relief Administration anticipates liberal interpretation of clause in agreement covering release of Americans. Inform Litvinov. Hoover.”

HUGHES

DEPORTATION OF UNDESIRABLE RUSSIANS FROM THE UNITED STATES¹⁴

311.6124/89 : Telegram

The Acting Secretary of State to the Commissioner at Riga (Young)

WASHINGTON, January 12, 1921—7 p.m.

2. Department of Labor has just informed State Department that arrangements were made by one of its representatives with the Latvian representative in New York for transit through Latvia of twenty-four aliens who sailed from New York December 23, 1920, via S.S. *Imperator*, and that these deportees were transshipped to Libau,

¹¹ For text of agreement signed Aug. 20, see p. 813.

¹² John C. Miller, Chief of the American Relief Administration Mission to the Baltic States.

¹³ Herbert Hoover, Chairman of the American Relief Administration.

¹⁴ Continued from *Foreign Relations*, 1920, vol. III, pp. 687-700.

where they were met by representatives of Latvia, placed aboard a train and taken to Riga, and turned over to Soviet representatives.

If any complications arose, cable facts briefly; otherwise submit full report by mail.

Do you perceive any objection to future similar informal arrangements by Labor Department?

DAVIS

311.6124/90: Telegram

The Commissioner at Riga (Young) to the Acting Secretary of State

RIGA, January 15, 1921—2 p.m.

[Received 3:12 p.m.]

303. Department's number 2, January 12, 7 p.m. Complications have arisen but believe I can adjust entire matter satisfactorily. Pending my further telegraphic report no further deportations should be made via Latvia and if any now *en route* please cable me immediately full information. Attitude of the Latvian authorities most friendly and have no objection to further deportations but desire in the meantime to effect necessary arrangements and agreement.

YOUNG

311.6124/91: Telegram

The Commissioner at Riga (Young) to the Acting Secretary of State

RIGA, January 19, 1921—11 a.m.

[Received 9:30 p.m.]

304. Supplementing my January 15, 2 p.m. Latvian authorities now have no objection whatever to further deportations to Soviet Russia via Latvia providing early notice be given them through this office of expected arrivals deportees at Latvian ports, provided further that a representative of the Department of Labor informally arranges with Latvian representative at New York for necessary visas, and that the sum of \$3 to cover rail transportation through Latvia be paid to Latvian representative at New York for each deportee who will then be given a certificate entitling him to such transportation. In view food shortage in Latvia the authorities here would be glad if a three days' food supply could be furnished by our officials to each deportee for use by such deportee while in transit through Latvia. Please reply by telegraph whether foregoing is satisfactory to Department of State and Department of Labor.

YOUNG

311.6124/95 : Telegram

The Secretary of State to the Commissioner at Riga (Young)

WASHINGTON, February 7, 1921—8 p.m.

11. Labor Department states that suggestions contained in your 304, January 19, 11 a.m. will be followed.

Keep Department informed of any difficulties especially with regard to food.

Fifty Russians were deported S.S. *Esthonia* February 1st routed to Riga via Libau.

COLBY

AMERICAN RELIEF ACTIVITIES IN SOVIET RUSSIA

Appeal from Maxim Gorky for Aid to Famine Sufferers—Agreement Between the American Relief Administration and the Soviet Authorities—Appropriations by the United States for Famine Relief

861.48/1501

The Minister in Norway (Schmedeman) to the Secretary of State

No. 1869

CHRISTIANIA, July 15, 1921.

[Received July 29.]

SIR: I have the honor to refer to my cable No. 33,¹⁸ dated the 15th instant, giving summary of a telegram received on the 13th instant by Doctor Nansen,¹⁹ from Maxim Gorky, [through the?] Commissariat for Foreign Affairs at Moscow, making an appeal to the North American Nation through the Archbishop of New York asking for bread and medicines for the Russian population, who are suffering because of epidemics and crop failure in many provinces caused by drought. A full copy of this telegram is sent herewith as enclosure No. 1.

After consulting me as to the course of action to be taken Dr. Nansen sent a reply to Maxim Gorky, a copy of which is enclosed herewith as enclosure No. 2.

I have [etc.]

A. G. SCHMEDEMAN

[Enclosure 1]

COPY OF TELEGRAM RECEIVED BY DOCTOR NANSEN JULY 13, 1921

Very urgent. July eleventh, Patriarch Tikhon addressed following appeal to Archbishop Canterbury and Archbishop [Bishop] New York asking for bread and medicines to Russian population suffering crop failure and epidemics:

¹⁸ *Ante*, p. 798.¹⁹ Fridtjof Nansen, commissioner of the League of Nations to repatriate prisoners.

"To his Eminence Right-Reverend Bishop of New York USA. Right Reverend Sir. Through you I appeal to North American Nation: there's famine in Russia. Great part of her population doomed to hunger death. Corn of many provinces formerly country's granary now burned by drought. Famine breeds epidemics. Most generous aid needed immediately. All other considerations must be cast aside. The people are dying the future is dying because population deserts homes lands fields farms fleeing eastwards crying for bread. Delay spells unprecedented calamities. And [*Give?*] immediately bread and medicines. Am sending similar appeal English people through Archbishop Canterbury. Pray may God avert his wrath. Tikhon Patriarch Moscow and All Russia.["]

Gorky sends following appeal:

"To all honest people. Southeast Russian corn growing steppes smitten by crop failure caused by drought. This calamity menaces hunger death to millions of Russia population. Think of Russian people's exhaustion by war and revolution which reduced considerably its resistance to disease and its physical endurance. Gloomy days have come for country of Tolstoy Dostoyevsky Mendelejev Pavlev Mussorgsky Glinka and other world-prized men and I venture to trust that cultured European and American people conceiving tragedy of Russian people will immediately succor with bread and medicines. If humanitarian ideas and feelings—faith in whose social import was so shaken by damnable war and victors unmercifulness towards vanquished—if the faith in the creative force of these ideas and feelings, I say, must and can be restored, Russia's misfortune offers humanitarians splendid opportunity to demonstrate vitality for humanitarianism. I think particularly warm sympathy in succoring Russian people must be shown by those who during ignominious war so passionately preached fratricidal hatred thereby withering the educational efficacy of ideas evolved by mankind in most arduous labors and so highly [*lightly?*] killed by stupidity and cupidity. People who conceive world's agonizing pain will forgive the involuntary bitterness of my words. I ask all honest European and American people for prompt aid to Russian people. Give bread and medicines.["]

MAXIM GORKY

[Enclosure 2]

COPY OF TELEGRAM SENT BY DOCTOR NANSEN [TO MAXIM GORKY],
JULY 14, 1921

Have received your impressive telegram. Only people who can help materially now are Americans who have done unique charity work during and after war but serious obstacle will be that American citizens are retained in Russia and in Russian prisons. Must therefore most urgently advise that they are released at once otherwise I fear you cannot expect much help from America. I am doing all I can to send food at once.

FRIDTJOF NANSEN

861.48/1476

*The Chairman of the American Relief Administration (Hoover)
to the Secretary of State*

WASHINGTON, July 22, 1921.

DEAR MR. SECRETARY: You will recollect my conversation of about six weeks ago in which I raised the desirability of extending relief to children and medical relief in Bolshevik Russia. Since that time the food situation has become more difficult, typhus is wider-spread. You may have also noticed the appeals being sent out by prominent Russians including Maxim Gorky for help and the curious statements of the Bolshevik government giving these appeals the color of being unauthorized but that the world is wicked in refusing them. Despite this foolishness, I feel very deeply that we should go to the assistance of the children and also provide some medical relief generally.

I would like to suggest, therefore, to you that as the head of the American Relief Administration I send an offer to Gorky by cable of which I enclose a draft.²⁰

I believe it is a humane obligation upon us to go in if they comply with the requirements set out; if they do not accede we are relieved from responsibility.

Yours faithfully,

HERBERT HOOVER

861.48/1477

*The Assistant Director of the American Relief Administration
(Herter) to the Acting Chief of the Division of Russian Affairs,
Department of State (Poole)*

WASHINGTON, July 23, 1921.

DEAR POOLE: I am enclosing herewith copy of the message which was sent this afternoon to our London office for transmission to Maxim Gorky in Petrograd. I hope that it meets with your approval in its final shape.

I am also enclosing the original letter addressed by Mr. Hoover to Secretary Hughes which I brought with me this morning and which I inadvertently carried off again. I presume that you will want it for your records.

Sincerely yours,

CHRISTIAN A. HERTER

²⁰ Not found in Department files; see the letter from the Assistant Director, American Relief Administration, to the Chief of the Division of Russian Affairs, July 23, and its enclosure *infra*.

[Enclosure—Telegram]

*The Chairman of the American Relief Administration (Hoover)
to the London Office of the American Relief Administration*

WASHINGTON, June [July] 23, 1921.

For Brown.²¹ Wish following cable transmitted quickly to A.R.A. representative in Esthonia for retransmission to Gorky in Petrograd. If there is no telegraphic communication he could ask Bolshevik agents to transmit it. Also if any difficulty getting it through he can publish in Riga press in any event as soon as transmitted please issue to Riga press and advise us.

[“] Maxim Gorky, Petrograd: I have read with great feeling your appeal to Americans for charitable assistance to the starving and sick people of Russia more particularly the children. To the whole American people the absolute *sine qua non* of any assistance must be the immediate release of the Americans now held prisoner in Russia and adequate provision for administration. Once these steps have been taken the American Relief Administration a purely voluntary association and an entirely unofficial organization of which I am chairman, together with other cooperating charitable American organizations supported wholly through the generosity of the American people have funds in hand by which assistance for the children and for the sick could be undertaken immediately. This organization previously during the last year intimated its willingness to undertake this service as one of simple humanity disengaged absolutely from any political social or religious motives. However for obvious administrative reasons it has been and is compelled to stipulate for certain undertakings. Subject to the acceptance of these undertakings we are prepared to enter upon this work. We are today caring for three and one half millions of children in ten different countries and would be willing to furnish necessary supplement of food clothing and medical supplies to a million children in Russia as rapidly as organization could be affected. The administrative conditions that they are obliged to make are identically the same as those that have been established in every one of the twenty three countries where operations have been conducted one time or another in care of upwards of eight million children.

The conditions are that the Moscow Soviet authorities should give a direct statement to the Relief Administration representatives in Riga (A) that there is need of our assistance, (B) that American representatives of the Relief Administration shall be given full liberty to come and go and move about Russia, (C) that these members shall be allowed to organize the necessary local committees and local assistance free from governmental interference, (D) that they shall be given free transportation of imported supplies with priority over other traffic that the authorities shall assign necessary buildings

²¹ Walter Lyman Brown, Director for Europe of the American Relief Administration.

and equipment and fuel free of charge, (E) that in addition to the imported food clothing and medicines the children and the sick must be given the same rations of such local supplies as are given to the rest of the population, (F) that the Relief Administration must have the assurance of non-interference of the government with the liberty of all of its members.

On its side the Relief Administration is prepared as usual to make a free and frank undertaking first that it will within its resources supply all children and invalids alike without regard to race creed or social status; Second that its representatives and assistants in Russia will engage in no political activities.

I desire to repeat that these conditions are in no sense extraordinary but are identical with those laid down and readily accepted by the twenty three other governments in whose territories we have operated."

HERBERT HOOVER

861.48/1478 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, July 25, 1921—5 p.m.

[Received July 25—4: 53 p.m.]

224. My telegram number 219, July 18, 5 p.m.²² Moscow radios give terrible pictures of famine and disease prevailing in Volga Region. In the past we have always taken the lead in acting when such catastrophes have arisen. Our relations with the Russia of the future will certainly be influenced by our attitude in this instance.

In the name of humanity and irrespective of our attitude towards Soviet, I believe we should take immediate action at least to investigate and ascertain what relief measures if any are possible. If authorized I could immediately organize and send by destroyer to a south Russian port a party of trained Red Cross and other relief workers. If the initiative is not to pass to others we should take immediate action.

BRISTOL

861.48/1478 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

WASHINGTON, July 26, 1921—5 p.m.

64. Your 224, July 25, 5 p.m. Relief measures suggested by you are in charge of Mr. Hoover's organization which is amply equipped for the purpose provided Soviet authorities observe rules necessary for distribution.

²² Not printed.

For your information and guidance you are informed that American Consul at Reval was instructed yesterday²³ to deliver to Litvinov a message the principal points of which were that efforts to secure release of American prisoners in Russia have proved fruitless; that the American Government demands of the Soviet authorities that prisoners be released at once and further that it is manifestly impossible for American authorities to countenance measures for relief of distress in Russia while American citizens are still detained.

HUGHES

861.48/1503

*The Chairman of the American Relief Administration (Hoover)
to the Secretary of State*

WASHINGTON, August 1, 1921.

DEAR MR. SECRETARY: Please find enclosed herewith copy of the telegram which I settled with you by telephone this morning. Also a copy of the telegram which we received, which had already appeared in the press.

Yours faithfully,

HERBERT HOOVER

[Enclosure 1—Telegram]

*The London Office of the American Relief Administration to the
Chairman of the American Relief Administration (Hoover)*

LONDON, July 31, 1921.

Riga transmits following from Maxim Gorky presented by representative Soviet Government in Latvia:

"July 28th. I have transmitted your proposal to the Soviet Government seeing that the Soviet Government alone can discuss the conditions contained therein. I have received from the Soviet Government the following reply for transmission to you:

"The Russian Government has acquainted itself with the proposal of Mr. Hoover made in the name of the American Relief Administration and finds this proposal quite acceptable as to its basis including the release of the American prisoners. The Russian Government considers it desirable as soon as possible to fix the precise conditions on which this association will begin immediate relations of its humane intentions to guarantee the feeding, medical treatment and clothing of a million children and invalids. For that purpose the Russian Government would consider it useful that Director Brown or another person invested with full powers should carry out negotiations and should immediately come to Moscow, Riga or Reval. The Russian Soviet Government awaits a speedy reply as to the place and date of these negotiations. Signed, Chairman of the Commission of the All Russian Central Executive Committee for Helping the Famine Stricken Population, Kameneff. [']

Signed, Maxim Gorky "

[No signature indicated]

²³ See telegram, July 25, 3 p.m., to the Consul at Reval, p. 800.

[Enclosure 2—Telegram]

The Chairman of the American Relief Administration (Hoover) to the London Office of the American Relief Administration

WASHINGTON, August 1, 1921.

For Brown. As to cable forwarded through you from Mr. Gorky, of July 28th, would be glad if you would proceed at once to Riga. It is of course to be assumed that the prisoners will have been delivered out of Russia as demanded by the State Department before you open discussions. You will recognize that such a course is the most primary evidence of willingness to assure life and liberty of our staff. You will please advise Messrs Gorky and Kameneff.

HOOVER

861.48/1494 : Telegram

The Soviet Commissar for Foreign Affairs (Chicherin) to the Secretary of State

RIGA [MOSCOW], August 2, 1921.

[Received August 5—1:05 a.m.]

Circular note to all governments. The vast movement for relief for the famine stricken population of the eastern provinces of European Russia which attracted the most diversified classes and the most varied public bodies nearly all countries of Europe and America is warmly welcomed by the Russian people and its workers' and peasants' government. At the same time it must be regretfully observed that these bodies as well as the press and even the governments nearly everywhere display inadequate acquaintance with the real state of affairs in Russia possessing far from accurate and verified data on the extent of the calamity and its concrete details. The organs of the Occidental and American press and the declarations of statesmen of all countries frequently contain absolutely false and sometimes exaggerated or erroneous ideas on the situation in the famine stricken provinces and even on the general condition of the Russian Republic.

The Russian government deems necessary therefore to request in the first place the governments of all countries to impart in official manner to citizens interested in the famine which befall part of Russia the following exact data on the question: The Famine Relief Commission of the Central Executive Committee recognized state of distress in ten provinces, viz., Astrakhan, Tsaritzin, Saratov, German Commune, Samara, Simbirsk, Tartar Republic, Tchuvash Territory, also the following districts in Ufa province: Birsk, Belebei, also

Yaransk, Urzhum, Malmyzh, Sovietsk in Viatka province and Serunsk and Krasnokokshaisk in Mari territory. Severe continuance drought in these ten provinces destroyed the harvest entirely or will yield 10 or 15 percent average but in some localities of these provinces the bad harvest will affect only certain kinds of the crops.

These ten provinces are inhabited by approximately eighteen million which will require minimum 41,000,000 poods food supplies from outside to sustain rural population on 50 percent usual rations excluding cattle and 18,000,000 poods to feed urban population. For seeds in localities where harvest is completely lost 15,000,000 poods are required before September 15th. Lacking quite exact data of harvest extent in all other parts of Russia it cannot yet at present be determined what portion of above stated requirements can be furnished by Russia herself. Famine stricken provinces have no past grain stocks left while deliveries from other provinces can only be extremely limited at present. Present distress in these provinces is therefore really very great yet nowhere occurred any of excesses and disorders falsely rumored by West European and American press. In some of hardest hit localities despairing population partly seeks with assistance Soviet authorities to move to more prosperous Russian provinces but this movement of famished inhabitants nowhere assumes any such form as would present slightest menace to public safety and order.

Russian government takes all available measures combatting calamity and relieving sufferers. Russian citizens independently [of any] political *arrière pensée* [are manifesting desire to help the starving]. Russian toiling masses everywhere show fullest readiness for self-denial imposing privations upon themselves to send relief to fellow citizens in distress. Also those who before revolution belonged to privileged classes unselfishly strive to help famine stricken. Alongside with government commission at [of] Central Executive Committee the government authorized the formation of the independent Famine Relief Committee composed of people outside of Soviet governmental spheres. This committee will itself distribute all food supplies at its disposal being a completely independent organization and enjoying full support of Soviet authorities in its activities. Delegates of this committee will shortly go abroad simultaneously with another delegation sent to Western Europe by the Central Executive Commission [*Committée*], by the Central Trade Union Council and by the Central Cooperative Union.

Information received daily of numerous organizations in all countries willing help famine stricken population in Russia meets with wishes of Russian people and government and with urgent need of famine stricken provinces for foreign aid. Addressing itself to all

governments upon this subject the Russian government permits itself to express the hope that latter will present no obstacles to public bodies and individual citizens of their countries desirous to help famine stricken Russian citizens. Russian government will accept for this purpose any aid from whatever source it may come disregarding entirely existing political correlations. Expressing on behalf of Russian people warmest gratitude to foreign organizations and individuals manifesting such ardent desire to help famine stricken Russian citizens the Russian government thinks itself entitled to hope that the governments of other countries will present no obstacles nor barriers to these desires of their citizens.

The People's Commissar for Foreign Affairs

TCHITCHERIN

N. 2204 3/8/21.

861.48/1512 : Telegram

The Commissioner at Riga (Young) to the Secretary of State

RIGA, August 10, 1921—1 p.m.

[Received 7 p.m.]

477. Brown and party arrived this morning. Litvinov²⁴ charged with conducting negotiations with Brown on behalf of Russian famine committee also arrived this morning. The six Americans named in my telegram number 476, August 8, 5 p.m.,²⁵ arrived Narva last night and are expected at Reval this morning. First meeting Brown and Litvinov will probably take place this afternoon. Brown will limit discussion to release other Americans and will ascertain whether Litvinov is authorized to negotiate on behalf of Soviet authorities.

Our number 475 omitted.

YOUNG

861.48/1571 : Telegram

The Commissioner at Riga (Young) to the Secretary of State

RIGA, August 22, 1921—3 p.m.

[Received 4:50 p.m.]

492. First party of American Relief Administration personnel leave Riga for Moscow Thursday. May they retain their American passports?

YOUNG

²⁴ Assistant Soviet Commissar of Foreign Affairs.

²⁵ Not printed; see telegram, Aug. 10, 1 p.m., from the Consul at Reval, p. 801.

861.48/1571: Telegram

The Secretary of State to the Commissioner at Riga (Young)

WASHINGTON, August 23, 1921—1 p.m.

96. Your 492.

Amend American Relief Administration party's passports to include Russia and object of visit to "American Relief Administration". They are to be permitted to carry passports into Soviet Russia.

HUGHES

861.48/1635

The Commissioner at Riga (Young) to the Secretary of State

No. 1166

RIGA, August 23, 1921.

[Received September 13.]

SIR: I have the honor to forward, in triplicate, copy of the agreements signed by Messrs. Brown and Litvinov on August 20th.

I have [etc.]

EVAN E. YOUNG

[Enclosure]

Agreement between the American Relief Administration and the Soviet Authorities in Russia, Signed August 20, 1921

WHEREAS a famine condition exists in parts of Russia, and

WHEREAS Mr. Maxim Gorky, with the knowledge of the Russian Socialist Federative Soviet Republic, has appealed through Mr. Hoover to the American people for assistance to the starving and sick people, more particularly the children, of the famine stricken parts of Russia, and

WHEREAS Mr. Hoover and the American people have read with great sympathy this appeal on the part of the Russian people in their distress and are desirous, solely for humanitarian reasons, of coming to their assistance, and

WHEREAS Mr. Hoover in his reply to Mr. Gorky, has suggested that supplementary relief might be brought by the American Relief Administration to up to a million children in Russia

Therefore it is agreed between the American Relief Administration, an unofficial volunteer American charitable organization under the chairmanship of Mr. Herbert Hoover, hereinafter called the A.R.A., and the Russian Socialist Federative Soviet Republic hereinafter called the Soviet Authorities

That the A.R.A. will extend such assistance to the Russian people as is within its power, subject to the acceptance and fulfillment of the following conditions on the part of the Soviet Authorities who hereby declare that there is need of this assistance on the part of the A.R.A.

THE SOVIET AUTHORITIES AGREE:

First That the A.R.A. may bring into Russia such personnel as the A.R.A. finds necessary in the carrying out of its work and the Soviet Authorities guarantee them full liberty and protection while in Russia. Non-Americans and Americans who have been detained in Soviet Russia since 1917 will be admitted on approval by the Soviet Authorities.

Second That they will, on demand of the A.R.A., immediately extend all facilities for the entry into and exit from Russia of the personnel mentioned in (1) and while such personnel are in Russia the Soviet Authorities shall accord them full liberty to come and go and move about Russia on official business and shall provide them with all necessary papers such as safe-conducts, *laissez passer*, etcetera, to facilitate their travel.

Third That in securing Russian and other local personnel the A.R.A. shall have complete freedom as to selection and the Soviet Authorities will, on request, assist the A.R.A. in securing same.

Fourth That on delivery by the A.R.A. of its relief supplies at the Russian ports of Petrograd, Murmansk, Archangel, Novorossiisk, or other Russian ports as mutually agreed upon, or the nearest practicable available ports in adjacent countries, decision to lie with the A.R.A., the Soviet Authorities will bear all further costs such as discharge, handling, loading and transportation to interior base points in the areas where the A.R.A. may operate. Should demurrage or storage occur at above ports mutually agreed upon as satisfactory such demurrage and storage is for the account of the Soviet Authorities. For purposes of this agreement the ports of Riga, Reval, Libau, Hango and Helsingfors are also considered satisfactory ports. Notice of at least five days will be given to Soviet representatives at respective ports in case the Soviet Authorities are expected to take CIF delivery.

Fifth That they will at their own expense supply the necessary storage at interior base points mentioned in paragraph (4) and handling and transportation from same to all such other interior points as the A.R.A. may designate.

Sixth That in all above storage and movement of relief supplies they will give the A.R.A. the same priority over all other traffic as the Soviet Authorities give their own relief supplies, and on demand of the A.R.A. will furnish adequate guards and convoys.

Seventh That they will give free import and re-export and guarantee freedom from requisition to all A.R.A. supplies of whatever nature. The A.R.A. will repay the Soviet Authorities for expenses incurred by them on re-exported supplies.

Eighth That the relief supplies are intended only for children and the sick, as designated by the A.R.A. in accordance with paragraph (24), and remain the property of the A.R.A. until actually consumed by these children and the sick, and are to be distributed in the name of the A.R.A.

Ninth That no individual receiving A.R.A. rations shall be deprived of such local supplies as are given to the rest of the population.

Tenth That they will guarantee and take every step to insure that relief supplies belonging to the A.R.A. will not go to the general adult population nor to the Army, Navy, or Government employees but only to such persons as designated in paragraphs (8) and (24).

Eleventh The Soviet Authorities undertake to reimburse the A.R.A. in dollars at CIF cost or replace in kind any misused relief supplies.

Twelfth That the A.R.A. shall be allowed to set up the necessary organizations for carrying out its relief work free from governmental or other interference. The Central and local Soviet Authorities have the right of representation thereon.

Thirteenth That the Soviet Authorities will provide:

- A. The necessary premises for kitchens, dispensaries and, in as far as possible, hospitals.
- B. The necessary fuel and, when available, cooking, distributing and feeding equipment for the same.
- C. The total cost of local relief administration, food preparation, distribution, etc., themselves or in conjunction with local authorities. Mode of payment to be arranged at later date.
- D. On demand of the A.R.A. such local medical personnel and assistance, satisfactory to the A.R.A., as are needed to efficiently administer its relief.
- E. Without cost railway, motor, water or other transportation for movement of relief supplies and of such personnel as may be necessary to efficiently control relief operations. The Soviet Authorities will for the duration of the A.R.A. operations assign to the A.R.A. for the sole use of its personnel, and transport free of cost, such railway carriages as the A.R.A. may reasonably request.

Fourteenth In localities where the A.R.A. may be operating and where epidemics are raging, the A.R.A. shall be empowered by the Soviet Authorities to take such steps as may be necessary towards the improvement of sanitary conditions, protection of water supply, etc.

Fifteenth That they will supply free of charge the necessary offices, garages, store rooms, etc., for the transaction of the A.R.A. business and when available heat, light and water for same. Further that they will place at the disposal of the A.R.A. adequate residential quarters for the A.R.A. personnel in all localities where the A.R.A. may be operating. All such above premises to be free from seizure and requisition. Examination of above premises will not be made except with knowledge and in presence of the chief of the A.R.A. operations in Russia or his representative and except in case of flagrant delit when examiner will be held responsible in case examination unwarranted.

Siateenth That they will give to the A.R.A. complete freedom and priority without cost in the use of existing radio, telegraph, telephone, cable, post, and couriers in Russia and will provide the A.R.A., when available and subject to the consent of competent authorities, with private telegraph and telephone wires and maintenance free of cost.

Seventeenth To accord the A.R.A. and its American representatives and its couriers the customary diplomatic privileges as to passing the frontiers.

Eighteenth To supply the A.R.A. free of cost with the necessary gasoline and oil to operate its motor transportation and to transport such motor transportation by rail or otherwise as may be necessary.

Nineteenth To furnish at the request of the competent A.R.A. Authorities all A.R.A. personnel, together with their impedimenta and supplies, free transportation in Russia.

Twentieth To permit the A.R.A. to import and re-export free of duty and requisition such commissary, transport and office supplies as are necessary for its personnel and administration.

Twenty-first That they will acquaint the Russian people with the aims and methods of the relief work of the A.R.A. in order to facilitate the rapid development of its efficiency and will assist and facilitate in supplying the American people with reliable and non-political information of the existing conditions and the progress of the relief work as an aid in developing financial support in America.

Twenty-second That they will bear all expenses of the relief operation other than

- A. Cost of relief supplies at port (see paragraph 4).
- B. Direct expenses of American control and supervision of relief work in Russia with exceptions as above. In general they will give the A.R.A. all assistance in their power toward the carrying out of its humanitarian relief operations.

THE A.R.A. AGREES:

Twenty-third Within the limits of its resources and facilities, to supply, as rapidly as suitable organization can be effected, food, clothing and medical relief to the sick and particularly to the children within the age limits as decided upon by the A.R.A.

Twenty-fourth That its relief distribution will be to the children and sick without regard to race, religion or social or political status.

Twenty-fifth That its personnel in Russia will confine themselves strictly to the ministrations of relief and will engage in no political or commercial activity whatever. In view of paragraph (1) and the freedom of American personnel in Russia from personal search, arrest and detention, any personnel contravening this will be withdrawn or discharged on the request of the Central Soviet Authorities. The Central Soviet Authorities will submit to the chief officer of the A.R.A. the reasons for this request and the evidence in their possession.

Twenty-sixth That it will carry on its operations where it finds its relief can be administered most efficiently and to secure best results. Its principal object is to bring relief to the famine stricken areas of the Volga.

Twenty-seventh That it will import no alcohol in its relief supplies and will permit customs inspection of its imported relief supplies at points to be mutually agreed upon.

The Soviet Authorities having previously agreed as the absolute *sine qua non* of any assistance on the part of the American people to release all Americans detained in Russia and to facilitate the departure from Russia of all Americans so desiring, the A.R.A. reserves to itself the right to suspend temporarily or terminate all of its relief work in Russia in case of failure on the part of the Soviet Authorities to fully comply with this primary condition or with any condition set forth in the above agreement. The Soviet Authorities equally reserve the right of cancelling this agreement in case of non-fulfillment of any of the above clauses on the part of the A.R.A.

Made in Riga, August twentieth, nineteen hundred and twenty-one

On behalf of Council of Peoples Commissaries of the Russian Socialist Federative Soviet Republic.

MAXIM LITVINOFF

*Assistant Peoples Commissary
for Foreign Affairs*

On behalf of the American Relief Administration

[WALTER LYMAN BROWN]
Director for Europe

763.72119/11446 : Telegram

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

LONDON, August 23, 1921—8 p.m.

[Received August 23—7:25 p.m.]

700. Your 493, August 22, 1 p.m.²⁶ Following resolution adopted at meeting Supreme Council August 13th:

"That the commission for the relief of famine in Russia should consist of three representatives of each of the powers represented at the conference; that the representatives should be appointed immediately; that the commission should sit in Paris as soon as possible and that it should have power to add to its numbers by selecting representatives of states adjacent to Russia and of other interested states, and should also determine with what philanthropic and other organizations working for the same purpose it should cooperate."

Foreign Office has approached me informally with desire to know whether United States will send representatives to this meeting and who such representatives would be. Have informed them informally that this Embassy was without information on the subject. Foreign Office expresses informally earnest desire that United States be represented; states that while it is impossible to outline total proposed scope of action of commission that their view is that preliminary meetings would be entirely devoted to investigation and that the hope was to send investigators to Russia to report, and that United States might be represented among such investigators. Foreign Office feels that multiplicity of private charitable organizations in Great Britain makes official British action important. English delegates to commission are Sir Philip Lloyd Greame, parliamentary secretary to Board of Trade, Sir John Hewett, member of Indian plague commission in 1898, and Mr. Oliver Wardrop, Chief British Commissioner in Transcaucasia. Understood that Belgian delegation already appointed but that French members not yet certain.

HARVEY

763.72119/11446 : Telegram

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

WASHINGTON, August 25, 1921—6 p.m.

503. Your 700, August 23, 8 p.m.

Walter L. Brown, Hoover's representative, is about to arrive in London. Instruct him to proceed to Paris for the purpose of tak-

²⁶ Not printed.

ing part as unofficial observer in meeting of international commission for Russian relief, to which your telegram refers, which we understand is to be held in Paris on Monday, August 29th. Time and place can be ascertained through Paris Embassy.

Inform Brown that this Government does not desire to be related to proposed international commission or to governmental action in Russia, if this can be avoided without loss of opportunities which it would be important to conserve. It is believed that in present condition of Russia, governmental action through international commission, inevitably involving dealings of a governmental sort with the Soviet authorities, is likely to have undesirable consequences. This Government does not desire to interpose any obstacles in the way of adequate relief but believes that all proceedings to this end should be of a distinctly humanitarian character and without any unnecessary governmental participation. It is thought that Brown's participation in manner above suggested in the meeting on Monday will enable him to form a judgment (1) as to the purposes and plans of the international commission; (2) as to the effect of these upon the relief work undertaken by the American Relief Administration and (3) as to the advisability of participation by this Government. At present this Government sees no reason to believe that American aid in organizing and distributing relief would be helped in the slightest degree by governmental participation and believes that through the American Relief Administration full information of Russian conditions can be had. It desires to avoid direct dealings with Soviet regime and also to keep a free hand without becoming unnecessarily involved in plans of other governments. Department desires Brown after meeting on Monday to send his views fully through Embassy at Paris and the future relation of this Government to international commission can then be decided. Hoover approves Brown's going for this purpose. Repeat to Herrick.

HUGHES

861.48/1601 : Telegram

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

PARIS, September 1, 1921—3 p.m.

[Received 7.48 p.m.]

531. From Walter L. Brown.

“First meeting of International Commission for Russian Relief held Tuesday afternoon August 30th at Quai d'Orsay. Belgium, France, Great Britain, Italy and Japan represented officially. On motion British representatives Commission decided to send mission of inquiry to Russia to investigate position and report. The five

above nations voted affirmatively I reserving American position for submission to you. Commission however requested America appoint one or more members on mission.

Commission also appointed subcommittee: 1, to decide constitution of mission to Russia, instructions to be given to above mission and form of telegram to be sent to Russia announcing coming of mission; 2, to formulate plans for coordination of Geneva Red Cross, national Red Cross [Societies] and private charity with the relief work of the Commission.

Above committees met Wednesday morning I sitting with coordination committee. Informed committee of A.R.A. attitude based on Hoover's first message²⁷ to Geneva Conference reserving A.R.A. freedom of action but stating we would be glad to cooperate and lend all assistance on spot to such relief work as was actually brought to Russia, there being room for all.

Full Commission met Wednesday afternoon and decided, following British proposal: 1st, constitution of mission to Russia of up to five representatives and an interpreter for each of five nations above plus a representative of the mixed committee of the Geneva Red Cross. Mission to include British famine expert from India, transport, sanitary, medical and agricultural experts and administrators; 2d, instructions given to mission as to information to be secured; 3d, form of telegram to Moscow; 4th, recommendations to Red Cross and private charities to cooperate with inter-Allied commission.

Commission meets tomorrow presumably to discuss form of credits and finish session. Preliminary discussion indicates British will insist on recognition of pre-war debts and giving of securities as primary condition of extending credits.

In general Commission dominated by British who are the only ones to have prepared programs and who seem desirous of instituting a control of railways and transportation.

Only urgent point is to know if you wish to have American representatives on mission of inquiry to Russia on which have reserved our position. However feel no special advantage to us as A.R.A. representatives now on ground and can maintain informal liaison if necessary. Also presence American with this body might give political color to our operations which we desire to avoid. However Department must determine whether broader lines of policy necessitate presence American with this international group. Attitude of French, Belgian and Italian Red Cross [Societies] seems to be to maintain freedom of action jointly with their governments rather than under Geneva party thus practically conforming to our attitude though not admitting it. Wire urgently your instructions *re* American representative on mission to Russia.

HERRICK

²⁷ Not printed.

861.48/1601 : Telegram

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

WASHINGTON, September 2, 1921—4 p.m.

407. Your 531, September 1, 3 p.m.

For Walter L. Brown.

This Government is in full sympathy with all practicable efforts for Russian relief, but believes that at this time American relief should be administered through the private agency of the American Relief Administration. It is thought that full information will be obtained in this way without the risk of complications through governmental action. This Government therefore will not for the present take part in the proceedings of the International Commission. It is understood that all actual relief can be coordinated on the spot with that afforded by the American Relief Administration.

Keep Department fully advised of all proceedings of International Commission.

HUGHES

861.48/1587

The Secretary of State to Diplomatic and Consular Officers

Diplomatic serial

No. 58

WASHINGTON, September 14, 1921.

GENTLEMEN: You are informed that the following named American organizations

The American Relief Administration
 American Friends Service Committee
 American Red Cross
 Federal Council of the Churches of Christ in America
 Jewish Joint Distribution Committee
 Knights of Columbus
 Young Men's Christian Association
 Young Women's Christian Association
 The Catholic Welfare Committee

comprising the so-called European Relief Council have agreed upon a common policy with regard to relief work in Russia which in brief is as follows:

(1) That the Director of the American Relief Administration in Russia shall appoint on his staff at headquarters one or more representatives (to be mutually agreed upon) of any of the organization members of the European Relief Council which may be represented in Russia;

(2) Each organization represented in Russia will conduct all its relations with the central Soviet authorities through or with the approval of the American Relief Administration in Russia;

(3) The Director of the American Relief Administration in Russia will have control over the personnel of all organizations represented in Russia;

(4) The organizations in the United States shall be individually guided by their own views as to the collection of funds;

(5) The American Friends Service Committee will be assigned by the Director of the American Relief Administration in Russia a definite district or area of distribution in which the former shall keep its own identity but under the supervision of the latter.

Colonel William N. Haskell has been appointed Director of the American Relief Administration in Russia.

The Government of the United States has no official connection with this relief work, and representatives of the several organizations mentioned are in no sense representatives of this Government.

I am [etc.]

For the Secretary of State:

FRED M. DEARING

Executive Order No. 3601, December 24, 1921, Establishing Measures for the Purchase of Commodities for Russian Relief

By virtue of an act of Congress entitled "An Act for the Relief of the Distressed and Starving People of Russia", approved December 22, 1921, I, Warren G. Harding, President of the United States, for the purpose of carrying out the provisions of said act hereby appoint

The Secretary of Commerce,
James P. Goodrich, of Indiana,
Edward M. Flesh, of Missouri,
Edgar Rickard, of New York,
Don Livingston, of South Dakota

as a commission to be known as the "Purchasing Commission for Russian Relief," and designate such Commission as the agency for the purpose of the purchase, transport, and delivery of "corn, seed grain, and preserved milk, for the relief of the distressed and starving people of Russia, and for spring planting in areas where seed grains have been exhausted". Overseas transport to be under the provisions of said Act.

I hereby authorize said Commission to purchase said commodities from time to time and in such amount as may be found necessary to carry out the purposes of this Act and not exceeding the amount mentioned in said Act.²⁸

I further authorize and direct the United States Grain Corporation to act as the fiscal agency of said Commission and to pay out

²⁸ \$20,000,000.

of its available funds all bills and obligations incurred, but all under the direction of said Commission in the purchase, transport, and delivery of the aforesaid commodities provided, however, that the total amount so expended by the United States Grain Corporation for such purposes shall not exceed the sum of \$20,000,000.

I further authorize and direct the American Relief Administration to accept from the Purchasing Commission for Russian Relief, the said commodities so purchased and transported and to distribute the same in Russia for the purposes set out in this Act, and by such methods and means and to such places and persons as it in its discretion may determine. On the completion of the work contemplated in said Act and herein designated, the said Grain Corporation shall render to the President of the United States not later than the 15th day of December, 1922, an itemized and detailed report of the expenditures incurred by it, and the said American Relief Administration shall not later than said date submit to the President a report of the work conducted by it under the authority of said Act and this Executive Order.

WARREN G. HARDING

861.48/1885

*The Chief of the Division of Russian Affairs, Department of State
(Poole) to the Secretary of State*

WASHINGTON, December 27, 1921.

MR. SECRETARY: The Russian Ambassador called this morning "to express formally his deep appreciation and gratitude" for the Russian relief measure which has just passed Congress.²⁹ He said that he was convinced that it would assist the recovery of Russia in every way.

The Ambassador asked me to convey the foregoing to you, and expressed the hope that you might find it convenient to convey it also to the President.

Respectfully,

D. C. POOLE

861.48/1806

The Secretary of the Treasury (Mellon) to the Secretary of State

WASHINGTON, January 7, 1922.

DEAR MR. SECRETARY: I enclose for your information copies of two letters, of December 31, 1921, and January 5, 1922,³⁰ which have been received by the Treasury from Mr. Hoover, with regard to \$10,000,-

²⁹ See Executive Order No. 3601, Dec. 24, *supra*.

³⁰ Correspondence not printed.

000 of Bolshevik gold which the American Relief Administration has undertaken to receive from the Soviet Government on account of the purchase of relief supplies. This gold the American Relief Administration proposes to tender to the New York Assay Office, through the Guaranty Trust Company of New York. The indications are that part of the gold, perhaps as much as \$4,800,000, is in the form of United States gold coin, and that the balance is in Russian bars.

The Treasury's general attitude in the matter, as developed when the question first arose as to the tender of gold by the Soviet authorities on account of relief supplies, was set forth in my letter of September 29, 1921, and the memorandum of September 20th transmitted therewith, and again in my letter of November 10th, with which was enclosed a copy of my letter of the same date to Mr. Hoover.^{30a}

The question whether the gold which the American Relief Administration has undertaken to receive for relief purposes should be accepted by the New York Assay Office when tendered by the American Relief Administration has been the subject of informal discussion between the Department of State and the Department of Commerce and the Treasury, and was brought up at the Cabinet meeting on Friday, January 6, 1922. It was there determined, with the approval of the President, that the transaction, because of its humanitarian purpose and the arrangements for the use of the proceeds for the relief of the starving people of Russia, stands on an exceptional basis and that the United States should accept the gold from the American Relief Administration when tendered, without, of course, setting any precedent for other cases of Bolshevik gold. I understand that the Department of State has had advice of this action, and assume that in view of all the circumstances it will offer no objections. The Treasury is prepared on its part to go ahead on this basis and instruct the Assay Office at New York to accept the gold from the American Relief Administration.

Cordially yours,

A. W. MELLON

861.48/1806

The Secretary of State to the Secretary of the Treasury (Mellon)

WASHINGTON, *January 10, 1922.*

MY DEAR MR. SECRETARY: In reply to your letter of January 7, 1922, on the subject of the acceptance by the United States Assay Offices of a quantity of Russian gold in bars, which is to be tendered by the Guaranty Trust Company on behalf of the American Relief

^{30a} Correspondence not printed.

Administration, I beg to inform you that I concur in the view that the tender of this gold constitutes a special case in view of the fact that the gold is being expended for humanitarian purposes on behalf of the whole Russian people. This Department offers no objection, therefore, to your proposal to accept it.

It is understood that the acceptance of this gold does not establish a precedent for the acceptance of other lots of Russian gold which may have been brought to this country under different circumstances.

I am [etc.]

CHARLES E. HUGHES

861.48/1821

Memorandum by the Chief of the Division of Russian Affairs, Department of State (Poole)

[WASHINGTON,] *January 13, 1922.*

The attached text of telegraphic orders addressed to Admiral Bristol at Constantinople by the Navy Department, January 12, 1922, has been furnished me by Captain W. C. Cole, of the Navy Department.

It is understood that these orders are transmitted to Admiral Bristol through Admiral Niblack.

The text of the orders is that agreed upon in conference between Captain Cole, Mr. Herter, of the Department of Commerce, and myself.

D. C. P[OOLE]

[Enclosure—Telegram]

The Secretary of the Navy (Denby) to the High Commissioner at Constantinople (Bristol)

O-287

[WASHINGTON,] *January 12, 1922.*

1312. Services of American Relief Administration particularly in the Black Sea will be very much broadened in near future and it is desire of Navy Department that you will afford every facility including use of vessels of force under your command to representatives of Mission in accomplishment of their work. It is possible that Food Commission will desire to make use of services of naval officers in connection with port activities and to limited extent as representatives of Food Commission in accordance with precedent established in connection with activities of Commission subsequent to Armistice of November nineteen eighteen, with this difference however that activities just mentioned were situated in neutral or enemy countries covered by terms of Armistice. Department realizes that it is not possible to give definite instructions concerning this matter to

you but desires that you will keep in mind the political expediency of keeping at minimum consistent with efficient relief operations the appearance of United States naval vessels in Soviet ports or contact of naval officers with Bolshevik authorities and absolute necessity to avoid any appearance of recognition in any way of Soviet Government or even representatives of local government in ports in which you may be called upon to operate with your force. Subject to above remarks the arrangement of details will be left to your discretion and it is requested that you will keep Navy Department informed of action taken. Minimum expenditure of fuel to accomplish mission is authorized. 1200.

[No signature indicated]

861.48/1818a : Telegram

*The Secretary of State to the High Commissioner at Constantinople
(Bristol)*

WASHINGTON, *January 16, 1922—4 p.m.*

3. The Department concurs in your orders from Navy of January 12 concerning cooperation with American Relief Administration in the Black Sea. Department, with concurrence of Navy, desires to emphasize the importance of keeping at the minimum consistent with effective relief operations the appearance of naval vessels in Soviet ports and contact of naval officers with Soviet authorities. Haskell, representing American Relief Administration at Moscow, is being instructed by Mr. Hoover to inform the highest Soviet authorities that any assistance rendered by American naval vessels in the Black Sea is in the interest of expeditious handling of relief shipments only and is in no sense a gesture by the American Government. The Soviet authorities are to notify their chief Black Sea ports of the possibility of the arrival of American destroyers in the near future and to explain the circumstances under which they come. Haskell is to say that if, after such notification, the Soviet press misinterprets the purely humanitarian assistance which these vessels aim to give the relief shipments, the Navy will immediately withdraw the vessels and relief operations will be handicapped accordingly. Relief Administration is suggesting to its officials, moreover, that merchant ships be used for transporting personnel from Constantinople to Black Sea ports whenever possible, destroyers to be kept in reserve for cases of emergency.

HUGHES

861.48/1816 : Telegram

*The High Commissioner at Constantinople (Bristol) to the
Secretary of State*

CONSTANTINOPLE, *January 17, 1922—noon.*

[Received January 18, 6:56 a.m.]

6. Under instructions received from Navy Department I am helping American Relief Administration work in Black Sea area with the naval forces under my command. This includes sending of destroyer to Novorossiisk and possibly to other south Russian ports, detailing of port officer in Constantinople, relaying of telegrams, et cetera. Arrangements are being made through Brown in London to meet technical expenses involved.

I shall of course carefully bear in mind our policy towards Russia as communicated to me in Department's instructions.

BRISTOL

Executive Order No. 3623, January 24, 1922, Authorizing the Transfer of Medical Supplies to Russia

By virtue of an Act of Congress entitled "An Act to authorize the President to transfer certain medical supplies for the relief of the distressed and famine-stricken people of Russia", approved January 20th, 1922, I, Warren G. Harding, President of the United States, for the purpose of carrying out the provisions of said Act, hereby select, designate and appoint the American Relief Administration as the relief organization to receive from the War, Navy and Treasury Departments, and the United States Shipping Board, out of the surplus supplies of said Departments, medicines, medical, surgical and hospital supplies for the relief of the distressed and famine-stricken people of Russia, in an amount not to exceed four million dollars original cost to the United States, and as may be delivered to and accepted by such American Relief Association without cost for transportation to the United States, provided said medicines, medical, surgical, and hospital supplies are delivered to the American Relief Administration within four months from the date of the passage of said Act.

I further authorize and direct the American Relief Administration, upon delivery to and acceptance by it of the medicines, medical, surgical and hospital supplies provided for in said Act, to transport to, and to distribute the same in, Russia for the purposes set out in

the Act, and by such methods and means and to such places and persons as it, in its discretion, may determine. Provided, that, in making such distribution, the American Relief Administration may, in its discretion, if it believes there are other American relief organizations ministering to the relief of the suffering people of Russia that are better able to distribute such supplies in certain localities than the American Relief Administration, turn over such supplies in such amounts, to such other American relief organizations.

I further direct that the War, Navy and Treasury Departments, and the United States Shipping Board, shall report to the President the amounts of medicines, medical, surgical and hospital supplies delivered by each to the American Relief Administration, and the American Relief Administration shall make report as to the disposition made of said supplies.

WARREN G HARDING

**REFUSAL BY THE GOVERNMENT OF THE UNITED STATES TO
INCUR RESPONSIBILITY FOR THE RELIEF OF REFUGEES FROM
SOUTH RUSSIA**²¹

861.48/1351 : Telegram

*The High Commissioner at Constantinople (Bristol) to the Acting
Secretary of State*

CONSTANTINOPLE, January 14, 1921—6 p.m.

[Received January 17—10.54 a.m.]

It is reported here through Maklakoff²² at Paris that French Government withdrew on January 1st financial support for Russian refugees and intends to withdraw assistance with supplies after February 1st.

This attitude of the French authorities causes much apprehension here regarding possible developments and a grave situation may arise.

British High Commissioner is urgently recommending to his Government that the Supreme Council consider that problem at its Paris meeting on January 19th.

BRISTOL

²¹ For previous correspondence concerning relief of South Russian refugees, see *Foreign Relations*, 1920, vol. III, pp. 623 ff.

²² Ambassador in France of the Russian Provisional Government.

861.48/1385

*The French Ambassador (Jusserand) to the Acting Secretary
of State*

[Translation ²³]

WASHINGTON, *January 20, 1921.*

MR. SECRETARY OF STATE: The President of the Council and Minister for Foreign Affairs informs me that after General Wrangel's defeat, 135,000 persons fleeing before the Bolsheviki left the Crimea on board the ships which the Government of Southern Russia had at its command and came, absolutely destitute, seeking refuge at Constantinople.

The French Government which if consulted would have advised against such an exodus did not feel at liberty to remain indifferent to the immense distress of these unfortunates and yielding to considerations of pure humanity has found itself alone in bearing hitherto the extremely heavy burden of feeding, maintaining and housing them, an obligation which it was in no wise compelled to assume.

Finding it impossible to care for so large a number of persons at Constantinople, the French authorities endeavored to distribute them in the neighboring countries and to facilitate their return to Russia. On the one hand 6,600 of them have been sent to Bizerte on the condition that the French Government would defray their living expenses. Serbia agreed to admit 22,300 and Bulgaria, Roumania and Greece about 7,000. There remain about 100,000 at Constantinople, Tchataldja, Gallipoli and Lemnos.

On the other hand a proposition has been laid before the Soviet administration by Mr. Nansen and the International Red Cross, for the repatriation of all refugees who might wish to go back to Russia under the necessary guaranties for their lives and freedom, but the Soviet administration has evaded its duties and has as yet made no answer to this proposition.

France being unable to continue indefinitely the considerable sacrifices which she has made to assist the refugees from the Crimea, and which amount already to approximately 100,000,000 francs, has turned over the future care of those people to a general Russian charitable association to which belong the principal persons of note living outside of Russia, without respect to party and without any political or commercial aim. But the association does not have the

²³ File translation revised.

funds for the fulfillment of its task; it must in a great measure have recourse to the assistance of all the Governments and all the charitable organizations of the world.

Furthermore, it will not be enough to supply it with financial resources. It will also be necessary, in order to relieve the congestion around Constantinople, to provide for the housing of a part of the refugees in other territories, where they would be in a position to earn a living.

The gathering of nearly 100,000 refugees in a region with very limited resources offers grave inconveniences of an economic character and, particularly, the fact that although the former army of General Wrangel no longer exists and its soldiers have been disarmed and are only considered as private persons, their continued concentration near the Straits in idleness and in destitute circumstances, might become a genuine danger to the safety of Constantinople and the peace of the East. It is, therefore, important that they should be dispersed without delay. Ten thousand of these former soldiers have already asked to be sent to any country that would admit them and give them an opportunity to provide for themselves by their work. The Russian Office of Emigration that has been created in Constantinople has just sent out a stirring appeal to all the nations in the world begging them for a little space in the countries that are not so densely populated, for the Russians who have left their country in fear of the Bolshevik horrors.

I am instructed by the French Government to appeal to the sentiment of humanity and the spirit of solidarity of the Government of the United States, and to ask for its cooperation toward remedying a situation that is both dangerous and tragic.

I trust that Your Excellency will lend an ear to this appeal, and will let me know what action the American Government would be inclined to take in the common interest of civilization, either through financial cooperation in the undertaking of the general Russian association for the relief of Crimean refugees or through procuring a shelter for those refugees.

Please accept [etc.]

JUSSERAND

861.48/1357: Telegram

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

PARIS, January 25, 1921—6 p.m.

[Received January 26—1.22 a.m.]

68. Referring to High Commissioner's telegram of January 14, repeated to Department January 17. I am informed by Foreign Office that Maklakoff's report correctly reflects policy of French

Government "en principe." In view, however, of actually existing conditions French Government has been unwilling to withdraw support thus abruptly and to leave these refugees to starve although continued assistance imposes an unduly heavy financial burden on nation and the work of a peculiarly thankless character. The French as a matter of fact have since January 1st been furnishing financial support and supplies both to the governments of those countries which have received Russian refugees and to refugees in Turkish territory and they will undoubtedly continue to do so after February 1st. Nevertheless French Government feels that it is bound to exert every effort to reduce amount of this assistance and to induce Allied Governments and America to collaborate in making of Russian Relief Committee an effective organ for dealing with problem of these refugees.

WALLACE

861.48/1365 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, February 1, 1921—7 p.m.

[Received February 3—1.10 p.m.]

41. Department's 3, January 13, 8 p.m.³⁴ After evacuation of Crimea French Government took over available assets of Wrangel government to help cover expenses of caring for refugees. These assets include war and merchant vessels of which French Government with Wrangel's consent has now sold four minor vessels. Majority of Wrangel fleet is under French control in port of Bizerte.

According to statement of local Russian mission supplies belonging to Wrangel government valued at more than 100,000,000 francs have been taken over by the French. Friction has resulted from French action in seizing and disposing of some of this property without granting Russians facilities for checking total value.

Particulars by mail. Repeated to Paris.

BRISTOL

861.48/1368b

The Under Secretary of State (Davis) to the Chairman of the American Red Cross (Farrand)

WASHINGTON, February 8, 1921.

SIR: In pursuance of the many conferences between representatives of this Department and of the American Red Cross, in regard to relief for the refugees from Russia, I desire to submit the attached

³⁴ Not printed.

memorandum³⁵ which, while it cannot pretend to be exhaustive, tabulates the information available in regard to this distressing problem. The reports indicate that more than two million Russian citizens are dispersed throughout the world and are largely dependent upon various relief organizations for their existence. In many cases the food reserves from which they have been supported are already, or soon will be, exhausted, and many thousands will be faced either by absolute starvation or by support from direct government grants in the countries to which they have fled. Only a small percentage of these refugees has been able to find means to support themselves in their present locality. It is very clearly an international problem, as almost every municipality from Tokyo to London is faced by it.

The matter is rendered the more acute as many of the large concentrations of refugees are in territories where the food supply is not adequate for the native population and where, because of rigorous climatic conditions, the expense of upkeep is exaggerated. So far the problem has been handled in an uncoordinated and inevitably haphazard way.

A very large part of the burden of caring for these unfortunate people has been borne by the American Red Cross Society. There is, of course, a limit to the funds which your Society can allocate to this work. This only emphasizes the desirability of working out a comprehensive and constructive program for meeting the problem.

The misery of these unfortunate people appeals alike to the public conscience of all nations, as there is hardly any country in the Eastern Hemisphere which is not itself faced with the concrete problem of dealing with these refugees. It seems clear to the Department that the only method of preventing a terrible and widespread tragedy, is the frank acceptance of this as an international problem and the organization of its treatment by international cooperation.

I therefore take the liberty to suggest that you should present this matter to the League of Red Cross Societies. It seems obvious that a comprehensive program should be worked out which would have in view:

(1) The transportation of these refugees to territories where they would be most likely to find opportunities for self-supporting activities. In a large percentage of cases this would undoubtedly mean return to their own country. It would also require a comprehensive and detailed study of the immigration problem and the laws governing this matter in those under-populated countries where immigration is desired.

³⁵ Not found in Department files.

(2) The equalization between the nations of the cost of caring for that minimum who cannot be placed in a self-supporting position and their concentration in places where their maintenance will be most economical, with due regard to the probability of their ultimate repatriation.

This Department cannot offer any financial support to such a proposal, as the granting of funds is entirely in the discretion of Congress. The problem offered to the world by the increasing misery of these two million Russian refugees may be so vast that it could not be met from funds raised by private donation, but this Department believes that it would be futile to ask appropriations from Congress or from the parliaments of any country at least unless the problem has received careful and comprehensive study and can be presented with a program for its constructive treatment as an international burden.

I am [etc.]

NORMAN H. DAVIS

861.48/1385

The Under Secretary of State to the French Ambassador (Jusserand)

WASHINGTON, February 25, 1921.

EXCELLENCY: I have the honor to acknowledge the receipt of your notes of December 27, 1920³⁶ and January 20, 1921, and to refer to our recent conversation in regard to 135,000 Russians evacuated from the Crimea following the defeat of the Armed Forces of South Russia under the command of General Wrangel.

In the note of December 27th, after stating that the Government of the French Republic has alone provided for the expense of maintaining these refugees from the Crimea, Your Excellency advises me that the French Treasury under the present circumstances is unable to carry this burden beyond January 1, 1921; that your Government is therefore compelled to look to the General Association of Russian Relief, organized for that purpose at Paris, for the care to be given these refugees, and that as this Association is in need of funds, the Board of Directors of the Russian Volunteer Fleet is prepared to turn over to this Association any funds paid by this Government on its account with this Corporation. It is further stated that the United States Shipping Board is indebted to the Russian Volunteer Fleet to an amount estimated at \$1,400,000. In consequence of the foregoing Your Excellency has been instructed

³⁶ *Foreign Relations*, 1920, vol. III, p. 638.

to request the good offices of the Department of State towards expediting the settlement of this claim, so that the amount may promptly be placed at the disposal of the General Association of Russian Relief to be applied to the maintenance of the refugees from the Crimea.

In the note of January 20, 1921, Your Excellency states that he has been informed by his Government that the 135,000 refugees from the Crimea arrived at Constantinople absolutely without resources, that the French authorities would have advised against this exodus, if they had been consulted, but that they could not stand by unconcerned in the face of such misery and found themselves alone bearing the extremely heavy burden of feeding and housing these unfortunates—a burden which they were in no wise obligated to assume.

Your Excellency is further informed that, in view of the impossibility of maintaining so great a number of destitute people in Constantinople, efforts have been made to distribute them in neighboring countries, that 6,000 have been transported to the French Protectorate of Tunisia, but that about 100,000 still remain in the neighborhood of Constantinople, and that Dr. Nansen of the International Red Cross has approached the Soviet authorities in an effort to arrange for the repatriation of these refugees, but that no answer to his proposal has been received.

Your Excellency states that the French Government, having already disbursed approximately 100,000,000 francs on behalf of these refugees, finds it impossible to continue their support indefinitely and has turned over the future care of these refugees to the General Association of Russian Relief, mentioned in the earlier note, which is without sufficient funds and must appeal for aid to the Governments and charitable institutions of all the world.

Furthermore, Your Excellency states that appropriation of funds will not alone meet the situation, as the concentration of nearly 100,000 refugees, without chance to employ themselves in self-supporting enterprise, in a territory of such limited resources, presents a grave political menace, which may threaten the peace of the Near East.

Your Excellency calls attention to the Russian Office of Emigration which has been created at Constantinople and which has sent out a moving appeal to all the nations of the world begging them to grant a little space in their countries, which are not over-populated, to these Russians who have fled from their own country through fear of Bolshevik horrors.

When making the statement that the French Government has alone borne the expense of maintaining these refugees, Your Excellency and Your Excellency's Government could not, of course, have had

knowledge of the extent to which American officials and American organizations cooperated to meet this crisis. American naval forces assisted in the evacuation to the extent of their resources, cared for many of these refugees in Constantinople and transported thousands to the Adriatic ports of Serbia. The American High Commission under Admiral Bristol, and the American Relief organizations in Constantinople freely gave their personal services in caring for the refugees. The American Red Cross Society allocated approximately \$500,000 for this purpose.

The Government of the United States is cognizant of the large sacrifices accepted by Your Excellency's Government on behalf of these refugees, and is glad that its naval forces and its citizens have been able to share in this humanitarian endeavor.

Insofar as concerns the alleged amount due from the United States Shipping Board on account of the United States for ships of the Russian Volunteer Fleet, there are, as I explained to you orally, certain difficulties which prevent the Department of State from acceding to the request of your Government. Aside from determining whether or not there is any one to whom the funds should be paid and who could give a satisfactory receipt therefor, it would be necessary to determine whether or not Russian assets should be applied by the Government of the United States as credits on amounts owed it by Russia, in accordance with the policy which has been adopted by some of the Allied Powers.

In reply to Your Excellency's note of January 20, 1921, I have the honor to inform Your Excellency that the Department of State has watched with distress the development of the problem created by the growing communities of Russian refugees in all parts of the world. The situation in and about Constantinople is the most recent phase of this problem, but according to our information it is not more tragic, nor more insistent in its demand for comprehensive action than many similar concentrations of Russian refugees elsewhere, which reach, we are informed, the appalling total of 2,000,000.

From the extreme Orient to Western Europe there is hardly a city of importance which is not faced with this problem. Just as in Constantinople so in Tokyo and London, very few of these exiled Russians have found self-supporting occupation. In Finland the rigorous climatic conditions increase the cost of subsistence. In Poland the food supply is inadequate for local needs and it is obviously unjust to expect the Polish Government to maintain hundreds of thousands of unproductive aliens.

It seems to this Government that any proposal for the relief of this great body of refugees from Russia will certainly be inadequate unless it is accepted as an international problem, appealing equally

to the sympathy of the world, being met by international cooperation, under the control of some international organization.

Conversations with representatives of the American relief organizations have been in progress for several months. A copy of my letter of February 8, 1921, to the American Red Cross Society³⁷ is attached to this note for Your Excellency's information. The Department suggests that the matter be referred to the League of Red Cross Societies, in the hope that a comprehensive and constructive program may be worked out to meet the problem.

There are no appropriations available which this Government could allocate to the relief of these unfortunate people, and the Department of State would not feel justified in advising an appropriation from Congress, nor from any private relief organization, for any special group of these refugees, or for any program of relief which proposed to continue indefinitely the present ineffective and uneconomical methods of caring for them.

I might call Your Excellency's attention in this connection to a report which has recently been brought to my notice to the effect that the French Government, after the evacuation of the Crimea, took possession of the available assets controlled by General Wrangel including both merchant and war vessels. This action, it is understood, was taken by the French authorities to help cover the expenses in caring for refugees. I should be grateful if Your Excellency could inform me what credence should be given to this report.

Accept [etc.]

NORMAN H. DAVIS

861.48/1428 : Telegram

*The High Commissioner at Constantinople (Bristol) to the
Secretary of State*

CONSTANTINOPLE, April 15, 1921—3 p.m.

[Received April 17—11.48 a.m.]

133. French authorities inform me that after having sent three shiploads of the Russian Wrangel refugees to Bolshevik ports Odessa and Novorossiisk they are now experiencing difficulty in obtaining Moscow's consent to further shipments. On last request Moscow informed French admiral here by radio that they would not agree to receiving other refugees until the French Government had negotiated directly with the Moscow government.

French High Commissioner states that even if he succeeds in carrying through all the contemplated measures for breaking up

³⁷ *Supra.*

the Crimean refugee army there will remain between 15,000 and 20,000 men largely officers who cannot be returned to Soviet Russia. He expressed the hope that the United States would be able to help either in supporting these men or in receiving a part in the United States.

[BRISTOL]

861.48/1438

The Yugoslav Minister (Grouitch) to the Secretary of State

No. P. 409

WASHINGTON, April 28, 1921.

SIR: On July 1st last I had the honor to address your predecessor the following note:

"I have been requested by my Government to make the following communication to the United States Government:

"Following the collapse of the anti-bolshevik Russian Army of General Denikin, a request was addressed to the Government of the Serbs, Croats and Slovenes that eight thousand Russian refugees, wounded soldiers and invalids be allowed to enter into the territory of the Serb, Croat and Slovene State. The Government having granted this request the Russian refugees began to arrive in the second half of January last. Although conditions prevailing in the country rendered the housing of these refugees difficult, every effort was made to help them, and accommodation was found for not only eight thousand but for thirty thousand refugees, there being among them civilians, soldiers, invalids and a few military organizations.

"The Government of the Serbs, Croats and Slovenes has been exposed to great expense on account of these refugees, all of whom had to undergo a medical quarantine in Salonika and on the Serbo-Bulgarian frontier because of the typhus epidemic existing among them. Nevertheless, this and other expenses were met with the greatest willingness. The Treasury of the State arranged for the exchange at a fixed rate of the Russian currency which the refugees had brought with them, and Russian rubles to the value of four millions of dinars were thus monthly exchanged. This operation amounted in reality to a pecuniary help given by the Serb-Croat-Slovene State to an Ally and later on it was suspended and replaced by outright help in money given to the refugees.

"Owing to the situation on the Bolsheviki front there is a steady daily influx of refugees (civilians as well as officers and soldiers) in the Serb-Croat-Slovene territory, but the Government of the Serbs, Croats and Slovenes is no more in a position to admit them and to satisfy with its own resources even their most indispensable requirements. It is with the greatest reluctance that the Government has come to the conclusion that it will be unable to give, unaided, assistance to these Russians who not only are its Allies, but who are also Allies with France, Great Britain and the United States, with whose help they fought until now against the Bolsheviki. But this conclusion has been forced upon the Government

by the financial situation of the country and by the fact that there are now about eighty thousand more Russian refugees (civilians, officers and soldiers) seeking admission in the Kingdom of the Serbs, Croats and Slovenes, who are at present scattered in the Baltic states, Poland, Roumania, Bulgaria, Crimea, Greece and Asia.

"The Serb-Croat-Slovene Government considers that by rendering assistance to the Russian refugees, it is doing not only its own duty but also the duty of the Great Powers with whom it is allied and associated. And since it is forced now to acknowledge its inability to continue this assistance unaided, it feels that the Allied and Associated Powers should participate in the execution of this duty by granting for that purpose to the Serb-Croat-Slovene Government the necessary amounts of money which it would add to its own appropriations and use for the relief of all these refugees.

"My Government has instructed me at the same time to solicit the material help of the United States Government for the relief of these Russian refugees and to point out that such assistance would prevent these Russians from taking refuge in the territory of their former enemies—a political tendency which has already manifested itself among them. My Government wishes also to repeat that it has done all that it was in its power to do, from a material as well as from a humanitarian point of view to help these people, who are its Allies.

"Hoping that you will inform me at your earliest convenience of the decision of the United States Government with regard to this request, I beg to assure you, Sir, of my high esteem."

According to the reply which I received to the foregoing, the government of the United States was unable to comply with the request of my Government.

In compliance with instructions lately received from my Government I have the honor to inform you that there are now on the Island of Lemnos and on the Gallipoli Peninsula about forty-five thousand Russian refugees from the Crimea. Their situation is desperate because the aid which they have been receiving will shortly be discontinued. These refugees face starvation and are applying to the Royal Government for help. The Royal Government, however, is unable to extend any assistance to them, because, owing to the very difficult financial conditions, it is unable to help, with its own resources, even the forty thousand Russian refugees who are already in the Kingdom.

My Government feels confident that the United States Government will take under serious consideration the plight of the Russian refugees, and the difficult situation with which the Royal Government is confronted in regard thereto. My Government begs, at the same time, to express the earnest hope that the United States Government will find means to extend financial help for the relief of these

refugees; that is, of those who are already in the Kingdom of the Serbs, Croats and Slovenes, as well as of those who are on the Island of Lemnos and the Gallipoli Peninsula.

Awaiting your response on behalf of the Government of the United States, I beg to assure [etc.]

S. Y. GROUITCH

861.48/1438

The Secretary of State to the Yugoslav Minister (Grouitch)

WASHINGTON, May 4, 1921.

SIR: I have the honor to acknowledge the receipt of your note of April 28th, in which you refer to a communication addressed by you on July 1st last to the State Department, requesting that the Government of the United States render assistance to Russian refugees now living in the Kingdom of the Serbs, Croats and Slovenes. I notice that you call my attention to the fact that the Government of the United States was unable to comply with this request and that you now make a further request in behalf of your Government for some 45,000 Russian refugees who are now on the Island of Lemnos and on the Gallipoli Peninsula.

I have communicated your request to the Honorable Herbert Hoover in his capacity of Chairman of the American Relief Administration and of the European Relief Council, and have today received a reply from him explaining that the funds of the American Relief Administration are solely for the relief of children and that this organization is today furnishing food and clothing for upwards of 200,000 Russian children, including children in Turkey. He calls attention to the existence of other agencies for the relief of adult refugees including an association in the United States called the American Central Committee for Russian Relief, under the leadership of Princess Cantacuzene, which is raising money for the support of these refugees. He concludes by saying that the American Red Cross and the Committee for Relief in the Near East have also been expending their funds in support of the Russian refugees in Turkey and that he does not feel that any further aid can be given.

While deeply sympathizing with those refugees in their present condition and hoping that some means may be found to render them assistance, I regret to have to inform you that the Government of the United States is not in a position to comply with your request.

Accept [etc.]

CHARLES E. HUGHES

861.48/1450: Telegram

The Chargé in Greece (Hall) to the Secretary of State

ATHENS, May 24, 1921—1 p.m.

[Received May 25—12:47 a.m.]

76. Greek Government on Thursday, May 19th, stopped feeding Russian refugees in Athens and Piraeus hospitals. There are about five hundred of these people in desperate need of help. About three hundred can possibly be cured and made fit for work after two or three months more of hospital care. Other two hundred are ill tuberculosis or maimed as a result of war and will probably remain permanent charge on some organization. At the present time entire five hundred are too ill to work. Russian Minister here has funds for about two weeks more. Cannot committee in charge of Russian relief in Washington be of assistance in this desperate emergency. These refugees were landed in Greece at request of French Government who agreed to pay for their maintenance but afterwards found it impossible to do and so notified Greek Government. There are many thousands of Russian refugees around Saloniki whose condition in another month will also be serious but condition of five hundred here is most desperate.³⁸

HALL

811.142/10275

The Assistant to the Chairman of the American Red Cross (Sloan) to the Secretary of State

WASHINGTON, October 3, 1921.

SIR: I have the honor to acknowledge receipt of your letter of September 17, 1921, (811.142/10271),³⁹ in which you advise us that the Department is in receipt of a telegram from Rear Admiral Mark L. Bristol, American High Commissioner at Constantinople and Chairman of the Constantinople Chapter of the American Red Cross, in which he stated that he had telegraphed us emphasizing the serious situation existing in Constantinople and recommending strongly that the work of the American Red Cross there be continued, and in which you further advise us that the Department is inclined to agree in the recommendation by Admiral Bristol and trusts that before reaching our final decision we will carefully review the situation in the light of what Admiral Bristol reports.

³⁸ The information contained in this telegram was transmitted by the Department to the American Central Committee for Russian Relief at New York and the American Red Cross at Washington in letters dated June 1.

³⁹ Not printed.

It gives me great pleasure to advise you that at a meeting of the Executive Committee of the American Red Cross held September 28, 1921, at which the matter of the continuance of Red Cross assistance to Russian Refugees at Constantinople was considered, a vote was passed from which the following is an extract:—

“That the Executive Committee authorizes the continuation of American Red Cross relief for Russian Refugees at Constantinople for a limited time in order that further opportunity may be given for the development of some form of international action looking toward the solution of this problem, the continuance of this work being approved with the understanding, first, that by continuing this work the American Red Cross is not altering its original decision that this is a problem so extensive as to require international action for its ultimate solution, and hence the American Red Cross cannot continue to meet this situation indefinitely; and second, that during this continuance of American Red Cross work an energetic effort shall be made to encourage international action looking to the assumption of the responsibility for the care of the Russian refugees upon the withdrawal of the American Red Cross.”

Very sincerely yours,

GEO. A. SLOAN

**AGREEMENT BETWEEN THE SOVIET GOVERNMENT OF GEORGIA
AND THE NEAR EAST RELIEF**

861.48/1454

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 191

CONSTANTINOPLE May 10, 1921.

[Received June 2.]

SIR: I have the honor to transmit herewith for the information of the Department:

1. A copy of a letter dated Tiflis April 16th from Mr. E. A. Yarrow, Director General of the Near East Relief work in the Caucasus.⁴⁰
2. A translation of an agreement between the Soviet Government of Georgia and the Near East Relief for the continuance of the latter's relief work in the Caucasus.

I desire to call the careful attention of the Department to both of these enclosures. Mr. Yarrow's letter regarding conditions in the Caucasus contains the first report of a reliable observer which I have received from Tiflis or that neighborhood. I do not entirely agree with all of Mr. Yarrow's conclusions regarding the present and future relations between the Turks and the Russians in the

⁴⁰ Not printed.

Caucasus, but was interested to learn of the facilities which the present Government of Georgia has given him for his relief work.

In the agreement signed on March 28th [29th?] at Tiflis, copy enclosed herewith, the local Bolshevik Government apparently grants the Near East Relief workers far more satisfactory terms for their work than has been previously offered by Bolshevik authorities.

I have [etc.]

MARK L. BRISTOL

[Enclosure—Translation]

*Certificate from the Socialist Soviet Republic of Georgia to the Near East Relief*⁴¹

No. 403

TIFLIS, March 29, 1921.

The People's Commissary of Foreign Affairs of the S.S.R. of Georgia appreciating the problems of the N.E.R. hereby certifies, that the Government of the Socialistic Soviet Republic of Georgia is ready to give any assistance whatever to this American Committee in its work, i.e. in organizing shelter homes, orphanages, hospitals and soup kitchens; as well as in supplying the needy population with food, medicines and clothing.

Whereas the Government of the Socialistic Soviet Republic of Georgia states:

- 1) It guarantees to those members of the N.E.R. who are citizens of the United States free travel in and out of Georgia.
- 2) The American Commission has the right of distribution of its property to the population as it deems it expedient, and the right of supervision over the distributions, in case these supplies are turned over to some local organization.
- 3) All supplies sent to the address of the Committee for above mentioned relief purposes are free from duty and all other taxes.
- 4) All the property of the American Commission is beyond requisition.
- 5) Guarantees to the Commission the right of shipping supplies to Azerbeidjan and Armenia without duty charges.
- 6) Guarantees that all regulations and new laws of the Government will be communicated to the Commission through the Commission of Foreign Affairs only.

The People's Commissary reserves himself the right of general supervision of the activities of the N.E.R. through the Commission of Foreign Affairs.

President of the Revol. Committee

F. MAHARADZE

People's Commissary for Foreign Affairs

A. SVANIDZE

⁴¹ For mandate by the Soviet Government of Armenia recognizing the Near East Relief, see p. 931.

SALVADOR

NEGOTIATIONS FOR A LOAN IN THE UNITED STATES AND FOR THE ESTABLISHMENT OF A BANK OF EMISSION

816.51/64 : Telegram

The Chargé in Salvador (Arnold) to the Secretary of State

SAN SALVADOR, *May 18, 1921—9 a.m.*

[Received 8:10 p.m.]

24. President Meléndez informs me that he is negotiating a loan of \$10,000,000 through Bloom Brothers, an American firm New York, to be guaranteed by a percentage of the customhouse receipts. The lenders will appoint a controller of the customhouses of the Republic.

ARNOLD

816.51/66

The Chargé in Salvador (Arnold) to the Secretary of State

No. 51

SAN SALVADOR, *May 18, 1921.*

[Received June 8.]

SIR: Referring to my telegram of May 18, 9 am., No. 24, regarding the negotiating of a loan through Bloom Brothers, New York, I have the honor to report that President Melendez informed me that it was necessary that a loan be made and after full consideration the Government has come to the conclusion that it is not affecting the country's autonomy by the appointment of a foreign controller of customs. The proposed amount of the loan will be for ten millions of dollars but if that amount is not obtainable then a loan will be made for the sum that can be secured even if it be for but five million dollars.

The object of such a large loan is that the finances of the country may be reorganized—all present indebtedness to be paid off and be converted into this one governmental debt.

The President said that after meeting all indebtedness about one million and a half dollars would remain, which would be utilized for the immediate governmental necessities as some of the governmental officials have not been paid for six months.

He also stated that [by] the appointment of an expert customs controller he expected greater returns as it would minimize the pos-

sibilities of dishonesty which is so difficult to prevent under the existing system, also that scientific and efficient modern methods would be introduced.

The proposed loan will be guaranteed by a percentage of the customhouse receipts and the balance of revenues will be used for governmental expenses.

The President further said that he realized that a loan upon these conditions could be obtained from other countries but that he desired to place it in the United States.

He is engaged at present drawing up a decree towards the culmination [*sic*] of the negotiations, the terms of which he has telegraphed to Bloom Brothers, New York, and is awaiting their favorable reply.

The President also said that he was working for the establishment of a strong bank in the Republic through the same agents and looked forward to its establishment after the culmination of the loan.

I have [etc.]

FRANK D. ARNOLD

816.51/67: Telegram

The Chargé in Salvador (Arnold) to the Secretary of State

SAN SALVADOR, June 9, 1921—12 noon.

[Received June 10—9 a.m.]

25. Mr. Minor C. Keith has been requested by the President to arrange a loan to the Salvadorean Government for perhaps \$10,000,000 to be guaranteed by customs receipts and control of customhouses. Mr. René Keilhauer representative of Mr. Keith in Salvador is occupied in drawing up necessary decrees for possible loan.

ARNOLD

816.51/65

*The Acting Secretary of State to the French Ambassador
(Jusserand)*

WASHINGTON, June 14, 1921.

EXCELLENCY: I have the honor to acknowledge Your Excellency's note of May 20,¹ advising me that the French Government has received information to the effect that the Government of Salvador contemplates floating in the United States a loan to be secured by the export duties imposed by the Government of Salvador.

¹Not printed.

Your Excellency informs me, by instruction from your Government, that during the year, 1919, the French firm of Léon Dreyfus advanced to the Government of Salvador the sum of \$780,000, and received as security for that amount bonds secured by the duties on coffee exports. Your Excellency further states that no matter what the terms of the contemplated loan may be, it would seem to be clear that under these circumstances the revenue already pledged as above stated should not be used as security for any other similar transaction, and that, under these circumstances, the French Government is interested in avoiding any misunderstanding on this point.

I have been glad to take due note of the information so conveyed to me by Your Excellency.

Accept [etc.]

HENRY P. FLETCHER

816.516/39 : Telegram

The Chargé in Salvador (Arnold) to the Secretary of State

SAN SALVADOR, *June 25, 1921—6 p.m.*

[Received June 26—8:10 p.m.]

26. Concession signed and approved by National Assembly to René Keilhauer for the establishment of last [a] bank of emission, authorized capital \$10,000,000, gold guarantee for bills will be deposited in banks in the United States. Cabinet has approved 60-day option to René Keilhauer for \$16,000,000 loan to be guaranteed by customs receipts and customhouses to be controlled by two controllers, one named by bankers and other by Government, all differences to be submitted to Chief Justice of the United States as arbitrator.

ARNOLD

816.51/72 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, *July 29, 1921—5 p.m.*

[Received July 30—12:30 a.m.]

36. Unless this country obtains a loan in the United States before September I believe Government will fall. Financial crisis rapidly approaching. Army and officeholders have not received any pay for about 6 months. \$2,000,000 needed at once. Country perfectly able to incur loan of \$10,000,000 if revenues honestly collected and disbursed.

I should not approve any loan without absolute control of the customs receipts and supervision of all payments from the loan and do not believe in the dual control stipulated in Keilhauer option.

The Government is in such straits that it will now accept any terms. The President will call a special session of Congress any day to approve loan. He begs me to help in getting loan and asks bankers to recommend terms. . . .

SCHUYLER

816.51/72 : Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, August 11, 1921—5 p.m.

23. Your 36, July 29, 5 p.m.

Keilhauer now discussing loan with bankers who are showing considerable interest, and desires extension of option for 1 month. You are instructed to endeavor to see the President informally and to obtain extension desired. Cable report.

HUGHES

816.51/84 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, August 13, 1921—8 p.m.

[Received August 14, 6:20 p.m.]

37. Your telegram number 23, August 11th, 5 p.m. The President has just received cable from Keilhauer stating that he expects definite answer from the bankers next Thursday² and is unwilling to extend time before then as the money urgently needed. He states that he has been promised 3 million pesos payable on expiration of option on the same conditions. Banker referred to recently told me he would lend nothing except on terms approved by me. If the Keilhauer group will immediately agree to lend 3 million on the terms of option the President will extend time for the remainder.

SCHUYLER

816.51/84 : Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, August 23, 1921—6 p.m.

25. Your telegram No. 37, August 13, 3 [8] p.m.

Messrs. Keilhauer and Keith have succeeded in interesting certain American bankers in the loan proposition, but before accepting the option contract definitely the Department is informed preliminary

²August 18.

negotiations with the English bondholders would be necessary which the bankers are unable to undertake without an extension of the option contract for 2 to 3 months. Mr. Keith states that with such an extension granted he has ample assurances from the bankers that they will negotiate for at least 5 million bonds in addition to bonds to cover English debt. The bankers do not, however, wish to interfere with the efforts of the Salvadorean Government to obtain ready cash at once by means of the acceptance by Salvador of a small temporary loan from any other source, provided the Government retains the right under any such temporary loan to repay it at any time after it is negotiated. In view of the Department's interest in seeing Americans secure the larger loan, you will endeavor to see the President again informally and seek to obtain the extension of 2 months desired. There are, of course, obvious advantages for Salvador in holding open the possibility of obtaining a substantial loan which would enable the Salvadorean Government to radically improve economic and financial conditions. It is also obviously to Salvador's advantage in case of a temporary loan to guard against repayment at a figure making cost to Salvador excessive.

HUGHES

816.51/88 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, August 26, 1921—noon.

[Received August 27—10:05 a.m.]

38. In answer to your telegram of August 23, 6 p.m., the President will agree extension 2 months provided it does not interfere with his negotiating another loan meanwhile. The President agrees any other loan shall be redeemable at any time. Confidential representative of Anglo and London Paris National Bank [of] San Francisco together with Bloom, President of Banco Occidental, is now here trying to negotiate \$5,000,000 25-year loan giving one and half million new money, balance assumption debts to the three local banks. If they obtain loan they will consolidate three banks into one and form new foreign bank based on charter similar Keilhauer option.

Anticipating advisability of taking up English debt I had already informally sounded representatives of the trustees British bondholders and found that they were very willing sell entire British interests. Bonds redeemable at any time in pounds sterling have been selling at a third of face value in London.

SCHUYLER

816.51/89 : Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, August 30, 1921—2 p.m.

27. Department's August 23, 6 P.M.

Mr. Keith's representative states that Mr. Keilhauer requests the good offices of Department in obtaining an extension of the bank concession as well as the option contract for the loan. You will therefore endeavor, by informal representations, to procure from the President an extension of the bank contract for 4 months, pointing out that the establishment of the bank necessarily depends upon negotiations of the loan and that it will, therefore, be necessary to delay the execution of both projects pending a decision from the American bankers who have been approached.

HUGHES

816.51/90 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, August 30, 1921—9 p.m.

[Received August 31—11:10 a.m.]

40. Mexican Government has offered lend Salvadorean Government 3 million pesos as act of friendliness, repayable from future loan. The President asks my opinion as to whether he should accept in avoiding financial crisis. I was noncommittal.

SCHUYLER

816.51/91 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, September 1, 1921—noon.

[Received September 2—9:10 p.m.]

42. Referring to the Department's August 30, 2 p.m. The loan situation as reported in my August 26, noon has changed. Considerable money, some of it available on signing preliminary contract, is being offered to the President who will have definite proposition today. I prefer larger loan under consideration by the New York bankers as the other will not afford permanent relief, is not enough refund existing foreign debt nor provide working capital for the future, and this is the time when the finances of Salvador should be put on a permanent basis with control of the customs as security. San Francisco project does not specify control of the customs except

in the event of failure to make any semi-monthly payment. It will be 8 percent at 80, provides for redemption at any time at par and for giving \$1 bonds for every 80 cents present indebtedness of Salvador to the local banks. These conditions I consider oppressive and have informed President and bankers I will not approve of [them]. Sliding scale of premium based on redemption date is the only just way.

. . . By my constant asking for extension of time the President has gained the idea that the New York group is not serious. If latter would cable immediately a quarter million or even \$100,000 he would cease negotiations with anybody else. Department will understand that dollar in the hand looks larger than a million in New York.

[SCHUYLER]

816.51/91 : Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, September 3, 1921—4 p.m.

29. Your September 1, noon.

The Department regards proposition as outlined by you as unduly onerous and likely to perpetuate the financial evils which have hitherto afflicted the Salvadorean Government. The Department feels that it would be contrary to the best interests of the country to enter into a transaction of this kind while a far more beneficial project is pending. You are authorized to express this view to the President, indicating the deep interest of the United States in placing the finances of Salvador permanently on a sound basis. The Department is informed that Mr. Keith has obtained a \$250,000 loan for Salvador.

HUGHES

816.51/92 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, September 7, 1921—8 p.m.

[Received September 8—10:10 a.m.]

44. Representative of Mr. Keith signed today with the Salvadorean Government contract for temporary loan \$250,000 secured by 41 percent import duties. The Government grants extension of loan and bank options 5 months from their expiration dates.

SCHUYLER

816.51/84: Telegram

The Secretary of State to the Minister in Salvador (Schwyler)

WASHINGTON, October 15, 1921—4 p.m.

33. Department has suggested to Keilhauer that option contract for loan be modified to provide for single Customs Collector appointed by President of Salvador from list submitted by bankers and approved by Secretary of State, and that Department be given right to request replacement of Collector for inefficiency or conduct contrary to American or other interests.

Department advised that on these conditions matter was laid before several banking houses which were not interested in making loan at all or desired to make it only in connection with some understanding between United States and Salvador Governments, which would make the bonds attractive to American public. As solution an exchange of notes has been proposed by interested parties and National City Company is reported inclined to make loan if Salvador will agree to note to this Government assuring it that provisions regarding Customs Collector will be observed so long as bonds outstanding; that the Government of Salvador will in carrying out the terms of this contract cooperate in every respect with the Bankers and the Government of the United States, that Collector of Customs will be appointed in manner stated above and removed at request of United States; and that Chief Justice of the United States shall have final decision in case of any disagreement regarding the interpretation or fulfillment of the contract.

It is proposed that this Government acknowledge these assurances in appropriate reply stating readiness to carry out the stipulations with reference to the Secretary of State as set forth above. The Department is inclined to accept exchange of notes proposed as only means of interesting American bankers in proposed loan. The foregoing is for your confidential information only and you will take no initiative in discussing with the Salvadorean Government an exchange of notes as Keilhauer says that he himself can induce Salvador to agree to it. However, should you be approached by the Salvadorean Government with an inquiry regarding our attitude towards an exchange of notes you may indicate orally this Government's friendly interest in any transaction which will make possible an improvement in financial conditions in Salvador and an increase in the trade between the two countries. You may also lend your good offices in obtaining a revision of the option contract to include the amendments suggested by this Government and described above.

HUGHES

816.51/100

*The Secretary of State to the French Ambassador (Jusserand)*WASHINGTON, *October 18, 1921.*

EXCELLENCY: I have the honor to acknowledge Your Excellency's note of October 11,³ in which you advise me that your Government has received information that the Government of Salvador has obtained a loan of \$250,000 from the International Railways of Central America, repayable in two or three months from the proceeds of the customs receipts. You further advert to the fact that the French firm of Léon Dreyfus made an advance of \$780,000 to the Government of Salvador in 1919, which advance is guaranteed by the product of the coffee export tax. You refer to the fact that the revenue thus pledged cannot serve as security for another loan to Salvador.

While the Department of State is not informed as to the exact provisions of the agreement under which the International Railways of Central America advanced the sum of \$250,000 to the Government of Salvador, it is presumed that the prior liens imposed upon the customs revenue by former loan agreements have been recognized and respected by the new agreement to which you refer. With reference to the larger loan which Salvador is reported to be seeking, it is understood that one of the objects of this larger loan will be the cancellation of the present internal debt, including the debt owed to the firm of Léon Dreyfus.

Accept [etc.]

CHARLES E. HUGHES

816.51/107

The Minister in Salvador (Schuyler) to the Secretary of State

No. 58

SAN SALVADOR, *October 21, 1921.*

[Received November 9.]

SIR: Referring to my cable No. 52 of October 20, 9 P.M.,³ I beg to transmit an exact copy of the Note which I received yesterday afternoon from Doctor Arrieta Rossi, Acting Minister for Foreign Affairs, transmitting textually a note to him from the Acting Minister of Hacienda intended for me. . . . As the note reads at present it applies to any group of American bankers and not solely to those now interested. For this reason, if the present negotiations fall through, the same note would stand as a guarantee for any other American interests which might desire to take up the matter.

As there was much discussion of how the matter of disagreement and submission to arbitration of the Chief Justice might be brought

³ Not printed.

about, and through what agency, I suggested the addition of the words "through the Secretary of State of the United States", which I believe strengthens the arrangement, making it quicker and easier of execution in case of need.

I also advised the use of the words "the Salvadorean Government" throughout in place of "the President of Salvador" to avoid possible complications in view of the Union of Central America.⁵

I have [etc.]

MONTGOMERY SCHUYLER

[Enclosure—Translation]

*The Salvadoran Acting Minister of Foreign Affairs (Arrieta Rossi)
to the American Minister (Schuyler)*^{5a}

No. 1011

SAN SALVADOR, *October 20, 1921.*

MR. MINISTER: On this date I have received a note from the Minister of Hacienda which literally says:

"Mr. Minister: Referring to the negotiations now pending between the American banking group and the Government of Salvador relative to a loan up to sixteen million dollars, the Government of Salvador hereby formally assures the Government of the United

⁵ For papers relating to the Federation of the Central American Republics, see vol. I, pp. 143 ff.

^{5a} A copy of the following letter, dated Oct. 18, 1921, from Mr. René Keilhauer to the Salvadoran Minister of Finance, was communicated by the Salvadoran Foreign Office to the American Legation, May 7, 1935:

"MR. MINISTER: Confirming my communication of the 14th of the present month, in which I furnished you with the conditions on which certain American bankers are willing to take the loan that the Government of El Salvador is trying to obtain in the United States of North America, may I inform you that the gentlemen mentioned desire that the Government of El Salvador make the following statement to the Government of the United States of North America, through the Minister in San Salvador:

'The Minister of the United States of North America: With reference to the pending negotiations between American bankers and the Government of El Salvador relative to a loan amounting to sixteen million American gold dollars (\$16,000,000), the Government of El Salvador hereby formally assures the Government of the United States that if the said loan is made it will support the post of Director Collector General of Customs and that his appointment will be made in accordance with the provisions to be established in the loan contract, and that it will maintain it until the bonds mentioned in the said contract are entirely paid and canceled, and the Government of El Salvador will always cooperate in the fulfillment of the provisions of said contract with the Government of the United States and the bankers. The Government of El Salvador agrees that the Director and Collector General of Customs shall be selected and appointed in the following manner: the bankers making the loan will select in agreement with the Secretary of State of the United States two persons whom they believe to be competent to assume the position of Director and Collector General of the Salvadoran Customs. The names of these persons will be transmitted through the Department of State to the Government of El Salvador, which will appoint the said Director Collector General, choosing one of them. The Government of El Salvador moreover agrees that if the

States that if such loan shall be made it will maintain the office of Director and Collector General of Customs and the appointee therein in accordance with the stipulations to be made in the loan contract until the Bonds set forth in such contract have been fully paid and cancelled, and that the Government of Salvador in carrying out the terms of such contract will co-operate in every respect with the Government of the United States and the bankers. In particular the Government of Salvador agrees that the Director and Collector General of Customs shall be selected and appointed in the following manner: That the bankers making the loan submit to the Secretary of State of the United States a list of two individuals competent, in their opinion, to undertake the duties of Director and Collector General of Salvadorean customs: That said list be transmitted to the Salvadorean Government who will appoint the said Director and Collector General from the names submitted in said list.⁶ The Government of Salvador further agrees that should the said Director and Collector General prove incapable of discharging the duties laid upon him, or should so conduct his office as to discriminate unfairly against any nationals of the United States or any other country, the Secretary of State of the United States may request the Government of Salvador that he be replaced by another and in this case the Government of Salvador agrees to allow such replacement by another person whose appointment shall be made in the same method as outlined above. The Government of Salvador and the bankers consent and agree that in case of disagreements, questions, differences of whatever nature regarding the interpretation, fulfillment of this covenant, these disagreements, questions, and differences thus arising,

said Director Collector proves incapable in the undertaking of the responsibilities entrusted to him, or if by his conduct in the said position he make undue distinction against any citizen of the United States or of another country, the Secretary of State of the United States can ask the Government of El Salvador for his replacement, and the Government of El Salvador, in this case, agrees to allow his replacement by another person whose appointment will be made in the same manner indicated above. The Government of El Salvador and the bankers consent and agree, in case of a disagreement, question or difference of any kind that may arise in respect to the interpretation or unfulfillment of their contract, whether on the part of one or both contracting parties, it will be referred to the Chief Justice of the United States of North America, through the Secretary of State of the United States, for his determination, decision, or settlement. It is agreed that such determination, decision or settlement rendered on the point submitted will be accepted by both parties as final and conclusive, and will be in accord with the provisions and specifications established herewith, adopted in good faith and executed by the Government of El Salvador and the bankers.⁷

"I request you, Mr. Minister, to make this statement as soon as possible, in order that the arrangements connected with the loan may be concluded immediately.

"Assuring you [etc.]

RENÉ KEILHAUER"

⁶The Department, in its instruction no. 31, May 16, 1922, stated, with reference to this sentence:

"The correct translation would appear to be:

'That the bankers making the loan will select, with the concurrence of the Secretary of State of the United States, two persons competent, in their opinion, to undertake the duties of Director-Collector General of Salvadorean Customs. The names of said persons shall be transmitted through the channels of the Department of State to the Salvadorean Government, which shall name the said Director-Collector General, selecting one of them.' (File no. 816.51/146.)

whether on the part of one of the parties in interest or of both, shall be referred to the Chief Justice of the United States through the Secretary of State of the United States for his determination, decision or settlement, and such determination, decision or settlement pronounced upon the point referred to, it is hereby agreed shall be accepted by both parties as final and conclusive, and shall be, in accordance with the terms and specifications herein established, adopted in good faith and carried out by the Government of Salvador and the bankers. Begging you to transmit the above facts to the Minister of the United States of North America in our country, His Excellency Montgomery Schuyler, for such use as said diplomat thinks proper, I have the honor to subscribe myself your obedient servant, (S) Em. Arturo Gonzalez."

In bringing the terms of the note quoted to the attention of Your Excellency, I take [etc.]

R. ARRIETA ROSSI

816.51/104 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, October 25, 1921—5 p.m.

[Received October 26—10:15 a.m.]

53. Keilhauer has left for the United States with full powers from the Salvadorean Government to sign loan contract on terms already agreed to. It is expected Government will get another quarter million dollars temporary loan Keith interests to tie [*tide?*] it over until definite loan arranged.

SCHUYLER

816.51/109 : Telegram

The Minister in Salvador (Schuyler) to the Secretary of State

SAN SALVADOR, November 23, 1921—3 p.m.

[Received November 24—10:18 a.m.]

58. National Park Bank of New York City cables asking me whether the Minister of Finance of Salvador has authority to sign in behalf of the Government contract undertaking to guarantee repayment of the credit opened by bank in favor of Banco Occidental, also whether Government can legally pledge as collateral for this repayment customhouse certificates and whether issue thereof is legal. Paragraph 2d, article 3d, law of Hacienda authorizes Minister of Finance to sign contracts for the Government with individuals as

well as documents representing national credit. My opinion is that Acting Minister of Finance is acting within his rights and legally but there might be a question as to the rights of Salvador to negotiate with foreign bankers under the new Constitution of the Federation which went into effect October 1st. Government of Salvador holds that negotiations not affected by new Constitution since they were begun before October.

I have cabled bank that I have given you my opinion.

SCHUYLER

816.51/109 : Telegram

The Secretary of State to the Minister in Salvador (Schuyler)

WASHINGTON, November 29, 1921—6 p.m.

39. Your No. 58, November 23, 3 p.m.

Department believes that matter referred to is not one upon which official opinion should be expressed. If bank requests names of lawyers in San Salvador there is no objection to your suggesting such names.

HUGHES

816.51/113

The Department of State to the British Embassy

The Department of State has received the memorandum of the British Embassy dated December 2nd,⁷ regarding the intention of the Government of Salvador to raise a loan in the United States upon the security of the customs duties of the Republic. The memorandum states that a portion of these customs duties form the security of the Salvador Railway Company, under their contract of 1899, with the Government of Salvador, and furthermore, that a special customs duty of \$3.60 United States gold, per one hundred kilogrammes of imported merchandise, forms a portion of the security for the bond issues of 1908 and 1915. It is indicated that His Majesty's Government would regard with great anxiety any attempt by the Government of Salvador to raise a loan on the security of the customs duties which are already subject to the liens mentioned above.

⁷ Not printed.

So far as the Department of State is informed in regard to the proposed loan by American bankers to the Government of Salvador, it is understood that the customs duties now pledged as security for other debts will not be pledged as security for the new loan unless the previous debts are paid in full. It is understood that the promoters of the loan intend that the debt to the Salvador Railway Company shall be paid in full and that the holders of the bonds of 1908 and 1915 shall receive in exchange for their holdings bonds of the new issue in accordance with the terms of an agreement which is now under consideration by the holders of those bonds.

WASHINGTON, *December 9, 1921.*

FEDERATION OF THE CENTRAL AMERICAN REPUBLICS

(See volume I, pages 143 ff.)

SIAM

TREATY AND PROTOCOL BETWEEN THE UNITED STATES AND SIAM, DECEMBER 16, 1920, REVISING EXISTING TREATIES

711.923/125

The Acting Secretary of State to President Wilson

WASHINGTON, February 24, 1920.

MY DEAR MR. PRESIDENT: The Siamese Minister has explained to me the great desire of his Government to break down the regime of extraterritoriality which foreign nations enjoy in Siam and which apparently has been a great barrier to the successful development of its governmental system, particularly the judicial branch.

At the present time the great powers have the right to try their own subjects before their own consuls in Siam or before the Siamese Courts on which an advisor of the nationality of the defendant sits, and whose opinion prevails. One result of this system is that it is difficult, if not in some cases impossible, to enforce highly desirable laws and regulations generally in respect of all persons in Siam. For example, I am advised that, although Siam is a party to The Hague Convention for the suppression of the abuse of opium and other drugs, she is unable to give effect to its provisions through appropriate legislation owing to her lack of jurisdiction over foreigners in Siam under the present judicial system.

Siam, therefore, is very anxious to free herself from this system and to formulate codes of laws along the lines of Western ideas, which will be applied to Siamese and foreigners alike in Siamese Courts. The Minister states frankly that negotiations are now proceeding with other countries with a view to obtaining this result. The purpose of his Government is to obtain a treaty with the United States which will define a certain period after which the enjoyment of extraterritorial rights in Siam shall cease. He desires us to agree to make this period a definite one, say one to five years (preferably as short as possible) from the date of the promulgation and putting into force of all of the Siamese codes; namely, the Penal Code, the Codes of Procedure, and Civil and Commercial Codes, and the Law for the Organization of the Courts. Up to the termination of this period Siam is willing to agree that legal proceedings against Americans as defendants be tried in Siamese Courts,

in which an American Advisor would sit, and his opinion would prevail. This would supersede, for the transitory period, the present method of trying such cases before American consuls in Siam, and I see no objection to this substitute, as I believe that the rights of American defendants would be fully protected. The important point with Siam is the absolute termination of such "Advisor" Courts and of the Consular Courts after a definite time; for she believes that with such a treaty with us as a model she will be able to obtain similar treaties with other countries having extraterritorial rights in Siam.

The Siamese Minister has discussed with the Department various plans short of absolute termination of our extraterritorial rights at the end of a definite period. The plans which have been discussed are: that the United States will give up extraterritorial rights at the expiration of a certain period after the promulgation of the Codes, if the operation of the Siamese Courts proves to be satisfactory; or that the United States will terminate its extraterritoriality on a definite date after the promulgation of the Codes if the Codes are found upon examination to be satisfactory to the Government of the United States; or that we could give up our extraterritorial rights as soon as all other governments have given up their rights.

None of these plans entirely satisfied the Minister as there is a condition attached to each one of them. He is pressing for a definite date of termination without any conditions. However, I am inclined to think that he may agree to a provision running something like this:

Said system shall absolutely cease and terminate after _____ years from the promulgation and putting into force of all Siamese Codes—namely, the Penal Code, the Codes of Procedure, and Civil and Commercial Codes, and the Law for the Organization of the Courts; it being understood that if the Government of the United States perceives objections to them that the Government of Siam will endeavor to take measures to meet such objections.¹

The Department has never committed itself with respect to giving up our rights on a certain date without conditions, and the purpose of this letter is to ask how far I may go in this regard. The only objection I can think of to terminating our rights on a certain date without conditions is that the Senate may interpose the objection that we cannot be sure now that the Siamese Courts will at that date in the future be functioning so as to mete out justice to American citizens who become involved in litigation. If this objection is

¹ On a letter dated Feb. 28, 1920, in which the Acting Secretary of State put forward this provision for the second time, inserting the word "five" in the blank space, the President made, in the margin, the following notation in pencil: "I like this. . . . W. W." (File no. 711.923/126½.)

raised we cannot say that it is covered by a reservation. We will have to meet such an objection by pointing out that the relations between the United States and Siam have been friendly for over a hundred years and that the relative strength and influence of the United States will carry weight in our representations to Siam in the event that our confidence in her courts is overestimated, and that so far no citizen of the United States has suffered a wrong at the hands of the Siamese Government which has not been satisfactorily adjusted; that her judicial system bids fair to be as strong and as impartially administered as the systems of some of the Central and South American Republics, and, finally, that in our Treaty of 1898 with Japan we gave up extraterritorial rights in that country on a certain date without any reservation whatever, although the Japanese Codes had not yet been put into effect.

The Siamese Government have made considerable progress in reforming their judicial system. Several years ago the Siamese Government created a Code Drafting Commission, composed of Siamese and foreign jurists, including jurists of Great Britain, France and (for a time) the United States. This Commission is now engaged drafting and revising the codes, which I mentioned above, and has up to the present time completed drafts of the Penal Code, the Codes of Procedure, and the Civil and Commercial Codes. I am informed that the Penal Code was in fact promulgated and put into effect on June 1, 1908. Our reports are that the Siamese Courts have in the last few years been functioning in a fairly satisfactory manner. There is probably no doubt that the Siamese Government will be unable to develop its judicial system beyond a certain point unless it is able to free itself from the extraterritorial privileges of foreign nations.

I should add that Japan has agreed definitely to give up extraterritoriality upon the promulgation of all of the codes. I understand also that Denmark has agreed to give up her rights at the same time. Great Britain and France have already made a partial surrender and the former has agreed to make a further concession on the promulgation of all of the codes.

In connection with our surrender of extraterritorial privileges Siam is willing to revise her commercial treaty and in the revision is willing to grant us effective favored nation commercial treatment, free privilege of travel throughout Siam, the right to own property and engage in business throughout Siam on the same footing as natives, etc., none of which rights we enjoy at the present time. This in a sense is a *quid pro quo* for our surrender of extraterritoriality, as Siam is unwilling to revise the Commercial Treaty unless we make this concession.

So far as the American interests in Siam are affected, I may say that American commercial interests in that country are practically negligible, consisting of only two or three business concerns. It is believed, however, that, if the interior of Siam were opened up for travel and commerce, a greater number of Americans would be attracted to that country to our mutual benefit. Our main interest there at present is that of American Missionaries. American Missions held considerable property in Siam at the suffrance of the Government, and the Minister states that his Government is quite willing that in the new treaty these holdings be confirmed and title be granted to the Missions. There are few Americans in Siam, probably not much over two hundred, made up almost entirely of Missionaries. I am advised by representatives of the Missionaries that they are entirely favorable to the surrender of extraterritorial rights in Siam by the United States. In fact I know of no objection to this suggestion from any quarter.

I am sorry to make this letter so long, but I could not well present the situation fully without doing so. If you desire further details I can send you memoranda on the subject. I will be pleased if you will indicate whether you approve the surrender without conditions of all extraterritorial rights in Siam at the expiration of a stated period following the promulgation of all of the codes, the last of which will probably not be put into effect for about four or five years.

Faithfully yours,

FRANK L. POLK

711.923/125

The Acting Secretary of State to the Siamese Minister (Karavongse)

WASHINGTON, *March 6, 1920.*

MY DEAR MR. MINISTER: With reference to conversations with the Solicitor for the Department in regard to the surrender of our jurisdictional privileges in Siam and in response to your oral request for a statement as to the position of the United States in regard to the termination of extraterritorial rights in Siam upon a definite date, it gives me pleasure to advise you that my Government is prepared, in connection with the negotiations for a new treaty of Commerce and Navigation to propose in effect the surrender of existing consular jurisdiction over citizens of the United States in Siam upon the date of the exchange of ratifications of the new treaty, and thereafter American citizens shall be subject to the jurisdiction of the Siamese Courts, provided that until the expiration of five years after the promulgation and putting in force of all of the Siamese

codes and the law for the organization of courts, the United States through its diplomatic and consular officers shall have the right to evoke any case pending in any Siamese court, except the Dika Court, and involving an American citizen, or person, corporation, company or association entitled to the protection of the United States as defendant or accused; it being understood, however, that if my Government perceives objections to the codes or laws mentioned, the Government of Siam will endeavor to take steps to meet such objections.

I am making this proposal in principle rather than in terms, as the details and the language have not been especially considered. If your Government is prepared to accept this proposal in principle, the Department will proceed to the negotiations of a treaty embodying the principle of this proposal and such provisions relating to commerce and navigation as may be mutually agreed upon.

I am [etc.]

FRANK L. POLK

711.923/127

The Siamese Minister (Karavongse) to the Acting Secretary of State

WASHINGTON, *March 6, 1920.*

MY DEAR MR. ACTING SECRETARY: I take pleasure in acknowledging the receipt of your letter handed to me today by the Solicitor for the Department of State in which you inform me that the Government of the United States has accepted the principle of a definite termination of guarantees, by proposing that evocation from the Courts of First Instance and from the Court of Appeal shall last for five years after the codes are promulgated and put into force.

This gives me the greatest satisfaction and I shall not fail to inform my Government immediately so that I may be notified of its views as soon as possible.

As you refer to the new treaty of Commerce and Navigation, I take the liberty of calling to your attention a conversation on December 18th, 1919, with the Secretary of State, upon this subject and request you to be so good as to confirm the position therein taken by him. This confirmation will assist me in receiving my Government's consent to the acceptance of the guarantee proposed by you, which in the application of evocation to the Court of Appeal, contains elements of novelty.

I had the honour to be received by him in company with Dr. James, Adviser in Foreign Affairs to my Government. The Secretary of State said in response to my question that the United States would be willing to abandon the restrictions upon the fiscal powers of Siam,

contained in the treaty of 1856 and in the Spirits Agreement of 1884. The Secretary of State remarked that no country could get along with an import duty of three per cent, and that Siam should be given commercial autonomy. Dr. James asked if the Siamese Government might be informed that the United States was prepared to grant to Siam fiscal autonomy. The Secretary of State replied that that could be done but that the United States wished the admission of its citizens to the privilege of land ownership throughout the Kingdom, the acceptance of the clause with reference to religious toleration as it is now drafted, and acceptance of the tentative agreement as to the lands in the occupation of American Missions, and most favored nation treatment in all commercial matters. I stated that my Government was prepared to grant these things, in fact that they had been contained in the various proposals submitted by it in the past.

The securing of fiscal autonomy by Siam is a matter of the greatest importance to the future of my country, as it will, when finally secured from the Treaty Powers, enable her to effect many long-planned reforms.

The conversation with the Secretary of State was immediately communicated to my Government and received by it with feelings of the liveliest satisfaction.

I am [etc.]

PRABHA KARAVONGSE

711.923/129

The Siamese Minister (Karavongse) to the Secretary of State

WASHINGTON, *April 17, 1920.*

MY DEAR MR. SECRETARY: In continuation of my reply of March 6th, to the letter of the Acting Secretary of State, received the same date, relating to the retro-cession to Siam of the jurisdiction over Americans in my country now exercised by the Consul of the United States, I beg to state that having conveyed to my government the contents of that letter, I have now received their views, which I have the honour to communicate to you.

My government express their appreciation of the willingness of the United States to terminate the existing system of jurisdiction for Americans in Siam upon the exchange of ratifications of the new treaty now being negotiated. They are, also, prepared to endeavor to meet, before promulgation, any objection which the United States may find to the new Codes but much to their regret they find themselves unable to give their adherence to the proposal

for evocation by the Consul from Courts of First Instance and the Court of Appeal after the promulgation of the Codes.

Evocation, under the treaties which at the present provide for it, comes to an end upon the promulgation of the Codes and has never been conceded except from the so-called International Courts of First Instance, which, notwithstanding their name, are strictly Siamese Courts having jurisdiction by treaty over certain very large groups of foreigners. The application, therefore, of this privilege to the Court of Appeal and its continuance after the promulgation of the Codes, would mark a distinct innovation. My government, in appreciation of the friendly attitude of the United States, are willing, notwithstanding the novelty of the proposal and their objections to evocation generally, as involving an extraordinary interference with the processes of their courts by foreign officials, to concede that evocation may be applied to the Court of Appeal, particularly as the United States has declined to adhere to the existing system of foreign Legal Advisers, but they experience difficulty in accepting that part of the proposal of your government which involves the continuance of evocation after the promulgation of the Codes. The continuance of evocation after this time would raise very serious questions affecting existing arrangements with other powers and seems to serve no useful purpose from the standpoint of your government and would embarrass my government unnecessarily.

The agreement that the new Codes are to be submitted before promulgation to your government with the assurance that my government will endeavor to meet any objections which may be found in the Codes, furnishes an effective guarantee in itself.

For these reasons and taking into consideration the present satisfactory condition of the administration of Justice in Siam and the extensive participation in the Siamese judicial system of foreign Advisers and Judges, together with the fact that from 1828, when Americans first began to come to Siam, to 1857, when the present Treaty with the United States came into operation, tho throughout the whole of this period Americans were subject to the jurisdiction of Siamese tribunals without any guarantees whatever, there were no instances of injustice or oppression, my government feel that they are not without justification, in order to bring matters to a conclusion, in submitting the questions involved in the negotiation once more to the benevolent consideration of the President of the United States, for whose judgment they have the most profound respect, with a view, not only to the modification of the proposals as to the continuance of evocation after the promulgation of the

Codes, but also for the purpose of confirming the oral assurances given me by the Secretary of State on December 18th last as to the willingness of the United States to restore to Siam fiscal autonomy, the regaining of which is of the greatest importance to the future well-being of my country, as it will be enabled thereby to accomplish its program for the improvement of its administration.

With the expression [etc.]

PRABHA KARAVONGSE

711.923/130

Memorandum by the Secretary of State

The Minister of Siam called on me on April 17th and left a communication dated April 17, 1920 in continuation of the Minister's reply of March 6th to the letter of the Acting Secretary of State relating to the retrocession to Siam of the jurisdiction over Americans now exercised by the United States Consul in Siam.

The Minister also inquired if a statement of this country's position might be expected soon on the abandonment of the privilege of exportation to Siam under a restriction of Siam as to the amount of tariff duties which the latter could levy and collect.

He called attention to the fact that the United States, if it led the way in releasing Siam from the limitations on import duties it can impose, would not itself be exposed to disadvantage because Siam would agree that the United States should always have the benefit of the "most favored nation" clause and could never be under-sold by a competitor nation which might not agree to pursue a course as liberal as that of the United States.

[WASHINGTON,] *April 17, 1920.*

711.923/127

The Secretary of State to the Siamese Minister (Karavongse)

WASHINGTON, *May 4, 1920.*

MY DEAR MR. MINISTER: I have the honor to acknowledge the receipt of the letter which you addressed to the Acting Secretary of State under date of March 6 last, requesting confirmation of a statement made to you in conversation by the former Secretary of State, Mr. Lansing, on December 18 last, in regard to the willingness of this Government to accept the principle of tariff autonomy on the part of Siam.

In reply, I am happy to confirm Mr. Lansing's acceptance in principle of the right of Siam to levy customs tariffs notwithstanding the restrictions provided by existing treaties. In the formula-

tion of treaty provisions to that end, however, it would of course be understood that imports from the United States, and exports to the United States, would at no time be subject to other or higher duties than those levied upon goods originating from or destined to any other country: and that this Government would feel itself obligated to assent to any proposed increases of tariff only when and to the extent that such increases might be approved freely, and without the requirement of any particular benefit by way of consideration, by all other nations entitled to claim special tariff treatment.

I am [etc.]

BAINBRIDGE COLBY

711.923/129

The Secretary of State to the Siamese Minister (Karavongse)

WASHINGTON, May 15, 1920.

SIR: Referring to your note of April 17th last, regarding the surrender of diplomatic and consular jurisdiction over American citizens in Siam, I have the honor to inform you that the request of your Government that this Government's proposal be modified by eliminating the five-year period and providing for the absolute surrender of jurisdiction upon the promulgation of the Codes, was duly referred to the President for consideration.

I am instructed to communicate to you the President's regret that he finds it impossible, on the information now at his command, to bring himself into complete accord with the wishes of your Government on this important subject, and to advise you that the President feels obliged to adhere to the decision as heretofore announced to you in the communication of March 6th from the Acting Secretary of State.

Accept [etc.]

BAINBRIDGE COLBY

711.922/7a

The Secretary of State to the Siamese Minister (Karavongse)

WASHINGTON, June 3, 1920.

MY DEAR MR. MINISTER: I have the honor to enclose herewith a draft of a clause to be included in the new Treaty of Commerce and Navigation, accepting the principle of tariff autonomy on the part of Siam.

I trust that the draft as submitted will be acceptable to your Government.

I am [etc.]

BAINBRIDGE COLBY

[Enclosure]

Draft Clause for Treaty of Commerce and Navigation with Siam

The United States of America recognizes that the principle of national autonomy should apply to the Kingdom of Siam in all that pertains to the rates of duty on importations and exportations of merchandise, drawbacks, and transit and other inland taxes; and subject to the guarantees of the present treaty to equality of treatment with other nations in these respects the United States of America agrees to assent to increases by Siam in tariff rates higher than those established by existing treaties, on condition, however, that all other nations entitled to claim special tariff treatment in Siam assent to such increases freely and without the requirement of any compensatory benefit or privilege.

711.922/7b

The Chief of the Division of Far Eastern Affairs, Department of State (MacMurray) to the Siamese Minister (Karavongse)

WASHINGTON, July 30, 1920.

MY DEAR MR. MINISTER: Referring to our various discussions on the subject of the proposed Treaty of Commerce, I am sorry that you did not find it possible to have a final discussion on the subject this afternoon, as you might perhaps have had some suggestions to make. Dr. James went over the draft with us, however, and will no doubt be able to clear up for you any questions in regard to it. I am taking occasion to submit to you, informally and unofficially, for your information, a photostat copy of the draft as prepared by this Division.²

I hope this will facilitate your consideration of the matter, and expedite a mutually satisfactory agreement on the matters that have so long been under discussion.

I am [etc.]

J. V. A. MACMURRAY

711.922/8

The Siamese Minister (Karavongse) to the Acting Secretary of State

WASHINGTON, December 6, 1920.

SIR: In acknowledging the receipt of the letter of the Secretary of State of June 4th, last, and of your letter of August 20th, last,³ enclosing, respectively, for the consideration of my Government, a

² Not printed; substantially the same as the final text printed on p. 867.³ Neither printed.

draft protocol concerning jurisdiction over American citizens in Siam and a draft of the new Treaty of Friendship, Commerce and Navigation between Siam and the United States, to which the above mentioned protocol is to be annexed, I have the honour to inform you that my Government, after serious and friendly consideration, have now instructed me to accept these proposals and to conclude and sign a treaty with your Government in accordance therewith as well as to enter into an exchange of letters upon the subject of the lands now in the occupation of the American Missions in Siam as already agreed upon.

May I add, Sir, the expression of my own personal gratification at the happy conclusion of the negotiations which, by establishing the relations between Siam and the United States upon a modern basis and thereby affording a foundation for a better understanding, will have the result of still further strengthening those bonds of cordial friendship which have always existed between our Governments?

I have the honour to express the hope that, in view of the agreement arrived at, the new Treaty with Protocol and exchange of letters may be prepared for signature.

I have [etc.]

PRABHA KARAVONGSE

Treaty Series No. 655

*Treaty and Protocol between the United States of America and Siam, Signed at Washington, December 16, 1920*⁴

The President of the United States of America and His Majesty the King of Siam being desirous of strengthening the relations of amity and good understanding which happily exist between the two States, and being convinced that this cannot be better accomplished than by revising the treaties hitherto existing between the two countries, have resolved to complete such revision, based upon the principles of equity and mutual benefit, and for that purpose have named as their Plenipotentiaries, that is to say:

The President of the United States of America: Norman H. Davis, Acting Secretary of State of the United States,

His Majesty the King of Siam: Phya Prabha Karavongse, Envoy Extraordinary and Minister Plenipotentiary of Siam to the United States;

⁴ Ratification advised by the Senate, Apr. 27, 1921; ratified by the President, May 6, 1921; ratified by Siam, Apr. 29, 1921; ratifications exchanged at Bangkok, Sept. 1, 1921; proclaimed, Oct. 12, 1921.

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I

There shall be constant peace and perpetual friendship between the United States of America and the Kingdom of Siam. The citizens or subjects of each of the High Contracting Parties shall have liberty to enter, travel and reside in the territories of the other, to carry on trade, wholesale and retail, to engage in religious, educational and charitable work, to own or lease and occupy houses, manufactories, warehouses and shops, to employ agents of their choice, to lease land for residential, commercial, religious and charitable purposes and for use as cemeteries, and generally to do anything incident to or necessary for trade upon the same terms as native citizens or subjects, submitting themselves to the laws and regulations there established.

They shall not be compelled under any pretext whatever, to pay any internal charges or taxes other or higher than those that are or may be paid by native citizens or subjects.

The citizens or subjects of each of the High Contracting Parties shall receive, in the territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or may be granted to native citizens or subjects, on their submitting themselves to the conditions imposed upon the native citizens or subjects.

They shall, however, be exempt in the territories of the other from compulsory military service either on land or sea, in the regular forces, or in the national guard, or in the militia; from all contributions imposed in lieu of personal military service, and from all forced loans or military exactions or contributions.

The citizens and subjects of both of the High Contracting Parties shall enjoy in the territories and possessions of the High Contracting Parties entire liberty of conscience, and, subject to the laws, ordinances and regulations, shall enjoy the right of private or public exercise of their worship.

ARTICLE II

The dwellings, warehouses, manufactories and shops and all other property of the citizens or subjects of each of the High Contracting Parties in the territories of the other, and all premises appertaining thereto used for purposes of residence or commerce, shall be respected. It shall not be allowable to proceed to make a domiciliary visit to, or a search of, any such buildings and premises, or to examine or

inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE III

There shall be reciprocally full and entire freedom of commerce and navigation between the territories and possessions of the two High Contracting Parties.

The citizens or subjects of either of the High Contracting Parties shall have liberty freely and securely to come with their ships' cargoes to all places, ports and rivers in the territories of the other, which are or hereafter may be opened to foreign commerce and navigation; except as regards spirituous, distilled or fermented drinks or alcoholic liquors or alcohol, and opium and the derivatives thereof and cocaine, heroin and other narcotic drugs, included within the scope of the International Opium Convention signed at The Hague, January 23, 1912, and arms and ammunition, the trade in all of which may, subject to the principle of most favored nation treatment, be regulated and restricted at will by each of the High Contracting Parties within its territories and possessions, the sale and resale, by any person or organization whatsoever, of goods which are the produce or manufacture of one of the High Contracting Parties, within the territories and possessions of the other, shall be exempt from all governmental restrictions and limitations designed or operating to create or maintain any monopoly or "farm" for the profit either of the Government or of a private individual or organization.

ARTICLE IV

The citizens or subjects of each of the High Contracting Parties shall have free access to the courts of justice of the other in pursuit and defense of their rights; they shall be at liberty, equally with the native citizens or subjects, and with the citizens or subjects of the most favored nation, to choose and employ lawyers, advocates and representatives to pursue and defend their rights before such courts. There shall be no conditions or requirements imposed upon American citizens in connection with such access to the Courts of Justice in Siam, which do not apply to native citizens or subjects or to the citizens or subjects of the most favored nation.

ARTICLE V

Limited-liability and other companies and associations, already or hereafter to be organized in accordance with the laws of either High Contracting Party and domiciled in the territories of such Party, are authorized, in the territories of the other, to exercise their

rights and appear in the courts either as plaintiffs or defendants, subject to the laws of such other Party.

There shall be no conditions or requirements imposed upon American corporations, companies or associations, in connection with such access to the Courts of Justice in Siam, which do not apply to such native corporations, companies, or associations, or to the corporations, companies or associations of the most favored nation.

ARTICLE VI

The citizens or subjects of each of the High Contracting Parties shall enjoy in the territories and possessions of the other a perfect equality of treatment with native citizens or subjects and with citizens or subjects of the most favored nation, in all that relates to transit duties, warehousing, bounties, facilities, and the examination and appraisalment of merchandise.

ARTICLE VII

The United States of America recognizes that the principle of national autonomy should apply to the Kingdom of Siam in all that pertains to the rates of duty on importations and exportations of merchandise, drawbacks, and transit and all other taxes and impositions; and subject to the condition of equality of treatment with other nations in these respects, the United States of America agrees to assent to increases by Siam in its tariff to rates higher than those established by existing treaties,—on the further condition, however, that all other nations entitled to claim special tariff treatment in Siam assent to such increases freely and without the requirement of any compensatory benefit or privilege.

ARTICLE VIII

In all that concerns the entering, clearing, stationing, loading and unloading of vessels in the ports, basins, docks, roadsteads, harbors or rivers of the two countries, no privilege shall be granted to vessels of a third Power which shall not equally be granted to vessels of the other country; the intention of the High Contracting Parties being that in these respects the vessels of each shall receive the treatment accorded to vessels of the most favored nation.

ARTICLE IX

The coasting trade of both the High Contracting Parties is excepted from the provisions of the present treaty, and shall be regulated according to the laws, ordinances and regulations of the United States of America and of Siam, respectively. It is, however, under-

stood that citizens of the United States of America in the territories and possessions of His Majesty the King of Siam and Siamese citizens or subjects in the territories and possessions of the United States of America shall enjoy in this respect the rights which are, or may be, granted under such laws, ordinances and regulations to the citizens or subjects of other nations.

ARTICLE X

Any ship of war or merchant vessel of either of the High Contracting Parties which may be compelled by stress of weather, or by reason of any other distress, to take shelter in a port of the other, shall be at liberty to refit therein, to procure all necessary supplies, and to put to sea again, without paying any dues other than such as would be payable by national vessels. In case, however, the master of a merchant vessel should be under the necessity of disposing of a part of his cargo in order to defray the expenses, he shall be bound to conform to the regulations and tariffs of the place to which he may have come.

If any ship of war or merchant vessel of one of the High Contracting Parties should run aground or be wrecked upon the coasts of the other, the local authorities shall give prompt notice of the occurrence, to the Consular Officer residing in the district, or to the nearest Consular Officer of the other Power.

Such stranded or wrecked ship or vessel and all parts thereof, and all furniture and appurtenances belonging thereto, and all goods and merchandise saved therefrom, including those which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked ship or vessel, shall be given up to the owners or their agents, when claimed by them.

If such owners or agents are not on the spot, the aforesaid property or proceeds from the sale thereof and the papers found on board the vessel shall be delivered to the proper Consular Officer of the High Contracting Party whose vessel is wrecked or stranded, provided that such Consular Officer shall make claim within the period fixed by the laws, ordinances and regulations of the country in which the wreck or stranding occurred, and such Consular Officers, owners or agents shall pay only the expenses incurred in the preservation of the property, together with the salvage or other expenses which would have been payable in the case of the wreck of a national vessel.

The goods and merchandise saved from the wreck shall be exempt from all duties of the customs unless cleared for consumption, in which case they shall pay ordinary duties.

In the case of a ship or vessel belonging to the citizens or subjects of one of the High Contracting Parties being driven in by stress

of weather, run aground or wrecked in the territories or possessions of the other, the proper Consular Officers of the High Contracting Party to which the vessel belongs, shall, if the owners or their agents are not present, or are present but require it, be authorized to interpose in order to afford the necessary assistance to the citizens or subjects of his State.

ARTICLE XI

The vessels of war of each of the High Contracting Parties may enter, remain and make repairs in those ports and places of the other to which the vessels of war of other nations are accorded access; they shall there submit to the same regulations and enjoy the same honors, advantages, privileges and exemptions as are now, or may hereafter be conceded to the vessels of war of any other nation.

ARTICLE XII

The citizens or subjects of each of the High Contracting Parties shall enjoy in the territories and possessions of the other, upon fulfilment of the formalities prescribed by law, the same protection as native citizens or subjects, or the citizens or subjects of the nation most favored in these respects, in regard to patents, trade-marks, trade-names, designs and copyrights.

ARTICLE XIII

Each of the High Contracting Parties may appoint Consuls General, Consuls, Vice Consuls and other Consular officers or Agents to reside in the towns and ports of the territories and possessions of the other where similar officers of other Powers are permitted to reside.

Such Consular Officers and Agents, however, shall not enter upon their functions until they shall have been approved and admitted by the Government to which they are sent.

They shall be entitled to exercise all the powers and enjoy all the honors, privileges, exemptions and immunities of every kind which are, or may be, accorded to Consular Officers of the most favored nation.

ARTICLE XIV

In case of the death of any subject of Siam in the United States or of any citizen of the United States in Siam without having in the country of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest Consular Officer of the nation to which the de-

ceased belonged, in order that the necessary information may be immediately forwarded to parties interested.

In the event of any citizens or subjects of either of the High Contracting Parties dying without will or testament, in the territory of the other Contracting Party, the Consul General, Consul, Vice Consul, or other Consular Officer or Agent, of the nation to which the deceased belonged, or, in his absence, the representative of such Consul General, Consul, Vice Consul, or other Consular Officer or Agent, shall, so far as the laws of each country will permit and pending the appointment of an administrator and until letters of administration have been granted, take charge of the personal property left by the deceased for the benefit of his lawful heirs and creditors.

ARTICLE XV

It is understood by the High Contracting Parties that the stipulations contained in this Treaty do not in any way affect, supersede, or modify any of the laws, ordinances and regulations with regard to trade, naturalization, immigration, police and public security which are in force or which may be enacted in either of the two countries.

ARTICLE XVI

The present Treaty shall, from the date of the exchange of ratifications thereof, be substituted in place of the Convention of Amity and Commerce concluded at Bangkok on the 20th day of March, 1833, of the Treaty of Amity and Commerce concluded at Bangkok on the 29th day of May, 1856, and of the Agreement regulating liquor traffic in Siam concluded at Washington on the 14th day of May, 1884, and of all arrangements and agreements subsidiary thereto concluded or existing between the High Contracting Parties, and from the same date, such conventions, treaties, arrangements and agreements shall cease to be binding.

ARTICLE XVII

The present Treaty shall come into effect on the date of the exchange of ratifications and shall remain in force for ten years from that date.

In case neither of the High Contracting Parties should have notified twelve months before the expiration of the said ten years the intention of terminating it, it shall remain binding until the expiration of one year from the day on which either of the High Contracting Parties shall have denounced it.

It is clearly understood, however, that such denunciation shall not have the effect of reviving any of the treaties, conventions, arrangements or agreements mentioned in Article XVI hereof.

ARTICLE XVIII

This Treaty shall be ratified and the ratifications thereof shall be exchanged, either at Washington or Bangkok, as soon as possible.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Treaty and have thereunto affixed their seals.

Done in duplicate, in the English language, at Washington, the sixteenth day of December in the nineteen hundred and twentieth year of the Christian Era, corresponding to the sixteenth day of the ninth month in the two thousand four hundred and sixty-third year of the Buddhist Era.

NORMAN H. DAVIS [SEAL]
PRABHA KARAVONGSE [SEAL]

ANNEX

PROTOCOL CONCERNING JURISDICTION APPLICABLE IN THE KINGDOM OF
SIAM TO AMERICAN CITIZENS AND OTHERS ENTITLED TO THE PROTEC-
TION OF THE UNITED STATES .

At the moment of proceeding this day to the signature of the new Treaty of Friendship, Commerce and Navigation between the United States and the Kingdom of Siam, the Plenipotentiaries of the two High Contracting Parties have agreed as follows:

ARTICLE I

The system of jurisdiction heretofore established in Siam for citizens of the United States and the privileges, exemptions and immunities now enjoyed by the citizens of the United States in Siam as a part of or appurtenant to said system shall absolutely cease and determine on the date of the exchange of ratifications of the above-mentioned Treaty and thereafter all citizens of the United States and persons, corporations, companies and associations entitled to its protection in Siam shall be subject to the jurisdiction of the Siamese Courts.

ARTICLE II

Until the promulgation and putting into force of all the Siamese Codes, namely, the Penal Code, the Civil and Commercial Codes, the Codes of Procedure and the Law for Organization of Courts and for a period of five years thereafter, but no longer, the United States, through its Diplomatic and Consular Officials in Siam, whenever in its discretion it deems it proper so to do in the interest of justice, by means of a written requisition addressed to the judge or

judges of the Court in which such case is pending, may evoke any case pending in any Siamese Court, except the Supreme or Dika Court, in which an American citizen or a person, corporation, company or association entitled to the protection of the United States, is defendant or accused.

Such case shall then be transferred to said Diplomatic or Consular Official for adjudication and the jurisdiction of the Siamese Court over such case shall thereupon cease. Any case so evoked shall be disposed of by said Diplomatic or Consular official in accordance with the laws of the United States properly applicable, except that as to all matters coming within the scope of Codes or Laws of the Kingdom of Siam regularly promulgated and in force, the texts of which have been communicated to the American Legation in Bangkok, the rights and liabilities of the parties shall be determined by Siamese law.

For the purpose of trying such cases and of executing any judgments which may be rendered therein, the jurisdiction of the American Diplomatic and Consular officials in Siam is continued.

Should the United States perceive, within a reasonable time after the promulgation of said Codes, any objection to said Codes, namely, the Penal Code, the Civil and Commercial Codes, the Codes of Procedure and the Law for Organization of Courts, the Siamese Government will endeavor to meet such objections.

ARTICLE III

Appeals by citizens of the United States or by persons, corporations, companies or/and associations entitled to its protection, from judgments of Courts of First Instance in cases to which they may be parties, shall be adjudged by the Court of Appeal at Bangkok.

An appeal on a question of law shall lie from the Court of Appeal at Bangkok to the Supreme or Dika Court.

A citizen of the United States or a person, corporation, company or association entitled to its protection, who is defendant or accused in any case arising in the Provinces may apply for a change of venue and should the Court consider such change desirable the trial shall take place either at Bangkok or before the judge in whose Court the case would be tried at Bangkok.

ARTICLE IV

In order to prevent difficulties which may arise from the transfer of jurisdiction contemplated by the present Protocol, it is agreed,

(a) All cases in which action shall be taken subsequently to the date of the exchange of ratifications of the above-mentioned Treaty,

shall be entered and decided in the Siamese Courts, whether the cause of action arose before or after the date of said exchange of ratifications.

(b) All cases pending before the American Diplomatic and Consular officials in Siam on said date shall take their usual course before such officials until such cases have been finally disposed of, and the jurisdiction of the American Diplomatic and Consular officials shall remain in full force for this purpose.

In connection with any case coming before the American Diplomatic or Consular officials under clause (b) of Article IV, or which may be evoked by said officials under Article II, the Siamese authorities shall upon request by such Diplomatic or Consular officials lend their assistance in all matters pertaining to the case.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have hereto signed their names and affixed their seals, this sixteenth day of December, in the nineteen hundred and twentieth year of the Christian Era, corresponding to the sixteenth day of the ninth month in the two thousand four hundred and sixty-third year of the Buddhist Era.

NORMAN H. DAVIS [SEAL]
PRABHA KARAVONGSE [SEAL]

Treaty Series No. 655

The Siamese Minister (Karavongse) to the Acting Secretary of State

WASHINGTON, December 16, 1920.

MR. SECRETARY: Referring to Article I of the treaty signed by us this day which provides among other things for the leasing and ownership of real property in Siam by Americans, I have the honor to state that:

1. As to the lands for which the missions now possess papers of any kind or of which the missions are otherwise in legal occupation they should apply to have title papers issued in the regular way.
2. As to the lands held under lease from Government, the Siamese Government will not interrupt the possession by the missions as long as they continue to use the land for mission purposes.
3. However, in Ratburi the Mission is now occupying a house belonging to the Siamese Government; this must be returned when asked for.
4. It should be understood that the Siamese Government is not identified with Wat administration; that is to say, the foregoing understanding must not be construed as a promise by the Government

to interfere with lands held and claimed by religious authorities, whether Buddhists or of any other faith.

5. Of course, all Mission lands are held subject to the exercise by the Siamese Government of the right of eminent domain.

I avail myself [etc.]

PRABHA KARAVONGSE

Treaty Series No. 655

The Acting Secretary of State to the Siamese Minister (Karavongse)

WASHINGTON, December 16, 1920.

SIR: I have the honor to acknowledge the receipt of your note of this date referring to the provisions of Article I of the treaty signed by us today and relating to the real property now in possession of American missionary societies in Siam. I note that:

1. As to the lands for which the missions now possess papers of any kind or of which the missions are otherwise in legal occupation they should apply to have title papers issued in the regular way.

2. As to the lands held under lease from Government, the Siamese Government will not interrupt the possession by the missions as long as they continue to use the land for mission purposes.

3. However, in Ratburi the Mission is now occupying a house belonging to the Siamese Government; this must be returned when asked for.

4. It is understood that the Siamese Government is not identified with Wat administration; that is to say, the foregoing understanding must not be construed as a promise by the Government to interfere with lands held and claimed by religious authorities, whether Buddhists or of any other faith.

5. All Mission Lands are held subject to the exercise by the Siamese Government of the right of eminent domain.

I have the honor to express my satisfaction with this pronouncement.

Accept [etc.]

NORMAN H. DAVIS

711.922/37

The Chief of the Division of Far Eastern Affairs, Department of State (MacMurray), to the Under Secretary of State (Fletcher)

[WASHINGTON,] March 9, 1921.

DEAR MR. FLETCHER: Tentative negotiations were begun as far back as 1910 for a new treaty of Commerce and Navigation between the United States and Siam but no real progress was made until

1915 and 1916 when the negotiations reached a stage where it seemed likely that they would be brought to an early conclusion. The European War, however, suddenly brought an end to the negotiations and they were not renewed until the Peace Conference at Paris, where preliminary Conferences were held between American officials there and the Siamese Delegates to the Peace Conference. Active negotiations were renewed at Washington on the return to this city from Paris of the Siamese Minister and Mr. Eldon R. James, the American Adviser on Foreign Affairs to the Siamese Government. These negotiations extended over a period of several months and were finally concluded and the treaty signed on December 15 [16], 1920, the Senate having received it on December 23, 1920, where it is still pending. Unless some action is taken by the Foreign Relations Committee of the Senate within a reasonable time the Department, if it may do so with propriety, should take some steps to have the treaty ratified.

The treaty follows in principle the usual lines of our treaties of commerce and navigation, but there are several important stipulations on which the Committee which has the treaty under consideration may desire information.

(1) Extraterritorial jurisdiction in Siam is abolished, but the right of evocation in all legal proceedings for a period of five years is preserved. A revision of the Siamese Codes has been going on for a number of years and the administration of Justice by the Siamese Courts is now such that this Government, in recognition of these and other reforms introduced by the Siamese Government, felt fully justified in surrendering its extraterritorial rights under the conditions named in the treaty. The British Government surrendered such rights in its treaty of 1909 and the French are apparently now on the eve of so doing.

(2) Full fiscal autonomy is also granted to Siam. It seemed desirable to remove such restrictions as existed in this respect, as the fiscal affairs of the Siamese Government are now on a sound basis and are administered without discrimination.

(3) All favored nation clauses are omitted from the treaty. This became necessary at the last moment as they seemed to grant rights and privileges which were inconsistent with the Jones Shipping Act.

(4) An exchange of notes between the Governments of the United States and Siam took place on the date on which the treaty was signed quieting the title to certain missionary properties owned by Americans in Siam.

Copies of the treaty, jurisdiction protocol and the exchange of notes are attached, with other papers bearing on the matter.⁵

MACM[URRAY]

711.922/18

The Secretary of State to the Minister in Siam (Hunt)

WASHINGTON, May 12, 1921.

SIR: In deference to the wish of the Siamese Government, as communicated by your telegram No. 3, May 2, 4 p.m.,⁶ and indicated as well by the Siamese Minister at Washington, that the exchange of ratifications of the treaty between the United States and Siam signed at Washington on December 20, 1920, take place at Bangkok, I transmit for the purpose, with this instruction, the President's instrument of ratification of the treaty, together with the President's full power authorizing you to effect the exchange and a form of protocol [of exchange] which you will sign in duplicate with the Siamese plenipotentiary at the time of making the exchange.⁷

In giving its advice and consent to the ratification of the treaty, the Senate advised and consented also to the ratification of the protocol annexed to the treaty, which it made a part of the treaty. It will be necessary, therefore, for the Siamese ratification to include both the treaty and the protocol, as does the United States ratification. This, I am informed, has been explained to the Siamese Government by its minister at Washington.

Before making the exchange and signing the protocol of exchange, you will be careful to see that the texts of the treaty and the protocol as incorporated in the two ratifications are in exact conformity; and upon completing the exchange, you will cable the fact to the Department, advising it as well of the day when the exchange was made and the date of the Siamese ratification.

The Siamese instrument of ratification and the United States signed copy of the protocol of exchange should be forwarded to the Department by the first following mail.

I am [etc.]

For the Secretary of State:

HENRY P. FLETCHER

⁵ Annexes not printed.

⁶ Not printed.

⁷ Enclosures not printed.

AMERICAN INTEREST IN THE EXPLOITATION OF PETROLEUM IN SIAM

Engagement of an American Geologist by the Government of Siam—American Representations Upholding the Principle of the Open Door in Siam

892.6363/orig.

The Secretary of State to the Siamese Minister (Karavongse)

The Secretary of State presents his compliments to the Siamese Minister and has the honor to inform him that a letter dated the 11th instant has been received from the Secretary of the Interior, from which the following is quoted:

"In response to an informal telephonic request by the Siamese Legation of the Chief Geologist of the United States Geological Survey, for advice regarding the development of the oil resources of Siam, and in particular as to geologists whom the Geological Survey considers as well qualified in training, experience, and personal character to undertake the examination of possible oil territory in Siam, with the object of advising the Government, not only as to the oil possibilities of different regions, but as to definite locations in areas promising greatest success in the development of oil production in Siam:

"The Director of the Geological Survey is heartily interested in the plans and purposes of the Siamese Government and is glad to be of such small assistance as the circumstances permit. He advises me that in the judgment of the Chief Geologist reconnaissance geological surveys should be made both of North Siam and of the Malay Peninsula, with the object of differentiating and excluding from further consideration areas of too advanced regional metamorphism or of igneous rocks. Special attention should be given to the areas of Cenozoic formations in northern Siam, in which conditions analogous to those of the Burma oil fields may be found to obtain, or in which the stratigraphy, succession, composition, structure, and stage of alteration of the formations would appear to be favorable for exploration, preference being of course given to areas containing such surface indications as oil or gas seeps, pitch or asphalt deposits, mud volcanoes, etc. Areas appearing on reconnaissance geologic review to be most propitious would presumably be examined and mapped in detail by the geologist, who, by means of such closer scrutiny and more exact information, should be able to select for testing by the drill locations offering greatest promise of success.

"There is nothing in the known geological conditions to indicate that Siam does not contain oil deposits of economic importance that may be of great value to the Kingdom, and for this reason the Director of the Geological Survey fully agrees with the Siamese Government as to the wisdom and desirability of the proposed geological examinations.

"In southern Siam and the Malay Peninsula it is rather probable that rocks of older Mesozoic, and possibly of Cretaceous, age may be too far altered to justify hope of developing commercial oil de-

posits therein, but conditions analogous to those in Sumatra, where oil occurs in Tertiary rocks, may reasonably be expected.

"Among the American geologists who, in the judgment of the Director of the Geological Survey and his scientific associates, are well qualified to undertake such investigations as those outlined above are the following:

Sidney Paige, 3501 Woodley Road, Washington, D.C.

W. A. English, 822 Citizens Nat. Bank Building, Los Angeles, Calif.

R. C. Moore, University of Kansas, Lawrence, Kansas.

Wallace Lee, 611 17th Street, Denver, Colorado.

John L. Rich, Argus Oil Co., Box 294, Iola, Kansas.

F. R. Clark, Sistersville, West Virginia.

W. R. Calvert, Newhouse Bldg., Salt Lake City, Utah.

"None of these geologists is identified with the organization or policies of the larger American oil companies. Messrs. Clark and Lee are attached to two small American companies, the Wiser Oil Company and Plateau Oil Corporation, respectively. They are men of high character, proven ability, relatively wide experience in the examination of oil fields, and of good judgment. They are men such as the Geological Survey would trust for similar examinations if the territory in question were American. One of the geologists, Mr. Paige, holds the highly responsible position of geologist in charge of geologic investigations in the Federal Survey, and should he be preferred by the Siamese Government and arrangements made with him, his leave of absence would be granted to him as a courtesy to a friendly Government.

"As to the salary which the Siamese Government might be required to pay to one of the geologists above mentioned, the Director is somewhat at a loss in making suggestions, as requested by the Legation, on account of the very high prices paid by the leading oil companies, not only to consulting geologists but to the chief geologists regularly in their employ. It seems unlikely, however, that any one of those mentioned above will demand so much as \$2000 a month on a contract covering a year or more, since, although much larger amounts have been paid in some cases for foreign examinations in remote and more or less unhealthful countries, it is believed that the opportunity to assist the Government of Siam in the development of its oil resources, to carry on geologic exploration in a region as yet so little known geologically, and to contribute to geological knowledge and literature the scientific results of such field exploration and examination, will appeal to the scientific and professional *esprit* of the average American geologist. Yet, I anticipate that the Siamese Government may be asked to pay \$10,000 per annum, or possibly as much as \$25,000 for two years of service. On the contrary, for the reasons just stated, it may be that a geologist will undertake the task at a much lower salary. However this may be, the Government of Siam is initiating a complex and important business enterprise which may prove of the greatest value to the Kingdom. In this enterprise so much in the way of success, directness, efficiency, and economy depends upon the competency and judgment of the geologist, and the losses through

poor locations and fruitless tests, consequent to the employment of a less well qualified geologist, lacking in adequate training or experience, may be so great that it is plain that the salary item is relatively insignificant as compared to the advantages gained from the best geologic guidance.

"Geologic examinations, even if of no greater refinement than reconnaissance, if adequately carried out with special reference to the oil possibilities of a given region, are necessarily time-consuming and painstaking, with little opportunity for the avoidance of hardships or certain types of personal labor. It seems probable, therefore, that unless the geologist in charge of the explorations for the Siamese Government is authorized to recruit a small staff of assistant geologists, the period of two years may be insufficient adequately to cover the regions most promising as to oil possibilities in the Kingdom. The Director of the Survey therefore recommends that the Legation formulate its plans on the basis of continuing the geological surveys for not less than two years. This would seem to be the part of wisdom, even should the geologist discover within a short period an area meriting immediate testing.

"Finally, the Director of the Survey bespeaks for the geologist, whoever he may be, the opportunity to make known to the world, through publication, the discoveries as to the general geology, physiography, structure, and geologic history of the areas examined, resulting from the proposed field explorations, thus adding to the world's geologic knowledge in general, as well as to the knowledge of the mineral wealth and physical conditions of Siam."

WASHINGTON, *May 19, 1921.*

892.6363/2

The Second Secretary of the Legation in Siam (Williams) to the Chief of the Division of Far Eastern Affairs, Department of State (MacMurray)

Letter No. 14

BANGKOK, *July 15, 1921.*

[Received August 29.]

DEAR MACMURRAY: I learned indirectly, through an official channel, a few days ago, that oil had been found in Northern Siam and that plans for the exploitation of these deposits were already under way. It was stated that development work was to be carried on under the direction and supervision of Prince Purachatra, Commissioner-General of the Siamese State Railways, the general notion being that the primary and most important use of petroleum in this country would [be] its service as locomotive fuel. As to the various competing foreign companies, the Government were prepared to distribute oil concessions, on a royalty basis, impartially among them, and to permit the actual prospecting and drilling to be car-

ried on under the management of these petroleum experts, it being understood always that an adequate supply of oil would be available at all times for Government use.

While this intelligence was interesting rather than exciting, I thought it well to notify H. D. Warner, the Standard Oil representative in Siam, fully as to the project. I found he was already informed in a general way,—and I gather that American interests will watch developments closely here.

Yours,

CURTIS WILLIAMS

892.6363/5

The Minister in Siam (Hunt) to the Secretary of State

[Extract]

No. 149

BANGKOK, *September 30, 1921.*

[Received November 17.]

SIR: Adverting to my despatch No. 138 of September 17, 1921,^s relative to the possible existence of petroleum deposits in Siam, I have the honor to acquaint the Department that the proposed employment by the Siamese Government of an American geological expert may tend to create diplomatic difficulties.

I am informed from a reliable source that immediately upon receiving intelligence that the Department of State Railways, under the direction of which prospecting for oil will be undertaken, had seen fit to appoint an American to the post of Geological Adviser, the British Minister, prior to his departure, lodged directly vigorous protests against such procedure. In point of fact, Mr. Seymour, during the course of an interview with the Minister for Foreign Affairs, expressed his "consternation" that official action of this character had been taken, and intimated the surprise and disappointment with which the Foreign Office, in London, would view the appointment. An impression was created during the conference that in matters relating to oil exploration there was a clear expectation that to the British Authorities a priority of consultation would be accorded. To these representations, Prince Devawongse demurred and voiced a personal desire that equality of opportunity should be the guiding principle in policy. I do not understand that any concession or definitely-worded promise was advanced or agreed to, upon behalf of the Siamese Government, during the progress of the conversation.

^s Not printed.

I now desire to invite attention to recent indications of a more definite orientation of British policy in Siam. At the time of signature of the Treaty of March 10, 1909, the British Minister requested and obtained assurance in writing that—

“The Siamese Government will not permit any danger to arise to British interest through the use of any portion of the Siamese dominions in the Peninsula for military or naval purposes by Foreign Powers.”

It was explicitly stated that no coaling station, “the occupation of which would be likely to be prejudicial to British interests from a strategic point of view”, would be granted to any foreign Government or Company. Such pledges in their import exceeded any political concessions that had in the past been granted, either to France or to other European nation. Furthermore, it was expressly provided in the Agreement, entered into between the Government of the Federated Malay States and the Railway Department of the Kingdom of Siam, negotiating the loan of four million pounds sterling to be devoted to the “construction, equipment, maintenance and operation” of the railway, in project, to extend through the Peninsular Provinces, that—

“7. For the repayment of the principal and interest due under this agreement, the borrower pledges as security the sections of railway, above referred to, as those sections are successively constructed. . . .”⁹

Such authority of mortgage supervision is generally considered in British official opinion to create a presumption of vested rights in the territories through which the Southern Line is operated, insofar as the asserted priority of political preferment is in accordance with the provisions of the Anglo-French Declaration, of above reference. It is interesting to note, accordingly, that the signatory to the Federated Malay States Loan Agreement, upon behalf of the Siamese Railway Department, was not the Commissioner-General of Siamese State Railways, or similar official, but in his stead, Prince Devawongse, Minister for Foreign Affairs.

Upon reference to the files of the Legation, I have ascertained that my predecessors have in the past notified to the Department the increasing predominance of British influence in the affairs of the Siamese Government. It is but fair to add that within the pre-war period this predominance was upon the whole beneficial to Siam. In the conflict with French and German aims, British diplomacy sought usually to uphold the independence of the Kingdom. Nevertheless, upon the institution of the war-time blockade and black-list, the British Legation upon occasion, through Siamese official channels,

⁹ Omission indicated in the original.

took action which jeopardized apparently legitimate American commercial interests, during the period of neutrality of the American Government. Indeed it would seem that prior to 1917 British desires were paramount in the foreign policy of Siam. It has been brought to my knowledge, moreover, by a Siamese official of the highest rank, whose integrity is unquestionable, that his Authorities have impliedly committed themselves to a possible course of political co-operation in the future with the British Government. As to the extent of the understanding, I have not yet been able to obtain definite information.

It is in no spirit of unfriendliness towards Great Britain that I have drawn this exposition of existing circumstances. The question is simply the maintenance of the open-door in Siam. While the Foreign Office here is ordinarily willing to accept British diplomatic guidance, there is now a well-formed realization that present conditions of dependence may easily lead to a further abrogation of commercial independence. British official opinion seems to incline, unconsciously at least, to the belief that the prescriptive coaling-station privileges, together with prerogatives arising out of the existence of the railway mortgage, have created a presumption of British vested rights throughout the Peninsula.

I have [etc.]

GEO. W. P. HUNT

892.6363/5 : Telegram

The Secretary of State to the Chargé in Siam (Williams)

WASHINGTON, November 22, 1921—5 p.m.

16. Your despatch 149 September 30.

If your information is confirmed you may state orally to the Siamese Government that the Government of the United States would be seriously concerned over any action which might have the effect of denying equality of opportunity to American citizens in Siam. An exclusive petroleum or other exclusive concession would have such an effect. While this Government neither gave nor received any assurances in connection with the appointment of an American geological expert, it would obviously not be fair to him or profitable to the Siamese Government to subordinate him to any but Siamese authorities. This Government does not admit that its citizens can justly be excluded from concessions for petroleum development because of any assurances or privileges given to other Governments regarding political cooperation, coaling stations, railways, military or naval matters, etc. Keep Department fully informed by mail, using telegraph only in emergency.

HUGHES

892.6363/14

The Chargé in Siam (Williams) to the Secretary of State

[Extract]

No. 198

BANGKOK, *December 1, 1921.*

[Received January 25, 1922.]

SIR: I have the honor to acknowledge receipt of the Department's telegraphic instruction No. 16, of November 22, 5:00 p.m., relative to the maintenance in Siam of equality of opportunity for American citizens, and to report that representations were made to the Foreign Office, upon the thirtieth ultimo, of the general character specified therein.

2. I did not fail to confirm the assertions made in Mr. Hunt's despatch No. 149, of September thirtieth, prior to the initiation of formal conversation with the Minister for Foreign Affairs in the connection. The Department will recall that Mr. Seymour, in his official capacity as British Minister, was stated to have stressed the importance of the predominance of British interests here in the determination of the petroleum policy of the Siamese Government. The Legation ascertained definitely, subsequently to the Department's telegram, that such action had indeed been taken. It was moreover established that the British representations, above referred to, had been committed to writing.

3. The Legation reported in the despatch No. 196, of November 30, 1921,¹¹ that Mr. Wallace Lee had undertaken the performance of duties as Geological Adviser to the Siamese Government, without change in his status of independent responsibility to the Commissioner-General of Railways. It did not therefore appear that the British protests, mentioned specifically in my despatch No. 168, of October 29, 1921,¹¹ had been altogether successful. Moreover, Prince Purachatra seemed desirous that Mr. Lee should proceed without delay to the region of oil seepages, thus avoiding possibility of immediate complications in the work of investigation. I considered it advisable, accordingly, that the subject of the employment of this petroleum expert should not at present be raised in Foreign Office discussion, nor until there had been direct diplomatic interference with his function as Siamese official.

I have [etc.]

CURTIS WILLIAMS

¹¹ Not printed.

892.6363/15

The Chargé in Siam (Williams) to the Secretary of State

No. 200

BANGKOK, December 6, 1921.

[Received January 26, 1922.]

SIR: I have the honor to advert further to the Department's mail instruction No. 9, of September 6, 1921,¹² relative to the possible existence of petroleum deposits in northern Siam.

The Legation was instructed that steps had been taken by the Department to notify to responsible American oil companies the opportunity apparently offered in Siam. I now have the honor to report that Mr. H. D. Warner, representative in Bangkok of the Standard Oil Company of New York, has been desired by Mr. W. B. Walker, Manager of the Batavia Office,¹³ under whose jurisdiction the Bangkok branch is placed, to consult with the Legation in the connection. Mr. Walker has stated in a code telegram that pressure was being exerted to induce the Siamese Government to grant exclusive concessions, and has enquired whether the Legation will support an application upon behalf of the Standard Oil Company.

Mr. Warner approached the Legation immediately upon receipt of the Batavia instruction, and requested information as to the position which obtained. It was explained to him in a general way that the petroleum deposits in question were still under investigation by the competent Department here, and that until more complete data had been assembled the grant of concessions by the Government was unlikely. Immediate application by Mr. Warner to the Commissioner-General of Railways was not at present necessary; it was suggested, instead, that conference with Prince Purachatra should occur upon the arrival here of Mr. Walker, the twentieth instant, which would furnish occasion for such enquiry. Meantime, Mr. Warner was informed, the Legation would take such measures as might be advisable and proper to ensure equality of opportunity to American citizens and corporations in Siam. The foregoing was subsequently confirmed in writing.

It is my intention that during Mr. Walker's visit to Bangkok, formal application will be made by him directly to the Prince of Kambaeng Bejra, for such concessions as may be sound and equitable in the development of Siamese petroleum resources. The Legation will not be involved therein, except insofar as it may be opportune

¹² Not printed.

¹³ An error; Mr. Walker was general manager of the South China Department of the Company.

at some future date to mention the application informally and casually to the Minister for Foreign Affairs. The Legation, however, will be kept informed by Mr. Warner as to the progress of the conversations, and in the event that diplomatic considerations arise, will be prepared to acquaint the Department without delay of these circumstances.

The Legation's representations, referred to in my despatch No. 198, of December 1, 1921, will possibly stiffen the determination of the Foreign Office to maintain equality of opportunity in the grant of concessions. Such policy is in the long run conducive of Siam's interests and, from the international viewpoint, preferable to the Siamese themselves. To this end, the Foreign Office no doubt has welcomed diplomatic pressure from each aspect of the situation.

I believe it is unlikely that further events in this regard will be reported during the next fortnight or three weeks. The American viewpoint and the position of the Legation have now been made clear from every angle of the subject.

I have [etc.]

CURTIS WILLIAMS

892.6363/9 : Telegram

The Chargé in Siam (Williams) to the Secretary of State

[Paraphrase]

BANGKOK, *January 11, 1922—10 a.m.*

[Received 2:25 p.m.]

3. Our despatch 198, dated December 1, 1921. The British Legation on December 29 sent a long informal note to the Siamese Foreign Office in which previous representations made on September 13 were renewed. The British Chargé disclaimed a desire to interfere in the internal administration of Siam but again asked that in the surveying of Siam's petroleum resources a British expert should cooperate. This action by the British Chargé was taken on instructions from his Government. He intimated that the employment of Rapoport¹⁴ at London in a consulting capacity as proposed would not give adequate protection to British interests, the inference being as before that information might be withheld by the present geological adviser. In its general tone the British note was not unfriendly but it was very firm.

On January 4 the Siamese Foreign Office replied to the British note. It definitely refused to begin the exclusive and continuous

¹⁴ Employed as consultant in London for the Siamese Commissioner of State Railways.

employment in Siam of a British petroleum expert if the sole purpose was "to spy" on the investigator now employed. The Foreign Office stated that it considered that the present arrangement constituted ample guarantee of maintaining equal opportunity.

In acknowledging the Siamese note on January 7 the British Legation carefully pointed out that in the question at issue there has been no intention of mentioning personalities.

It is not yet necessary to give further instructions.

WILLIAMS

892.6363/9: Telegram

The Secretary of State to the Chargé in Siam (Williams)

WASHINGTON, January 28, 1922—2 p.m.

6. Your 198 December 1, 200 December 6, and 3 January 11.

Make no further representations until instructed and avoid becoming involved in private negotiations or in controversy.

HUGHES

TURKEY

PROTECTION OF AMERICAN INTERESTS AGAINST TAXATION NOT AUTHORIZED BY TREATY¹

667.003/107

*The High Commissioner at Constantinople (Bristol) to the
Secretary of State*

No. 36

CONSTANTINOPLE, *February 2, 1921.*

[Received February 26.]

SIR: With reference to the Department's telegrams No. 86, of November 15, 1920,² and No. 6, of January 20th, last,³ regarding the restoration of the 11% ad valorem tax, as provided under the Capitulations, I have the honor to submit herewith a copy of a communication which I addressed to the British High Commissioner on January 29th, last, outlining the views of the Department of State as given in the two telegrams noted above. I had not made representations at an earlier date after the receipt of the Department's telegram of November 15, 1920, for two reasons:

Firstly, as a result of informal correspondence and discussions with the Allied High Commissioners, I had received assurances that the return to the ad valorem tax had been decided in principle and that only the technical question of the method of putting it in force was delaying action.

Secondly, the specific tax plus the consumption tax which the Turkish Government has established in place of the ad valorem tax, had not as yet proved a burden to American trade; in fact, until very recently these two taxes combined did not equal the 11% ad valorem tax. At the present time, however, due to the drop in the exchange and the imposition of the consumption tax on further commodities, especially those originating from the United States, this tax has become rather more burdensome and discriminatory than an 11% ad valorem tax.

Upon learning informally that the Allied High Commissioners had temporarily abandoned the idea of returning to the ad valorem tax (although they did not inform me in this regard), I availed myself

¹ For previous correspondence concerning maintenance of American rights, see *Foreign Relations*, 1920, vol. III, pp. 757 ff.

² *Ibid.*, p. 765.

³ Not printed.

of the Department's authorization to make firm representations on this matter in the note of which a copy is enclosed, similar notes being addressed to the French and Italian High Commissioners.

I have [etc.]

MARK L. BRISTOL

[Enclosure]

The American High Commissioner at Constantinople (Bristol) to the British High Commissioner (Rumbold)

[CONSTANTINOPLE,] *January 29, 1921.*

EXCELLENCY: The question of the reestablishment of ad valorem custom duties, in accordance with the capitulations, was raised in a letter from the Allied High Commissioners, dated December 18, 1920, and was the subject of a communication of November 27, 1920, from His Excellency the French High Commissioner, on behalf of his colleagues, to which I replied on December 8th, last.⁴

From the communication of the Allied High Commissioners, I had understood that the question of principle had been agreed upon, and that the reestablishment of the ad valorem customs tariff only awaited the drafting of the final text of the decree.

Having received no information, however, that the Allied High Commissioners have taken any further action, I feel compelled to draw Your Excellency's attention again to the fact that the present customs taxes, including the consumption taxes, are illegal, that the continuance of these taxes is detrimental to American commercial interests in Turkey, and that the levying of the consumption tax discriminates against American trade.

As a particular case in point indicative of the difficulties arising under the present illegal regime of taxation, I desire to call attention to the situation that has recently developed in Smyrna, as reported in a joint note from the delegates of the Allied Powers and the United States,⁵ of which Your Excellency has undoubtedly received a copy.

The United States has endeavored to cooperate with the Allied Governments in matters pertaining to trade with the Ottoman Empire under the conditions laid down for the raising of the blockade and the resumption of trade with Turkey. My Government has, however, continually urged the return to the legal method of levying customs taxes, and has very recently informed me that it is surprised at the continuance of the consumption taxes beyond the period imme-

⁴ Correspondence not printed.

⁵ See telegram no. 28, Jan. 24, from the High Commissioner at Constantinople, p. 155.

diately after the armistice in October, 1918, required by the Allies for the formal military occupation of Turkey. These taxes upon some of the Prime necessities of life impose an inhumane burden upon the poorest classes in Turkey and add to their acute poverty and misery. Coal, another necessity especially in winter weather, has very recently been placed on the dutiable list. My Government considers these taxes discriminatory against the legitimate interests of certain nations, the United States in particular. The increase in revenue that would have resulted from the Eleven per cent ad valorem tax destroys the revenue argument upon which consumption taxes were purported to have been based. If the revenue from the uniform Eleven per cent tax falls short of the fiscal requirements of Turkey, my Government might entertain the proposition to resume at an early date the negotiations initiated by Turkey in 1914, looking toward an increase in the uniform rate to Fifteen per cent ad valorem.

I am sure that Your Excellency will agree that joint action by the Allied Powers and the United States Government, in accordance with a pre-arranged plan, would be preferable to individual action.

Respectfully,

[MARK L. BRISTOL]

667.003/114

The Acting High Commissioner at Constantinople (Dulles) to the Secretary of State

No. 68

CONSTANTINOPLE, *February 26, 1921.*

[Received March 22.]

SIR: With reference to my despatch No. 36 of February 2nd, communicating the text of a note addressed to the Allied High Commissioners under date of January 29th regarding the customs tariff at present in force in Constantinople, I have the honor to submit herewith for the Department's information, copies and translations of notes dated February 11th and 17th respectively, from the Allied High Commissioners regarding this matter.⁶

In their note of February 11th, the British, French, and Italian High Commissioners state that they are unable to communicate the text of a decree reestablishing the 11% ad valorem tax since such a tax cannot be immediately put into force as the consumption taxes must be maintained and extended to meet the desperate state of Turkish finances.

In their note of February 17th the Allied High Commissioners informed me that they were advising their governments to authorize

⁶ Enclosures not printed.

the establishment of a 11% ad valorem tax while at the same time maintaining the present consumption taxes. (High Commission's telegram No. 56 of February 19th.⁷)

In my reply to these communications, a copy of which is enclosed,^{7a} I informed the Allied High Commissioners that their notes of February 11th and 17th were being referred to the Department of State.

In view of the observation in the 5th paragraph of the Allied note of February 11th, to the effect that the reestablishment of the ad valorem tax system could only be the work of the Financial Commission, I took occasion to state that it was not admissible that the action of this Commission could impair the rights which the United States enjoyed as a result of treaty obligations previously assumed by the Ottoman Government.

I have [etc.]

ALLEN W. DULLES

667.003/122

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 217

CONSTANTINOPLE, *May 18, 1921.*

[Received June 8.]

SIR: At a meeting of the Advisory Trade Commission of the Associated Powers, held April 26, 1921, it was unanimously decided to recommend to the Associated High Commissioners that they should send identic notes to the Sublime Porte requesting the immediate return to the eleven per cent ad valorem tariff in effect before the war.

The three Allied Delegates on the Advisory Trade Commission favored as well the retention of the present consumption taxes, but the American Delegate objected emphatically to such an arrangement. The Allied Delegates thereupon formally requested that the American High Commissioner should present to his Government their arguments in favor of the retention of the consumption taxes in addition to the 11% ad valorem and request the consent of the United States Government to this mode of taxation.

Their arguments are as follows:

First, the proceeds from the consumption taxes would go into the hands of the Ottoman Treasury, whereas according to the decree of Mouharrem of 1881 and its Annex Decree of 1903, all proceeds from customs duties over eight per cent go to the Ottoman Public Debt Administration and not to the Turkish Government. If, as had been suggested, the ad valorem were increased from eleven to

⁷ Not printed.

^{7a} Enclosures not printed.

fourteen or fifteen per cent, the increased revenue would not be available for Government purposes, but would have to go to the Public Debt. The condition of the Treasury is in such a deplorable state that immediate steps must be taken to increase the Government receipts. Turkish officials have not been paid since early January and many of them are literally starving. The consumption tax would bring in approximately two hundred and fifty thousand Turkish pounds per month additional and would alleviate the situation.

Second, the consumption taxes would not affect the importation of American merchandise, in view of the fact that they are being levied on the prime necessities of life, i.e. sugar, tea, coffee, and petroleum, and consequently the demand would remain as great as ever and American trade would not suffer.

Third, the consumption tax is now being collected and would not involve any discussion with neutral powers as to its acceptance, as the neutral powers are already acquiescing in its collection.

In transmitting the contentions of the Allied Delegates, I desire to reiterate my objections to the continuance of the consumption taxes. Taking up their arguments in succession:

Argument #1.

a) By a decree of 1880 it is true that all of the customs receipts over 8% ad valorem were pledged to the interest and amortization of the Ottoman Public Debt, and the Decree of Mouharrem of 1881 and its Annex Decree of 1903 confirmed these arrangements. However, if the Allied High Commissioners can do an illegal thing, namely, enforce consumption taxes in addition to the 11% ad valorem, they can also do another illegal thing and turn over the receipts above 8% ad valorem to the Treasury instead of the Ottoman Public Debt.

b) While it is undoubtedly true that there is much misery and suffering amongst Turkish officials, this condition is the direct result of the failure of the Allies to restore the 11% ad valorem customs duties when the blockade was lifted. Our figures show that there would have been no deficit in the Ottoman budget had this been done.

c) The Consumption taxes would bring in Ltqs. 250,000 additional per month, but not as much revenue as an increase to 14 or 15 ad valorem would do—by almost one half. The situation would be alleviated, but no accurate figures have been furnished me as to the finances of Turkey, and I am unable to make recommendations to my Government on the vague and general statements of conditions as submitted by the Allied Delegates.

Argument #2.

a) The consumption taxes are discriminatory in their nature in that they are placed on articles which come largely from America, and while the consumer and not the American exporter pays this tax, it will react upon American business when normal conditions are restored.

b) The consumption taxes are placed on necessities of life and tend to increase the already high cost of living in Constantinople for the poor people who are much overburdened.

c) The increase of the ad valorem tax from eleven to fourteen or fifteen per cent by agreement among the different powers would be fair to every nationality and would require only one system of collection of customs taxes.

Argument #3.

a) It will be quite as easy to induce the neutral powers to accept an extra 3% ad valorem as to accept the imposition of the consumption taxes, plus the 11% ad valorem.

b) After the Armistice, the regulation of trade with Turkey was vested by the Supreme Council in the hands of the Associated High Commissioners. No treaty with Turkey has since been signed and such control technically still rests in their hands, and I believe any joint decision would be accepted by all powers.

I have just obtained copies of the notes sent by the Allied High Commissioners on March 14th and May 3rd, (copy and translation of which are enclosed⁸), in regard to the restoration of the 11% ad valorem customs tariff. From their note of March 14th, a summary of which I transmitted by telegram No. 93, of March 12, 10 p.m.,⁹ you will observe that the Allied High Commissioners recommend the 11% ad valorem, plus the consumption taxes. Their note of May 3rd was supposed to have been sent as a result of the recommendations of the Advisory Trade Commission, after its meeting of April 26, 1921. They have not followed the recommendations of the Trade Commission in this matter, for they do not expressly request the 11% ad valorem without the consumption taxes, as had been the sense of the meeting of the Advisory Trade Commission.

The whole history of my negotiations with the Allied Representatives on the subject of the tariff indicates a desire on the part of the Allies to keep me completely in the dark, and to foster the trade of their nationals at any cost, and I think the time has arrived when representations should be made by my Government in Paris, London and Rome, looking toward a more complete cooperation in all questions in Turkey than there has been in the past.

I have [etc.]

MARK L. BRISTOL

667.003/121 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, June 7, 1921—5 p.m.

[Received June 8—6:25 a.m.]

190. I believe the time has decidedly arrived when pressure should be brought to bear upon Allied Governments to cooperate with our Government for the regulation of trade in Turkey. A short time

⁸ Enclosures not printed.

⁹ Not printed.

ago the Allied High Commissioners issued notice through their Chambers of Commerce that, when specific customs duties on goods of Allied origin exceeded the 11 percent ad valorem, the specific tariffs could be ignored and only the 11 percent ad valorem paid.

Very recently this rule has been made for the benefit of the importers of Allied goods, no matter what nationality of importer may be. Further, if the Turkish customs authorities raise objections to this procedure, importers are instructed to apply to Colonel Woods (a British officer representing British High Commission acting as adviser to the Turkish Government) who will assist importers in having Turkish Government comply with this measure. When Colonel Woods was asked how he was able to have Turkish Government comply with this procedure he stated that he simply directed them to carry out these provisions and it was done. Thus it is evident, as it has been for a long time, that the Allies take advantage of their military occupation and control of Turkish Government to obtain every commercial advantage for their nationals.

At a very recent meeting of the Advisory Trade Commission my delegate asked the Allied delegates if the above decision regarding payment of taxes by Allied nationals applied to specific import taxes that were composed of the direct import tax and a further tariff known as "consumption tariffs", because our Government would undoubtedly take this position and direct American citizens not to pay more than 11 percent ad valorem import taxes upon the understanding that the import taxes would be considered the total specific taxes, both direct and consumption tariffs. This statement created consternation amongst the Allied delegates thus demonstrating still more conclusively that the Allied representatives here are proceeding without regard for American interests. This procedure is highly discriminatory against American trade in that the bulk of the consumption taxes are imposed on articles chiefly from America. Furthermore it exposes the hypocrisy of the Allies in urging the United States Government to tolerate the consumption taxes for the purpose "of increasing the receipts [of] the Turkish Government".

This act of the Allied representatives in Constantinople, as well as practically all their acts, for the regulation of trade with Turkey since the blockade was raised over two years ago has been without cooperation from this High Commission, in spite of every endeavor on my part to cooperate with them. By many written communications and frequent personal conferences I have endeavored to obtain concerted action of the Associated Powers (Great Britain, France,

Italy and America) for the regulation of trade with Turkey on legal and just basis. I have become convinced that Allied representatives work on the principle of what is for their best interests commercially without regard to legality or justice. This seems to be the principle that actuates the Allies in the whole procedure in conformity with the obtaining of peace in the Near East. My despatches will point out in detail the record of past events.

If possible the immediate adoption of the import tax of 11 per cent ad valorem with the understanding that the necessities of the Turkish Government for added inconvenience be provided for by, as a temporary measure, an extra percentage ad valorem tax pending final settlement by treaty. The Turkish Government would oppose a return to the ad valorem system of taxation but I believe it would yield on this point if there was concerted action. Turkey is now taking advantage of the difficulties that exist between the Allies and between the Allies and ourselves. I have made strong representations along these lines to Allied High Commissioners without avail. A decision arrived at on this point would improve whole situation in Near East, and a strong attitude of our Government greatly benefit all American interests.

BRISTOL

667.003/124 : Telegram

*The High Commissioner at Constantinople (Bristol) to the
Secretary of State*

CONSTANTINOPLE, June 21, 1921—6 p.m.

[Received June 22—9:22 p.m.]

203. My telegram number 190, June 7, 5 p.m. Turkish Government informally indicates willingness to revert to pre-war system of taxation in case the powers will consent to a temporary increase in ad valorem rate to 14 or 15 percent to meet urgent needs of Treasury, (see Department's telegram 86 of November 15th¹⁰), this increase to be enforced until final determination of tariff system under peace treaty.

I consider this most opportune moment for bringing pressure to bear in London, Paris and Rome. Request information of action taken.

BRISTOL

¹⁰ *Foreign Relations*, 1920, vol. III, p. 765.

667.003/126: Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, July 2, 1921—2 p.m.

[Received July 3—5:43 a.m.]

212. The Ottoman authorities have reimposed the specific customs taxes on foodstuffs which were abolished at the time of the armistice. This is another action affecting American business interests as large quantities American wheat, flour, etc., are being imported.

All my efforts to bring about the restoration of the pre-war regime of ad valorem duties have failed. The Allies have agreed to return to this system but in addition to continue the consumption taxes.

Approximately 400 drums of American alcohol are lying in the harbor because the Ottoman public officer refuses to issue permits for their clearance unless the excessive tax recently agreed to by the Allies is paid. This tax represents 170 percent of the value of the alcohol.

The Allied representatives here, including those of the Public Debt Administration, have continually advocated any policy for the advantage of their nationals without regard for legality or for American interests.

I have reached an *impasse* in this situation and beg to request that the Department will bring immediate pressure to bear upon London, Paris and Rome to make the Allies fall in line and cooperate with America in the restoration of the legal taxation, provided for by the treaty. For the proper protection of American interests and the maintenance of our prestige, which is vital for our future interests, it is necessary to take action now. Please instruct.

BRISTOL

667.003/136

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 341

CONSTANTINOPLE, July 6, 1921.

[Received August 4.]

SIR: Since my unnumbered despatch of October 16th 1920¹¹ giving a review to that date of tariff developments in Turkey prior to, during the War, and since the armistice, I have had the honor to address several despatches to the Department on this question.

¹¹ Not printed.

To summarize the situation to date, I would say that the specific and consumption taxes continue to be imposed in spite of notes addressed to the Sublime Porte by the Allied High Commissioners and by myself—(see my despatch #217 May 18th 1921). It is admitted by all concerned that the return to the 11% ad valorem will bring in 200,000 Ltq. monthly over present returns, and the reasons for retaining the present system are obscure. I believe, however, that these reasons are:

a) By consenting to the return to the 11% ad valorem system the Turks would be partially accepting the reinstatement of the Capitulations.

b) There are certain technical difficulties in reestablishing the ad valorem system which are valid. It permits of the falsifying of invoices and the consequent defrauding of the Ottoman Government. It is also difficult to get competent trained officials for the work of appraisal.

c) The Allied representatives here do not press the return of the 11% ad valorem as their nationals would have to pay more than double the amount they are paying now for customs duties.

I have discussed informally with officials of the Foreign Office this whole question and have urged the desirability of returning at once to the 11% ad valorem system. I have pointed out to them that in 1914 the Powers had agreed in principle to the increase from eleven to fifteen percent ad valorem tariff for Turkey and that certain Powers had actually signed the Conventions granting this increase, so there could be no logical objection by the Powers to an arrangement for a provisional increase from eleven to fifteen percent to care for the immediate necessities of the Ottoman Treasury.

I am inclined to believe that in answering the latest notes addressed to the Sublime Porte on this question the Porte will indicate in its reply a willingness to return to the 11% ad valorem system if the Powers will consent to the provisional increase from 11% to 15% until the Peace Treaty has been signed and a permanent tariff system adopted for Turkey.

MIRI TAX

The situation as regards the taxes on alcohol imported into Turkey is somewhat complicated. At the present time 93% of the alcohol imported into the Ottoman Empire is from the United States. As the greater part of the country is in the hands of the Nationalists the importations are more or less confined to Smyrna and Constantinople.

Early in 1920 the Ottoman authorities tripled the special tax of 5 paras per litre per degree which had been imposed during the War so that the duties today on this new basis represent 170%

approximately of the value of the goods. I have protested against the payment of such taxes, and protests were also made by the Allied High Commissioners until February 5th, 1921, when they notified all concerned that in view of the serious financial situation they had consented to the imposition of this triple tax on their nationals as a provisional measure. The British High Commissioner in accepting this increase for his nationals made it a condition that all nationals importing alcohol into Turkey must also pay this tax. The question was referred to me through the Advisory Trade Commission, and I instructed my delegate on that Commission to decline to agree to this measure insofar as Americans were concerned. (See my despatch No. 178, of May 2, 1921, Minutes of Meeting No. 3.¹²)

In sending out my instructions in regard to this tax, I notified our Consuls that importers should be required to pay only the legal tax in effect before the War.

It appears that at Smyrna the American Consul carried out my instructions to the letter and notified importers that they need pay only the tax recognized by the Powers in 1911 of 37½ paras per kilo, although between 1911 and 1914 this tax had been doubled and the double tax had been paid by all importers, though under protest. The procedure followed in Smyrna is as follows:

Importers of American alcohol call at the American Consulate and deposit with the Consul the legal tax of 37½ paras per kilo; the Consul thereupon issues a permit to land the goods and the importer, accompanied by a *cavass* from the Consulate, proceeds to the customs house where the goods are then allowed to be brought in. This procedure has been followed now since March, 1921. It will, of course, be realized by the Department that as Smyrna is under the control of the Greek Military Authorities, they are the ones that are permitting this procedure and it is not the Ottoman Authorities who acquiesce in this method of importing alcohol.

As regards Constantinople, I notified several importers of American alcohol through our Consulate that they need pay only the tax which had been enforced in 1914, namely, 75 paras per kilo. However, when they called at the customs and offered to pay this import duty the official permits to land the alcohol were refused by the Ottoman Authorities. The result is that there are now some 400 drums of American alcohol in warehouses for which official *teskeres* to land have not been given. I have not felt justified in using a show of force to land this material here and have telegraphed the Department for instructions in this question. (See my telegram of July 2nd 1921 No. 212).

¹² Not printed.

CONSUMPTION TAX ON OIL AT SMYRNA

The situation in Smyrna as regards the customs duties on oil has not changed since my despatches No. 81 of March 8th¹³ and No. 85 of March 11th.¹⁴ The Standard Oil Company is continuing to pay the specific tax on petroleum into the American Consulate. It has also agreed that when the question of taxes have [*has*] been settled diplomatically that the Standard Oil Company will pay either the 11% ad valorem tax or the specific and consumption tax, whichever is decided, and to whomever the diplomatic negotiations directs that this sum should be paid.

In Constantinople, however, the Standard Oil Company is paying the specific and consumption taxes, which together are today considerably in excess of the 11% ad valorem. For the moment it doesn't seem to the best interests of the Standard Oil Company that the American authorities should insist upon only 11% ad valorem customs duties being paid, but when certain negotiations have been consummated between the Standard Oil Company Officials and the Ottoman authorities in regard to its installation at Beicos, the Standard Oil Company will then be anxious to have the 11% ad valorem reestablished.

As I stated in my telegram above mentioned, I have reached an *impasse* in my efforts to accomplish the restoration of the pre-war system of taxation, and I can do nothing further without the instructions of my Government and their complete backing of any action which they direct me to undertake.

I have [etc.]

MARK L. BRISTOL

667.003/133 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, July 24, 1921—noon.

[Received July 24—7:46 a.m.]

221. Department's 86, November 15th;¹⁵ Ottoman Government will accept return to ad valorem system as provisional measure pending restoration of peace if the rate is increased to 15 percent, and this increase of 4 percent is allowed exclusively to the Government and not paid to Ottoman Public Debt.

¹³ Not printed; see telegram of Feb. 24, 1921, from the High Commissioner, temporarily at Alexandria, p. 158.

¹⁴ Not printed.

¹⁵ *Foreign Relations*, 1920, vol. III, p. 765.

Strongly urge that this proposition be accepted as purely provisional measure, without prejudice to our treaty rights and on condition that this provisional arrangement shall be no precedent for the final settlement upon resumption of diplomatic relations.

Reference to my telegram number 190, June 7th, my telegram number 203, June 21st, and my telegram number 212, July 2nd. No instructions have been received. I have induced Ottoman Government to submit this definite proposition and I am urging Allied Commissioners to agree. I urgently request my Government's assistance.

Proposed measure would stabilize trade, remove present illegal consumption and specific taxes, prevent discriminatory taxes against American merchandise and greatly assist bad financial condition of Turkish Government.

BRISTOL

667.003/143

*The High Commissioner at Constantinople (Bristol) to the
Secretary of State*

No. 381

CONSTANTINOPLE, July 26, 1921.

[Received August 27.]

SIR: I have the honor to refer to my telegram No. 221 of July 23 [24], regarding the attitude of the Ottoman Government toward a return to the ad valorem system of taxation on imports.

For the information of the Department I am enclosing a translation of the note which I received from the Sublime Porte through the Royal Swedish Legation under date of July 12th, stating in substance that the Ottoman Government would be willing to return to the ad valorem system in case that Government be allowed to increase the rate from eleven to fifteen percent and in case assurances be given that this increase of four percent should be paid directly to the Ottoman Government and not to the Ottoman Public Debt. (It appears that according to the decree of Muharram of 1881 the Ottoman Government agreed that in case the taxes under the ad valorem system should be increased over eight percent the total of such increase should go to liquidate its obligations to bond holders of the Public Debt.)

This note of the Sublime Porte is the result of repeated pressure on my part to induce the Ottoman Government to return to the legal ad valorem system. While I regret that they have not consented to return unqualifiedly to the pre-war eleven percent ad valorem tax, leaving the question of raising the rate to future negotiations, there

is no doubt that the deplorable state of Turkish finances in some way justifies their request that the rate be increased to fifteen percent. In this connection please see the Department's telegram No. 86 of November 15th 1920.¹⁶

The Department should note that the proposition of the Ottoman Government for a return to the ad valorem system at a rate of fifteen percent is brought forward as a purely temporary measure to tide over the period until formal peace is established between Turkey and the Allied Powers. It is a measure which I believe we could accept, while at the same time reserving our rights under our treaties and agreements with the Turkish Government. It could be considered as an armistice measure which would not bind the United States or the Allies after the restoration of peace or the resumption of diplomatic relations as the case may be.

I feel that we should keep our hands free so that upon the resumption of diplomatic relations we would be in a position to bring the Ottoman Government to recognize the capitulations, including the tariff provisions in existence in 1914, and to leave the future modifications of this regime (and I think it undoubtedly should be modified in certain parts) to future negotiations. At that time we should be in a position to negotiate with the Turkish Government for such further rights and privileges, as well as assurances for the protection of American lives and property, which the Government might consider it desirable to obtain.

I am also enclosing for the Department's information a copy of my letter of the 22nd inst. to the Allied High Commissioners informing them of the proposition which the Sublime Porte had made to me, and stating that I had re-referred it to my Government with my full endorsement.

Ever since I have been in Turkey I have been fighting to obtain fair treatment for American trade and commerce and for a tariff regime which I felt would secure American business from discrimination or chicanery on the part of the Allies. I feel that if the Government gives me support in securing the introduction as a temporary measure of the ad valorem system, I will have succeeded in my endeavors. I cannot however do this unless I have the full support of the Department of State, and unless pressure is brought to bear in London, Rome, and Paris to induce the Allies to fall in line with a policy which will put all commerce on the same footing and at the same time benefit the Turkish Government by increasing its revenues.

¹⁶ *Foreign Relations*, 1920, vol. III, p. 765.

For a summary of the previous correspondence in regard to the tariff regime at present in force in the region of Constantinople, please see my unnumbered despatch of October 16th 1920,¹⁷ and my despatch No. 341 of July 6th 1921.

I have [etc.]

MARK L. BRISTOL

[Enclosure 1—Translation]

The Turkish Ministry of Foreign Affairs to the Swedish Legation at Constantinople

[CONSTANTINOPLE, July 11, 1921.]

The Ministry of Foreign Affairs has had the honor to receive the *Note Verbale* Number 180 dated June 1921 from the Royal Swedish Legation, transmitting a *Note Verbale* of the United States High Commissioner dated 23 June 1921, concerning the customs duties.

As the Imperial Government has already stated many times to the Allied Great Powers, the maintenance of the actual tariff quintuplicated answers best in the interest of the Treasury and has the advantage of being easy to apply.

In spite of all the arguments brought forward by the Sublime Porte in favor of such a solution of this question the Powers found needful to insist on the return to the ad valorem system in practice before the War.

Although this antiquated system presents in practice serious inconveniences and difficulties and is able to give a much smaller increase of receipts than that which would follow the quintuplicating of the special tariff, the Imperial Government, forced by the necessity of increasing its financial resources, would be disposed to return to the ad valorem system with the reservation that its application would be temporary until the restoration of peace and that it would not prevent the ulterior return to the specific tariff, and with the condition that an increase of 4% of the duties of 11% ad valorem would be allowed, so that these duties would be changed from 11 to 15%.

This increase of 4% is indispensable to allow the Imperial Government to abolish, as desired by the Government of the United States of America, the consumption tax, which actually represents an essential resource of the Treasury.

The Ministry of Foreign Affairs thinks needful to remind that the foreseen increase from eleven to fifteen percent has already been examined and conceded by the Powers in 1914, so as to permit the Imperial Government to meet its most urgent needs. In view of the considerable augmentation of the expenses of the budget, this in-

¹⁷ Not printed.

crease is now more necessary than in 1914 and must be considered from all points of view as justifiable and indispensable.

It goes without saying that the abolishment of the consumption tax will not be able to take place until the Imperial Government will come to an agreement with the Ottoman Public Debt for the payment in whole of the proceeds of the increase of 4% to the Treasury, without any retentions by the Public Debt.

The Sublime Porte begs the United States High Commission to have the kindness to intercede with the Allied Powers so as to bring them to accept the above-mentioned proposals and to assure their application.

In the meantime, the Sublime Porte allows itself to hope that the Government of the United States of America will consent to the collection of the consumption tax together with the duties of eleven percent, so as to allow from now of the application of the ad valorem system, without depriving the Treasury, until the increase of 4% be obtained, of the revenues which this system must assure it.

The Ministry of Foreign Affairs has the honor to beg the Royal Legation to have the kindness to bring the preceding to the knowledge of the United States High Commission.

[Enclosure 2]

The American High Commissioner at Constantinople to the Allied High Commissioners.

[CONSTANTINOPLE,] July 22, 1921.

TO ALLIED HIGH COMMISSIONERS: The Sublime Porte has informed me of its willingness to return to a system of ad valorem taxation on imports in case permission be granted by the Powers to increase the rate from eleven to fifteen percent ad valorem and in case the Ottoman Government be allowed to receive directly the four percent increase. The Ottoman Government suggests that such an arrangement be introduced as a provisional measure, pending the restoration of peace.

The Sublime Porte points out in its note to me that prior to the War in 1914 negotiations were in progress to increase the ad valorem tax from eleven to fifteen per cent and that this increase had been practically conceded by many of the Powers in 1914. Further, it is pointed out that if this increase was necessary in 1914 it is still more necessary at the present time under the conditions as they now exist.

It is my opinion that the proposal of the Sublime Porte could be adopted immediately and would be the surest means of relieving

the present financial difficulties of the Ottoman Government. If the Allied and Associated Governments accept this proposition, I believe that steps could be taken to put it into effect as a provisional measure under the conditions which were prescribed for the resumption of trade with Turkey whereby trade was to be regulated by the Allied and Associated Powers, Great Britain, France, Italy and the United States.

In view of the urgent need of taking measures to relieve the financial embarrassment of the Ottoman Government and the necessity of stabilizing business by a definite decision regarding import taxes, I hope Your Excellency will cooperate with me in obtaining the support of our Governments to this proposal of the Ottoman Government, which I have immediately referred to Washington with my full endorsement.

Respectfully

MARK L. BRISTOL

667.003/139 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, August 18, 1921—3 p.m.

[Received August 19—6:13 a.m.]

232. Urgently request instructions concerning taxation plan set forth in my 221, July 23, 12 a.m. [July 24, noon]. Reports now current that on September 1st Ottoman Government intends to put into effect 11 percent ad valorem system plus consumption taxes. Refer to Department's 86, November 15, 6 p.m.¹⁸

BRISTOL

667.003/139 : Telegram

The Secretary of State to the High Commissioner at Constantinople (Bristol)

[Extract]

WASHINGTON, September 1, 1921—5 p.m.

78. Your 221 July 24 noon and 232 August 18 3 PM.

Matter receiving careful consideration in connection with requests from British, French, and Italian Embassies for Department's assent to increased Miri duties.¹⁹ Department has not yet been informed

¹⁸ *Foreign Relations, 1920*, vol. III, p. 765.

¹⁹ Notes from the British Ambassador, dated June 15 and July 5; from the French Ambassador, dated June 20; and from the Italian Chargé, undated, received Aug. 23; none printed.

whether Turkish Government has submitted proposition in your 221 to Capitulatory Powers nor of their attitude. Any Turkish intention to modify rates or introduce new duties without the consent of the Capitulatory Powers cannot have binding effect on latter and Department will not change its attitude regarding consumption taxes.

HUGHES

667.003/150 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *September 9, 1921—5 p.m.*

[Received September 10—6:10 a.m.]

247. Department's 78, September 1, 5 p.m. The question of Miri duties is a very small detail in connection with the taxes and duties which affect American interests. I had already settled this question by taking firm stand with Allied representatives. The tax on alcohol now being collected is the same tax that was collected in August 1914 before the war.

It seems significant to me that the negotiations for increased Miri duties have been transferred by the Allies to Washington and evidently from Department's despatch the sentiments of the American people regarding prohibition are being appealed to. Therefore I most earnestly beg the Department not to enter into any negotiations in Washington with the British, French or Italians concerning an increase of Miri tax on alcohol without full written information from here; report follows and [it is] further recommended, as I have previously several times, that pressure be brought upon the Allied Governments to have their representatives here change their policy of attempting to regulate trade independent of American interests.

The Allied representatives have been constantly taking steps to regulate trade without consulting American interests, and in fact in many cases by ignoring American interests so that I have become convinced that they are attempting to use their position to prevent the successful establishment of American trade in the Near East.

I have steadily opposed their methods and I feel have fought them to a standstill. Thus they are attempting to transfer negotiations to Washington hoping to confuse the big issue through negotiations in detail and appealing to popular sentiment in the United States.

Referring my telegram number 221 of July 24th.²⁰ I have reserved all our rights to final adjustment of all questions until a

²⁰ *Ante*, p. 901.

proper treaty is negotiated and am being guided by correspondence of April 1907.²¹ The whole question of taxation is simply one of return to the pre-war taxes of 1914 and, as a special provision to end when treaty is ratified, permission to collect an extra 4 percent tax to meet present Turkish financial embarrassment in place of the proposed consumption taxes. It is a question of 4 percent extra on all merchandise or of a consumption tax on a few articles and those few articles being the necessities of life and ones [in] which the Allies are not especially interested and will most affect our people.

Therefore I earnestly request that the Department will back me up and trust me to take no steps that will be prejudicial to the final settlement with Turkey when peace is restored. I am attempting maintain the policy that no precedents shall be established on questions settled prior to an agreement or treaty with Turkey which will be in consideration of our Government resuming diplomatic relations. Please instruct.

BRISTOL

667.003/150 : Telegram

*The Secretary of State to the High Commissioner at Constantinople
(Bristol)*

WASHINGTON, September 14, 1921—5 p.m.

82. Your 247 September 9 5 p.m.

You will insist on the integral application of the pre-war regime. Make no commitments without seeking Department's instructions.

Department does not feel the moment opportune to take into consideration any modification of the 11% ad valorem duty. Written instruction will follow.

HUGHES

667.003/156

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 469

CONSTANTINOPLE, September 23, 1921.

[Received October 14.]

SIR: I have the honor to enclose a copy in the original French and in translation of a note of August 22, 1921 which I have received from the Allied High Commissioners on the subject of a return to

²¹ See *Foreign Relations*, 1907, pt. 2, pp. 1051-1053.

the ad valorem system of taxation while increasing the rate of such taxation to 15% and allowing the Ottoman Treasury to benefit to the full extent of this increase. This note is in reply to my note of July 22nd to the High Commissioners, copy of which was transmitted to the Department in my despatch No. 381 of July 26, 1921. I am also enclosing a copy of my reply to the High Commissioners under date of September 15, 1921.

On September 13th there appeared in the daily press the text of a decree law issued by the Ottoman Government providing for a return to the 11% ad valorem system of taxation on imports. The Department will note from the enclosed text of this decree law ²² that the pre-war regime is modified in certain important respects, and notably by the establishment of a Commission to pass on the valuation of commodities and by suppressing the right to pay taxes in kind. While no mention is made of the consumption taxes in the new decree, I have ascertained that they are to be continued, and it is believed that this arrangement has been approved by the Allied High Commissioners.

The decree law of September 13th was discussed by the Advisory Trade Commission, consisting of representatives of the Allied and Associated Governments, and the Committee has now unanimously recommended to the High Commissioners the sending of a collective note to the Sublime Porte in which it shall be stated that it is impossible to accept the decree law of September 13th since it provides for a return to the 11% ad valorem system in a form substantially different from that which obtained before the war.

I have [etc.]

MARK L. BRISTOL

[Enclosure—Translation ²³]

The Allied High Commissioners at Constantinople to the American High Commissioner

No. 362

The High Commissioners of France, Great Britain, and Italy have taken note of the letter addressed to them by His Excellency Admiral Bristol, United States High Commissioner, on the 22d of July, concerning the reestablishment of the ad valorem duties and their increase to 15 percent. This question had already been the object of a note from His Excellency Admiral Bristol to the three High Commissioners, dated the 29th of January, 1921,²⁴ which concerned also the abolition of the specific tariff.

²² Not printed.

²³ File translation revised.

²⁴ See note to British High Commissioner, p. 891.

His Excellency Admiral Bristol was answered by a collective note of the three High Commissioners, dated the 11th of February.²⁵

The undersigned High Commissioners, referring to this answer, find that there is occasion to add the following details:

It does not suffice that the governments give their sanction to the proposed measure. It must be observed, in fact, that, owing to the decree of Mouharrem and the annexed decree, any excess of the receipts from customs resulting from the modification of the tax rates returns to the Administration of the Ottoman Public Debt. This Administration could not renounce its rights unless so authorized by the bondholders. The question would have to be submitted to them, and it would be indispensable to call them together in general assemblies in each of the countries interested.

If in 1914 this increase seemed easy to obtain, it was because, in virtue of a clause of the decree of Mouharrem and the annexed decree, three fourths of the surplus of the receipts of the Public Debt, after the bond service is assured, must return to the Ottoman Government.

At that time, the total revenue yielded was sufficient for the payment of the coupons, and the increase which was to result from the raising of the duties from 11 to 14 percent (new rate now proposed) would have been acquired to the extent of three fourths by the Ottoman Government, by the simple operation of the existing laws, without it being necessary to consult the bondholders.

Today the situation is quite different. The whole of the revenue gathered by the Administration of the Ottoman Public Debt is less than the needs, and the service of the bonds remains in suspense.

Moreover, the Public Debt has a claim of about 5,000,000 L Tqs. against the Ottoman Government, resulting from the fact that the stipulations of the Mouharrem decree have not been respected since 1916. Detailed information was furnished on this point to the Advisory Trade Committee on the 26th of April, 1921, by the representative of the Ottoman Public Debt and is annexed to the *procès-verbal* of that day's session of the Committee.

It follows from the preceding—

- (1) That the increase to 15 percent of the tariff of the ad valorem customs duties, if applied, would actually benefit only the Administration of the Ottoman Public Debt, owing to the incontestable rights that it holds under the decree of Mouharrem;
- (2) That the Ottoman Public Debt could not renounce this right in favor of the Ottoman Government without the consent of the bondholders;
- (3) That obtaining this consent under the actual circumstances is quite improbable.

²⁵ Not printed: see despatch no. 68, Feb. 26, from the Acting High Commissioner, p. 892.

The High Commissioners have just diminished the revenues of the bondholders by not recognizing the law of 1920 on spirits, owing to the opposition of the United States. The bondholders could not oppose this measure and will have to submit to it, but there is no reason to suppose that they will be disposed to renounce voluntarily their right to part of the customs receipts, an important source of income which legally belongs to them and which cannot be taken from them without their consent.

In these conditions the undersigned High Commissioners find that the only practical solution of the question would consist—

- (1) In the reestablishment of the customs duties of 11 percent ad valorem;
- (2) In maintaining at the same time the consumption taxes.

As the Delegate of the Ottoman Public Debt remarked in the report presented to the Advisory Trade Committee on the 26th of April, 1921, which has been mentioned above, the return to the ad valorem duties, if it were followed by the suppression of the consumption tax, would but procure the Ottoman Government some insignificant supplementary receipts and would insufficiently improve the situation.

Constantinople, August 22, 1921.

PELLÉ

HORACE RUMBOLD

GARRONI

[Enclosure 2]

The American High Commissioner at Constantinople to the Allied High Commissioners ²⁶

[CONSTANTINOPLE,] *September 15, 1921.*

EXCELLENCY: I have the honor to acknowledge the receipt of the collective note of the Allied High Commissioners, dated August 22nd, in reply to my communication of July 22nd on the matter of a return to the system of ad valorem taxes and the increase of these taxes to 15% with the understanding that the Ottoman Treasury is to benefit to the full extent of this increase.

I have read with interest the views of the Allied High Commissioners and I have taken careful note of the several considerations emphasized by them. There is in particular one point concerning which I should be happy to receive a further expression of the view of the Allied High Commissioners. If, in order to permit the Ottoman Treasury to benefit to the full extent of the proposed increase to 15%, it is necessary, in accordance with the Decree of Mouharrem and its annex, to convene the bondholders in the various countries

²⁶ Sent to the High Commissioners severally.

and secure their consent, why is it not considered equally necessary to ascertain the views of the bondholders regarding the disposition of the consumption taxes? From the standpoint of the spirit of the Decree of Mouharrem and its annex, I can see a mere verbal difference between allowing the Ottoman Treasury to benefit through an increase in the ad valorem rate of taxation and allowing such benefit through the collection of consumption taxes. I am quite unable to perceive, therefore, why any greater sensitiveness should be shown to the susceptibilities of the bondholders in the first case than in the second.

The plan set forth in my note of July 22nd is essentially a provisional measure pending the restoration of peace. There can be, therefore, in reality no question of asking the Public Debt to renounce its rights under the Decree of Mouharrem. The question is simply one of meeting a serious financial crisis of the Ottoman Government by an agreement to adopt for the time being a system of customs taxes, sound from the economic standpoint and calculated to give fair and honest treatment to the merchandise of all countries. The system described in my note of July 22nd has in my judgment precisely these characteristics. The adoption of this plan in substance requires no more than a simple acquiescence, so far as the Public Debt is concerned, in a state of things which the Allied High Commissioners themselves point out has existed since 1916, and against which, so far as I am aware, the bondholders of the Public Debt have not protested. I presume that the Allied High Commissioners do not consider that the Public Debt has lost any rights over the five million pounds which have accrued to the Public Debt since 1916 and which, it is to be supposed, are to be considered as a charge upon the Ottoman Government to be liquidated as soon as the state of Ottoman finances will permit. Such being the case, it would appear to be entirely pertinent to inquire why the taxes collected under the 15% rate cannot be treated simply as in the nature of a loan or advance from the Public Debt to the Ottoman Treasury to be refunded in such way and at such a time as may be agreed upon. The positive reasons favoring the proposed plan are of a convincing character. It is admitted on all sides that the condition of the Ottoman Treasury is desperate, and that, unless remedial measures are taken with the least possible delay, the consequences will be serious. The system of customs taxes which I am urging upon the Allied High Commissioners will be an effective commencement of the rehabilitation of Ottoman finances. This is the first positive reason for the adoption of the plan. In the second place, there is the essential and obvious economic soundness of the plan considered as a measure

of taxation. The consumption taxes on the other hand, levied as they are on the prime necessities of life and therefore paid by the poorest classes, constitute simply one more element making for both economic and political unrest and instability. Furthermore, the very recognition of such a principle of taxation is a constant menace to exporters and importers who can never feel sure that the list of commodities subject to the payment of consumption taxes will not be suddenly modified either through adding new commodities to the list or through removing some of those already on the list. Finally, the consumption taxes, as I have previously pointed out, in effect discriminate against merchandise of American origin and as such cannot be recognized by my Government. I may add in this connection, that I have recently been instructed by the Department of State to make it quite clear that the United States will not acquiesce in the system of consumption taxes.

Respectfully

MARK L. BRISTOL

667.003/157 : Telegram

*The Secretary of State to the High Commissioner at Constantinople
(Bristol)*

WASHINGTON, November 15, 1921—5 p.m.

93. Your October 28 3 PM.²⁷

Written instruction has not yet been sent as Department has not received replies from all three Entente Embassies.²⁸

Department gratified at settlement of Miri question and return to 11%, reported in your communications, but is not prepared to consider deviation from the pre-war régime. You should therefore not agree to consumption duty should authorities seek to collect it.

You should note that even Decree of September 13,²⁹ the legality of which has not been admitted by this Government, does not provide for the consumption duty.

HUGHES

²⁷ Not printed.

²⁸ Separate conferences with representatives of the British, French, and Italian Embassies were held at the Department of State to consider the question of the increased Turkish duties and taxes. There is no record that written replies were made to the notes previously received (see p. 906, footnote 19). The position maintained by the Department in the conferences was identical with that taken in the correspondence with the High Commissioner at Constantinople. Notes sustaining a divergent point of view were received from the French Embassy, Oct. 24; from the British Embassy, Oct. 27; and from the Italian Embassy, Nov. 30; none printed.

²⁹ See despatch no. 469, Sept. 23, from the High Commissioner, p. 908.

667.003/163 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, *November 21, 1921—5 p.m.*

[Received November 22—2:35 a.m.]

272. Department's 93, November 15, 5 p.m. In view of return to 11 percent ad valorem system and the cooperation which I have begun to receive from my Allied colleagues since formation of new Advisory Trade Committee, believe it would be a serious mistake if Department should look upon tax situation here too exclusively from pre-war, legalistic angle without giving adequate consideration to present desperate financial situation of Turkish administration partly due to almost complete stagnation of import trade in Constantinople. Unless our policy is based upon the realities of the present economic situation my position both [with] the Turkish authorities and with my Allied colleagues will be most prejudicially affected as it will then be perfectly accurate to say that the American High Commission is playing a purely obstructive role and is manifesting either a complete ignorance of conditions in Constantinople or else is intent upon a deliberate and unaccountable disregard of these conditions. I believe that an unreasonable stand by us will simply mean that objectionable taxes will be put into effect over our protest by the Ottoman Government with the approval and assistance of the powers in military occupation of Constantinople acting under the armistice. I shall oppose consumption taxes in every way possible, but it is becoming every day more obvious that these taxes, which are accepted by all powers except the United States, cannot be fought effectively without at the same time expressing willingness to consider other possible sources of revenue. I have always carefully safeguarded our rights in any future settlement, but I cannot help recognizing the justice of the Turkish claims for revenue and consequently the desirability of according temporary recognition to certain sources of revenue over and above the 11 percent ad valorem import tariff.

In this connection I urgently request that the Department authorize me by cable to accept application American citizens of municipal taxes mentioned in my despatch no. 169 [131] of April 8, 1921,³⁰ as a temporary measure for the period of the armistice and without prejudice to our future right. Amounts received from these taxes to be expended in maintenance of sanitary services under competent

³⁰ Not printed.

non-Turkish financial and technical supervision. Collection to be effected with the help of inter-Allied police. The finances of the municipality are in a lamentable shape. The vital necessity of keeping up the sanitary services is obvious and most pressing. I am convinced that to refuse to recognize these taxes would be detrimental to American interests and prestige here. I have frequently requested the Department's assistance in rendering more effective my protests against iniquitous taxes. As an indispensable corollary I am now requesting similar assistance in accepting taxes generally recognized as absolutely necessary.

BRISTOL

867.512/94

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 572

CONSTANTINOPLE, *November 30, 1921.*

[Received December 16.]

SIR: I have the honor to enclose herewith a copy of an identic Note which I have today addressed to each of the Allied High Commissioners on the subject of the Consumption Taxes.

I have [etc.]

MARK L. BRISTOL

[Enclosure]

*The American High Commissioner at Constantinople to the Allied High Commissioners*³¹

[CONSTANTINOPLE,] *November 30, 1921.*

EXCELLENCY: AS Your Excellency is no doubt aware the question of the Consumption Taxes was once more examined by the Advisory Trade Committee at its meeting of November 23. Unfortunately, the Committee was unable to reach an agreement and was therefore compelled to record the existence of an absolute *impasse* between the Allied and American points of view with respect to these taxes. Such being the case, I understand that the question will engage the attention of the Allied High Commissioners at their meeting of this week. I should be grateful, therefore, if their Excellencies, the Allied High Commissioners, would be good enough to communicate to me a definite statement of their views concerning the Consumption

³¹ Sent to the High Commissioners severally.

Taxes, having in mind particularly the character of the instructions received by me from my government and also the situation disclosed by the following figures taken from Table F of the annexes to the Provisional Committee of Control's letter of November 7, 1921 to the Allied High Commissioners:

PERCENTAGE OF CONSUMPTION TAXES PAID ON MERCHANDISE FROM EACH OF THE PRINCIPAL ALLIED AND ASSOCIATED COUNTRIES

America	28.49
France	14.21
Italy	9.13
England	2.66

I hesitate to inform my government that the Representatives of the Allies at Constantinople insist upon the continuance of the discrimination against American goods demonstrated by the above figures and that in their judgment no alternative to this discrimination can be discovered.

Respectfully,

MARK L. BRISTOL

667.003/163 : Telegram

*The Secretary of State to the High Commissioner at Constantinople
(Bristol)*

WASHINGTON, December 9, 1921—3 p.m.

96. Your 272 November 21, 5 PM and your despatch 131 April 8, 1921.³² You may inform your Allied Colleagues that having in view the present conditions at Constantinople, Department, as a temporary measure, without prejudice to our rights and without establishing a precedent for any other taxes, consents to Commissioner's request that the municipal taxes mentioned in your said despatch and stated to be necessary for the maintenance of sanitary services be applied to American citizens with the understanding that such services shall be under non-Turkish financial and technical supervision, that the taxes shall be equally applied to all foreigners and that collection shall be effected with the help of interallied police.

Keep Department fully informed by mail.

HUGHES

³² The latter not printed.

REVIVAL OF THE CHESTER PROJECT FOR CONCESSIONS IN
TURKEY

867.602 Ot 81/162

*Memorandum by the Assistant Foreign Trade Adviser, Department
of State (Hall)*

[WASHINGTON,] June 10, 1920.

On June 9, 1920, Rear-Admiral Colby M. Chester, Retired, called at the Department and interviewed Mr. Frost,³³ Mr. Dwight³⁴ and Mr. Hall with reference to his memo of May 19, 1920, entitled "Oil Land and American Mineral Rights in Turkey."³⁵

Admiral Chester states that he has title to certain concessions in Turkey acquired in 1911 or 1912 and that after the conclusion of peace in Turkey he proposes to defend his claims.

He represents that the Turkish Government offered these concessions to his group just before the outbreak of the first Balkan war; that he agreed to commence operations on the concessions after the conclusion of peace, and that the Ottoman Government, as then constituted, understood this and consented to it.

He further represents that the Ottoman American Development Company, which was to take over the concession, has gone out of existence, but that the group of engineers and capitalists holding stock in that company is still being held together, informally. Mr. C. A. Moore, formerly president of Manning, Maxwell and Moore, Incorporated, Chicago, is deceased; but the Chesters, Mr. Laidlaw, Mr. Converse, Mr. Colt and Mr. MacArthur are still interested in the Chester project. Mr. Colt has been in Paris on general financial business most of the time since the armistice. Mr. Arthur T. Chester will soon sail for Constantinople, where he will be the official representative of the Shipping Board. (His wife is said to have had a heavy financial interest in the Ottoman American Development Company.) Admiral Chester's daughter is still at Constantinople in connection with the relief work and is said never to have lost interest in the project.

The concession is alleged to be the property of Mr. Arthur T. Chester, son of the Admiral.

It was suggested to Admiral Chester in the course of the interview that a formal reply to his memorandum might be drafted, definitely

³³ Wesley Frost, Acting Foreign Trade Adviser.

³⁴ H. G. Dwight, Special Assistant, Department of State.

³⁵ Not printed.

stating the views of the Department as to the validity of the concessions. Admiral Chester responded that a formal statement of this kind is not necessary at present. Apparently he does not care to have such a statement until after the conclusion of peace in Turkey, when he proposes actively to urge his claims.

Admiral Chester stated that he was endeavoring to arrange an interview with President Wilson within a day or two.

R. O. H[ALL]

867.602 Ot 81/174

Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State (Robbins)

[WASHINGTON,] February 8, 1921.

Admiral Chester, for many years identified at the Department with the Chester project of the railroad from the east end of the Mediterranean through Van and the oil fields of Mesopotamia, called upon the Secretary of State who had summoned Mr. Robbins of the Near Eastern Division and Mr. Schmavonian.³⁸

Admiral Chester was informed, as he was on various other occasions, that the Department is deeply interested in his project. He was also reminded of the frequent assistance given him in 1909 and later by the American diplomatic representatives at Constantinople.

His attention was called, however, to the present unsettled condition in Anatolia; to the French occupation of Syria and the British occupation of Mesopotamia. He was also informed that the Department did not see at present how it could take any definite action with any Turkish Government in view of existing circumstances.

Admiral Chester replied that he was well aware of the difficult conditions now existing; that he simply wished to receive from the Secretary of State assurances of the interest and good will of the Department in his project. He stated that he believed that he would have the support of the British Government and that he intended soon to leave for Anatolia and Mesopotamia to take up the matter of securing the concession.

To this the Secretary replied that he saw no objection to his so doing and wished him success in his enterprise.

W. R[OBBSINS]

³⁸ A. K. Schmavonian, special assistant, Department of State.

867.602 Ot 81/175

The Assistant Secretary of the Navy (Roosevelt) to the Under Secretary of State (Fletcher)

WASHINGTON, April 2, 1921.

DEAR PRATHER: I am enclosing herewith some papers³⁷ to do with the concession from Rear Admiral Chester, for oil in Asia Minor. Admiral Chester wishes to be appointed Naval Attaché at Constantinople. If this were done it would give his project at least a semi-official standing in the eyes of the other governments. This matter is primarily one for the state department to decide. He has advised me that you are in accord with his ideas. Will you kindly write me fully concerning the matter.

Very truly yours,

THEODORE ROOSEVELT

867.602 Ot 81/175

The Under Secretary of State (Fletcher) to the Assistant Secretary of the Navy (Roosevelt)

WASHINGTON, April 12, 1921.

MY DEAR THEODORE: I beg to acknowledge the receipt of your letter of April 2nd, enclosing papers from Rear Admiral Chester regarding a concession for oil in Asia Minor. I have noted that you state that Admiral Chester wishes to be appointed Naval Attaché at Constantinople, and that your comment as regards this proposition is that his appointment as Naval Attaché would give his project at least a semi-official standing in the eyes of other governments.

As you request my opinion on this matter, I should like to say that in principle I am opposed to the appointment of a Naval Attaché for the sole purpose of securing a concession for a private concern from the foreign government to which he is accredited. It appears to me also that the present moment is inopportune for the securing of a concession.

The Department of State has for years past been deeply interested in the concession negotiated between the Ottoman Government and the Ottoman Development Company of New York and as you will remember, our Embassy at Constantinople, under instructions from the Department, gave its warm support to this Company in 1910

³⁷ Not printed.

and 1911. The situation has now completely changed and it appears to me that it would be almost impossible to determine to what government or governments the Ottoman Development Company should address itself for confirmation in its concession rights until at least the Treaty with Turkey and also the boundaries of Armenia, etc., have been definitely established.

Sincerely yours,

HENRY P. FLETCHER

867.602 Ot 81/172

Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State (Robbins)

[WASHINGTON,] April 18, 1921.

Admiral Chester, accompanied by his son³⁸ and Admiral Rousseau,³⁹ called upon the Secretary of State this morning. His son, a New York lawyer, presented the case to the Secretary, stating that his father and he were anxious to secure the support of the Department of State in the obtaining of the Chester oil concession in Anatolia, Syria and Mesopotamia. He explained that the concession was originally proposed in 1909; that after some negotiations it was approved by the Grand Vizier and would have been granted by the Turkish Parliament in 1911 had it not been for the opposition of the German Embassy at Constantinople.

The Secretary then remarked that it appeared that the concession had never actually been obtained. This Mr. Chester agreed to. He said, however, that he and his associates were very anxious to obtain the support of the Secretary of State and the Department in securing this concession now. The Secretary replied that he would have to give the matter further thought.

Comment. In view of the objection now felt by the Department to certain monopolistic oil concessions proposed by Great Britain in her own mandate area of Mesopotamia, it would seem impractical at the present time for the Department to make a definite statement or to give definite encouragement to an American concession in Mesopotamia.

Doctor Cumberland⁴⁰ spoke with the Secretary before Admiral Chester and his associates were received and stated that he did not feel at present that the project of Admiral Chester was worthy of consideration; that there did not appear to be any capital back of it, and that the plans were far too vague.

It would appear that the plan of Admiral Chester is to secure from the Department a blanket letter of recommendation which would

³⁸ C. M. Chester, Jr.

³⁹ Rear Admiral H. H. Rousseau, U.S.N.

⁴⁰ W. W. Cumberland, Acting Foreign Trade Adviser, Department of State.

help him to secure various concessions in the mandate area. It seems, therefore, inadvisable at present to give him any letters of recommendation.

W. R[OBBINS]

867.602 Ot 81/177

The Ottoman-American Exploration Company, Inc., to the Secretary of State^{40a}

NEW YORK, *May 13, 1921.*

SIR: This is to certify that Rear Admiral C. M. Chester, U.S. Navy, has been appointed as the representative of this Corporation for the purpose of conducting negotiations on our behalf with respect to concessions for Oil, Mineral and Railroad rights and matters incidental thereto in Asia Minor.

We bespeak for him the cooperation of the Government in accordance with the resolution passed by the Senate at its last session and the Act of Congress of March 14th, 1921, making appropriations for arranging a survey for oil in foreign lands.

Also it is requested that Admiral Chester may be furnished suitable credentials to our foreign ambassadors and Government officials as will enable him to carry on his work.

Respectfully,

OTTOMAN-AMERICAN EXPLORATION COMPANY, INC.,
By JOHN R. MACARTHUR, *Vice President*

867.602 Ot 81/181

Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State (Robbins)

[WASHINGTON,] *May 24, 1921.*

Admiral Colby Chester called upon the Secretary of State this morning and brought attention to the fact that an agreement had been signed between the French Government and the Turkish Nationalists which he stated would mean the loss of the Chester concession rights in Mesopotamia.

The Admiral was informed by the Secretary of State that the Department was in receipt of information to the effect that the Franco-Turkish Agreement regarding Cilicia had not been ratified.

Admiral Chester then brought up again the question of his old project. The Secretary then requested him to be specific as regards the present situation. He asked him first, if he had a definite con-

^{40a} Letter presented to Department by Admiral Chester, presumably on May 24.

cession, to which the Admiral replied in the negative. The Secretary then commented that that being the case he considered that it would be difficult for the Government of the United States to claim that another Company, namely, the Turkish Petroleum Company had no rights in view of the fact that it had never obtained a concession if in turn it urged the rights of the Chester project who had not obtained a concession either. The Secretary then asked Admiral Chester from whom he expected to get the claim. The Admiral replied that he expected to get quit claims from English and French Governments as well as from the Arabs. The Secretary then asked him what his Company was and where the Company was incorporated, to which the Admiral replied, the Ottoman American Exploration Company; (the original Company as known to the Department was called the "Ottoman American Development Company"). He added that it was incorporated in 1911 in the State of Delaware and that the stock holders were the MacArthur Brothers, Armington [*Remington?*], C. A. Moore, and E. C. Converse, the latter two both deceased. He stated that \$100,000 had been already expended in efforts to obtain the concession and that the money had been put up by Moore, Armington, Converse and Admiral Chester's son. The Secretary then stated that what appeared to be the Admiral's desire was to obtain a confirmation of his old project or rather a concession now based on the old project. Admiral Chester made the statement that his project was prior to any other oil project and that it had been so recognized by all the European Governments. The Secretary suggested that he might have a prior moral claim but that moral rights to obtain a concession could not be considered, especially as the United States would take the attitude that the Turkish Petroleum Company's rights did not hold.

The Secretary requested Mr. Robbins to look up the original letters of the State Department to the Powers as referred to by Admiral Chester and to ascertain whether definite requests were made and any assurances given.

[No signature indicated]

867.602 Ot 81/182

Memorandum by the Acting Chief of the Division of Near Eastern Affairs, Department of State (Robbins)

[WASHINGTON,] June 10, 1921.

MEMORANDUM FOR THE SECRETARY

On June 10th Mr. John MacArthur, [Vice] President of the Ottoman Development Company [*Ottoman-American Exploration Com-*

pany], called at the Department at my request, in order to discuss with me the question of the Chester Oil project, which has been under the Department's consideration since 1909. As you will remember Admiral Chester, accompanied by his son and Admiral Rousseau, called on you on various occasions and finally presented a letter signed by Mr. MacArthur, requesting that Admiral Chester, as representative of the Ottoman Development Company, be given the assistance of the Department in the securing of the old Chester project. Doctor Cumberland was good enough to join in the conference with Mr. MacArthur and myself, as well as Doctor Carlson.⁴¹

We explained to Mr. MacArthur very definitely, as I had on previous occasions to Admiral Chester, that while his people had all but obtained the concession in 1912, this concession had never been actually secured owing to the fact that the Turkish Congress went into recess and was not subsequently convened because of the war with Italy. It was definitely stated to Mr. MacArthur that his Company had never obtained the concession and that in view of the fact that the United States had taken a definite stand against the Turkish Petroleum Company, to which an order for an oil concession was given by the Grand Vizier, we could scarcely favor the recommendation of the Chester project.

Doctor Cumberland and I also explained to Mr. MacArthur that the situation was such in Anatolia that it would be impossible to obtain any concession from the Turkish Government. It was suggested to him, however, that when conditions became more normal, the United States Government would without doubt look with favor to obtaining oil concessions in Anatolia, Mesopotamia and Cilicia.

Doctor Cumberland asked Mr. MacArthur what chances his Company would have for obtaining the concession if this Government should take the position that no valid concessions had been granted in this territory. Mr. MacArthur answered that he did not know, but he supposed they had to start all over again, which would be rather difficult.

Mr. MacArthur was then asked whether his Company had approached the Standard Oil Company concerning this matter, to which he replied that it had not done so, although officials of the Standard Oil had endeavored to speak with him on this matter. He gave as a reason for not discussing this question with the Standard Oil that he had not considered himself at liberty to commit himself in any way, not knowing what the Department's desires were as regards his Company's acquiring the Chester concession. Mr. MacArthur then inquired definitely of Doctor Cumberland whether there was any objection to his getting in touch with the Standard Oil

⁴¹ Of the Office of the Foreign Trade Adviser.

Company or any other large oil Company for the furtherance of his interests in Anatolia. Doctor Cumberland replied that he could not commit the Department on this matter but that talking as one business man to another, he could see no objection.

W. R[OBINS]

EFFORTS ON BEHALF OF THE ARMENIANS ⁴²

Unwillingness of President Wilson to Attempt Mediation between the Turks and the Armenians—Relations of the Near East Relief with the Bolshevik Authorities in Armenia

760j.67/64

*The President of the Assembly of the League of Nations (Hymans)
to the Acting Secretary of State*

[Translation ⁴³]

GENEVA, *January 4, 1921.*

[Received January 27.]

MR. SECRETARY OF STATE: The President of the United States has been pleased, in response to the appeal of the Assembly of the League of Nations, to take steps in a lofty spirit of humanity toward putting an end to the hostilities between the Turkish Nationalists and the Armenian Republic.

The Council of the League of Nations, having been requested by a resolution of the Assembly dated December 18 to watch over the fate of Armenia, would be very grateful to you if you would advise it of the action taken in pursuance of this generous initiative of your Government, and if you would be good enough to address to the Secretariat General, at Geneva, all information bearing on this subject, as well as all helpful information on the situation in Armenia.

Please accept [etc.]

HYMANS

760j.67/57a : Telegram

*The Acting Secretary of State to the Ambassador in Belgium
(Whitlock)*

WASHINGTON, *January 18, 1921—6 p.m.*

4. Please deliver following to His Excellency Paul Hymans, President of the Assembly of the League of Nations.

"Your telegram of December 26, 1920,⁴⁴ transmitting a message received by the Council from the British Government, concerning

⁴² Continued from *Foreign Relations*, 1920, vol. III, pp. 774-809.

⁴³ File translation revised.

⁴⁴ *Foreign Relations*, 1920, vol. III, p. 809.

Armenia, stating that Armenia is reported to be under the control of Soviet Russia, and suggesting that the President instruct the American High Commissioner at Constantinople to take up the matter with the Allied High Commissioners, has been received and read with interest by the President, who instructs me to reply as follows:

The President does not deem it practicable to instruct the American High Commissioner at Constantinople to act for him in this matter. As was stated in my telegram of December 16 [15], 1920,⁴⁵ he has chosen the Honorable Henry Morgenthau, who has been prepared to act for him in such steps as may be taken. Before instructing him to proceed, however, the President has been awaiting the definite assurances and information from all the principal Powers interested as requested in his cable of November 30, 1920,⁴⁶ defining the conditions under which he would endeavor to mediate.

The message from the British Prime Minister transmitted by you on December 26th would seem to indicate the impracticability or futility of the President's addressing himself, at least in the first instance, to the Armenians and Kemalists. The President is inclined to share this view and to feel that no solution can be had without first getting at the source of the trouble.

Pending receipt of information and assurances requested by the President in his telegram of November 30, 1920, it is deemed wise to state the problem as the President views it, its causes and possible remedies. It would appear that the immediate cause of trouble in Armenia and Turkey has been the Treaty of Sevres. Admittedly, this was a difficult question with which to contend, but the Treaty was drafted by the Allied Powers and the trouble has arisen over the failure of certain factions to accept this Treaty, and of the Allies to enforce it. This is a question over which the President has no control, and any measures which he might take or recommend in this direction would be dependent upon the hearty cooperation and support of the Allied Powers.

The British Prime Minister calls attention to the report that Armenia is under the control of Moscow, from which it appears that another complication has developed. The dependence of Armenia on Soviet Russia is another situation over which the President has no control and he sees no action he could take to free Armenia without the moral and diplomatic support of the principal powers which holds promise of bringing peace and accord to the contending parties.

There is bitter distrust and fear of war along all the Russian borders. It seems futile to attempt to bring peace to the Caucasus, if the result is merely to free the forces there engaged for new campaigns on other sectors of this long front. The distressful situation of Armenia is but one detail of this vast Russian problem, and the President most earnestly urges his conviction that it is only by a general and comprehensive treatment of the whole problem, only by full and generous cooperation of the principal powers, that a hopeful approach to the pacification and independence of Armenia can be found.

⁴⁵ *Ibid.*, p. 807.

⁴⁶ *Ibid.*, p. 804.

The attitude of the President towards those now in power in Russia has been frequently and clearly expressed. He regards the Bolsheviki as a violent and tyrannical minority, by no means representing the real desires and purposes of the Russian people. But he has never believed that the problems raised by this *coup d'état* could be solved by military action from outside. He now hopes that the recent tragical events on the Polish front and in the Crimea have convinced all the world that armed invasion is not the way to bring peace to the people of Russia.

The rapidly shifting events of recent months have only strengthened his conviction that the Russian Revolution, beneficent in its main purposes, must be developed to a satisfactory conclusion by the Russians themselves. Help may from time to time be given from outside and voluntarily received, but attempts at military coercion can but end in disaster.

There are elements in the present situation which give added hope to projects of pacification. All the world is weary of war, and the conviction grows among the peoples of all countries that the military method offers very little promise of solving the grave problems of reconstruction which face us. There is at present no overt civil war in Russia. It is now a problem of the relations between Central Russia and the surrounding smaller national groups.

The unrest and instability along the border are caused by bitter and mutual distrust. The struggling new nationalities, which were formerly part of the Russian Empire, are afraid to disarm and return to the works of peace because they distrust the Bolsheviki and fear new aggressions. The Soviets contend that they are afraid to demobilize because they fear new attacks.

The great impediment to peaceful reconstruction in these troubled border territories, the imminent danger of new hostilities, is caused by the utter confusion between offense and defense. Unless this distinction can be clearly defined, there is not only small hope of peace, but no hope of a clear perception of who is responsible for new wars.

It is therefore the thought of the President that the present moment offers a peculiarly pressing challenge to an attempt at general pacification on the Russian borders along these lines. Such an attempt seems to the President the logical outgrowth—in fact, the only logical development—of the request to mediate in the Armenian conflict, and he feels bound in conscience once more to call this matter to the attention of the Associated Nations.

It is obvious to all that these small struggling border states will not attack Great Russia unless encouraged by promise of support from the stronger powers. The President therefore believes that the *sine qua non* of an attempt at pacification must be a public and solemn engagement among the Great Powers not to take advantage of Russia's stricken condition and not to violate the territorial integrity of Russia nor to undertake themselves any further invasions of Russia, nor to tolerate such invasions by others.

Such a public agreement would in effect say to those now in power in Russia: 'You are not menaced from outside. The Great Powers

have voluntarily guaranteed you from attack. You can have peace if you want it.'

The responsibility for any new war which might break out on the Russian border would then be clearly placed.

If the principal powers represented on the Council of the League find themselves in accord with the President in this matter and will assure him of their moral and diplomatic support he will instruct his personal representative, Mr. Morgenthau, to proceed at once on his mission."

Mail to London, Paris and Rome for their information.

DAVIS

760J.67/68 : Telegram

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

GENEVA [undated].

[Received January 30, 1921—7 p.m.]

Monsieur Da Cunha, Acting President of the Council of the League of Nations, requests me to forward to you the following telegram:

"Please thank President Wilson for his communication regarding Armenia received by Monsieur Hymans on January 22nd.

I shall have the honor of submitting the views expressed therein for the consideration of the Council at its next meeting. The note has been brought to the knowledge of the representatives of the Principal Allied Powers now meeting in Paris. The latter have announced that they will shortly hold a conference on question relating to the Treaty of Sèvres. Signed Da Cunha, Acting President of Council of League.[""]

DRUMMOND

860J.48/80

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 42

CONSTANTINOPLE, February 9, 1921.

[Received March 1.]

SIR: In previous despatches⁴⁷ I have reported regarding the withdrawal of the Near East Relief from Armenian territory under Bolshevik occupation, and have communicated the minutes of meetings held between representatives of the Near East Relief and the

⁴⁷ Not printed.

Bolshevik Commissary at Alexandropol. I now have the honor to submit a copy of a letter addressed on January 4th to the Commissary of Alexandropol, by Dr. E. A. Yarrow, director of the Caucasus branch of the Near East Relief, summarizing the reasons for the withdrawal of relief work from Bolshevik territory.

I have [etc.]

MARK L. BRISTOL

[Enclosure]

The Director General of the Caucasus Branch, Near East Relief (Yarrow) to the Commissaire of the Alexandropol Local Soviet (Artzvik)

KARS, January 4, 1921.

DEAR SIR: In reply to your letter of recent date, I wish to thank you, on behalf of the Near East Relief, for your expression of sympathy and respect for the activities which we have been carrying on. I can assure you that it was with the greatest regret that our Committee felt itself compelled to withdraw from Alexandropol. This action was decided upon after due consideration, in which all the American personnel shared, and it was practically the unanimous opinion of all concerned that it would be impossible for us to continue and do any good under the conditions laid down before us. Our decision was made after the first conference with you, but it was delayed in execution, hoping that there might be some modification of your attitude which would make possible the continuance of our care for the orphans; but after the third conference it was decided that it would be impossible for us to remain.

In order that there may be no doubt as to the reasons for our withdrawal I shall state them briefly. You will find all of them formulated and clearly defined in the discussions at the three conferences we had.

First: There was a persistent and almost violent expression of suspicion regarding the purposes for which the Near East Relief had come to Armenia. It was continually hinted that the plain humanitarian motives actuating us were simply a cloak for some deep and sinister political intrigue. In answer to this point I state at once that the Near East Relief has not now, nor has it ever had, any connection with any political body, or even officially with the American Government except in so far as the American Government shows a friendly and helpful interest in any American activity, whether carried on at home or abroad, which is regulated by the fair laws of our land. During Colonel Haskell's regime there was a semi-official connection between the N.E.R. and the American

Government, but this was not of a political nature, Colonel Haskell only acting as the agent of the American Government in the loan of \$50,000,000 worth of food supplies to the Armenian Government.

Second: All the money expended by the N.E.R. was collected from the American people by individual contributions. Many of those contributing were children and people of the poorer classes who made a great personal sacrifice in giving. Those of the Near East Relief who were administering these funds in the Caucasus felt that a very sacred trust had been imposed upon them in properly distributing the money and supplies sent to them from America. In Alexandropol we were threatened with the seizure by force of these supplies sent for a definite purpose, and with the probability of their being used for other purposes. Our very self-respect demanded that we do everything in our power to safeguard these supplies and the interest of the Americans who had contributed them, and had made us their trustees.

Third: In the third conference the American personnel was actually threatened with forcible retention in Alexandropol, and subjection to the indignities of prison and enforced labor. We Americans had to come to the Caucasus to try to save a nation which was rapidly being decimated by starvation. This was accomplished, and then we turned our attention to the caring for and rearing of 20,000 orphan children, the plan being to carry them on for about ten years until the Armenian nation could get on its feet and take over the responsibility. You can imagine the shock that it was to us all when, instead of receiving a grateful acknowledgment for the work we were doing, we were faced with the possibility of being placed in restraint and of being punished if our actions were not pleasing to the Government.

I am sending back Mr. Brown and Mr. Martin, who have volunteered, under your guarantees, to carry on the activities at Kasatche Post until such time as a general understanding shall have been arrived at and a permanent policy decided upon regarding operations in your territory. You probably know that I have sent a Commission to Tiflis to get in touch with our New York Headquarters and with the Bolshevik representatives. When this Commission has finished its sessions and has reported back to these Headquarters I can then let you know what our policy will be hereafter.

Your attitude toward the Near East Relief during the coming days will undoubtedly have its effect upon the decision in Tiflis.

Yours truly,

E. A. YARROW

760g.61/62 : Telegram

The High Commissioner at Constantinople (Bristol) to the Secretary of State

CONSTANTINOPLE, April 8, 1921—5 p.m.

[Received 9:04 p.m.]

129. A Moscow radio dated April 6th announces the occupation of Erivan by the Soviet forces. This apparently means the overthrow of the Vratzian anti-Bolshevik Government in Armenia which had regained Erivan at the time of the Bolshevik attack on Georgia. See my 64, February 24 [21].⁴⁸

BRISTOL

860j.48/86 : Telegram

The Ambassador in Italy (Johnson) to the Secretary of State

ROME, April 19, 1921—4 p.m.

[Received April 21—4:25 p.m.]^{48a}

90. Foreign Office informs me that the following telegram has been received from the Italian Minister to the Armenian Republic now residing at Tiflis:

“The commander in chief of the Russian forces of the Caucasus has assured me in the most formal manner and has urgently begged me to inform the persons concerned that the supplies forwarded by the American Government or any other government to Armenia will be scrupulously forwarded in their entirety to Erivan by direct trains from Batum upon their arrival without subtracting anything therefrom on account of restrictions or for other purpose. Armenia is really in an unfortunate and piteous condition beyond any belief. Humanitarian measures are necessary, everything is lacking. The following are of especially urgent necessity: flour to make bread, sugar, preserves, new or old clothing, underwear and medical supplies.”

JOHNSON

861.48/1468

The High Commissioner at Constantinople (Bristol) to the Secretary of State

No. 297

CONSTANTINOPLE, June 15, 1921.

[Received July 7.]

SIR: In my despatch No. 191, of May 10, 1921,⁴⁹ I communicated to the Department the text of an agreement between the Georgian

⁴⁸ Not printed.^{48a} Text printed from corrected copy received Apr. 24, 6:54 a.m.⁴⁹ *Ante*, p. 841.

Soviet Government and the Near East Relief for the distribution of Near East Relief supplies in the Caucasus. I now have the honor to enclose a copy of a statement signed by representatives of the Soviet Armenian Republic recognizing the Near East Relief and giving them certain privileges for their work in that area.

I have [etc.]

MARK L. BRISTOL

[Enclosure—Translation]

Mandate from the Socialist Soviet Republic of Armenia to the Near East Relief

The Revolutionary Committee of S[ocialistic] S[oviet] A[rmenian] R[epublic] fully sympathizing with the aims of the Near East Relief in the Caucasus certifies that the Soviet Government of Armenia is willing to proffer all the necessary help to the N.E.R. in its work of organizing orphanages for homeless children and supplying the needy population with food, medicaments, shoes, etc.

1. In view of the above stated the S.S.A.R. Government guarantees freedom of travel both coming and leaving Armenia at their convenience without any hindrance to all citizens of the United States working in the N.E.R.

2. Recognises the right of the N.E.R. to distribute its supplies to the population according to its own decision or to control such supplies it has delivered to some local organisation.

3. All supplies shipped to Armenia consigned to N.E.R. are to be free of customs, railway charges and all other taxes.

4. The property of the N.E.R. is entirely free from requisition.

5. Free export of N.E.R. goods to Georgia and Azerbaidjan is guaranteed.

6. The N.E.R. is granted the right to prepare and transport charcoal and fire-wood from the woods in Armenia for the needs of the N.E.R. work, from those districts and places it finds convenient which will be approved by the Government.

7. The Government guarantees entire freedom of action to the N.E.R. promising not to meddle in the internal administration of the organisation or any interference on the part of its members and officials.

8. The Government also guarantees that no demand whatever on its part or any public organisations or authorities will be addressed to the N.E.R. except through the Commissary of Foreign Affairs or his agents.

MYASNIKOFF, *Chairman of the Revkom*
MRAVIAN, *Commissioner of Foreign Affairs*

VENEZUELA

PROTECTION OF AMERICAN PETROLEUM INTERESTS

831.6363/25

The Minister in Venezuela (McGoodwin) to the Secretary of State

No. 1955

CARACAS, April 5, 1920.

[Received April 29.]

SIR: I have the honor to report that I returned today from Maracay, where I went primarily for the purpose of pointing out to General Gómez¹ the injustice of a plan which is being fostered by Doctor Román Cárdenas, Minister of Finance, to greatly restrict the size of areas granted by the Government of Venezuela for exploring and exploiting petroleum. This plan was submitted to Doctor Cárdenas, by Doctor Vicente Lecuna, . . . Doctor Lecuna is the President of the Banco de Venezuela, the Government spokesman and leader in the National Senate and was Chairman of the Venezuelan Delegation to the recent Second Pan American Financial Conference in Washington, as he was also of the Pan American Scientific Congress in Washington four years ago. He wrote to General Gómez from New York last January, urging an amendment to the Petroleum Law to curtail development areas from 15,000 hectares to 400 hectares. Soon after his return late in February he convinced Doctor Cárdenas that inasmuch as such areas are small in the United States, they should be greatly reduced here and the latter at once took up the matter with General Gómez.

. . . I dwelt upon the fact that it was exceedingly unfair if not ridiculous to compare the thickly populated oil districts in the United States, where there are numerous pipe lines and railroads, with the wilderness in Western Venezuela where American and English capital are attempting to accomplish development work in the face of adverse health and labor conditions and with no means of transportation or communication. It was pointed out that inexperienced persons, however pure their motives, probably have no comprehension of the enormous cost involved in exploring virgin territory, in transporting ponderous machinery over swamp lands and of the almost endless construction work required. Finally I

¹ Gen. Juan Vicente Gómez, Constitutional President of Venezuela.

represented that the existing provisions of Venezuelan law, requiring the concessionaire to leave equal, alternate areas of the property he has explored to the Government, certainly supply sufficient safeguards. This fifty per cent, together with the ten per cent gross production tax, affords the Government fully sixty per cent of the entire value.

Of equally as much importance is a proposal of Doctor Cárdenas, of which Doctor Lecuna is also believed to be the author, to prohibit foreign interests from participating actively in the exploitation of petroleum concessions. I also discussed this proposal, reminding him that Venezuela is susceptible of great development and possesses vast material resources but has not yet had time to accumulate the reserves of the capital necessary for this realization; therefore that he is not only pursuing a necessary but an eminently wise policy not only in permitting but even in inviting the cooperation of foreign capital and that at the outbreak of the European war statistics showed that several billions of dollars of foreign capital were invested in the mines, railways and industries of the United States.

At our second conference General Gómez did not bring up this subject and when I asked him if he had formulated an opinion he promised that he would give me a definite response within two days. Yesterday afternoon he told me that insofar as concerns foreign capital in Venezuela he greatly desires the introduction of American capital and shall do all that he can consistently to encourage it and "to facilitate all enterprises in which it may become concerned." He added that he "would not countenance any additional changes in the Petroleum Law" and expressed almost violent opposition to the plan to restrict areas for petroleum and other minerals.

I have [etc.]

PRESTON MCGOODWIN

831.6363/34a

The Secretary of State to the Minister in Venezuela (McGoodwin)

No. 556

WASHINGTON, May 27, 1920.

SIR: The Department is informed that the Sinclair Exploration Company, of 120 Broadway, New York City, has engaged the services of Mr. Cay Coll y Cuchí, of San Juan, Porto Rico, to undertake to obtain for it an oil concession in Venezuela. Mr. Coll y Cuchí is an American citizen, a member of the Porto Rican Government, and Chairman of the Judiciary Committee of the Porto Rican House of Representatives. He is also attorney for the American Tobacco Company and other American interests.

Information has also reached the Department that the Sinclair Exploration Company has arranged for Mr. Ralph H. Soper, who is in charge of the company's interests in Colombia, to go to Caracas in connection with the mission of Mr. Coll y Cuchí.

You are instructed to render all proper assistance to either, or both, of these gentlemen.

I am [etc.]

For the Secretary of State:

ALVEY A. ADEE

831.6363/33 : Telegram

The Minister in Venezuela (McGoodwin) to the Secretary of State

CARACAS, June 11, 1920—5 p.m.

[Received June 16—9:15 a.m.]

45. Department's instruction number 541 of April 28 last.² Decision of Supreme Court this afternoon annuls contract of Colon Development Company Limited for noncompliance as to entire areas of 1,980,000 hectares except four areas of 200 hectares each on which are three proved wells. Similar action as affecting following areas for same cause is expected soon. Venezuelan Oil Concessions Limited 850,000 hectares and British Controlled Oilfields Limited 1,600,000 hectares. Representatives of six largest American oil-development companies are here and are confident of ability to secure contracts covering these properties and approval of same prior to adjournment of Congress June 27th.

McGOODWIN

831.6363/39

The Minister in Venezuela (McGoodwin) to the Secretary of State

No. 2053

CARACAS, June 14, 1920.

[Received July 13.]

SIR: Referring to the Department's confidential instruction No. 556 of May 27th, to render all proper assistance to Mr. Cay Coll y Cuchí, of San Juan, Porto Rico, a representative of the Sinclair Exploration Company, 120 Broadway, New York, in his efforts to obtain an oil concession in Venezuela, I have the honor to state that I had the pleasure of presenting Mr. Coll y Cuchí to several of the high officials of the Venezuelan Government in Caracas and of arranging for him

² Not printed.

an interview with General Gómez at Maracay. From the tone of a letter from General Gómez and statements made to me by two Cabinet Members who were in Maracay during his visit there and especially from a very enthusiastic account given me by Mr. Coll y Cuchí himself, I am very glad to be able to report that Mr. Coll y Cuchí was accorded an unusually warm welcome and that he is convinced of the success of his undertaking. After two weeks spent in Caracas and Maracay, he left on April 5th for his home in San Juan and expects to return to Venezuela at an early date to conclude the terms of a contract with the Government of Venezuela for the exploration of petroleum, asphalt, naphtha, tar and similar substances in a large region in Southeastern Venezuela, for a term of five years. He hopes to be able to secure the approval of such a contract prior to the adjournment of the present Congress on June 27th.

I enclose herewith, for the confidential information of the Department, copy of a memorandum³ showing the resources and holdings of the Sinclair Consolidated Oil Company, the name under which it has now proposed to enter into the contract with the Government of Venezuela.

I have [etc.]

PRESTON McGOODWIN

831.6363/33 : Telegram

*The Acting Secretary of State to the Minister in Venezuela
(McGoodwin)*

WASHINGTON, June 24, 1920—6 p.m.

23. Your 45 June 11, 5 p.m.

Carib Syndicate, New York Corporation, represents to Department that it owns 25 per cent Colon Development Company and that it owns besides, by assignment from Andres Vigas, original concessionaire, and his associates, Julian Arroya and Joseph Paris, certain vendors' rights reserved on sale to Colon Development Company.

Decision Supreme Court would apparently destroy Carib Syndicate equitable rights in properties covered by concession, and therefore this Government would be pleased if in disposition of properties covered by concession such equitable rights could be recognized and protected.

Inform Foreign Office.

DAVIS

³ Not printed.

831.6363/33

The Secretary of State to the Minister in Venezuela (McGoodwin)

No. 628

WASHINGTON, May 6, 1921.

SIR: . . . You state in your despatch No. 2315 of March 25, 1921,⁴ that a settlement has been reached between the Venezuelan Government and the Colon Development Company Limited; and you express your opinion that the Venezuelan Government was influenced in reaching this settlement by its desire to protect the one-fourth interest in the Colon Development Company Limited, owned by the Carib Syndicate. You refer in this connection to the Department's telegraphic instruction No. 23 of June 24, 1920.

On May 29, 1920, the Department addressed the following letter to Mr. C. K. MacFadden, Chairman of the Carib Syndicate:

"The Department has received your letters of May 3, 1920, and May 18, 1920, in regard to the proposed annulment by the Venezuelan Government of certain concessions held by the Colon Development Company, Limited, of London, England. You say that the Carib Syndicate, Limited, which is a New York Corporation, is owner of practically twenty-five percent of the shares of the Colon Development Company, Limited, and that its interests are represented in the latter by two Directors, yourself, and Mr. Julian A. Arroya, of Daytona, Florida.

"Since it appears that the Colon Development Company, Limited, is not an American corporation, and that your concern holds only a minority interest in it, I am obliged to inform you that the Department does not consider that it would be warranted in taking action with respect to the reported proceedings of the Venezuelan Government, which, according to the information in the possession of the Department, are based upon the failure of the Colon Company to fulfill its obligations under its contract with Venezuela."

It is understood that the concession involved in the suit against the Colon Development Company Limited was granted to one Andres Vigas, who transferred the concession upon certain terms and conditions and with certain reservations to the Colon Development Company Limited. With respect to the vendor's rights, retained by Andres Vigas, and transferred by him and his associates to the Carib Syndicate, the following is quoted from a letter dated June 16, 1920, addressed to the Department by Mr. C. K. MacFadden:

"The Carib Syndicate has received from Vigas and one Julian A. Arroya and Joseph J. Paris, who were associated with Vigas, and received an assignment of some of his vendor's rights, all the rights that the vendor retained for himself; in other words, the Carib Syndicate succeeded to all the rights of the original holder of the concession. If the Colon Company failed to carry out his contract, the Carib Syndicate, by virtue of this arrangement, would receive

⁴ Not printed.

the concession and would then be in a position to develop it itself. As you may see from this brief recital, the Carib Syndicate is today the owner of whatever equity the original vendor or the original holder of the concession had, so that since a forfeiture has occurred, by reason of the failure of the Colon Development Company to fulfill its obligations to the Government and to the vendor, the Carib Syndicate has an equitable interest in these forfeited rights. The Carib Syndicate is an American Company; a New York Corporation, owned insofar as the stock list shows, entirely by American citizens; in fact, the principal officers of the Company are in control of upwards of 80% of the stock."

The Department understands from your telegram No. 45 of June 11, 1920, that the Colon Development Company's concession had been annulled by the Venezuelan Supreme Court on that date; and it was the vendor's rights, claimed by the Carib Syndicate, and not the rights in controversy between the Venezuelan Government and the Colon Development Company Limited which were referred to in the Department's telegram No. 23 of June 24, 1920, and regarding which you were requested to inform the Venezuelan Foreign Office.

It is assumed that this was your understanding of the Department's telegram No. 23 of June 24, 1920, and that you did not make representations to the Venezuelan Government in behalf of the Colon Development Company Limited. The Department would, accordingly, appreciate information regarding the precise nature of your representations, whether the British Minister at Caracas made any representations to the Venezuelan Government or had any conversations with you relative to the vendor's rights claimed by the Carib Syndicate, and whether your representations were known to the British Minister at Caracas. It would appear from your despatch No. 2315 of March 25, 1921, that the British Government was not lending support to the Colon Development Company in its controversy with the Venezuelan Government.

To certain companies operating in Venezuela, such as the Caribbean Petroleum Company, the Colon Development Company Limited, the Venezuelan Oil Concessions Limited, the Carib Syndicate and others, which are known to be either British controlled or closely affiliated with British controlled companies, no diplomatic assistance should be given, generally speaking, without clear and specific instructions from the Department.

Referring to your telegram No. 45 of June 11, 1920, you are requested to keep the Department fully and promptly informed regarding any action that may be instituted by the Venezuelan Government against any other companies with the object of annulling petroleum concessions.

I am [etc.]

For the Secretary of State:
F. M. DEARING

831.6363/61

The Minister in Venezuela (McGoodwin) to the Secretary of State

No. 2372

CARACAS, *May 27, 1921.*

[Received June 14.]

SIR: I have the honor to report that assurances have been given me by General Juan Vicente Gómez that the Petroleum Law approved June 26, 1920,⁵ copy and translation of which were transmitted with the Legation's No. 2,176 of October 10, 1920,⁶ will be changed to suit the requirements of the petroleum development companies during the present session of Congress. I made a reference, Paragraph "a" of Section IV, in my Despatch No. 2,346 of May 9, 1921, (General Conditions No. 39),⁶ to the interest manifested in this subject by representatives of American companies, three of whom had instructions from their companies to remain here and watch developments and to render this Legation any assistance in the nature of informal representations to the Minister of Fomento (Development), the Counselor of the Ministry of Fomento, the Provisional President and other officials of the Government. At my suggestion several meetings were held by the attorneys for and representatives of all of the American companies that own properties in Venezuela, all American citizens, as early as February last. In March they were joined in these sessions by representatives of other American companies which desired to acquire properties for exploitation and the inefficiencies and inconvenient features of the law were discussed thoroughly.

In view of the fact that most of these companies acquired properties under the last prior law, that of June 25, 1918, which granted more privileges and in many respects was more desirable to lease holders and as their holdings are sufficiently extensive to keep them employed constantly in developing such properties within the time limit prescribed by the law of 1918, there seemed to be a likelihood that all or some of them might not be disposed to seek changes in the subsequent law. This would have left to prospective investors the burden of pointing out to this Government the needed changes and representatives of course have had little if any acquaintance with the authorities.

But I am glad to be able to report that all of the representatives of American corporations, acting upon instructions from their home offices, have joined in the effort to secure modifications in the law of June 26, 1920. Each of them submitted to the others memoranda in

⁵ A law of mines was approved June 26, 1920; the petroleum law was approved June 30, 1920. Both laws were printed in Department of the Interior Bulletin No. 206, Washington, Government Printing Office, 1921.

⁶ Not printed.

which they set forth their respective ideas as to the changes which should be made in order to facilitate the industry, invariably with due regard to the interests of the Government of Venezuela. These statements, all of which I have examined carefully, are predicated upon the proposition that the American companies are in partnership with this Government for the development of the petroleum territory.

After having familiarized myself with the recommendations embodied in these memoranda, I accepted an invitation from General Gómez to visit San Juan de los Morros, where I remained six days, during which I discussed with him the necessary changes. He gave me assurances that informal representations by his brother, the Governor of the Federal District, would be made to the Chairmen of the Committees in the Senate and the Chamber of Deputies, to both of which had been referred a few days previously a bill which provided for only three slight modifications.

I went with General Gómez to his home in Maracay and on the day after my return to Caracas, May 25, two additional bills were introduced in the Chamber. The Chairman of the Senate Committee called at the Legation on May 26 and informed me that the two Committees had decided to draft, jointly, a bill which he said "would include various other reforms," and on the afternoon of the same day Doctor Márquez Bustillos, the Provisional President, told me that "a new bill would be presented to the Congress which would meet the features of the present law, which all of us have found to be so objectionable."

I have [etc.]

PRESTON MCGOODWIN

831.6363/70

The Minister in Venezuela (McGoodwin) to the Secretary of State

No. 2,425

CARACAS, July 23, 1921.

[Received August 26.]

SIR: Referring to my No. 2,372 of May 27, 1921, reporting that assurances had been given me by General Juan Vicente Gómez that the Petroleum Law approved June 26, 1920, copy and translation of which accompanied the Legation's No. 2,176 of October 10, 1920,¹ would be changed to suit the requirements and suggestions of the American petroleum development companies, as set forth in memoranda handed to me by representatives of *bona fide* American

¹ Not printed.

companies and which were developed in conferences I had with them during March and April last, I have the honor to enclose herewith a copy of the *Official Gazette* of July 11, 1921, No. 14,414 containing the original text of a new Petroleum Law (*Ley sobre Hidrocarburos y demás Minerales Combustibles*) enacted by the National Congress at its recent regular session and approved by the Provisional President June 22 [16], 1921 and (No. 2) a translation of the same.⁸

I have not yet had an opportunity to make a careful analysis of the improvements over the law of 1920, which it repeals, nor has any of the representatives now in Caracas of *bona fide* American companies but it is recognized by them that all of the modifications and reforms suggested have been incorporated in it. As indicating their approval of the new law, all of these American companies have taken the necessary steps to bring the operation of their properties, which were acquired under previous laws, especially that of 1918, under the operations of the law of 1921. These companies went on record at a conference held in the Legation early in April last as willing to accept a return to the law of 1918.

I have [etc.]

PRESTON MCGOODWIN

831.6363/74

The Minister in Venezuela (McGoodwin) to the Secretary of State

No. 2,511

CARACAS, September 21, 1921.

[Received October 5.]

SIR: I have the honor to invite the consideration of the Department to Article 65 paragraph 6 of the Petroleum Law (Law on Hydrocarbons and other Combustible Minerals) approved June 16, 1921, published in the *Official Gazette* of July 11, 1921, copies and translation of which were transmitted with my Despatch No. 2,425 of July 23, 1921, which reads as follows:

"ARTICLE 65.—The rights of the contractor lapse and the contract becomes inoperative . . . ⁹ (6) If the contractor should take recourse to diplomatic channels in complaint or claim against the Government of the Republic, for any action relative to the execution of the contract."

The same clause appeared as paragraph 7 of Article 65 of the Petroleum Law of June 30, 1920, translation of which was described as being transmitted with Mr. Wiley's No. 2,176 of October 10, 1920,

⁸ Not printed; the law of 1921 was superseded by that of 1922.

⁹ Omission indicated in the original despatch.

but the enclosure was a translation of the Law of Mines of June 26, 1920,¹⁰ which contains no such provisions as that quoted above.

In this connection it may be pertinent to refer to the Department's No. 148 of August 23, 1915 (file No. 831.0442)¹¹ instructing me to advise the Venezuelan Foreign Office that the Government of the United States

“presumes that the provisions of Article 10 of the law mentioned (concerning the rights of foreigners, published in the *Official Gazette* of July 21, 1915, No. 12,589, translation of which accompanied Mr. Benson's No. 478 of July 22, 1915¹²) will not be so interpreted by the authorities of Venezuela as to debar American citizens from appealing to their diplomatic representatives for advice and assistance in appropriate cases even before the exhaustion of their legal remedies in the courts of Venezuela, but in order that there may be no misunderstanding on this point, this Government desires to point out that it could not consent to any such application of the provisions of this Article as would prevent the exercise of such rights by American citizens.”

Promptly upon receipt of the foregoing instruction on September 10, 1915, I informed the Government of Venezuela and during the six years that have intervened it has proved to be the rule rather than the exception for American citizens and the representatives of American development, financial and commercial companies and religious organizations to adjust their differences with the Government of Venezuela through the good offices of the Legation.

I have [etc.]

PRESTON MCGOODWIN

TREATY BETWEEN THE UNITED STATES AND VENEZUELA FOR THE ADVANCEMENT OF PEACE

Treaty Series No. 652

*Treaty between the United States of America and the United States
of Venezuela, Signed at Caracas, March 21, 1914*¹³

The President of the United States of Venezuela and the President of the United States of America, being desirous to strengthen the bonds of amity that bind Venezuela and the United States together and also to advance the cause of general peace, have resolved to

¹⁰ An error; Mr. Wiley's despatch (not printed) contained translations of both laws.

¹¹ Now filed under file no. 831.111/52.

¹² Not printed.

¹³ In English and Spanish; Spanish text not printed. Ratification advised by the Senate, Aug. 11, 1914; ratified by the President, Jan. 4, 1916; ratified by Venezuela, July 30, 1915; ratifications exchanged at Caracas, Feb. 12, 1921; proclaimed, Mar. 21, 1921.

enter into a treaty for that purpose and to that end have appointed as their plenipotentiaries:

The President of the United States of Venezuela, Señor Doctor Manuel Diaz Rodriguez, Minister for Foreign Relations; and the President of the United States of America, Mr Preston McGoodwin, Envoy Extraordinary and Minister Plenipotentiary of said Nation to Venezuela;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

The high contracting parties agree that all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to a Permanent International Commission, to be constituted in the manner prescribed in article II; and they agree, if the case arises, not to declare war nor to begin hostilities during such investigation and before the report has been considered.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, who can also submit his election to the four arbitrators already appointed; it being understood that he shall not be a citizen of either of the two countries. The expenses shall be paid by the two Governments in equal proportion.

The International Commission shall be appointed within six months after the exchange of the ratifications of this treaty; and the vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the International Commission for investigation and report. The International Commission, may, however, before taking diplomatic steps or in the course thereof, act upon its own initiative, and in such case it shall notify both Governments and request their cooperation in the investigation.

The high contracting parties agree to afford to the Permanent International Com[m]ission all the means and facilities required for its investigation and report.

In each instance, the report of the International Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of Venezuela, with the approval of the Congress; and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged as soon as possible.

It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done at Caracas on the twenty first day of March in the year nin[e]teen hundred and fourteen.

PRESTON M^cGOODWIN
[SEAL]

MANUEL DIAZ-RODRIGUEZ
[SEAL]

Treaty Series No. 652

Protocol between the United States of America and the United States of Venezuela, signed at Caracas, February 7, 1915

The Government of the United States of America and the Government of the United States of Venezuela, desirous of removing any doubt or uncertainty that may exist or that may hereafter arise as to the interpretation to be placed upon the second clause of Article

III of the Treaty of March 21, 1914, between the United States and Venezuela, looking to the advancement of the general cause of peace; which clause reads as follows:

“The International Commission may, however, before taking diplomatic steps or in the course thereof, act upon its own initiative, and in such case it shall notify both Governments and request their co-operation in the investigation”;

have authorized the undersigned Plenipotentiaries to declare as follows:

It is the understanding of the two Governments that the said clause does not confer upon the Commission the right to act upon its own initiative before diplomatic means of adjustment have been exhausted, but that it shall be understood as meaning that, should the Commission spontaneously offer its services, it shall not proceed to undertake its investigation and report in the matter which is the subject of disagreement between the two Governments, until after they shall have exhausted diplomatic means of adjustment.

In witness whereof, the undersigned Plenipotentiaries have signed their names and affixed their respective seals to this Protocol, at the city of Caracas, this twenty seventh day of February, in the year 1915.

PRESTON M^cGOODWIN

[SEAL]

IGN^o ANDRADE

[SEAL]

YUGOSLAVIA¹

TERMINATION OF OFFICIAL RELATIONS BETWEEN THE UNITED STATES AND THE KINGDOM OF MONTENEGRO

860h.01/120

The Yugoslav Minister (Growitch) to the Department of State

AIDE MEMOIRE

The Minister of the Serbs, Croats and Slovenes has been instructed by his Government to submit the following suggestion to the consideration of the United States Government:

The Department of State by the note of the Acting Secretary of State of February 10th 1919, No. 2,² has informed the Royal Legation that the Department has noted the statement contained in a previous communication of the Royal Legation that in accordance with the decision of the Great National Assembly of the Kingdom of Montenegro, His Majesty King Nikolas I, and His Dynasty, had been deposed from the throne of that country and that the Union of Montenegro with Serbia in the Kingdom of the Serbs, Croats and Slovenes had been decreed; and that this decision had been accepted by His Royal Highness the Prince Regent of Serbia.

The Union of the former Kingdom of Montenegro with the former Kingdom of Serbia, in the Kingdom of the Serbs, Croats and Slovenes and under the Dynasty of King Peter Karageorgevitch, has been an accomplished fact for the last two years. It has been fully endorsed by the population of the former Kingdom of Montenegro, which has sent its representatives, duly elected, to the Constituent Assembly which has met at Belgrade a few weeks ago, in order to frame the Constitution of the Kingdom of the Serbs, Croats and Slovenes.

No objections have been raised against this Union by the Allied and Associated Powers, or by the Neutral Powers to whom the Union has been notified. The Italian Government, which was the last to recognize the Kingdom of the Serbs, Croats and Slovenes,

¹ This designation, rendered official by decree of Oct. 3, 1929, is employed in headings, as also the adjective "Yugoslav," in preference to the unwieldy official title of the time, "Kingdom of the Serbs, Croats and Slovenes."

² *Foreign Relations*, 1919, vol. II, p. 899.

has declared, in the preamble of the treaty recently concluded in Rapallo, that the creation of the Kingdom of the Serbs, Croats and Slovenes was the realisation of one of the loftiest objects of the war which Italy has waged. The French Government has recently informed officially the Royal Government that, in view of the Union of Montenegro with Serbia, it had decided to recall the French diplomatic and consular representatives in the former Kingdom of Montenegro and to withdraw recognition of the diplomatic and consular representatives in France of ex King Nikolas of Montenegro and of the former Montenegrin Government.

The Royal Government hopes that, in view of these facts, the Government of the United States of America will also recall its diplomatic and consular representatives in the former Kingdom of Montenegro and withdraw further recognition of the diplomatic and consular representatives in the United States of America of ex King Nikolas of Montenegro and of the former Montenegrin Government.

WASHINGTON, *December [January?] 11, 1921.*

702.7311/32a

The Acting Secretary of State to the Montenegrin Consul General in Charge of the Legation (Dix)

WASHINGTON, *January 21, 1921.*

SIR: In further reference to your letter of April 24, 1919 to the Assistant Secretary of State inquiring whether you should continue to act as Consul General of Montenegro, and to Mr. Phillips' reply of April 25th stating that he saw no reason why you should not continue so to act until officially advised to the contrary,³ I now beg to inform you that in view of the present status of Montenegro, this Government no longer considers it necessary to accord recognition to her diplomatic and Consular officers.

I therefore beg to inform you that the Letters Patent issued on the 18th of December 1918, recognizing you as Honorary Consul General of Montenegro at New York,³ are hereby revoked.

Permit me in closing to express to you the appreciation of the Department for the discreet, considerate and courteous manner with which, in circumstances of exceptional delicacy, you have performed your official functions.

I am [etc.]

NORMAN H. DAVIS

³ Not printed.

702.7311/36b

The Secretary of State to Diplomatic and Consular Officers

Serial No. 16

WASHINGTON, February 8, 1921.

GENTLEMEN: In view of the present status of Montenegro, this Government no longer considers it necessary to accord recognition to her diplomatic and consular officers.

For some time the only Montenegrin Representative in the United States has been William F. Dix, Esquire, Honorary Consul General, in charge of the Legation.

On the 21st of January 1921 Mr. Dix was informed of the above decision and was notified that the Letters Patent issued on the 18th of December 1918 recognizing him as Honorary Consul General of Montenegro at New York had been revoked.

I am [etc.]

BAINBRIDGE COLBY

702.7311/37

The Prime Minister and Minister for Foreign Affairs of Montenegro (Plamenatz) to the Secretary of State

No. 49

ROME, 15 April, 1921.

[Received May 4.]

EXCELLENCY: With reference to the esteemed communication dated 21st January 1921, which your Department has been good enough to send to the Consul General of Montenegro in New York, Mr. F. W. Dix, revoking the Letters Patent recognising Mr. F. W. Dix as Honorary Consul General of Montenegro, I have the honour to submit the following for the kind consideration of Your Excellency.

On behalf of the Royal Government of Montenegro I have the honour to declare to Your Excellency that no fact, either juridical or international, exists, on the strength of which the Government of the United States could break off diplomatic relations with the Kingdom of Montenegro.

Your Excellency is perfectly well aware that Montenegro voluntarily entered the recent Great War in order to fight against the same enemies, and for the realisation of the same ideals as the United States of America. Montenegro fell in the fight against the common enemy in the same way as did Belgium and Serbia.

When the United States of America, through the medium of President Wilson's message of 8th January 1918, Point 11, declared that one of the conditions of peace must be the restoration of Montenegro, undoubtedly the Government of the United States was, at

that time, inspired by principles of international right and morality. International right demanded the restoration of the liberty of the Montenegrin State, which has been jealously guarded for so many centuries. Morality also demanded of all the Great Allied Powers, including the United States of America, that Montenegro, their smallest and loyal Ally should be restored. It is on account of all the above mentioned facts that the United States made the condition contained in Point 11 of President Wilson's message, regarding the restoration of Montenegro.

When the Serbian troops, led by French officers, entered Montenegro and accomplished the annexation of the Allied Montenegro by force and bloodshed; and when the Montenegrin people rose in arms against this new oppressor, President Wilson at one of the sittings of the Peace Conference, composed a message which was communicated to the Montenegrin people through the Montenegrin Government, and by means of the French Military authorities. By this telegram the representatives of the Great Powers appealed to the Montenegrin people to stop all further bloodshed, assuring them that they would be given the right of free self-determination.

The term "free self-determination" can be understood in only two ways, viz., either the right of self-determination as foreseen in the Montenegrin Constitution, or the self-determination which was granted even to the enemy provinces such as Sleswig, Silesia etc.

If President Wilson's message to the people of Montenegro meant the first method, then Montenegro should have been restored in the same way as Belgium and Serbia. If, however, the second method was intended by the words "free self-determination", this should have been carried out by means of a plebiscite, which would naturally mean the withdrawal of the Serbian Army of Occupation, whilst the voting would be controlled by the Great Allied Powers.

However, neither the one nor the other has yet been put into practice, so that the question of Montenegro still remains open, whilst the Great Powers are bound to settle it in favour of the Constitutional liberty of the Montenegrin people.

Taking into consideration all the foregoing facts, the Royal Government of Montenegro cannot believe that the Government of the United States—the most civilised country in the world—would commit an act which would mean the breaking off of diplomatic relations with Montenegro. Such an action would not only aid the criminal intentions of Belgrade but would ignore all the principles of international morality and Justice, and the United States of America would be guilty of not keeping its given word, and not respecting the sovereignty of Montenegro.

In consideration of all the above mentioned facts, I have the honour to request Your Excellency to be so good as to rectify this

misunderstanding, and to restore and continue the diplomatic relations with Montenegro which have been so happily carried on for such a long time.

I beg to remain [etc.]

T. S. PLAMENATZ

124.73/a

The Secretary of State to the Italian Chargé (Sabetta)

AIDE-MÉMOIRE

With reference to the oral request of July 14, of the Italian Chargé d'Affaires with regard to the relations between the United States and Montenegro, the Secretary of State begs to point out that, during the war, the United States had no diplomatic or consular officers stationed in Montenegro, and has not deemed it necessary to accredit or assign any new ones.

Montenegro was, however, represented in New York by an Honorary Consul General, whose letters patent were revoked by the American Government on January 21, 1921, thus ending all official relations with Montenegro.

WASHINGTON, July 15, 1921.

CANCELATION OF THE EXEQUATUR OF THE YUGOSLAV CONSUL GENERAL AT NEW YORK

702.60 h 11/16

The Secretary of State to the Yugoslav Chargé (Stanoyevitch)

WASHINGTON, June 10, 1921.

SIR: The attention of the Department has been called to certain acts of Mr. Savic, the Consul General of the Kingdom of the Serbs, Croats, and Slovenes in New York City, which constitute an improper use of his official position and which are causing definite financial loss to American business interests. It appears that the Consul General has served notice upon certain steamship companies, ticket agencies, and foreign exchange dealers advertising in the "Narodni List", a Croatian newspaper owned and published in New York by Mr. Frank Zotti, an American citizen, that unless they withdraw their advertisements from the paper immediately, visas and passports will be denied to persons making use of their services. Through the exercise of such coercive measures by the Consul General, it appears that Mr. Zotti, as well as the advertisers in the "Narodni List" are being seriously inconvenienced in the lawful pursuit of their business.

As an instance of this practice it is stated that the General Passenger Manager of the Cunard Line has recently been notified by the Consul General that unless he withdraws immediately all advertisements from the "Narodni List" as well as other newspapers published by Mr. Zotti the Consul General will refuse to grant passports or visas to any persons intending to take passage upon Cunard Line vessels. Among other concerns and individuals advertising in the "Narodni List" who, it appears, have been warned by the Consul General or his agents to withdraw their advertisements are the following:

The International Mercantile Marine Company,
The Slovaic Immigrant Bank,
Alexander Advertising Agency,
Emil Kiss,
John Marsich,
Morris Engel,
Monchilovich Brothers.

It is further alleged that the Consul General, by similar measures, has endeavored to compel Mr. Zotti to sell the "Narodni List" to him at a reduced price and that during the negotiations for the proposed sale, the Consul General's agent, Mr. Petrovich, stated that if the purchase price set by Mr. Zotti were agreed upon, a commission of \$50,000 would have to be paid to him by Mr. Zotti, half of which was to go to the Consul General.

The charges relative to the measures taken by the Consul General against the concerns advertising in the "Narodni List" are supported by documentary evidence as well as by investigation, and it seems clear that his actions constitute an improper use of his official position. It is also probable that they are in violation of the laws of this country, and the Department understands that legal proceedings are contemplated against him in the courts.

Under the circumstances it is possible that your Government may desire to relieve Mr. Savic of his position as Consul General. Should such action not be taken, this Government will be under the necessity of considering what steps should properly be taken in the matter.

Accept [etc.]

CHARLES E. HUGHES

702.60 h 11/48

The Yugoslav Chargé (Stanoyevitch) to the Secretary of State

No. 279

WASHINGTON, June 16, 1921.

SIR: In reply to your letter of June 10 concerning the activity of the Consul General of the Kingdom of the Serbs, Croats and Slovenes in New York, Mr. V. Savic I have the honor to transmit to

your Excellency that according to assurances which I have received from Mr. Savic it is absolutely inexact that the Consulate General in New York refused the visa or the issue of passports to subjects of the Kingdom of the Serbs, Croats and Slovenes because they addressed themselves for certain services to certain steamship companies, ticket agencies and foreign exchange dealers advertising in the "Narodni List", a newspaper owned and published by Mr. Frank Zotti.

The royal Legation, up to the present time, has not received any complaint in this sense from its citizens, who would be the first to be injured by such action on the part of the Consulate General. The visa and the issue of passports was suspended for a certain time for all the subjects of the Kingdom by order of the Ministry of Foreign Affairs in Belgrade.

On the other hand the royal Consul General has no authority over such agencies to forbid them advertising in any newspaper in the United States. As far as the Cunard Line Company is concerned the inexactitude of these allegations is still greater as all the activity of that company is directed from its head office in England and not by its office in New York.

The affirmation of Mr. Zotti that the Consulate General in New York had made him an offer to purchase his journal, the "Narodni List", either directly or indirectly by an agent named A. Petrovitch is absolutely inexact. M. Petrovitch never was an agent of the Consulate General and has never acted as such.

Nevertheless there exists a fact to which I have the honor to draw the attention of your Excellency and that is that Mr. Frank Zotti is not only simply a journalist and proprietor of a newspaper who has been inconvenienced without any reason on his part, by a disloyal action of the Consulate General. Mr. Frank Zotti is very well known to the Department of Justice by his conduct before and during the war, as one of those American citizens who was not always loyal to the United States or to the countries associated with the United States.

Mr. Frank Zotti has specially during the war carried on a propaganda against the kingdom of Serbia and continues to do so against the Kingdom of the Serbs, Croats and Slovenes. In his journal, the "Narodni List" he systematically and without any scruple attacks the Kingdom of the Serbs, Croats and Slovenes in such a fashion as to provoke disaccord between our subjects and lead American citizens to distrust our government. In short, his journal only exists for this purpose. It is possible that the laws of the United States give him the right and the liberty to write whatever he pleases against any country but it is indubitably our duty to watch

and to take action against anything which might disturb the good relations between our Kingdom and the United States.

It results from all this that the royal Consulate General in New York has drawn the attention of certain agencies which have commercial and financial relations with our Kingdom that it is not desirable, in our common interest, that these relations should be conducted by persons who are openly enemies of our Kingdom.

The Consul General has made no menace nor has he made an improper use of his official position, but he was obliged to pay attention as to what agents he would have relations with and what agents he would avoid. If certain of these agents have been inconvenienced, this is not a result of the acts of the Consulate General but the result of their own acts.

In all his acts, political, economical, or financial the policy of the representative of the Kingdom of the Serbs, Croats and Slovenes is to gain the greatest confidence of the Government of the United States and the commercial world. Our duty is not to inconvenience american citizens, but to aid them under all circumstances to create the most cordial relations with our Kingdom. Inspired only by such duties we have not been able to approve the conduct of Mr. Frank Zotti.

I take the liberty of expressing the hope that after communication of the above information your Excellency will find that the affirmations of Mr. Zotti are unfounded and that your Excellency will be in a position to inform me of the fact.

Accept [etc.]

D. M. STANOYEVITCH

702.60 h 11/16

The Secretary of State to the Yugoslav Chargé (Stanoyevitch)

WASHINGTON, June 27, 1921.

SIR: I have the honor to acknowledge the receipt of your note of June 16 in reply to the Department's note of June 10 relative to certain acts of the Consul General of the Kingdom of the Serbs, Croats and Slovenes in New York, against which complaints have been made to the Department.

The Department has taken note of the explanation by which you justify the Consul General's attitude. I regret to inform you that a careful consideration of all the evidence before the Department relating to the charges against the Consul General, set forth in the Department's note of June 10, leads to the conclusion that these charges have been fully proved. The Department is convinced that the Consul General has made an improper use of his official posi-

tion by deliberately employing coercive measures against American citizens engaged in lawful business pursuits, and has caused definite financial loss and inconvenience not only to Mr. Frank Zotti but also to concerns advertising in the Narodni List. Under the circumstances, it becomes my regrettable duty to notify you that Mr. V. Savic has ceased to be *persona grata* to this Government in his official capacity as Consul General of the Kingdom of the Serbs, Croats and Slovenes at New York City, and it is necessary to cancel his exequatur. The formal document issued in this connection is enclosed.⁴

In this connection I request you to inform your Government that fullest consideration will gladly be given to the matter of the recognition of any other person appointed its Consul General at New York City.

Accept [etc.]

CHARLES E. HUGHES

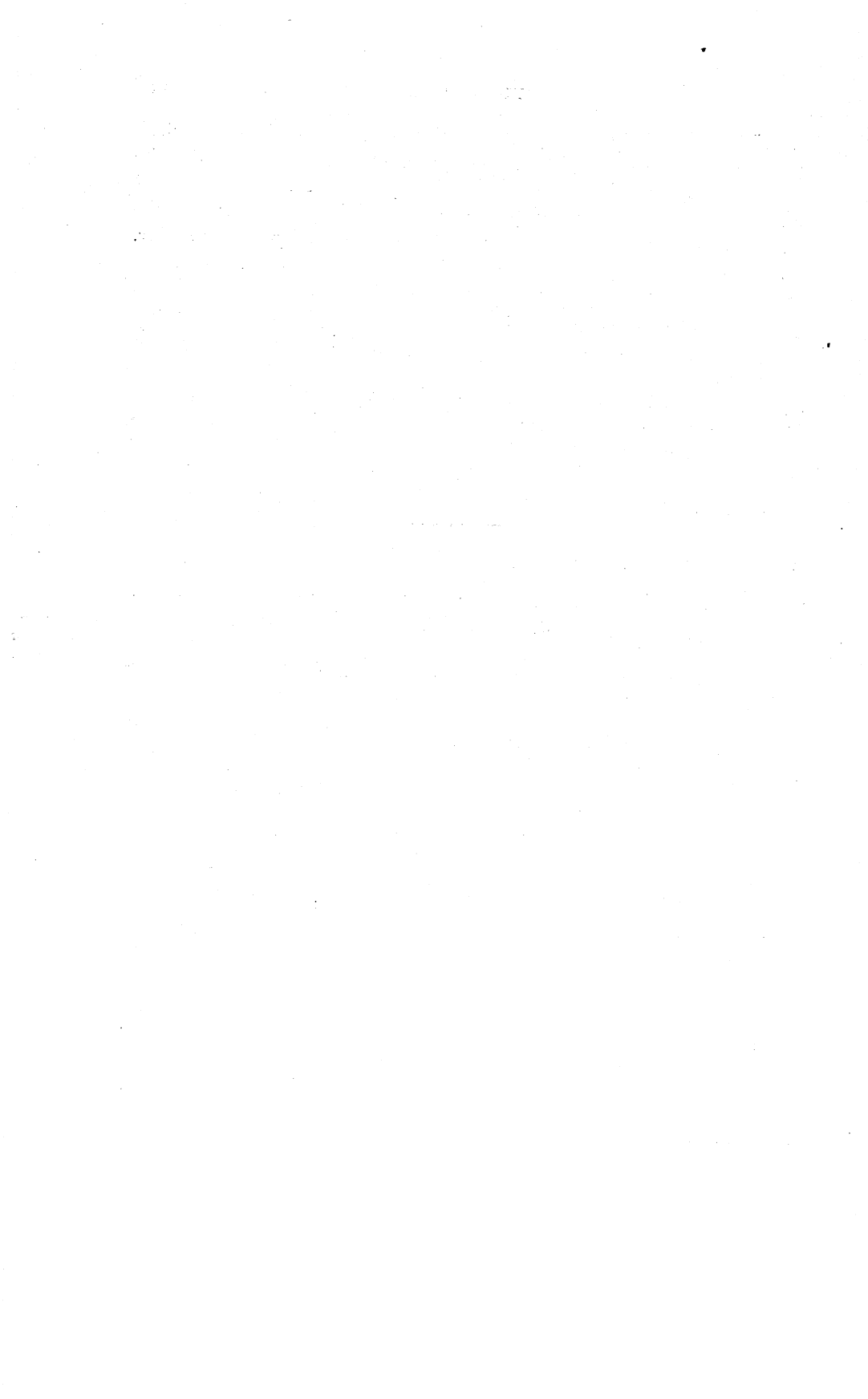
701.60 h 11/55½

Memorandum by the Secretary of State of a Conversation with the Yugoslav Chargé (Taditch), July 21, 1921

The Chargé d'Affaires, recently arrived, called to explain the situation with respect to the removal of the Consul General at New York. He said that his Government had not been adequately advised regarding the matter; that the former Chargé d'Affaires had answered our note without waiting for instructions from his Government and that of course the Consul General should have been withdrawn; that he had acted as though Zotti were a compatriot of his, because he was of the same race, instead of realizing that he was an American citizen; that the Consul General had acted as though the whole affair was in Belgrade instead of in New York; and that he hoped the matter could be treated as a closed incident and that the friendly relations between the peoples of the two countries would not be affected.

The Secretary assured him that the incident was closed; that we regretted that we had no option, in view of the reply made to our request, but to take the action we did, but that it was a separate incident and that our relations would continue with his country as cordially as ever.

⁴ Not printed.



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