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United States Department of State

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(In Three Volumes)
Volume II



United States
Government Printing Office
Washington : 1943

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DEPARTMENT OF STATE

PUBLICATION 2033

For sale by the
Superintendent of Documents, U. S. Government Printing Office
Washington, D. C. Price \$250. (Buckram)



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1929 June ¹ 21 (2161)	<i>From the Minister in China</i> Report for the month of May of the situation in China which was marked by the apparent prospect of an extensive renewal of civil war as a result of the fundamental antagonism between Chiang Kai-shek and Feng Yu-hsiang; statement of the numbers and alinement of the armed forces in China; and information that the Sino-Japanese settlement of the Nanking incident of March 24, 1927, and the Hankow incident of April 3, 1927, was effected by an exchange of notes on May 2, 1929.	160
July 15 (2206)	<i>From the Minister in China</i> Summary of events and conditions for the month of June during which time it became increasingly probable that the difficulties between Chiang Kai-shek and Feng Yu-hsiang might be settled peaceably; outline of the general policy of the Kuomintang; list of Sino-foreign treaties which have gone into effect in 1929.	164
Aug. 16 (2270)	<i>From the Minister in China</i> Report for the month of July, which was marked by the successful conclusion of the negotiations between Chiang and Feng, and by the seizure of the Chinese Eastern Railway by the Manchurian authorities.	167
Aug. 17 (L-37)	<i>From the Consul at Nanking to the Minister in China</i> Report on the Second National Military Reorganization and Disbandment Conference of August 1 to 6; and opinion that the Central authorities sincerely desire to reduce the huge armed forces of China but that there seems to be no realization of the necessity for providing employment for the men whose disbandment is contemplated.	169
Aug. 26 (6100)	<i>From the Consul General at Shanghai to the Minister in China</i> Data concerning military interference with the railways of China as taken from a report supposedly given out by the Minister of Railways.	170
Sept. 14 (2335)	<i>From the Minister in China</i> Report of events during August, including an account of the Second Disbandment Conference.	171
Oct. 22 (2392)	<i>From the Minister in China</i> Report that during September it was increasingly indicated that the Left Wing of the Kuomintang is planning to overthrow Chiang Kai-shek; and that the investigating commission sent out by the American Red Cross reported that the existing famine conditions are largely due to lack of a strong central government and hence do not warrant an appeal to American generosity.	173
Nov. 26 (2448)	<i>From the Chargé in China</i> Information that the two most important problems during the month of October were: The dispute with Russia over the seizure of the Chinese Eastern Railway, and a domestic politico-military crisis marked by the revolt of some 20 Kuominchun generals. Statement of the numbers and distribution of armed forces in China during October.	176

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1929 Dec. 30 (2503)	<i>From the Chargé in China</i> Summary of events during November: Information that the Kuominchun revolt seemed to be nearing a settlement, but that this victory for Nanking was offset by an intensification of the disturbances in Kwangsi and Kwangtung, where the opposition forces seemed to envisage an independent government in South China under Wang Ching-wei.	180
1930 Jan. 24 (2551)	<i>From the Chargé in China</i> Information that during the month of December 1929 the threat of an autonomous government in the South faded, the dispute with Russia was settled, and two revolts in Central China were kept in check, so that the year ended with at least the pretension of Nationalist control over the whole country.	182

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1928 Dec. 31 (1869)	<i>From the Consul at Harbin to the Minister in China</i> Information that Chinese officials appear determined to strip the Chinese Eastern Railway of all functions except those of a simple transportation nature and are encouraged by the lack of Soviet opposition which they encountered when taking over the railway's telephone system; also, that there is talk regarding the taking over of the entire railway by Chinese authorities.	186
1929 Jan. 9 (1876)	<i>From the Consul at Harbin to the Minister in China</i> Fear of Soviet officials that the taking over by local Chinese authorities of the Harbin telephone service from the railway may be followed by the taking over of the whole railway.	188
Feb. 7 (186)	<i>From the Consul at Mukden to the Minister in China</i> Protest to the Mukden government by Soviet Consul General against seizure of Harbin telephone service. Opinion that the Chinese are considering ways and means of taking over the railway.	189
Mar. 27 (201)	<i>From the Consul at Mukden to the Minister in China</i> Information concerning the arrival of the Soviet Consul General from Harbin and interview with Marshal Chang Hsüeh-liang in which he stated Soviet desire to enter into a new treaty concerning administration of the railway and made representations against seizure of Harbin telephone service and other Chinese acts directed against the Soviets.	190
May 29 (428)	<i>From the Minister in China (tel.)</i> From Harbin, May 28: Information concerning raid by Chinese police, May 27, on Communist meeting held at Soviet Consulate General, and arrest of about 40 persons.	192

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1929 June 8 (457)	<i>From the Minister in China (tel.)</i> From Harbin, June 7: Report that the Chief of Police has shown the American Consul counterfeits of American consular seal which were seized in the raid on the Soviet Consulate General.	192
June 10 (6200)	<i>From the Minister in Latvia</i> Publication in Soviet press, June 1, of note from the Soviet Acting Foreign Commissar to the Chinese Chargé at Moscow, May 31 (text printed), protesting against search of the Harbin Consulate General, demanding release of Soviet citizens and restoration of papers and property removed, and declaring refusal to accord extraterritoriality to Chinese diplomatic and consular representatives in the Soviet Union.	192
June 14 (195)	<i>To the Minister in China (tel.)</i> Inquiry as to accuracy of press reports of Soviet mobilization on Chinese-Siberian border.	196
June 17 (485)	<i>From the Minister in China (tel.)</i> Information that counterfeit American seals were imitations of a seal for sealing envelopes; opinion of the Consul at Harbin that they were probably used in resealing mail which had been opened and in dispatching Soviet or Communistic mail matter. Request for instructions.	196
June 21 (498)	<i>From the Minister in China (tel.)</i> From Harbin, June 18: Advice that conditions on the border are apparently normal and that rumors of mobilization were probably started by Soviet agents to intimidate the Chinese.	197
June 25 (216)	<i>To the Minister in China (tel.)</i> Instructions to direct the Consul at Harbin to obtain the seals or to satisfy himself of their destruction if he can do so informally and unofficially without appearing to be acting under instructions. (Footnote: Information from the Consul that the seals and other materials seized by the Chinese had been forwarded to Mukden headquarters.)	197
July 9 (552)	<i>From the Minister in China (tel.)</i> Advice that the Foreign Minister is coming to Peking, presumably to discuss the Manchurian situation with Chiang Kai-shek and Marshal Chang Hsueh-liang.	197
July 10 (1969)	<i>From the Consul at Harbin to the Minister in China</i> Report that Chinese authorities have seized the public telegraph and line telephone systems of the railway, arrested 60 Soviet railway employees, and closed local offices of Soviet trade organizations; rumor that Chinese intend to replace the Soviet general manager of the railway by a Chinese, and that such action would be in direct violation of the Mukden agreement.	198
July 11 (560)	<i>From the Minister in China (tel.)</i> From Harbin: Advice that the Chinese have discharged the Soviet general manager and assistant manager and all Soviet heads of departments of the railway, and that the Chinese assistant manager has taken charge as general manager.	200

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1929 July 11 (561)	<i>From the Minister in China (tel.)</i> Understanding that the visit of the Foreign Minister resulted in an arrangement with Marshal Chang whereby Manchuria's foreign relations will be handled through the Central Government at Nanking rather than at Mukden.	200
July 13 (231)	<i>To the Minister in China (tel.)</i> Instructions, in view of press report that Harbin consular body is considering mediation of Chinese-Soviet railway dispute, that Consul at Harbin should not participate unless the Department instructs him to do so.	200
July 13	<i>From the Soviet Acting Commissar for Foreign Affairs to the Chinese Chargé in the Soviet Union</i> Protest against the Chinese acts of July 10 as being in violation of the 1924 treaties, declaration of willingness to enter into negotiations on all questions connected with the railway, demand for restoration of the <i>status quo ante</i> , demand for cessation of repression against Soviet citizens and institutions, and warning that the Soviet Union will resort to other means of defense of its lawful rights if a satisfactory response is not received in three days.	201
July 16 (575)	<i>From the Minister in China (tel.)</i> From Harbin, July 15: Advice that the Chinese authorities have incorporated the railway's land department into the Chinese land administration and are continuing the discharge of Soviet employees.	206
July 17 (583)	<i>From the Minister in China (tel.)</i> Receipt of confidential information that the Soviet Government intends to force the issue and that it suspects that a third power (presumably Japan) is behind the Chinese actions; reports of Chinese and Soviet troop movements toward the border.	207
July 17 (583 bis)	<i>From the Minister in China (tel.)</i> From Harbin, July 16: Advice that Chinese authorities continue the discharge of railway employees and apparently intend to ignore the Soviet ultimatum.	208
July 18 (584)	<i>From the Minister in China (tel.)</i> From Harbin, July 16: Publication by Japanese news agency of Soviet ultimatum; seizure by Chinese authorities of railway's four libraries; reports of mobilization of Soviet troops at Irkutsk and Chita.	208
July 18 (585)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, July 16 (text printed), containing summary and excerpts from Foreign Office telegram to the Chargé in Moscow instructing him to reply to the Soviet ultimatum of July 13 by presenting a note charging that Soviet officials have violated and failed to carry out the 1924 agreement and have used organs of the railway to carry on propaganda.	208

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1929 July 18 (236)	<i>To the Minister in China (tel.)</i> Information that in conversations with the British, Chinese, French, and Japanese diplomatic representatives the Secretary pointed out the grave responsibility imposed by the present Sino-Soviet crisis upon all the powers signatory or adherent to the Treaty for the Renunciation of War; also, that he observed to the Chinese Minister that the Chinese Government's actions lent themselves to the implication that China had violated the 1924 agreement by actions that might be interpreted as an attack on the Soviets.	210
July 19 (589)	<i>From the Minister in China (tel.)</i> Receipt in Peking of text of Soviet declaration severing relations with China.	211
July 19 (590)	<i>From the Minister in China (tel.)</i> From Harbin, July 17: Advice that the consular body does not contemplate holding a meeting regarding railway dispute.	212
July 19 (75)	<i>From the Chargé in Japan (tel.)</i> Information from the Vice Minister for Foreign Affairs that his Government has no intention of commenting on or interfering in the Sino-Soviet railway dispute.	212
July 19 (591)	<i>From the Minister in China (tel.)</i> Press dispatch from Moscow, July 18 (text printed), containing text of Soviet note which refutes Chinese charges, and announces the recall of all Soviet diplomatic, consular, and commercial representatives in China, as well as Soviet appointees on the railway, suspension of railway communications between China and the Soviet Union, order to Chinese diplomatic and consular representatives to leave Soviet Russia, and reservation of all rights under the 1924 agreements.	212
July 19 (594)	<i>From the Minister in China (tel.)</i> Receipt by the German Legation of Soviet request that Legation take charge of Soviet interests in the Peking, Mukden, and Harbin areas.	214
July 19 (237)	<i>To the Minister in China (tel.)</i> Additional information concerning the Secretary's conversations with the British, Chinese, French, and Japanese diplomatic representatives on July 18; advice that conversation with the Italian Ambassador was along the same lines.	215
July 19	<i>Memorandum by the Assistant to the Secretary of State</i> Telephone message received from the French Ambassador's secretary, conveying Foreign Minister Briand's approval of the steps taken by Secretary Stimson and advising of Briand's intention to discuss the matter with the Chinese and Soviet diplomatic representatives in Paris.	218
July 19	<i>Memorandum by the Assistant Secretary of State</i> Conversation with a member of the Italian Embassy in regard to the probabilities of war between China and Soviet Russia.	218

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1929 July 19 (599)	<i>From the Minister in China (tel.)</i> From Mukden: Information that Moscow has ordered the discontinuance of railway communication with China and the departure from Mukden of all consular and other officials and Soviet citizens; also, that as yet there is no unusual military activity in the Mukden area.	219
July 20 (601)	<i>From the Minister in China (tel.)</i> From Harbin, July 17: Departure from Suifenho and Lahasusu of White Russian staff of Maritime Customs, and appearance of Soviet airplanes and gunboats; Soviet arrangements for departure from Harbin.	219
July 20 (604)	<i>From the Minister in China (tel.)</i> Arguments advanced by the advisers of the Mukden government to justify the taking over of the railway.	220
July 21 (607)	<i>From the Minister in China (tel.)</i> From Nanking, July 19: Understanding that the Chinese Government has decided to publish the Soviet documents seized in the raid on the Harbin Consulate in order to substantiate the charges of propaganda contained in Chinese note of July 16; also, that the decision to seize the railway was reached in the Peking conference between Chiang Kai-shek, Chang Hsüeh-liang, and Foreign Minister C. T. Wang.	221
July 21	<i>From the Consul at Harbin (tel.)</i> Information that Soviets have seized two Chinese merchant vessels on Amur River and that Soviet Government has ordered Soviet employees of the railway to resign.	221
July 22	<i>Memorandum by the Secretary of State</i> Conversation, July 20, in which the French Ambassador expressed the hope that the Secretary would see the Chinese Minister again and endeavor to counteract any undue encouragement that might have resulted from a remark by the Ambassador to the effect that the Soviet Government had announced that it would not violate the Kellogg-Briand treaty.	222
July 22	<i>Memorandum by the Secretary of State</i> Conversation with the Chinese Minister, July 20, in which the Secretary pointed out the unfavorable world reaction to China's seizure of the railway and renewed the discussion on possibilities of impartial arbitration or mediation.	222
July 22 (241)	<i>To the Minister in China (tel.)</i> Details of conversation with the French Ambassador on July 20; information concerning the Japanese attitude toward the Sino-Soviet dispute; advice that the British Government is in entire accord with the steps taken by Secretary Stimson and Foreign Minister Briand. (Instructions to repeat to Tokyo. Sent, <i>mutatis mutandis</i> , to Paris, for repetition to Rome; sent also to London.)	223

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1929 July 22 (611)	<i>From the Minister in China (tel.)</i> Opinion that neither side desires or counts on hostilities, but that China may overplay her hand and create a situation which will make hostilities unavoidable; suggestion that it be made clear to the Chinese Minister that Chinese intractability in this matter would alienate the sympathy enjoyed thus far and this matter involves the same question—responsibility for the observance of international undertakings—as in the extraterritorial difficulty.	226
Undated [Rec'd July 23]	<i>From the Chinese Minister</i> Manifesto issued by the Chinese Government on July 19 (text printed), stating that the documents seized in the raid on the Soviet Consulate at Harbin are being published to reveal the true facts of the matter and to emphasize the seriousness of Soviet responsibility in cutting off international communication, in disregarding the principle of justice and the 1924 agreements, and in attempting to create internal disturbance in China.	228
Undated [Rec'd Aug. 9]	<i>Statement by the Soviet Commissariat for Foreign Affairs</i> Declaration that the offer of mediation made by the French Government on July 19 is appreciated but becomes without point in view of the Chinese refusal to restore the legal basis which they violated.	231
July 23	<i>From the Consul at Geneva (tel.)</i> Opinion that the League of Nations will take no official action in regard to the Sino-Soviet crisis unless forced to do so by the imminence of war.	232
July 23 (612)	<i>From the Minister in China (tel.)</i> From Mukden, July 21, from the Military Attaché: Denial by Chinese authorities of military clashes at railway terminals but admission of minor incident at Pogradichnaya, July 20, in which Soviet troops temporarily crossed the frontier; absence of evidence of any unusual military preparations locally.	232
July 24 (618)	<i>From the Minister in China (tel.)</i> From Nanking, July 23: Information that the Foreign Minister is endeavoring through the Chinese and Soviet diplomatic representatives in Berlin to reach some basis for solution of the railway difficulty, and has ordered Chinese diplomatic and consular representatives to leave Russia.	233
July 24 (620)	<i>From the Minister in China (tel.)</i> From Nanking, July 23: Information from the Ministry of Foreign Affairs that China's reply to the second Soviet note will be "peaceful."	233
July 24 (621)	<i>From the Minister in China (tel.)</i> From Harbin, July 22: Withdrawal of Soviet consular and trade representatives; opinion that there is no immediate danger of outbreaks at Harbin.	233
July 24 (245)	<i>To the Minister in China (tel.)</i> Substance of conversations with the Chinese Minister, the French Ambassador, and the Japanese Ambassador, July 22, and with the Secretary of the German Embassy, July 23, concerning various means for finding a peaceful solution of the Sino-Soviet difficulties.	234

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1929 July 24 (622)	<i>From the Minister in China (tel.)</i> From Mukden, July 23, from the Military Attaché: Advice that absence of military preparations, together with official assertions of determined passive attitude, give rise to the conclusion that local government has no intention of accepting possible Soviet challenge.	236
July 24	<i>Memorandum by the Secretary of State</i> Conversation with the Italian Ambassador in which he read a telegram from Premier Mussolini expressing satisfaction and approval of the steps taken by the United States in regard to China and the Soviets.	237
July 24	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador following deposit of Japanese ratification of the Kellogg Pact, during which the Ambassador gave assurances that his Government understood perfectly what the U. S. Government was trying to do in the Sino-Soviet situation.	237
July 24 (351)	<i>From the Chargé in France (tel.)</i> Information from the Foreign Minister that the Chinese Minister had expressed willingness to arbitrate and abide by the Pact of Paris, but that the Soviet Ambassador had expressed the opinion that his Government could not consider arbitration until the Chinese had restored the <i>status quo ante</i> .	239
July 25 (53)	<i>From the Minister in Latvia (tel.)</i> Description of session of the Communist Party's Central Committee, July 17, at which resolutions were passed requiring the Government to take measures to combat Chinese rapacity, to summon party organizations to arrange demonstrations, and to mobilize all organs in Siberia.	240
July 25	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Japanese Ambassador in which he advised that the Soviet Ambassador in Tokyo had stated to the Foreign Minister that his Government had declined the French proposal for mediation because it did not include restoration of the <i>status quo ante</i> .	240
July 25	<i>Memorandum by the Secretary of State</i> Conversation with the French Ambassador in which the Ambassador presented an <i>aide-mémoire</i> (text printed) setting forth the internal difficulties which the French Ambassador in Moscow believes are responsible for the Soviet refusal of the French proposal, and stating that the French Minister in China is of the opinion that the Nanking Government would accept the return to the <i>status quo</i> prior to a general discussion of the question.	241
July 25	<i>To the French Ambassador</i> Request that the Ambassador submit to his Government, for criticism and possible joint action with the United States, the Secretary's draft of suggestions for a commission of conciliation (text printed). (Footnote: Information that the Secretary read this <i>aide-mémoire</i> to the British, French, Italian, and Japanese Ambassadors, and the German Chargé, and handed each a copy thereof.)	242

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July 25 (633)	<i>From the Minister in China (tel.)</i> Increasing evidence that the original Chinese intention in ousting the Soviet staff was to obtain possession of the railway and that subsequent declarations attributing action to necessity for suppressing hostile propaganda are a result of realization that publicity maintaining the original position would discredit the Chinese Government in world opinion.	246
July 26 (79)	<i>From the Chargé in Japan (tel.)</i> Opinion of the Foreign Minister that the Sino-Soviet situation is not serious, but is annoying, and that matters are deadlocked.	246
July 26 (248)	<i>To the Minister in China (tel.)</i> Transmittal of text of Secretary's <i>aide-mémoire</i> of July 25 and its enclosure. (Instructions to repeat to Japan. Footnote: Information that this telegram was sent to France, with instructions to repeat to Germany, Great Britain, and Italy.)	247
July 26	<i>Memorandum by the Secretary of State</i> Record of telephone call from the Chinese Minister who advised that the Soviet Ambassador in Berlin had sounded out the Chinese Legation as to whether they would meet in negotiations and that the Chinese Government had expressed its willingness but had received no reply.	247
July 26	<i>Memorandum by the Secretary of State</i> Conversation with the German Chargé in which the Chargé stated his Government's satisfaction with everything that had been done, and inquired concerning nature of U. S.-French relations in connection with the proposal to the Chinese and Soviet Governments.	248
July 26 (636)	<i>From the Minister in China (tel.)</i> From Harbin, July 25, from the Naval Attaché: Report on strength of Chinese and Soviet forces in North Manchuria region.	249
July 26 (54)	<i>To the Ambassador in Germany (tel.)</i> Indication of surprise at the belief of newspaper correspondents that all U. S. action in the Sino-Soviet affair is not known; résumé of the action which the Secretary has taken.	249
July 26 (637)	<i>From the Minister in China (tel.)</i> Press dispatch from Shanghai, July 25 (text printed), stating that the Foreign Minister has declared that China is willing to enter into direct negotiations and is awaiting an indication of Soviet attitude.	250

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1929 July 26 (7565)	<i>From the Military Attaché in China to the Legation in China</i> Belief that the objective of Chinese actions on July 10 and 11 was the complete recovery of the railway and that only unfavorable world opinion and a menacing Soviet attitude forced an official renunciation of this objective and its replacement by demands for strict adherence to the 1924 agreements. Observation, also, that it appears that the Nanking and Mukden Governments were working in agreement, and that if the highest authorities did not order the Harbin action, they took no measures to forestall its execution.	251
July 27	<i>From the Naval Attaché in China to the Minister in China</i> Information that the present situation concerning the railway is not an overnight development but had been expected by the Russians and planned for by the Chinese for some months; also that the action was taken by Lu Jung-huan, President of the Board of Directors, without the knowledge of Marshal Chang or the Nanking Government.	252
July 29	<i>From the Naval Attaché in China to the Minister in China</i> Explanation by Lu Jung-huan that he was obliged to take action in order to protect Chinese interests and ensure execution of the 1924 agreements.	255
July 29	<i>Memorandum by the Secretary of State</i> Receipt from the French Ambassador of a late report on the Sino-Soviet issue (text printed) stating that Soviets insist that they are not in communication with the Chinese in any capital, and will adhere to the rupture in relations until fulfillment of conditions of the Soviet note of July 13.	257
July 29	<i>From Marshal Chang Hsueh-liang to the Soviet Acting Commissioner for Foreign Affairs</i> Proposal that each Government appoint a representative for a conference on railway questions, that the prevailing situation on the railway be regarded as provisional, subject to regulation after the conference, that the imprisoned Soviet citizens be released and deported, and that the Chinese arrested in the U. S. S. R. be released.	258
Undated [Rec'd July 30] (651)	<i>From the Minister in China (tel.)</i> Foreign Office note, July 29 (text printed), expressing appreciation for U. S. notification that the Pact of Paris entered into force on July 24 and declaring willingness to settle the difficulties with the Soviets by pacific means.	258
July 30	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which the Ambassador presented a confidential statement (text printed), expressing doubt that either the Chinese or Soviets would favorably receive the suggested plan for a commission of conciliation; his understanding that the former Soviet Consul General at Harbin was returning toward the border and that the Chinese Foreign Office representative in Manchuria was starting to meet him; the Secretary's reply that so long as the two Governments seemed to be making progress toward direct negotiation he did not intend to make any suggestion.	259

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1929 July 30 (654)	<i>From the Minister in China (tel.)</i> From Harbin: Advice that the Commissioner for Foreign Affairs and a director of the railway are presumably on their way to receive Soviet reply to the Chinese proposals which were made at the Chang Tso-hsiang-Melnikoff meeting at Changchun.	261
July 31 (139)	<i>From the Ambassador in Germany (tel.)</i> Reiteration in the press of earlier denials by Soviet Embassy concerning reports of direct negotiations with the Chinese Minister in Berlin.	262
July 31	<i>Memorandum by the Secretary of State</i> Receipt from the French Ambassador of a statement (text printed) advising that on July 29 the Acting Foreign Commissar confirmed to the French Ambassador in Moscow his previous denial that conversations were being held with the Chinese, and maintained that no conversations would be possible until return to the <i>status quo</i> .	262
Aug. 1 (659)	<i>From the Minister in China (tel.)</i> Local press dispatch (text printed) of interview with Chinese Minister of Railways in which he stated that the greatest concession which China would make would be to admit joint ownership of the railway with the Soviets and sole control and administration by China.	263
Aug. 1 (660)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, July 31 (text printed), stating that the first Sino-Soviet preliminary conference met on July 30 at Manchouli to discuss questions of time and place for a formal conference.	264
Aug. 1	<i>From the First Secretary of the French Embassy</i> Opinion of the Foreign Minister that in case a settlement by direct negotiation cannot be reached, Secretary Stimson's proposed note could be forwarded in accordance with the Pact of Paris.	264
Aug. 1 (663)	<i>From the Minister in China (tel.)</i> From Harbin: Understanding that at Sino-Soviet conference at the frontier on July 31, it was agreed to appoint delegates to negotiate the railway question.	265
Aug. 1	<i>From the Soviet Acting Commissar for Foreign Affairs to Marshal Chang Hsueh-liang</i> Information that the Chinese proposal of July 29 differs from the proposal which was presented on July 22 to the Soviet Consul General at Harbin, on the basis of which the Soviet Government was willing to hold discussions, and has created new and serious complications for which the Mukden and Nanking Governments must be held responsible.	265
Aug. 2	<i>From the Naval Attaché in China to the Minister in China</i> Report of a visit to Manchouli July 30–August 1; impression that the situation is very much eased but that there is no assurance that the present conversations will not drag or that the ultimate negotiations will take place in the near future.	267

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Aug. 4 (669)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, August 2 (text printed), quoting the Foreign Minister as declaring that the Government favors direct negotiations but cannot accept any conditions before negotiations are opened.	270
Aug. 5 (141)	<i>From the Ambassador in Germany (tel.)</i> Conviction of Foreign Office that neither China nor Soviet Russia desires or would accept interference by other powers.	271
Aug. 5 (673)	<i>From the Minister in China (tel.)</i> Advice that negotiations at Manchouli are continuing but that authentic information is not available.	272
Aug. 6 (676)	<i>From the Minister in China (tel.)</i> Report dated July 31 to the Military Attaché from Lieutenant White at Mukden (text printed), containing text of official memorandum of the Chinese interpretation of the <i>status quo</i> with regard to the railway.	272
Aug. 7 (677)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, August 6 (text printed), conveying official announcement that the Manchouli conference has reached a deadlock and that the Chinese are unable to accept Soviet demand for reinstatement of the Soviet associate managers of the railway before the opening of formal negotiation.	273
Aug. 8 (688)	<i>From the Minister in China (tel.)</i> Inquiry from the French Minister as to U. S. willingness to send the Chinese Government a note similar to the note addressed to the Peking Government on May 3, 1924, with regard to Chinese responsibility for the protection of all interests in the railway.	273
Aug. 9 (263)	<i>To the Minister in China (tel.)</i> Opinion that the sending of such a note would only further cloud the situation.	274
Aug. 10 (695)	<i>From the Minister in China (tel.)</i> From Harbin, August 9: Information concerning dynamiting of freight trains near Harbin and attempted arson and removal of rails elsewhere; understanding that General Boldyreff has been appointed commander of so-called Soviet army of occupation.	274
Aug. 13 (146)	<i>From the Ambassador in Germany (tel.)</i> Understanding that, in answer to Chinese request for advice in finding a face-saving formula to solve the railway conflict, the Foreign Office will reply that it is unable to give the advice requested but would be ready to acquaint the Soviet Government with the fact that such an inquiry had been made.	275

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1929 Aug. 13 (700)	<i>From the Minister in China (tel.)</i> From Harbin, August 12: Report that Soviet airplane and firing demonstrations have recommenced at Suifenhö, that Soviets refuse to negotiate with Chinese representative at Manchuria Station because he represents the Central Government, and that there are disquieting Chinese and Soviet military activities along the railway.	275
Aug. 13 (701)	<i>From the Minister in China (tel.)</i> Receipt by French Legation of information that the Soviet Government will negotiate only locally with the Manchurian authorities; opinion that Soviets are aware of the differences between Nanking and Manchurian Governments and plan to take full advantage thereof.	276
Aug. 15	<i>Memorandum by the Secretary of State</i> Conversation with the Chinese Minister in which the Secretary explained the suggestion for conciliation contained in his <i>aide-memoire</i> of July 25, and pointed out that it was merely for action to be taken by the two powers themselves, without intervention by outside parties.	276
Aug. 15	<i>Statement by the Soviet Vice Commissar for Foreign Affairs</i> Warning that the Soviet Government will not acknowledge any contracts or obligations assumed by the railway subsequent to its seizure by the Chinese.	277
Aug. 16 (1991)	<i>From the Consul at Harbin to the Minister in China</i> Review of the events of July with regard to the railway situation; opinion that neither side wants war, but that intimidating actions of the Soviets at the border might precipitate graver troubles at any time.	278
Aug. 16 (273)	<i>To the Minister in China (tel.)</i> Instructions to direct the Harbin Consulate to investigate press reports of border clashes and the mistreatment of prisoners.	284
Aug. 18 (727)	<i>From the Minister in China (tel.)</i> From Harbin, August 15: Advice that Chinese delegates have left Manchuria Station, evidently because they could no longer get in touch with Soviet representatives; information concerning activities of Soviet cavalry and airplanes on the border.	284
Aug. 18 [729]	<i>From the Minister in China (tel.)</i> From Mukden, August 17: Receipt by Mukden government of advice that Soviet troops started bombarding Manchuria Station at 3 a. m. From Mukden, August 17: Receipt by the government of information that 10,000 Soviet troops crossed the border and attacked between Manchouli and Chalinor; understanding that 40,000 Mukden troops are being sent to the north.	285
Aug. 18 (730)	<i>From the Minister in China (tel.)</i> From Harbin, August 17: Information that reports have been received concerning clashes on the border and heavy Soviet aircraft and artillery fire which are evidently planned to intimidate the Chinese.	285

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1929 Aug. 19 (732)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, August 16 (text printed), containing Foreign Minister's declaration that no official reports had been received concerning Soviet incursions into Chinese territory, but that China will resist to the limit of her ability if the raids continue.	285
Aug. 19	<i>From the Consul at Harbin (tel.)</i> Advice that small Soviet raiding parties have clashed with Chinese troops, resulting in 200 Chinese casualties; also that individual Chinese soldiers are acting badly toward Russians and the Chinese military are understood to be treating imprisoned and interned Russians cruelly.	286
Aug. 19	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which he stated that the rupture in the Manchouli conversations was due to Soviet demand for appointment of Soviet manager and assistant manager before commencement of negotiations, and also advised that troops were being sent to the railway for the purpose of policing the line but that this did not mean that China wanted war.	286
Aug. 19	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which he stated that Lu Chung-lin, a close friend and adherent of Feng Yuhsiang, had been appointed Minister of Military Affairs; the Assistant Secretary's opinion that the Minister intended to infer that Feng and the Central Government are acting in harmony.	288
Aug. 19	<i>From the Chinese Minister</i> Communication to the signatories of the Treaty for the Renunciation of War (text printed), declaring that if Soviet acts of provocation should result in unavoidable clashes arising out of China's determination to defend her own rights, the responsibility for disturbing the peace of the world must rest upon Soviet Government, and stating readiness at any time to discuss and settle difficulties with the Soviet Government.	288
Aug. 20	<i>Memorandum by the Secretary of State</i> Conversation with the Chinese Minister in which the Minister called attention to Soviet attacks upon the Chinese, and stated that Chinese troops had been instructed to go no further than self-defense actually required.	293
Aug. 20 (737)	<i>From the Minister in China (tel.)</i> From Harbin, August 19: Information that Chinese military are about to evacuate Taheiho and that raiding parties, presumably Soviet, are crossing the Amur River and are pillaging on the Chinese side.	294
Aug. 20 (738)	<i>From the Minister in China (tel.)</i> From Mukden, August 19: Report of fighting at Tungning, which was evacuated and then reoccupied by Chinese forces after arrival of reinforcements; observation that Soviet troops appear to be raiding rather than occupying Chinese territory.	295
Aug. 20	<i>From the Consul at Geneva (tel.)</i> Advice that the League of Nations is considering some action in the Sino-Soviet crisis.	295

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1929 Aug. 21 (742)	<i>From the Minister in China (tel.)</i> From Harbin, August 20: Occupation of Tungning by Soviet forces; dispatch to all consuls by Chinese Commissioner of Foreign Affairs at Tabeiho of telegram complaining against Soviet raids in Chinese territory.	296
Aug. 22 (747)	<i>From the Minister in China (tel.)</i> Press dispatch from Moscow, August 20 (extracts printed), containing Soviet statement to the German Embassy, August 19, for transmittal to the Nanking and Mukden Governments, which alleges that Chinese and Russian White Guard detachments have been attacking and raiding Soviet territory.	296
Aug. 22 (749)	<i>From the Minister in China (tel.)</i> From Harbin, August 21: Absence of any particular activity on the frontier; information that the Chinese have established concentration camps near Harbin for Russian prisoners, and that as a result of German Consul General's representations, the treatment of the prisoners is somewhat better.	297
Aug. 23 (751)	<i>From the Minister in China (tel.)</i> From Harbin, August 22: Information that Tungning is now in Chinese possession but that the military fear an immediate attack and difficulty of civilian evacuation; also, that Soviet soldiers and aircraft are active in the Muling area; opinion that no actual warfare has begun and that Soviet object at present is to prevent coal mines from supplying the railway and to intimidate railway employees by acts of terrorism.	298
Aug. 23 (752)	<i>From the Minister in China (tel.)</i> Report on a conversation with the Japanese Chargé, August 22, concerning information his Government had received as to Soviet and Chinese attitudes toward the present conflict.	298
Aug. 23 (4823)	<i>From the Ambassador in Germany</i> Opinion of Foreign Office that Sino-Soviet conflict has entered upon a tedious period of oriental jockeying and bargaining, and that there will be more mutual recrimination but not a war.	299
Aug. 25 (757)	<i>From the Minister in China (tel.)</i> From Nanking, August 22: Lack of public interest in the Manchurian crisis. From Nanking, August 21: Information from Foreign Minister that the Soviets had offered through Berlin to open negotiations upon basis of gradual redemption by China of the Soviet share in the Railway, provided the Chinese would agree to immediate appointment of a Soviet railway manager, and that he had replied that the Chinese would negotiate on that basis.	300
Aug. 26 (759)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, August 23 (text printed), stating that at an informal conference it was decided that Chinese Government should continue present policy of seeking a settlement of the railway dispute by peaceful means but that precautionary measures should be taken in view of the daily incursions of Soviet troops into Chinese territory.	301

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1929 Aug. 26	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which the Ambassador advised of his understanding that the Chinese had decided to accept in principle the restoration of the <i>status quo ante</i> , provided this did not mean restoration of the same Soviet general manager and assistant manager, and stated also that it had been reported to him that the conversations were steadily progressing.	302
Aug. 26	<i>Memorandum by the Secretary of State</i> Conversation with the British Ambassador in which the Ambassador agreed to draft a message to his Government asking for views on the advisability of taking some action to avert a disaster in the Sino-Soviet situation.	303
Aug. 26 (760)	<i>From the Minister in China (tel.)</i> Receipt from the Japanese Chargé of information concerning Chinese attitude toward appointment of a Soviet manager of the railway; Chargé's opinion that the Central Government is now prepared to take a less unyielding attitude.	304
Aug. 26	<i>From the British Ambassador</i> Copy of telegram dispatched to the Foreign Office (text printed) in accordance with the day's conversation.	304
Aug. 28	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Chargé, in which the Chargé agreed that the Chinese might very well accept the basis suggested for negotiations with the Soviets.	306
Aug. 28 (768)	<i>From the Minister in China (tel.)</i> Press dispatch from Shanghai, August 27 (text printed), stating that the Chinese Minister in Berlin had learned that the Soviet Government would be willing to enter into formal negotiations, provided it might appoint a new Russian general manager.	306
Aug. 30 (159)	<i>From the Ambassador in Germany (tel.)</i> Delivery by the German Ambassador at Moscow, August 28, of Chinese <i>note verbale</i> , accepting in the main the Soviet conditions, but also making some conditions, of a face-saving nature, and proposing a joint declaration that negotiations are to be begun in order to put into effect the 1924 agreements.	307
Aug. 30 (160)	<i>From the Ambassador in Germany (tel.)</i> Information that the Soviet Embassy has just delivered its answer to the Chinese proposal and that it is a general acquiescence, with conditions, the chief of which is that the Soviet Government has the right to reappoint the former manager	307
Aug. 30	<i>From the British Ambassador</i> Opinion of British Government that outcome of the present Sino-Soviet negotiations should be awaited before taking any action.	308

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1929 Undated [Rec'd Sept. 24]	<i>Statement by the Soviet Commissariat for Foreign Affairs</i> Chinese <i>note verbale</i> of August 27, text of the joint declaration, and Soviet draft of the declaration (texts printed); advice that, in handing the Soviet draft to the German Ambassador, the Acting Foreign Commissar stated that no reason was seen to appoint a new manager and assistant manager in place of the original appointees but that the matter would be considered if the Chinese Government should replace the present chairman of the Board of Directors by a new chairman.	309
Aug. 31 (772)	<i>From the Minister in China (tel.)</i> From Harbin, August 30: Advice from German Consul General that the condition of Russian prisoners in the concentration camp is bad.	311
Sept. 1 (781)	<i>From the Minister in China (tel.)</i> From Harbin, August 31: Information from American newspapermen at Manchuria Station that Soviet troops are threatening Chalainor and that a state of war exists 500 miles along the border.	311
Sept. 1 (782)	<i>From the Minister in China (tel.)</i> Local press dispatch (extract printed) containing Soviet draft of declaration; press dispatch from Nanking, August 31 (text printed), stating that Foreign Office has not yet received statement from the Chinese Minister in Berlin regarding the alleged settlement but that the spokesman admitted that negotiations in Berlin were proceeding satisfactorily.	312
Sept. 2 (783)	<i>From the Minister in China (tel.)</i> Press dispatch from Shanghai, September 1 (text printed), quoting the Foreign Minister as declaring that the question of replacing the present chairman of the Board of Directors with a new chairman had never arisen, and stating that if the question were to arise, China would find it impossible to accept the demand.	312
Sept. 3 (788)	<i>From the Minister in China (tel.)</i> From Harbin: Report from American correspondents at Manchuria Station that Soviet troops have invaded Chinese territory and shelled Chinese outposts.	313
Sept. 4	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which he stated opinion that the situation in Manchuria was improving and intimated that Chinese might not insist on refusing to replace the Vice President of the Board of Directors.	313
Sept. 4 (4857)	<i>From the Ambassador in Germany</i> Information that Foreign Office has no confirmation of report that Nanking Government finds the Soviet reply unacceptable; opinion of Foreign Office that a way toward settlement has been definitely opened.	313
Sept. 7 (2308)	<i>From the Minister in China</i> Advice that the Consul at Harbin was instructed on September 5—in reference to a proposal that the Harbin consular body offer its good offices to bring about a settlement of the dispute—to be guided by the instructions contained in Department's telegram No. 231, of July 13, which had been repeated to the Consulate on July 15.	314

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1929 Sept. 9 (805)	<i>From the Minister in China (tel.)</i> From Harbin, September 8: Report that Soviet aircraft bombarded railway station area at Suifenho; opinion of American correspondents that the situation is grave.	315
Sept. 9 (807)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, September 6 (text printed), stating that the Foreign Minister observed that appointment of a Soviet railway manager should not be gazetted until after the formal conference had opened, and declared that no Soviet demand for removal of the president of the railway had been received. Press dispatch from Nanking, September 8 (text printed), stating that the Chinese Minister in Berlin had wired from Geneva that the Soviet Government had withdrawn demand for appointment of new manager and assistant manager as a preliminary to opening of formal negotiations.	315
Sept. 9 (808)	<i>From the Minister in China (tel.)</i> From Harbin: Confirmation of report of Soviet bombing and destruction of railway station at Suifenho; information that casualties are estimated at from 30 to 100 and that the town is in panic.	316
Sept. 11 (163)	<i>From the Ambassador in Germany (tel.)</i> Chinese note verbale of September 9 (text printed), transmitted by the German Government to the German Ambassador in Moscow, for delivery to the Soviet Government; observation by German Foreign Office official that this note was in effect a refusal of all the Soviet preliminary conditions and would exasperate Moscow greatly.	316
Sept. 11 (815)	<i>From the Minister in China (tel.)</i> Press dispatch from Shanghai, September 9 (text printed), setting forth declaration by the Foreign Minister that the Chinese Army would not hesitate to defend the country against Red aggression. Press dispatch from Moscow, September 10 (text printed), stating that the Foreign Commissariat has sent a note to the Nanking and Mukden Governments charging them with the responsibility for the provocative attacks by Chinese troops and Russian White Guards.	317
Sept. 13 (824)	<i>From the Minister in China (tel.)</i> From Nanking, September 12: Receipt by Foreign Ministry of telegram from the diplomatic representative in Berlin which states that the Soviets deny taking offensive action on the border and claim that their forces have only acted defensively to repel Chinese raids.	318
Sept. 13 (825)	<i>From the Minister in China (tel.)</i> From Harbin, September 12: Report of American Vice Consul's investigation of conditions in the concentration camp.	319

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1929 Undated [Rec'd Oct. 17]	<i>From the Chinese Minister for Foreign Affairs to the German Counselor of Legation in China, for the Soviet Commissariat for Foreign Affairs</i>	319
Sept. 17	Alternative article 3 (text printed) of the proposed joint declaration, providing for Soviet nomination and immediate appointment by the Board of Directors of an assistant manager who will, jointly with the Chinese assistant manager, manage the railway during the period of negotiations. (Footnote: Handed to the Soviet Foreign Office by the German Ambassador in the Soviet Union on September 13.)	320
Sept. 17	<i>From the Soviet Commissariat for Foreign Affairs to the German Embassy in the Soviet Union, for the Chinese Government at Nanking</i> Statement that, since the Chinese <i>note verbale</i> of September 9 and proposal regarding article 3 of the declaration decline the principal conditions preparatory to the signing of the declaration, responsibility for the further development of the conflict must devolve fully upon the Nanking Government.	321
Sept. 17	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Chargé in which the Assistant Secretary of State expressed concern over China's apparent unwillingness to be conciliatory in the railway matter and called attention to reports of bad conditions in the concentration camp.	322
Sept. 24	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Chargé in which the Chargé delivered a statement by his Government on the matter discussed in the conversation of September 17 and expressed regret that he could not bring a more favorable response.	323
Sept. 25 (842)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, September 23 (text printed), stating that Chinese reply to Soviet Government will propose that Soviet Russia appoint an assistant manager to function until the appointment of a general manager is decided upon at the formal conference, and will state that the 1924 agreements are valid pending conclusion of a new agreement.	323
Sept. 27 (319)	<i>To the Minister in China (tel.)</i> Instructions to direct the Consul at Harbin to investigate and report on condition of the interned Russians and to advise if any obstacles are placed in his path.	323
Oct. 3 (854)	<i>From the Minister in China (tel.)</i> From Harbin, October 3: Report of Soviet attacks near Manchuria Station on October 1 and 2.	323
Oct. 4 (2033)	<i>From the Consul at Harbin to the Minister in China</i> Information concerning the recent military activity at Manchuria Station and observations concerning possible motives of the Soviets.	324

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1929 Oct. 4 (858)	<i>From the Minister in China (tel.)</i> From Harbin, October 3: Information that American and Japanese vice consuls and newspapermen report that conditions have improved in prisoners-of-war camp; also, that the prisoners' most serious complaint is that they do not know on what charges they are held nor how long they will be detained.	325
Oct. 9 (873)	<i>From the Minister in China (tel.)</i> From Harbin, October 8: Receipt of information that Soviet regulars or partisans recently killed unarmed male inhabitants of several White Cossack villages in Heilungkiang Province.	325
Oct. 14 (194)	<i>From the Ambassador in Germany (tel.)</i> Hope of Foreign Office that the Department of State and the American press will adopt a friendly attitude toward German telegram to Chinese and Soviet Governments, October 7, proposing cessation of arrests and reciprocal release of nationals. (Footnote: Publication in the Moscow <i>Izvestia</i> , October 18, of the Soviet Government's refusal to accept the proposal.)	325
Oct. 14 (884)	<i>From the Minister in China (tel.)</i> Information from the German Minister concerning his Government's proposal to the Chinese and Soviet Governments respecting liberation of prisoners.	326
Oct. 16	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which the Ambassador expressed the opinion that there was no danger at present of a Soviet seizure of Harbin and the railway.	327
Oct. 16 (890)	<i>From the Minister in China (tel.)</i> From Harbin, October 15: Report that Lahasusu was captured by Soviet forces after artillery and aerial bombardment and a naval engagement.	327
Oct. 17 (337)	<i>To the Minister in China (tel.)</i> Desire for opinion as to advisability of releasing to the press the information obtained by the Harbin Consulate regarding the condition of the Russian prisoners; inquiry whether the concentration camp mentioned in telegram No. 825 of September 13 and the prisoners-of-war camp mentioned in telegram No. 858 of October 4 are the same.	328
Oct. 17 (896)	<i>From the Minister in China (tel.)</i> Information that on October 15 sentences of from 2 to 9 years were imposed upon the 37 Soviet citizens taken prisoners in the raid on the Soviet Consulate, and that local foreigners feel that the trial was a farce.	328
[Oct. 18]	<i>From the Soviet Commissariat for Foreign Affairs to the German Embassy in the Soviet Union, for the Chinese Ministry for Foreign Affairs</i> Denunciation of the trial and the sentences imposed upon the 37 Soviet citizens.	329

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1929 Oct. 18 (902)	<i>From the Minister in China (tel.)</i> From Harbin, October 16: Suggestion that the present difficulties might be solved if the Chinese and Soviet Governments would discharge the present railway officials, and the Japanese and neutral powers hold a conference and elect new Chinese and Soviet managers.	330
Oct. 19 (910)	<i>From the Minister in China (tel.)</i> Telegram from representative Russian emigrants to the Senior Minister, October 18 (text printed), appealing for relief in Three Rivers district from raids and massacres by Red bands.	330
Oct. 19 (911)	<i>From the Minister in China (tel.)</i> From Mukden: Understanding that President Chiang Kai-shek has urged General Chang Hsüeh-liang to undertake negotiations with the Soviets, and that the local government has already taken steps to that end.	331
Oct. 21 (915)	<i>From the Minister in China (tel.)</i> Despatch from the Consul at Harbin, October 5 (extracts printed), stating that conditions at the internment camp have improved and that the Russian prisoners are being given more consideration than that ordinarily given to Chinese prisoners.	331
Oct. 22 (916)	<i>From the Minister in China (tel.)</i> Press dispatch from Mukden, October 20 (text printed), concerning a conference of military leaders in which it was decided to order the frontier troops to stop Soviet incursions.	333
Oct. 23 (922)	<i>From the Minister in China (tel.)</i> Affirmative reply to inquiry contained in Department's telegram No. 337 of October 17.	333
Oct. 25	<i>Manifesto of the Chinese Government on the Sino-Soviet Situation</i> Setting forth Chinese efforts to persuade the Soviet Government to come to an amicable settlement and declaring that if a state of war should come about from the Soviet Government's incessant provocation the responsibility for violating the peace of the Far East must be borne by the Soviet Government.	333
Oct. 28	<i>Memorandum by the Vice Consul at Harbin</i> Report of conversation with a sea captain who was in the midst of the Soviet shelling at Lahasusu.	337
Oct. 29 (934)	<i>From the Minister in China (tel.)</i> Despatch from the Consul at Mukden, October 26 (text printed), reporting that it is now likely that the Mukden government will be able to handle the negotiations with the Soviets, without the interference of the Nanking Government, and that an agreement may be reached for the holding of a conference.	338
Oct. 30	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation between the Secretary of State and the Chinese Minister with regard to the Soviet incursions into Chinese territory, the unsuccessful efforts at negotiations, and the possibility of exchanging prisoners.	339

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1929 Oct. 31	<i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador in which the Ambassador stated that the word received by the Department as to existence of a brighter hope for settlement of the railway question was in accord with a message he had received from his Government.	340
Nov. 1 (943)	<i>From the Minister in China (tel.)</i> Despatch from the Consul at Harbin, October 19 (excerpt printed), stating that the condition of the Russian prisoners in the internment camp is now worse than when he inspected the camp early in October.	341
Nov. 2 (951)	<i>From the Minister in China (tel.)</i> From Harbin, November 1: Information that on October 30 Soviet aircraft bombarded Fuchin, that Soviet gunboats are reported to be in that vicinity, and that a freight train was blown up and derailed.	342
Nov. 4 (961)	<i>From the Minister in China (tel.)</i> From Harbin: Advice that Fuchin was occupied by Soviet forces but is again in hands of Chinese troops.	342
Nov. 9 (975)	<i>From the Minister in China (tel.)</i> Information from the Consul at Mukden, November 4, that on October 29, at the request of Marshal Chang Hsüeh-liang, a telegram was sent to the Soviet Acting Foreign Commissar (text printed) stating that Marshal Chang was ready to negotiate on the basis of the 1924 agreements but that, as he had not received the Soviet terms which were sent to the Mukden authorities on August 29, he would like to have them telegraphed to him.	342
Nov. 19 (1006)	<i>From the Minister in China (tel.)</i> Advice that in a despatch of November 15 (excerpt printed), the Consul at Mukden reported that no reply had been received to the telegram of October 29 nor to a further telegram sent on November 7.	343
Nov. 19 (1008)	<i>From the Minister in China (tel.)</i> From Harbin, November 18: Reports of Soviet aerial bombings of the railway line and heavy fighting near Manchuria Station.	344
Nov. 20 (1011)	<i>From the Minister in China (tel.)</i> From Harbin, November 19: Confirmation of reports of serious Soviet airplane attacks on the railway line; information that a passenger train was fired upon, held up, and robbed by Red irregulars.	344
Nov. 21 (1020)	<i>From the Minister in China (tel.)</i> From Mukden, November 20: Understanding that the Chinese have lost 2,000 men; also, that Soviet aerial bombing has caused much damage and that fighting still continues.	344
Nov. 21	<i>Memorandum by the Assistant Secretary of State</i> Conversation between the Secretary of State and the Chinese Minister in which the latter advised of further Soviet attacks on the frontier and of Chinese intention to lay the matter before the League of Nations.	345

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1929 Nov. 22 (336)	<i>From the Ambassador in Great Britain (tel.)</i> From Frank B. Kellogg: Suggestion whether the time has not come to make the appeal to the Chinese and Soviet Governments which was considered in July, before the Manchurian border disorders drift too far.	346
Nov. 22 (1026)	<i>From the Minister in China (tel.)</i> From Mukden, November 21: Capture of Manchouli and Chalainor by the Soviets.	346
Nov. 23 (1033)	<i>From the Chargé in China (tel.)</i> From Harbin, November 22: Report of further damage caused by Soviet aerial bombings; dispatch of freight cars to Hailar in anticipation of evacuation of troops and civilian population.	346
Nov. 24 (1036)	<i>From the Chargé in China (tel.)</i> From Harbin, November 23: Probability that Chinese forces will withdraw beyond Hingan mountains if Soviet pressure continues; lack of information as to fate of civilian population at Manchuria Station. From Harbin, November 23: Advice that the Chinese civil administration is holding troops at Harbin to protect foreign lives and property.	347
Nov. 25	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Counselor of the Italian Embassy concerning contemplation by China of an appeal to the League of Nations regarding the Soviet invasion.	348
Nov. 25	<i>Memorandum by the Assistant Secretary of State</i> Conversation between the Secretary of State and the Japanese Ambassador in which the former observed that he was considering what steps might be taken by parties to the Pact of Paris to bring about an amicable settlement of the Sino-Soviet difficulty and stated that he would appreciate any thoughts or suggestions that the Japanese Foreign Minister might have.	348
Nov. 26 (1042)	<i>From the Chargé in China (tel.)</i> From Harbin, November 25 [26?]: Confirmation of report that Manchuria Station is in Soviet hands; information that demoralized Chinese troops from Chalainor retreating to Hailar looted all stations en route.	350
Nov. 26 (117)	<i>To the Chargé in Japan (tel.)</i> Instructions to deliver to the Foreign Minister a statement (text printed) expressing concern over the situation in North Manchuria and stating the hope that the Chinese and Soviet Governments will refrain from hostilities and will arrange in the near future to discuss the issues over which they are in controversy; also to inquire whether the Foreign Minister would be ready to make such a public statement simultaneously with the U. S. and other governments and to communicate the text to the Chinese and Soviet Governments. (Sent, <i>mutatis mutandis</i> , to the diplomatic representatives in France, Great Britain, and Italy; sent also to the diplomatic representative in Germany on November 27.)	350

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1929 Nov. 26	<i>Memorandum by the Chief of the Division of Eastern European Affairs</i> Information on the strength and organization of Soviet troops on the Chinese frontier.	352
Nov. 27 (1046)	<i>From the Chargé in China (tel.)</i> Press dispatch from Nanking, November 26 (text printed), stating that the State Council dispatched identical telegrams to the League of Nations and to the signatories of the Pact of Paris, expressing the hope that the latter would take appropriate steps to stop and punish Soviet violation of the Pact.	353
Nov. 27 (387)	<i>To the Chargé in France (tel.)</i> Instructions to inform the Foreign Office, in connection with Department's instructions of November 26, that the German Government is being added. (Sent also to diplomatic representatives in Great Britain, Italy, and Japan.)	353
Nov. 27 (1048)	<i>From the Chargé in China (tel.)</i> From Harbin, November 26: Report on the military situation; understanding that the consular body may be approached with a request that it call in foreign troops if local soldiers get out of hand; opinion that it is practically certain that Mukden has been authorized to negotiate separately.	353
Nov. 27 (1049)	<i>From the Chargé in China (tel.)</i> To Harbin: Instructions to be guided by the general principle established during the civil disturbances in January 1927, i. e., in the event of trouble occurring or becoming imminent to advise Americans at interior points or at smaller treaty ports to proceed to places at which they might receive protection or from which they might be evacuated without delay.	354
Nov. 27 (112)	<i>From the Chargé in Switzerland (tel.)</i> Information that the Chinese representative inquired of the Secretary General of the League concerning the steps the League would take if the Chinese were to present a formal request for intervention.	354
Nov. 27 (111)	<i>From the Chargé in Japan (tel.)</i> Information that the Foreign Minister doubts the practical benefit which would ensue from the issuance of a joint statement by the powers, but that he would, on his own responsibility, tell the Chinese and Russians privately that the recent disturbances were attracting the attention of the world and producing a bad impression.	355
Nov. 27 (350)	<i>From the Ambassador in Great Britain (tel.)</i> Advice that the Foreign Secretary approves in general of the issuance of a statement, but suggests that it should be in the form of a joint statement by France, Great Britain, Italy, Japan, and the United States.	356
Nov. 28 (394)	<i>To the Chargé in China (tel.)</i> Inquiry as to accuracy of press despatch from Moscow which states that China has accepted the Soviet terms for settlement of the railway controversy.	356

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1929 Nov. 28 (535)	<i>From the Chargé in France (tel.)</i> Information that the Foreign Minister agrees in principle with the suggestion for issuance of a statement, but inquires why Japan was not included with the powers to be consulted.	357
Nov. 28 (1051)	<i>From the Chargé in China (tel.)</i> From Harbin, November 27: Absence of indication of any previous or present large Soviet troop movements; information from refugees that looting is being done by disorganized, retreating, Chinese troops rather than by Soviet forces.	357
Nov. 28 (234)	<i>From the Ambassador in Germany (tel.)</i> Advice that the German reply to suggestion for a public statement is being awaited; information, however, that on November 26 the German Government transmitted a Chinese proposal to the Soviet Government; understanding that on November 27 the Soviet Telegraph Agency published text of the Soviet acceptance.	358
Nov. 28 (88)	<i>From the Ambassador in Italy (tel.)</i> Information that the Foreign Minister is in sympathy with the action suggested but believes a joint note would be more effective.	359
Nov. 28 (235)	<i>From the Ambassador in Germany (tel.)</i> Inability of the Foreign Minister to give a final decision on the suggested issuance of a statement, in view of necessity for awaiting authoritative information from Moscow on the result of the Chinese proposal.	359
Nov. 29 (237)	<i>From the Ambassador in Germany (tel.)</i> Chinese Government's note of November 14, transmitted on November 26 to the German Embassy in Moscow for delivery to the Soviet Government (text printed), denying that the Chinese began hostilities on the frontier, suggesting the formation of a mixed commission to investigate and establish the responsibility, proposing the withdrawal of both forces 30 miles behind the frontier, and stating that if these points are accepted, the Chinese Government will be prepared to submit the entire dispute to a neutral, impartial body for adjustment.	360
Nov. 29 (389)	<i>To the Chargé in France (tel.)</i> Explanation that the omission of Japan from the list in the telegram sent to the Embassy in France was an error in transmission. (Footnote: Information also sent to the Embassies in Great Britain and Italy.)	361
Nov. 29 (112)	<i>From the Chargé in Japan (tel.)</i> Information that the Foreign Minister remains of the same opinion and that the Japanese feel that nothing could be accomplished by outside pressure.	361
Nov. 29 (1054)	<i>From the Chargé in China (tel.)</i> Press dispatch from Moscow, November 28 (text printed), containing text of telegram from the Acting Foreign Commissar to General Chang Hsüeh-liang acknowledging receipt of the telegram of November 26 in which the Chinese declared acceptance of preliminary conditions: (1) restoration of <i>status quo ante</i> , (2) reinstatement of Soviet manager and assistant manager, and (3) release of imprisoned Soviet citizens.	362

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Nov. 29 (1058)	<i>From the Chargé in China (tel.)</i> Nonreceipt by the German Minister of confirmation of report that China has accepted Soviet terms.	363
Nov. 29	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the German Ambassador in which the Assistant Secretary replied to the Ambassador's inquiry concerning the status of the proposed declaration by stating that if the Soviet answer were satisfactory and the fighting ceased it would be better to say nothing whatever as to the action which had been contemplated.	363
Nov. 29	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Japanese Ambassador in which the Ambassador stated that, although the Japanese Foreign Minister's reply to the proposal for issuance of a statement was negative and indicated Japan's policy of watchful waiting, the Foreign Minister agreed with the proposal in principle.	364
Nov. 30 (1059)	<i>From the Chargé in China (tel.)</i> From Harbin, November 29: Information that Soviet airplanes have bombed Buketu; also that no official confirmation can be secured of reports that the Chinese have agreed to reestablish the <i>status quo ante</i> on the railway.	365
Nov. 30 (539)	<i>From the Chargé in France (tel.)</i> Readiness of the Foreign Minister to make the suggested statement.	365
Nov. 30 (1060)	<i>From the Chargé in China (tel.)</i> Understanding that the Chinese have not yet fully accepted the Soviet terms.	366
Nov. 30 (392)	<i>To the Chargé in France (tel.)</i> Intention of U. S. Government to communicate suggested statement directly to the Chinese Government and to ask the French Government to transmit statement to the Soviet Government; hope that the French Government will address the Chinese and Soviet Governments in the same sense. Instructions to advise the Foreign Office. (Similar telegrams to the diplomatic representatives in Germany, Great Britain, Italy, and Japan.)	366
Nov. 30 (393)	<i>To the Chargé in France (tel.)</i> Instructions to request the Foreign Office to transmit statement (text printed) to the Soviet Government.	367
Nov. 30 (399)	<i>To the Chargé in China (tel.)</i> Transmittal of statement to be delivered to the Chinese Government.	368

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1929 Dec. 1 (540)	<i>From the Chargé in France (tel.)</i> Advice that, because the day is Sunday and the Foreign Minister is absent, it will be impossible to have the statement prepared and forwarded to the Chinese and Soviet Governments before the next day; also, that the Foreign Office desires that publication of statement and transmittal of U. S. note to the Soviet Government be delayed.	368
Dec. 1 (246)	<i>From the Ambassador in Germany (tel.)</i> Information from the Foreign Minister that his Government had learned that the British, French, and Italian Governments while, like the German Government, approving the suggested statement in principle, deemed it wise to wait for results from the direct negotiations between the Chinese and Soviets.	369
Dec. 1 (394)	<i>To the Chargé in France (tel.)</i> Advice that publication of statement will be delayed until December 3, but that as communications were sent to Berlin, London, Rome, and Tokyo, it is possible that the news will break at any of those places.	370
Dec. 1 (1062)	<i>From the Chargé in China (tel.)</i> Press dispatch from Moscow, November 29 (text printed), stating that upon receipt from the German Ambassador of the Nanking Government's note of November 14, the Acting Foreign Commissar replied that as Marshal Chang Hsüeh-liang's acceptance of the preliminary conditions had already been received, the Nanking Government's proposals were of no avail. Press dispatch from Nanking, November 29 (text printed), denying that Marshal Chang has agreed to the preliminary conditions or that any differences have arisen between the Nanking and Mukden authorities on the railway matter.	370
Dec. 1	<i>To Certain Diplomatic Representatives (cir. tel.)</i> Instructions to inform the Foreign Office of the action taken by the U. S. Government in communicating declaration (text printed) to the Chinese and Soviet Governments and to express the hope that the government will, as a party to the Pact of Paris, take similar action. (Sent to the diplomatic representatives accredited to governments signatory to the Pact of Paris.)	371
Dec. 1 (1063)	<i>From the Chargé in China (tel.)</i> From Harbin, November 30: Telegrams from American missionary engaged in American Red Cross relief work at Buketu (texts printed), reporting on recent Soviet bombings and the need for additional funds, food, clothing, and housing for refugees; information that Mukden representatives have departed for Suifenho, or perhaps Habarovsk, to conduct preliminary peace negotiations.	373
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Dec. 2 (90)	<i>From the Ambassador in Italy (tel.)</i> Intention of the Italian Government to communicate statement to the Chinese and Soviet Governments and to make public its action.	374

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1929 Dec. 2 (541)	<i>From the Chargé in France (tel.)</i> Information that the French statements have been telegraphed to Moscow and Peiping.	375
Dec. 2 (356)	<i>From the Ambassador in Great Britain (tel.)</i> Information that the British Government will make statement to the Chinese and Soviet Governments along lines similar to U. S. statement.	375
Dec. 2 (248)	<i>From the Ambassador in Germany (tel.)</i> Foreign Office note (text printed), stating that, in view of reports that direct negotiations for the peaceful settlement of the Sino-Soviet controversy have been opened, the German Government wishes to reserve its decision as to the time and form of further steps in the matter.	376
Dec. 2 (399)	<i>To the Chargé in France (tel.)</i> Expression of appreciation for the prompt and successful manner in which the Chargé has executed instructions; authorization to convey to the Foreign Minister an expression of appreciation for his prompt and cordial cooperation.	377
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Dec. 2	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Japanese Ambassador in which the Assistant Secretary explained the action which had been taken by the U. S. Government and showed the Ambassador in confidence a copy of the statement to be issued to the press on December 3.	377
Dec. 2	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Minister stated the opinion that his Government's note of November 14 to the Soviet Government accorded with the Secretary's suggestion for conciliation and indicated willingness to resort to pacific means for settlement of the dispute.	378
Dec. 2 (1224)	<i>From the Minister in Canada</i> Advice that the Prime Minister approves the idea of the suggested statement and has the matter under consideration.	379
Dec. 3 (357)	<i>From the Ambassador in Great Britain</i> Advice that the British statement to the Chinese and Soviet Governments, published in the <i>Times</i> , is practically identical with the U. S. statement; that the Foreign Secretary stated in the House of Commons that the Government does not intend to call the attention of the League of Nations to this matter at this time.	379
Dec. 3 (1067)	<i>From the Chargé in China (tel.)</i> From Nanking, December 2: Understanding that the Central Government has given General Chang a free hand in negotiating with the Soviet Government and that he is reporting daily to the Central Government.	380

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Dec. 3 (1071)	<i>From the Chargé in China (tel.)</i> From Mukden, December 2: Report that Mukden replied to Moscow requesting appointment of a new manager and assistant manager and proposing to remove certain high Chinese railway officials. From Mukden, December 2: Understanding that no reply has been sent to Moscow but that the Mukden representatives have gone to Habarovsk.	381
Dec. 3 (114)	<i>From the Chargé in Japan (tel.)</i> Information that text of the statement has been delivered to the Foreign Minister and that the Japanese believe that the direct negotiations between the Mukden and Soviet authorities should remedy the situation by removing the cause of the present difficulties.	381
Dec. 3 (57)	<i>From the Minister in Czechoslovakia (tel.)</i> Advice that the Foreign Minister approves the U. S. Government's action and desires to cooperate.	382
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Dec. 3	<i>From the Chinese Minister</i> Communication from the Chinese Government (text printed) drawing attention of the cosignatories of the Pact of Paris to the fact that the acts and attitude of the Soviet Government are contrary to the provisions of the Pact and requesting that such action be taken as may be necessary and appropriate in view of article II.	383
Dec. 4 (1077)	<i>From the Chargé in China (tel.)</i> From Nanking, December 3: Understanding that the Foreign Minister denies that the Mukden authorities have committed themselves to an agreement with the Soviet Government on the Soviet terms and states that all that has been done is to agree to discuss points (1) and (2), no difficulty being expected over point (3).	384
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1929 Dec. 4 (1078)	<i>From the Chargé in China (tel.)</i> From Harbin, December 3: Information that the Mukden representatives are en route to Habarovsk, where it is expected they will discuss technical questions connected with the Soviet terms. From Harbin, December 3: Receipt of unconfirmed reports that the Mukden representatives have recrossed the frontier and are on their way back to Mukden.	385
Dec. 4 (68)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that the Foreign Minister is communicating with the Chinese and Soviet Governments and will issue a public statement.	386
Dec. 4 (84)	<i>From the Chargé in Poland (tel.)</i> Advice that the Foreign Minister stated that his Government would consider what action should be taken.	386
Dec. 4 (1084)	<i>From the Chargé in China (tel.)</i> Press dispatch from Moscow, December 3 (text printed), reporting signature at Nikolsk-Ussuriski of Sino-Soviet protocol in which the Chinese agreed to dismiss the Chinese chairman of the board of directors of the railway and the Soviets agreed to recommend candidates for the managership and assistant managership other than the present holders of those positions.	387
Dec. 4 (1083)	<i>From the Chargé in China (tel.)</i> Telegram from the Foreign Minister (text printed) stating, in reply to the U. S. Government's communication, that Chinese Government has maintained a peaceful attitude and has taken military action only for the purpose of self-protection, and that it will continue to adhere to this policy.	387
Dec. 4 (42)	<i>From the Minister in Portugal (tel.)</i> Intention of the Foreign Minister to act in conformity with U. S. action.	388
Dec. 4	<i>Statement by the Secretary of State Issued to the Press</i> Comment on the text of the Soviet memorandum of December 3 as reported in the press. (See telegram No. 550, December 7, from the Chargé in France, <i>infra</i> .)	388
Dec. 5 (11)	<i>From the Ambassador in Cuba</i> Cuban communications to the Chinese and Soviet Governments (texts printed).	389
Dec. 5 (40)	<i>From the Chargé in Albania (tel.)</i> Assurance by Foreign Minister that Albania will immediately comply.	390
Dec. 5 (1087)	<i>From the Chargé in China (tel.)</i> From Harbin, December 3: Return of the Mukden representatives to Harbin and departure for Mukden. From Harbin, December 4: Report in local press that Mukden representative declared that negotiations were not broken and were expected to continue smoothly.	390

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Dec. 5 (70)	<i>From the Minister in the Dominican Republic (tel.)</i> Decision of Foreign Minister, in view of press reports that the Chinese and Soviet Governments have signed a protocol, to withhold his proposed telegram pending developments.	392
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Dec. 5 (1093)	<i>From the Chargé in China (tel.)</i> From Mukden: Information regarding return of the Mukden representatives and nature of the preliminary agreement reached with the Soviet representatives.	394
Dec. 5 (144)	<i>From the Minister in the Netherlands (tel.)</i> Explanation by the Foreign Minister of the circumstances which prevented him from sending the promised telegram.	394
Dec. 5	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the German Ambassador, December 3, in which he explained that Germany's peculiar position with regard to both China and Russia prevented her from making the suggested communication.	395
Dec. 6	<i>From the Chargé in Liberia (tel.)</i> Intention of the Liberian Secretary of State to issue the suggested statement.	395
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1929 Dec. 6 (1094)	<i>From the Chargé in China (tel.)</i> From Harbin, December 5: Probability that the quick return of Mukden representatives means that they were told that no new conditions would be accepted by the Soviets; existence of popular local belief that if Mukden hesitates, Soviet airplanes will next visit Tsitsihar, where a panic among the troops would increase tremendously the danger of soldier rabble.	396
Dec. 6 (1095)	<i>From the Chargé in China (tel.)</i> From Mukden, December 5: Understanding that discussions over Soviet stipulations concerning the Soviet manager and assistant manager were continued, that Marshal Chang acquiesced in their appointment to other positions, and that the Chinese sent a reply in this sense to the Soviet telegram of November 27.	397
Dec. 6 (76)	<i>From the Minister in Egypt (tel.)</i> Advice that text of the Egyptian communication to the Chinese and Soviet Governments is substantially the same as the U. S. communication.	397
Dec. 6 (26)	<i>From the Minister in Hungary (tel.)</i> Concurrence of Foreign Minister in action taken by the U. S. Government, but belief that Hungary as a small power should await the action of other powers, especially since it does not maintain diplomatic relations with the Chinese or Soviet Governments.	397
Dec. 6	<i>From the Belgian Embassy</i> Expression of sympathy with the action taken by the U. S. Government and of satisfaction that at present the Sino-Soviet controversy seems to be the object of a pacific settlement.	398
Dec. 6 (32)	<i>From the Minister in Rumania (tel.)</i> Rumanian approval of action taken by the United States, and consideration of method of communicating Rumania's views to the Chinese and Soviet Governments in view of the fact that Rumania has no diplomatic representative in either country.	399
Dec. 6 (43)	<i>From the Minister in Portugal (tel.)</i> Information that the Foreign Minister is forwarding to the Minister a copy of the Portuguese statements sent to the Chinese and Soviet Governments.	399
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Dec. 7 (15)	<i>From the Minister in the Irish Free State (tel.)</i> Doubt of Minister for External Affairs, in view of the Soviet reply, that Free State support would now serve any useful purpose.	407
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Dec. 7 (75)	<i>From the Minister in Costa Rica (tel.)</i> Information that the Costa Rican Government has instructed its Minister at Paris to communicate its views to the Chinese and Soviet diplomatic representatives.	408
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Dec. 10 (1120)	<p><i>From the Chargé in China (tel.)</i> From Harbin, December 9: Information that Chinese officials of the railway are dejected and that it would appear that the Chinese authorities in general are willing to grant any Soviet demands in order to restore normal conditions in North Manchuria.</p>	412
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Dec. 12 (1129)	<i>From the Chargé in China (tel.)</i> From Harbin, December 11: Departure of Mukden representatives for Habarovsk. From Harbin, December 11: Information that the Mukden representatives are delayed near Pogramichnaya.	418
Dec. 12 (44)	<i>From the Minister in Austria (tel.)</i> Austrian memorandum (text printed), expressing conviction that the motive of the declaration by the U. S. and other Governments was to take all measures to apply the high ideals of the Pact of Paris.	418
Dec. 12 (1135)	<i>From the Chargé in China (tel.)</i> From Nanking, December 11: Confirmation by the Foreign Minister of press reports concerning settlement of the railway controversy, and additional advice that the Chinese and Soviet Governments had agreed that the former Soviet general manager was not to be reinstated.	419
Dec. 12	<i>Memorandum by the Secretary of State</i> Conversation with the Polish Minister in which the Minister stated that although it was felt it would now be unwise to send a message to the Chinese and Soviet Governments, his Government was in entire sympathy with the action taken by the U. S. Government.	419

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1929 Dec. 13 (60)	<i>From the Minister in Czechoslovakia (tel.)</i> Information from the Rumanian Foreign Minister, while he was in Prague, that the Polish Government had requested him to delay Rumanian representations to the Chinese and Soviet Governments for concerted action with Poland and the Baltic States but that the Foreign Minister had already instructed Bucharest to associate its action with U. S. action.	420
Dec. 13 (44)	<i>From the Minister in Portugal (tel.)</i> Advice that the Foreign Minister feels that the opportunity to act has passed and debates the wisdom of now sending a statement.	420
Dec. 13 (143)	<i>To the Chargé in Switzerland (tel.)</i> Desire that the Swiss Government make public the communiqué quoted in telegram No. 118, December 10. (Footnote: Publication set for December 16.)	421
Dec. 14 (99)	<i>From the Ambassador in Italy (tel.)</i> Note from the Albanian Legation containing notes for the Chinese and Soviet Governments (texts printed), which the Albanian Government requests the U. S. Government to forward.	421
Dec. 14 (21)	<i>From the Minister in Norway (tel.)</i> Opinion of the Norwegian Government that, in view of Sino-Soviet agreement, the suggested representations would seem inopportune.	421
Dec. 14	<i>From King Tafari Makonnen of Ethiopia to President Hoover (tel.)</i> Concurrence in U. S. declaration and authorization to communicate this view to the Chinese and Soviet Governments.	422
Dec. 15 (1151)	<i>From the Chargé in China (tel.)</i> From Harbin, December 13: Arrival of Mo Te-hui, reported appointed Chinese chief delegate to Sino-Soviet conference; departure of certain American and other consular officers and newspapermen via special car in endeavor to go as far west as possible to ascertain welfare of non-Russian foreigners in the Hailar region; assumption that the Mukden representatives have met the Soviet delegates.	422
Dec. 17 (1159)	<i>From the Chargé in China (tel.)</i> From Harbin, December 16: Arrival of consular and press representatives at Mientuho, beyond which Chinese authorities have no control; report that railway appears to be in good order to Manchuria Station and that situation there is quiet.	422
Dec. 18 (1160)	<i>From the Chargé in China (tel.)</i> From Harbin, December 17: Refusal of railway administration to take responsibility of dispatching the international car beyond Mientuho; observation that this is strong indication that Barga is no longer under Chinese control.	423
Dec. 18 (55)	<i>From the Chargé in Persia (tel.)</i> Inability of Persian Government to join in protest by the powers.	423

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1929 Dec. 18 (1166)	<i>From the Chargé in China (tel.)</i> From Harbin, December 17: Gist of the agreement signed at Habarovsk, as reported in the press.	424
Dec. 18 (1167)	<i>From the Chargé in China (tel.)</i> From Harbin: Information that the international car has been ordered by the Chinese military command to return to Buketu.	424
Dec. 19 (101)	<i>From the Minister in Latvia (tel.)</i> Opinion of Latvian Government that any communication on its part would be inopportune now that the Chinese and Soviet Governments are engaged in direct negotiations.	424
Dec. 20 (1171)	<i>From the Chargé in China (tel.)</i> From Harbin, December 19: Advice that the consular party is anxious to proceed to Yakeshi, where a motorcar for the trip to Hailar can be procured, but that Chinese military command is putting obstacles in the way.	425
Dec. 21 (1179)	<i>From the Chargé in China (tel.)</i> From Harbin: Expected return to Harbin of consular party, as Chinese military command at Buketu has refused to permit them to proceed; likelihood that there is some difficulty in the Sino-Soviet negotiations, possibly on account of alleged occupation of Barga by Red forces.	425
Dec. 23 (104)	<i>From the Minister in Latvia (tel.)</i> Estonian <i>aide-mémoire</i> , December 20 (text printed), stating that, in view of the direct negotiations now proceeding between the Chinese and Soviet Governments, the Estonian Government sees no advantage in issuing a statement.	426
[Dec. 23?]	<i>Statement by the Soviet Commissariat for Foreign Affairs</i> Announcement of protocol signed at Habarovsk, December 22, for settlement of the Sino-Soviet difficulties (text printed).	426
Dec. 24 (1189)	<i>From the Chargé in China (tel.)</i> From Harbin, December 22: Information that the international party returned to Harbin and that their trip was undoubtedly blocked by Chinese military on purpose; report that sound of airplanes and gunfire have still been heard at Yakeshi; also, that no preparations are being made by the military to clear the railway west of that point of irregulars or brigands.	429
Dec. 26	<i>Memorandum by the Secretary of State</i> Conversation with the French Ambassador in which the Ambassador advised that when the French Ambassador in Moscow presented the Rumanian statement to the Acting Foreign Commissar, the latter refused to receive it and then took it and tore it up.	430
Dec. 27 (106)	<i>From the Minister in Latvia (tel.)</i> Decision of Lithuanian Government to take no action in the Sino-Soviet dispute.	430
Dec. 27 (1192)	<i>From the Chargé in China (tel.)</i> From Harbin, December 27: Arrival of Chinese and Soviet party from Habarovsk and departure for Mukden to meet Marshal Chang.	430

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THE UNITED STATES FOR OBSERVANCE OF THE PACT OF PARIS—Continued

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1929 Dec. 28 (1195)	<i>From the Chargé in China (tel.)</i> From Harbin: Report that there are many cases of measles, relapsing fever, and smallpox among Russian refugees, and that consular corps has urged Chinese authorities to take measures against further spread of these diseases.	430
Dec. 28 (1196)	<i>From the Chargé in China (tel.)</i> Notification by Soviet Foreign Office to Japanese Embassy in Moscow that all troops in Manchuria were withdrawn on December 23.	431
Dec. 30 (1586)	<i>From the Chargé in Bulgaria</i> Information that the Soviet Embassy in Paris refused to accept the Bulgarian Minister's communication, and that the Soviet Chargé returned the communication to the Bulgarian Minister with a note (text printed) explaining that in the absence of official relations he could not receive or transmit the communication.	431
Dec. 31 (1206)	<i>From the Chargé in China (tel.)</i> From Harbin, December 30: Advice that the Chinese general manager handed over charge of the railway to the former Chinese assistant manager, in order to avoid direct handing over to the new Soviet manager.	432
1930 Jan. 2 (2)	<i>From the Chargé in China (tel.)</i> From Harbin, December 31: Return of Sino-Soviet party to Harbin. From Harbin, December 31: Information that the Soviet prisoners have been liberated; also, that a meeting of the new board of directors was held and that the new Soviet general manager and assistant manager assumed charge of administration of the railway.	432
Jan. 2 (336)	<i>From the Minister in Rumania</i> Statement issued by the Foreign Minister (text printed), commenting on the refusal of the Soviet Foreign Commissar to receive the Rumanian note.	432
Jan. 4 (19)	<i>From the Chargé in China (tel.)</i> From Harbin, January 3: Reappointment by Soviet general manager of former Soviet heads of departments who were discharged by Chinese authorities.	434
Jan. 6 (264)	<i>To the Chargé in Albania</i> Note for the Foreign Minister (text printed), advising that the situation which prompted U. S. action has materially changed due to progress of Sino-Soviet negotiations, and that the situation does not seem to require that further communications be sent at the present time. (Footnote: Similar information was communicated in a note to the Yugoslav Minister; also in instruction to the American Minister in Ethiopia.)	434

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Date and number	Subject	Page
1929 Jan. 4 (109)	<i>From the Consul at Foochow to the Minister in China</i> Note from the Dean of the Consular Corps to the Provincial Administrative Council of Fukien, December 31, 1928 (text printed), protesting against antiforeign demonstrations and requesting that action be taken to repress such demonstrations.	435
Jan. 17	<i>Memorandum by the Counselor of Legation in China</i> Conversation with the Foreign Minister at Nanking in which the Foreign Minister declared that it was the policy of the National Government to effect the complete restoration of all foreign properties occupied by the Chinese.	436
Jan. 23 (48)	<i>From the Minister in China (tel.)</i> From Shanghai, January 19: Notification from Woosung Fort (text printed) that passing foreign vessels must submit to inspection; request for instructions. To Shanghai: Information that the matter will be discussed in the diplomatic body; authorization to make informal representations to the Commissioner for Foreign Affairs, pointing out that under extraterritoriality provisions American merchant vessels are not subject to detention and search by military authorities, and also that under existing treaties U. S. naval vessels may not be in any way obstructed or detained in the carrying out of their official duties.	437
Jan. 24 (31)	<i>To the Minister in China (tel.)</i> Instructions to investigate reported capture by bandits of the Reverend Edward Young and to direct the Counselor of Legation, temporarily at Nanking, to bring the matter to the attention of the Nationalist Government.	438
Jan. 25 (52)	<i>From the Minister in China (tel.)</i> From Hankow, January 24: Information that the Reverend Edward Young is being held by Communists for ransom; also, that the Consul General has made direct representations to Nanchang and suggests that action be taken with the Nanking Government. To the Counselor of Legation, Nanking: Instructions to take up matter with the Foreign Minister.	439
Jan. 26 (35)	<i>To the Minister in China (tel.)</i> Approval of telegram sent to Shanghai, January 23.	439
Feb. 1 (76)	<i>From the Minister in China (tel.)</i> From Canton, January 31: Information that the Reverend Edward Young and a German missionary and family have been captured by Communist bandits; also, that the Consul General has requested local authorities to render all possible assistance. From Canton, January 31: Advice that news that bandits have released the German missionary and family leads to the hope that the American priest may soon be liberated. (Footnote: Promise by the Vice Minister for Foreign Affairs, January 26, to take immediate steps for the Reverend Edward Young's release.)	439
Feb. 4 (84)	<i>From the Minister in China (tel.)</i> From Hankow, February 3: Information that the American priest and the German missionary and family have been released.	440

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Date and number	Subject	Page
1929 Mar. 11 (166)	<i>From the Minister in China (tel.)</i> From Nanking, March 9: Request for permission, in the event certain suggested contingencies develop, to issue general advice to Americans to withdraw from Nanking. To Nanking: Authorization as requested.	440
Mar. 13 (93)	<i>To the Minister in China (tel.)</i> Approval of instructions sent to Nanking, March 11; authorization, in the event of emergency at Nanking or other consular posts, to instruct consular officers concerned to send their families temporarily to nearby places of safety.	441
Mar. 19 (660)	<i>From the Consul General at Hankow to the Minister in China</i> Information concerning American property still occupied by Chinese authorities.	441
Mar. 21 (197)	<i>From the Minister in China (tel.)</i> From Canton, March 20: Receipt of telegram from Bishop O'Shea at Kanchow stating that there is a Communist uprising in southern Kiangsi, several localities being burned and missionaries forced to flee; information that the Consulate General has requested local military authorities to issue orders to render assistance. Advice that the telegram from Canton is being repeated to the Consul General at Hankow, with instructions to make a like request to the appropriate military authorities.	442
Mar. 25 (213)	<i>From the Minister in China (tel.)</i> From Hankow, March 22: Telegram from Bishop O'Shea appealing for protection of life and property (text printed); renewal by Consul General of request for assistance of Kiangsi authorities. From Canton, March 23: Report from Bishop O'Shea that Americans and other foreigners are still safe but that situation is dangerous. From Foochow, March 23: Doubt that within the next week any local developments will arise which would seriously affect the safety of Foochow.	442
Mar. 25 (215)	<i>From the Minister in China (tel.)</i> From Chefoo, March 23: Desire for retention of U. S. S. <i>Trenton</i> at Chefoo, in view of possibility of trouble. Information that this telegram was repeated to the commander in chief of the Asiatic Fleet with a recommendation that a naval vessel be left at Chefoo pending outcome of the present situation.	443
Mar. 26 (104)	<i>To the Minister in China (tel.)</i> Concern of Sisters of Charity of St. Vincent de Paul regarding staff at Kanchow, Kiangsi. Instructions to direct appropriate consuls to obtain information; also instructions to make such representations to the Nanking authorities as may be considered advisable.	444

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1929 Mar. 28 (791)	<p><i>From the Consul General at Canton to the Minister in China</i> Transmittal of correspondence between the Consulate General and representatives of the American Catholic Mission in Kwangtung Province concerning intervention of a member of the mission in a case in Chinese courts affecting certain native converts. Information that the Consulate General advised that missionaries should refrain from interfering in judicial proceedings involving only Chinese interests. (Footnote: Reply by the Legation, April 15, approving position taken by the Consulate General.)</p>	445
Mar. 28 (231)	<p><i>From the Minister in China (tel.)</i> From Nanking, March 27: Information that, in view of reports of continued reverses of Government forces, the Consul is warning Americans in his district to be prepared to receive advice for a general evacuation. Repetition of this information to the commander in chief of the Asiatic Fleet, with renewal of Legation's urgent telegraphic request of March 26 (text printed) for dispatch of a U. S. naval vessel to Nanking.</p>	445
Apr. 1 (254)	<p><i>From the Minister in China (tel.)</i> Execution of instructions contained in Department's telegram No. 104 of March 26. From Nanking, March 31: Information that the Vice Minister of Foreign Affairs stated that communications with Kiangsi appeared to be broken but that somehow the Government would take all steps possible to protect American life and property.</p>	446
Apr. 6	<p><i>To the Vice President of the United Christian Missionary Society at Indianapolis</i> Opinion that an attempt to maintain American missionaries at Batang, Szechwan, will be attended with great difficulty and with risk to the missionaries themselves.</p>	447
Apr. 7 (267)	<p><i>From the Minister in China (tel.)</i> From Canton, April 1: Opinion that Bishop O'Shea and all Americans in south Kiangsi should be advised to leave. To Canton: Instructions to use own discretion with regard to giving the advice suggested.</p>	447
Apr. 8 (L-64)	<p><i>From the Consul at Nanking to the Minister in China</i> Continued occupation of American mission property at Showchow by the local Kuomintang chapter.</p>	448
Apr. 9 (270)	<p><i>From the Minister in China (tel.)</i> Advice from the Foreign Minister, April 3, that Kiangsi authorities had been instructed to investigate the situation and accord adequate protection to American citizens. From Canton, April 8: Intention to advise Bishop O'Shea that he and other Americans in southern Kiangsi should leave because situation will probably grow much worse with arrival of defeated Kwangsi troops.</p>	448

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Date and number	Subject	Page
1929 Apr. 11 (274)	<p><i>From the Minister in China (tel.)</i> From Hankow, April 10: Telegram from Bishop O'Shea (text printed) stating that the Communist army is approaching, that reinforcements are several days away, that the city is preparing for siege, and requesting that Nanchang authorities be urged to take prompt action. Information that the Nanchang authorities and Chiang Kai-shek have been requested to send sufficient troops to protect American lives and property, and that the Consul General concurs in Consul General Jenkins' recommendation to Bishop O'Shea to withdraw. From Canton, April 10: Similar telegram from Bishop O'Shea (text printed).</p>	449
Apr. 13	<p><i>To the Secretary of the International Missionary Council at New York</i> Telegram from the Consul at Chefoo, April 4 (excerpt printed), urging that pressure be brought through the home organizations on American missionaries who persist in remaining when advised to withdraw; request that mission organizations be notified of view of the Department of State that Americans should act in accordance with advice given by the consuls.</p>	449
Apr. 15 (279)	<p><i>From the Minister in China (tel.)</i> From Canton: Information that no reply has been received to communications to Bishop O'Shea requesting him to advise Americans to withdraw; opinion that Cantonese authorities are unable to send assistance. Repetition of this information to Hankow, with authorization to renew representations to Chiang Kai-shek for prompt action in protecting American lives and property.</p>	450
Apr. 15 (282)	<p><i>From the Minister in China (tel.)</i> To Hankow, April 12: Request for comments on telegram from the commander in chief, April 10 (text printed), stating intention to withdraw U. S. S. <i>Helena</i> from Hankow. From Hankow, April 13: Opinion that situation is so uncertain that naval vessel should be kept at Hankow. Repetition to the commander in chief of reply from Hankow, with expression of concurrence in judgment expressed therein.</p>	450
Apr. 15 (1175)	<p><i>To the Minister in China</i> Approval of Legation's instruction to the Vice Consul at Yunnanfu, February 21, to the effect that he has the responsibility for making decisions in the matter of issuance of travel passes to American citizens.</p>	451
Apr. 20 (298)	<p><i>From the Minister in China (tel.)</i> From Hankow, April 19: Recurrence of firing upon foreign ships between Shasi and Ichang.</p>	452
Apr. 22 (303)	<p><i>From the Minister in China (tel.)</i> From Hankow, April 21: Request to Chiang Kai-shek that relief be sent to Taoyuan, where situation is reported to be desperate; departure of British Consul and naval guard to render assistance to foreigners at Changteh.</p>	452

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Date and number	Subject	Page
1929 Apr. 29 (1199)	<i>To the Minister in China</i> Instructions for preparation by American citizens and firms of claims for damages suffered in Shantung during the Tsinan incident.	453
Apr. 30	<i>From the American Minister in China to the British Minister in China</i> Expression of appreciation for assistance rendered by British Consul and naval party in evacuating two Americans from Changteh.	454
May 9	<i>From the Consul General at Canton (tel.)</i> Report of efforts of foreign consuls and naval officers to avert threatening situation caused by three pro-Kwangsi gunboats which sought shelter from Government airplane bombardment by anchoring amidst foreign merchant vessels and refused to surrender.	454
May 11	<i>From the Consul General at Canton (tel.)</i> Details of successful efforts of the consuls and naval officers to induce the gunboats to surrender.	455
May 14 (159)	<i>To the Minister in China (tel.)</i> Authorization to inform the Consul General at Canton of the Department's commendation for the manner in which the incident of the gunboats was handled.	456
May 18 (397)	<i>From the Minister in China (tel.)</i> From Canton, May 17: Issuance of telegraphic advice to American women and children to depart to Hongkong, in view of expected attack on Wuchow, and request to commander of the South China Patrol for dispatch of the U. S. S. <i>Guam</i> to assist in the evacuation.	457
May 18 (400)	<i>From the Minister in China (tel.)</i> From Swatow, May 17: Request for presence of U. S. warship, in view of possibility of disorders at Swatow. Repetition of message to the commander in chief, with expression of concurrence.	457
May 19 (401)	<i>From the Minister in China (tel.)</i> From Canton, May 18: Information that Canton Government plans to close West River to merchant shipping and foreign warships for the next 14 days, when it hopes to capture Wuchow, but that it will permit evacuation of foreigners and allow passage of one gunboat to and from Wuchow for the purpose. Repetition of this information to the commander, South China Patrol.	457
May 22 (32)	<i>From the Consul at Tsinan to the Minister in China</i> Report that the looting and damaging of mission property at Loan and Showkwang has been brought to attention of the Commissioner for Foreign Affairs with the request that the Shantung authorities take immediate steps to protect American property and prevent recurrence of similar depredations.	458

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1929 May 23 (414)	<p><i>From the Minister in China (tel.)</i></p> <p>From Canton, May 22: Notification to Commissioner of Foreign Affairs that, while the powers will conform as far as practicable to the wishes of the Chinese authorities, their warships must continue to perform their duties as authorized under the treaties and that, should difficulties result in respect to either warships or merchantmen, the responsibility will rest with the Chinese authorities; desire for suggestions as to how merchant ships can meet the emergency.</p> <p>To Canton: Approval of action taken; information that if blockade continues unduly and American merchant shipping becomes acutely affected, the Legation will give further consideration to the question.</p>	459
May 24	<p><i>From the Consul General at Canton (tel.)</i></p> <p>Information that 6 Americans left Wuchow on the U. S. S. <i>Guam</i> and that apparently about 30 Americans have remained in spite of warnings.</p>	460
May 28 (426)	<p><i>From the Minister in China (tel.)</i></p> <p>From Amoy, May 27: Report that Communist force raided American mission at Lungyenchow, May 23, taking Dr. C. H. Holleman with them when they retired from the city; also, that Consul has asked authorities to secure Dr. Holleman's release and is endeavoring to inform General Chang Chen through the American Consul at Swatow.</p> <p>Repetition of this report to Nanking with instructions to request the assistance of the Foreign Minister in effecting Dr. Holleman's release.</p>	460
May 29 (431)	<p><i>From the Minister in China (tel.)</i></p> <p>From Swatow, May 28: Arrival of the U. S. S. <i>Tulsa</i>, May 21; probability that General Chang Chen will make a general attack on the Kwangsi forces immediately.</p>	461
May 31 (437)	<p><i>From the Minister in China (tel.)</i></p> <p>From Swatow, May 30: Departure of the <i>Tulsa</i> from Swatow; request for instructions whether to attempt to see General Chang Chen personally regarding Dr. Holleman; suggestion that the <i>Tulsa</i> return immediately to Swatow.</p> <p>To Swatow: Instructions to make every effort to reach Chang by special messenger or other means.</p> <p>Repetition of these telegrams to the commander in chief.</p>	462
June 1 (439)	<p><i>From the Minister in China (tel.)</i></p> <p>From Amoy: Advice that Dr. Holleman is at Engteng, that the mission is trying to arrange ransom, that his death may result if any attempt is made to use force, and that local authorities promise every assistance to secure his release.</p> <p>Repetition of message to Nanking with instructions to push representations to Foreign Minister for Holleman's immediate release.</p> <p>Repetition of message to Swatow with instructions to refrain from representations to General Chang Chen.</p> <p>Information to Amoy of action taken.</p>	463

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1929 June 3 (441)	<p><i>From the Minister in China (tel.)</i> From Swatow, June 1: Request for permission to comply with appeal of Commissioner of Public Safety that he be granted temporary asylum in the Consulate when Swatow is taken by the Cantonese.</p> <p>To Swatow: Opinion that the granting of the permission requested would constitute a dangerous precedent; willingness of Legation to request dispatch of war vessel to Swatow if Consul considers local situation threatens safety of American lives and property.</p>	463
June 3	<p><i>From the Consul General at Canton (tel.)</i> Unopposed occupation of Wuchow by Cantonese naval forces, and immediate reopening of river to navigation.</p>	464
June 5 (447)	<p><i>From the Minister in China (tel.)</i> From Amoy, June 4: Information that Dr. Holleman has escaped and is making his way to Swatow; also, that Chinese authorities and the consulates are endeavoring to render any assistance possible.</p> <p>(Footnote: Notification of Dr. Holleman's safe arrival at Amoy in telegram No. 501, June 24, from the Minister in China.)</p>	464
July 17 (L-764)	<p><i>From the Consul General at Hankow to the Minister in China</i> Suggestion that the Legation request of the National Government a number of proclamations, bearing the seal of the commander in chief of the army, navy, and aerial forces, forbidding the occupancy of American property by Chinese soldiers.</p>	465
Aug. 6 (1190)	<p><i>From the Consul General at Hankow</i> Observations on the occupation of American mission property in recent months and the extent to which the practice has been permitted to flourish under the National Government.</p>	466
Aug. 7 (L-785)	<p><i>From the Consul General at Hankow to the Minister in China</i> Suggestion that the Foreign Minister may wish to make a public pronouncement of the National Government's policy to restore to the owners all foreign-owned property; information that conditions with respect to the occupation of American property by Chinese soldiers and officials are extremely deplorable and show no improvement.</p>	470
Sept. 3 (2329)	<p><i>From the Minister in China</i> Opinion that initiative in the matter of claims for losses sustained by American citizens should not rest exclusively with the Department of State and that American citizens cannot divest themselves of the responsibility of deciding themselves whether they wish to prepare and have filed claims for losses incurred by them; request for Department's views.</p> <p>(Footnote: Concurrence in these views by the Department in instruction No. 1401, November 15.)</p>	471

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Date and number	Subject	Page
1929 Sept. 12 (867)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Protest against the unauthorized boarding and search by Shanghai military authorities of a vessel belonging to the American-owned Yangtze Rapids Steamship Co.; request for investigation of incident, punishment of military authorities involved, and issuance of instructions to prevent such illegal activities in the future.	472
Sept. 24 (870)	<i>From the Consul General at Canton to the Minister in China</i> Receipt of notice from the Commissioner of Foreign Affairs asking that foreigners be warned not to proceed to the interior without first consulting the responsible Chinese authorities; request to be advised what position the Legation should assume in connection with notices of this sort.	472
Sept. 25	<i>From the Consul in Charge at Swatow to the Minister in China</i> Capture by Communists of the city of Shanghang and destruction of American mission property.	473
Sept. 30	<i>General Order No. 3-29 of the United States Asiatic Fleet on "The Policy of the Fleet"</i> Statement of the general naval policy of the United States and policy of the units of the Navy on duty in China, together with specific instructions governing the employment of naval forces if required to protect American interests.	475
Oct. 1 (L-842)	<i>From the Consul General at Hankow to the Minister in China</i> Information that the total of foreign missionaries murdered in the consular district is now 7, including 3 Americans; advice that the Consul General has warned missionaries returning to the interior of the dangers which may confront them.	477
Oct. 1 (61)	<i>From the Vice Consul at Tsinan to the Minister in China</i> Information that American mission property at Ichowfu and Yih sien is occupied by Chinese troops and that the Vice Consul has notified the Shantung authorities and demanded immediate evacuation of the premises; request for opinion whether missionaries should be permitted to continue to communicate directly to the Foreign Minister concerning cases of occupation.	477
Oct. 2 (852)	<i>From the Minister in China (tel.)</i> From Canton, October 1: Request by Americans at Wuchow that gunboat be sent for their protection. Repetition of the message to the commander in chief. (Footnote: Information that the <i>Mindanao</i> arrived at Wuchow on October 5 and that a destroyer was expected at Canton.)	478
Oct. 8 (867)	<i>From the Minister in China (tel.)</i> From Hankow: Firing by Chinese troops on Yangtze Rapids vessel at a point 219 miles above Hankow; advice that Consul General has lodged official protest.	479
Oct. 9	<i>From the Minister in China to the Vice Consul at Tsinan</i> Opinion that no objection should be interposed if missionaries desire to take up cases of occupation of their premises direct with the Foreign Minister, but that they should be advised that such action might prejudice the Vice Consul's freedom of action in the matter.	479

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Date and number	Subject	Page
1929 Oct. 9	<p><i>From the Minister in China to the Consul General at Canton</i></p> <p>Nonobjection to Americans consulting local authorities before venturing into the interior; instructions, however, that in replying to the Commissioner for Foreign Affairs the Consul General should state his desire to be kept informed of conditions in the interior and also to state that the right of Chinese authorities either to authorize or forbid travel by American citizens cannot be admitted.</p>	480
Oct. 12 (881)	<p><i>From the Minister in China (tel.)</i></p> <p>Information that foreign steamship lines have been approached by military authorities at Chungking in regard to submitting bids for transporting troops; request for instructions concerning the advice to be given American shipping companies.</p>	481
Oct. 14 (333)	<p><i>To the Minister in China (tel.)</i></p> <p>Authorization to advise American shipping companies that the degree of protection the U. S. Government can afford them in their normal activities will be adversely affected to the extent that they allow themselves to become involved in Chinese military operations.</p>	481
Oct. 17 (6195)	<p><i>From the Consul General at Shanghai to the Minister in China</i></p> <p>Statement (text printed) concerning the increase in murders of foreigners and the apparent inability of the National Government to counteract the activities of organized bandit gangs.</p>	482
Oct. 25	<p><i>From the Minister in China to the Consul General at Shanghai</i></p> <p>Acknowledgment of receipt of communication from the commander of the Yangtze Patrol which states that protection will not be afforded to American vessels which contract to transport Chinese troops, arms, ammunition, or any non-commercial article such as opium; résumé of Department's instructions regarding attitude toward possible involvement of American shipping companies in Chinese military operations, and authorization to inform them in this sense if it should become necessary; reference to the Department of the question of transporting noncommercial articles such as opium.</p>	483
Oct. 26 (282)	<p><i>To the Ambassador in Great Britain (tel.)</i></p> <p>Instructions to express to the British Government the thanks of the U. S. Government for the action of H. M. S. <i>Cricket</i> in taking on board the Americans who were at Wuhu on October 18 when the city was in line of fire of opposing Chinese forces.</p>	483
Nov. 1 (L-97)	<p><i>From the Consul at Nanking to the Minister in China</i></p> <p>Observation that the foreign properties now occupied are held by civilian or semi-official organizations, with the exception of two properties re-occupied by troops.</p>	484
Nov. 9 (63)	<p><i>From the Consul General at Hankow (tel.)</i></p> <p>Information that the Reverend Mathias Kreutzin, an American citizen, has been captured by bandits and is being held for ransom, and that the Consul General has taken up the case with the Chinese authorities.</p> <p>(Footnote: Instructions by the Department in telegram No. 370, November 12, to report steps taken and results achieved looking toward release of Father Kreutzin.)</p>	484

CHINA

MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1929 Nov. 12 (64)	<p><i>From the Consul General at Hankow (tel.)</i> Information that Chinese authorities have sent a military expedition to secure release of Father Kreutzin; also, that 10 or 12 American missionaries are now concentrating at Hwashih-kang, to which place the U. S. S. <i>Panay</i> is en route. (Footnote: Telegram from the Minister in China, No. 996 of November 14, reporting that he had requested the Minister of Foreign Affairs to make every effort to effect the release of Father Kreutzin.)</p>	484
Nov. 12 (892)	<p><i>From the Consul General at Canton to the Minister in China</i> Transmittal of Consulate General's reply of October 23 to the Commissioner of Foreign Affairs regarding warning to foreigners not to proceed to the interior without first consulting Chinese authorities, and latter's reply of November 7; assumption that, as the Commissioner says nothing more about the necessity of obtaining "permission" from the local authorities, the correspondence may be allowed to rest where it stands.</p>	485
Nov. 14 (1399)	<p><i>To the Minister in China</i> Approval of instructions to the Consulate at Tsinan, October 9.</p>	485
Nov. 17 (67)	<p><i>From the Consul General at Hankow (tel.)</i> Information that bandits have reduced amount of ransom demanded for Father Kreutzin's release, and that Catholic Fathers feel confident that he will be released in a few days. (Footnote: Report by telegram No. 73, December 2, of the release and safe arrival at Tayeh of Father Kreutzin.)</p>	486
Nov. 19	<p><i>From the Consul General at Canton (tel.)</i> Receipt of official notification that West River is to be blockaded November 21 and closed to all shipping; information that the Consul General is taking the same attitude as adopted in May and is informing the U. S. S. <i>Mindanao</i>, which is en route to Wuchow; advice that the U. S. S. <i>Helena</i> is in port.</p>	486
Nov. 20	<p><i>From the Consul General at Canton (tel.)</i> Issuance by Chinese military authorities of orders to release Standard Oil Co. lighter <i>Denver</i> which was commandeered at Wuchow on November 17.</p>	487
Nov. 21	<p><i>From the Consul General at Canton (tel.)</i> Report from the <i>Mindanao</i> at Wuchow that Standard Oil Co. lighter <i>Denver</i> has been released and company's premises cleared of troops; also, that Cantonese troops have withdrawn, that the city will remain without protection until the Kwangsi forces arrive, and that the <i>Mindanao</i> will remain at inner Wuchow for the present.</p>	487

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1929 Nov. 22 (1030)	<p><i>From the Chargé in China (tel.)</i> Commander-in chief's instructions to naval vessels in South China to disregard West River restrictions and to operate at their discretion. Telegram from the Foreign Minister, November 21 (text printed), giving nature of the West River restrictions. The Chargé's intention to reply that Consul General at Canton is being instructed to make it clear that U. S. naval vessels must continue performance of their duties as authorized under treaties and that, should they be interfered with and difficulties result to either naval vessels or merchantmen, responsibility will rest with the Chinese authorities.</p>	488
Nov. 22	<p><i>From the Consul in Charge at Swatow to the Minister in China</i> Looting by communists of American mission at Shak Chin, Kwangtung, on November 1.</p>	489
Nov. 23	<p><i>From the Consul General at Canton (tel.)</i> Request to commander of <i>Mindanao</i> at Wuchow that he advise Americans to leave if possible, in view of announced intention of Cantonese authorities to bomb Wuchow from the air; warning to Cantonese that U. S. Government will expect that every precaution be taken to avoid harm to Americans and their property.</p>	489
Nov. 26	<p><i>From the Consul General at Canton (tel.)</i> Advice that Cantonese admiral promised that instructions would be given to avoid American property in Wuchow and was pleased to know that American-owned property would be marked by American flags spread on roof. Repetition of this information to the <i>Mindanao</i> at Wuchow.</p>	490
Nov. 26	<p><i>From the Consul General at Canton (tel.)</i> Information that Cantonese airplanes bombed Wuchow from the air, with no damage to foreign persons or property.</p>	490
Nov. 26 (388)	<p><i>To the Chargé in China (tel.)</i> Instructions that note to Foreign Ministry should emphasize intention of American naval authorities to conform to the wishes of Chinese authorities regarding navigation of West River as far as may be compatible with duties performed by the former under authorization of the treaties.</p>	490
Nov. 28 (1050)	<p><i>From the Chargé in China (tel.)</i> Information that the Chargé's reply to the Foreign Minister will use the phraseology contained in Department's telegram No. 388 of November 26, and will be telegraphed to the commander in chief and to the Consul General at Canton.</p>	491
Dec. 3 (1070)	<p><i>From the Chargé in China (tel.)</i> Instructions to the Consul at Nanking to deliver to the Foreign Minister a note (text printed), requesting, in view of capture by bandits of cities near Kanchow, Kiangsi, that steps be taken to protect American citizens at Kanchow.</p>	491
Dec. 4	<p><i>From the Consul General at Canton (tel.)</i> Arrival of the <i>Mindanao</i> at Canton, December 3, and report that all American missionaries on West River are safe.</p>	492

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1929 Dec. 4 (1076)	<i>From the Chargé in China (tel.)</i> Advice that, in response to communication from the Foreign Ministry stating that time limit for the blockade of West River is to be extended and requesting that American warships and merchantmen be instructed to refrain from navigation, the Chargé stated that the American authorities would be informed but re-affirmed the position taken in the Legation's recent note.	492
Dec. 5 (1092)	<i>From the Chargé in China (tel.)</i> To the commander in chief: Telegrams from the Consul at Nanking (texts printed) reporting that the Government is making large-scale preparations to deal with mutinous troops near Pukow and recommending the advisability of having an American naval vessel at Nanking; the Chargé's concurrence in the recommendation. (Footnote: Dispatch of U. S. S. <i>Tulsa</i> to Nanking.)	492
Dec. 7 (1099)	<i>From the Chargé in China (tel.)</i> From Hankow, December 6: Existence of tense situation at Ichang due to movement of rebellious troops in that direction; information that American and other foreign gunboats are standing by; also that U. S. S. <i>Guam</i> was fired on below Ichang the previous day.	493
Dec. 7 (1101)	<i>From the Chargé in China (tel.)</i> From Hankow, December 5: Advice that shipping is being heavily fired upon between Ichang and Itu, and that the <i>Guam</i> will escort American ships through the danger zone.	493
Dec. 8 (1107)	<i>From the Chargé in China (tel.)</i> To the commander in chief: Opinion that, if situation in the Yangtze region should result in local disorders and Chinese authorities cannot give adequate protection, Americans should be advised to withdraw to places where they can be protected or from which they may be evacuated.	494
Dec. 9 (1110)	<i>From the Chargé in China (tel.)</i> From Nanking, December 8: Information that the Consul has advised American women and children to withdraw, that a number have departed for Shanghai, and that the <i>Tulsa</i> has arrived. Repetition of this information to the commander in chief.	494
Dec. 9 (1112)	<i>From the Chargé in China (tel.)</i> Plan of commander in chief to leave Manila for Shanghai on December 11; dispatch of destroyer division to Chinese ports.	494
Dec. 9 (1420)	<i>To the Chargé in China</i> Information that the withholding of American naval protection from American vessels contracting to carry opium is in conformity with Sino-American treaties and American legislation; also, that there appears to be no objection to the withholding of such protection from vessels engaged in the transport of arms and munitions.	495

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1929 Dec. 10 (1119)	<p><i>From the Chargé in China (tel.)</i> From Shanghai, December 9: Decision of Consul General to reply to inquiries by stating that conditions throughout China are unsettled and that, while he knows of no concrete instance that would justify advising withdrawal from Soochow and Wusih to Shanghai, he dislikes to accept the responsibility of being the authority for the retaining at those places of women and children.</p>	495
Dec. 11	<p><i>To the British Ambassador</i> Information, in response to inquiry regarding measures contemplated or taken for the protection of American nationals in China, that it is U. S. policy to evacuate citizens from places of danger to places where they may be adequately protected and that no steps have been taken to add materially to the armed forces in China; memorandum showing distribution of U. S. land and naval forces in China (text printed).</p>	496
Dec. 12 (1130)	<p><i>From the Chargé in China (tel.)</i> From Nanking, December 11: Intention of evacuating Consulate and withdrawing all Americans in the event of an emergency. To Nanking: Approval of plan; repetition to Department of Consul's telegram and Legation's reply, and information to the commander in chief. (Footnote: Approval by Department in telegram No. 412 of December 12, of plan for evacuation of Consulate and withdrawal of Americans.)</p>	497
Dec. 13	<p><i>From the Consul General at Canton (tel.)</i> Absence of intimation of reopening of navigation on West River; departure of British gunboat for Wuchow with food for foreigners.</p>	498
Dec. 14 (1147)	<p><i>From the Chargé in China (tel.)</i> From Shanghai, December 11: Desire for approval of communication from the Consulate General to the senior American naval officer at Shanghai (text printed) suggesting that a naval vessel be anchored in front of the Shanghai Power Co. as a precautionary measure, particularly since the passing of that company to American ownership transfers the responsibility of protecting the light and power from an international to a single-power responsibility. From Shanghai, December 12: Observation that proposed berthing would not be unusual, as warships have frequently anchored there even during normal times. Information that the commander in chief is being advised and that the Chargé concurs in the views of the Consul General.</p>	498
Dec. 14	<p><i>Memorandum by the Assistant Secretary of State</i> Conversation with the Japanese Ambassador concerning British inquiries to both the U. S. and Japanese Governments as to measures contemplated for the protection of nationals in the present crisis in China.</p>	499

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MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION OF AMERICAN LIVES AND PROPERTY IN CHINA—Continued

Date and number	Subject	Page
1929 Dec. 18 (419)	<p><i>To the Chargé in China (tel.)</i> Information that Department does not disapprove the suggestion that an American naval vessel be anchored near the Shanghai Power Co., but believes that the duty of protecting this plant, along with other properties within the Settlement, rests first and primarily upon the Administration of the Settlement.</p>	500
Dec. 19	<p><i>From the Consul General at Canton (tel.)</i> Occupation of Wuchow by Cantonese forces and reopening of West River to traffic.</p>	500
Dec. 23 (1181)	<p><i>From the Chargé in China (tel.)</i> The Chargé's interpretation of the meaning of the comments contained in telegram of December 11 from the Consul General at Shanghai. Telegram from the commander in chief (text printed), stating that he informed the Consul General that it would be inadvisable to establish a precedent that the Navy was primarily responsible for protection of public works as such, and is of opinion that the matter is broader than the question of protection of American property. Comments by the Chargé and opinion that nature of action should depend upon character of the emergency; inquiry whether to repeat Department's telegram No. 419, December 18, to Shanghai.</p>	501
Dec. 27 (L-890)	<p><i>From the Consul General at Hankow to the Chargé in China</i> Information that the Consul General has protested to the local Commissioner of Foreign Affairs against bandit attack on Standard Oil Co. vessel <i>Mei Yun</i>, and against the firing upon the <i>Chi Ping</i> and <i>I Ping</i> as reported in telegram from the <i>Guam</i>, December 19 (text printed), and that no reply has been received to either protest.</p>	503
Dec. 30 (434)	<p><i>To the Chargé in China (tel.)</i> Instructions to repeat Department's telegram No. 419 of December 18 to Shanghai, adding that Department concurs in the view of the commander in chief that the matter is broader than question of protection of American property. (Footnote: Information that the Department's views were further stated in telegrams of January 29 and February 5, 1930.)</p>	503
Dec. 30 (L-891)	<p><i>From the Consul General at Hankow to the Chargé in China</i> Transmittal of letter from Bishop O'Shea in which he charges that the National Government has done little in south Kiangsi to justify its declarations to protect foreign lives and property, requests that the Government be informed that his mission will make claim for damages to its property, and further requests that the Government be urged to send reinforcements to south Kiangsi.</p>	504

CHINA

MURDER OF THREE AMERICAN CATHOLIC MISSIONARIES BY CHINESE
BANDITS

Date and number	Subject	Page
1929 Apr. 27 (34)	<i>From the Consul General at Hankow (tel.)</i> To Peking: Information that Fathers Walter Coveyou, Clement Seybold, and Godfrey Holbein, American citizens, were murdered by bandits at Chenki, Hunan, on April 24, and that matter has been taken up with Chinese authorities.	504
Apr. 29 (35)	<i>From the Consul General at Hankow (tel.)</i> To Peking: Understanding that the mission at Chenki has recovered bodies of the three missionaries; advice that Consul General has requested Ho Chien, Chairman of the Hunan Provincial Government, to apprehend and punish the bandits.	505
Apr. 30 (330)	<i>From the Minister in China (tel.)</i> Repetition to Nanking of Hankow's telegrams of April 27 and 29 with instructions (text printed), to request Foreign Minister to issue appropriate instructions to Chinese authorities.	505
May 3 (37)	<i>From the Consul General at Hankow (tel.)</i> Details of the murder of the three missionaries and arrangements for their burial; request that head of the religious organization be notified. (Repeated to Peking. Footnote: Information from the Minister, in telegram No. 350, May 4, that telegram was repeated to Nanking with instructions to make immediate representations to Foreign Ministry, and that Hankow Consulate General is to renew representations to Ho Chien.)	505
May 13 (379)	<i>From the Minister in China (tel.)</i> From Hankow, May 11: Report from Ho Chien that two bandits have been arrested and that the search is being continued for the remainder.	506
May 19 (402)	<i>From the Minister in China (tel.)</i> From Hankow, May 18: Execution of five persons implicated in the murder, retention of suspects, and continuation of search for other guilty parties. (Footnote: Repetition to the Department by the Minister, in telegram No. 468 of June 12, of telegram from Hankow, June 10, reporting that Chen Tsu-ming, leader of bandit gang, has been killed by soldiers sent to exterminate the gang.)	506
July 19	<i>From the Consul General at Hankow to the Chinese Commissioner of Foreign Affairs for Hunan</i> Receipt of information that Chen Tsu-ming has been neither executed nor apprehended and that none of the guilty bandits has been executed; request that the case be given further attention and that all the criminals implicated be brought to justice.	507
Aug. 12 (1320)	<i>To the Minister in China</i> Opinion that facts now in the Department's possession would not seem to warrant a demand for exemplary damages.	508
Aug. 16 (835)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Transmittal of copy of letter from the American Consul General at Hankow to the Commissioner of Foreign Affairs for Hunan, July 19, with request that steps be taken to insure that the murderers are apprehended and punished.	509

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MURDER OF THREE AMERICAN CATHOLIC MISSIONARIES BY CHINESE
BANDITS—Continued

Date and number	Subject	Page
1929 Sept. 13 (L-828)	<i>From the Consul General at Hankow to the Minister in China</i> Information that a reply has been received from the Commissioner of Foreign Affairs for Hunan, September 5, which states that Chen Tsu-ming, a bandit leader, was executed although it does not state that he was implicated in the murder, and also advises that suspects Chang Liu Lao Ko and Yang Ta-fong will be tried for the crime.	510
Oct. 17 (L-854)	<i>From the Consul General at Hankow to the Minister in China</i> Understanding that Chen Tsu-ming and Mao Chi-ying are still at large; receipt of communication from Commissioner of Foreign Affairs at Changsha stating that Chang Liu Lao Ko has been executed; instructions to Consul at Changsha to urge Ho Chien to renew efforts to capture Chen Tsu-ming and Mao Chi-ying.	511
Nov. 30 (932)	<i>From the American Chargé in China to the Chinese Minister for Foreign Affairs</i> Request that stringent orders be issued to Ho Chien to apprehend and punish Chen Tsu-ming and Mao Lien-ch'ang as well as others of the murderers still at large. (Footnote: Receipt by the Department in May 1930 of reports that Chen Tsu-ming was alive and continuing bandit activities; report in April 1931 that he had been received into the Chinese Army.)	512

DUAL NATIONALITY OF UNITED STATES CITIZENS OF CHINESE DESCENT

1929 May 17 (6178)	<i>From the Consul General at Shanghai</i> Request for instructions as to further course of action to be followed regarding the case of W. Y. Char, an American citizen of Chinese race, upon whom the Provisional Court imposed a three months' sentence, and who was released by police authorities of the International Settlement at request of the Legation.	513
July 16 (576)	<i>From the Minister in China (tel.)</i> From Shanghai, July 12: Information that Mr. Char was arrested in the Chinese-administered area and the Chinese authorities refused to release him, apparently intending to compel him to serve the three months' sentence; request that Department be informed and/or protest filed with Foreign Minister. From Shanghai, July 15: Suggestion that Foreign Minister be requested to instruct Chinese authorities at Shanghai to release Mr. Char on security, pending settlement of his citizenship status. Request for telegraphic instructions.	516
July 30 (652)	<i>From the Minister in China (tel.)</i> From Shanghai, July 29: Recommendation for early action on the Char matter in view of the important principle involved. Request for instructions.	517

CHINA

DUAL NATIONALITY OF UNITED STATES CITIZENS OF CHINESE DESCENT—Con.

Date and number	Subject	Page
1929 Aug. 15 (272)	<p><i>To the Minister in China (tel.)</i> Opinion that facts in the case, while not legally sufficient to effect Mr. Char's expatriation, warrant and justify U. S. Government's refusal to intervene in his behalf as an American citizen; instructions that the Legation and Consulate General should take no action to effect Mr. Char's release from custody of Chinese authorities; nonobjection, however, to participation of the Consul General in possible protest by consular body on the ground of alleged violation of the Mixed Court Rendition Agreement.</p>	518 .
Sept. 14 (826)	<p><i>From the Minister in China (tel.)</i> From Shanghai, September 12: Intention of informing Commissioner of Foreign Affairs that the U. S. Government considers Mr. Char to be a citizen of both China and the United States, but that, on account of his past conduct in emphasizing his Chinese citizenship, it will make no further request for his release. Information that the Minister replied, approving this view.</p>	518
Oct. 3 (853)	<p><i>From the Minister in China (tel.)</i> From Shanghai: Advice that Fong Koon Look, an American-born Chinese, has been sued in the Chinese district court and that judgment by default will be entered against him if he fails to appear; information that protest has been lodged with Commissioner of Foreign Affairs. Information that the case of Dr. T. C. Lieu in Shanghai is somewhat similar to the Char case but different in that Dr. Lieu has never identified himself with the Chinese Government or emphasized his Chinese citizenship. Request for instructions.</p>	519
Oct. 11 (332)	<p><i>To the Minister in China (tel.)</i> Instructions to accord Mr. Fong and Dr. Lieu the protection prescribed by extraterritoriality provisions, if it is true that they were born on American soil, are registered at the Shanghai Consulate General as American citizens, and have done nothing to emphasize their Chinese citizenship.</p>	520
Oct. 30 (6231)	<p><i>From the Consul General at Shanghai to the Minister in China</i> Information that Chinese authorities contend that Mr. Fong is a Chinese citizen because he has failed to secure a denaturalization certificate; observation that he cannot secure a denaturalization certificate so long as he is the defendant in a civil suit and has a judgment outstanding against him. Opinion that agreement should be reached with the Foreign Ministry in regard to the status of persons of dual nationality. Suggestion that all persons now registered at consulates or who register in the future might be advised to secure denaturalization certificates.</p>	520
Dec. 3 (1415)	<p><i>To the Chargé in China</i> Instructions to inform consular officers not to encourage American citizens of Chinese race to apply for denaturalization certificates but merely, if it becomes advisable to discuss the subject, to invite their attention to the applicable provisions of the Nationality Law.</p>	521

CHINA

CANCELATION OF THE EMBARGO ON SHIPMENTS OF ARMS TO CHINA AND TERMINATION OF THE AGREEMENT TO REFRAIN FROM ASSISTING CHINA IN NAVAL CONSTRUCTION

Date and number	Subject	Page
1929 Jan. 30 (68)	<i>From the Minister in China (tel.)</i> Favorable attitude toward suggested cancelation of the arms embargo of 1919.	523
Jan. 31 (42)	<i>To the Minister in China (tel.)</i> Readiness to arrange cancelation of the arms embargo.	523
Feb. 8 (94)	<i>From the Minister in China (tel.)</i> Report of discussions in the diplomatic body, February 7, of possible cancelation of the arms embargo and corollary agreement relative to the withholding of naval assistance from China; and proposed draft notifications to the National Government (excerpts printed).	524
Feb. 27 (76)	<i>To the Minister in China (tel.)</i> Information that the Department favors immediate cancelation of arms embargo and corollary agreement, and has no objection to draft communications quoted in telegram No. 94 of February 8.	525
Apr. 8 (2025)	<i>From the Minister in China</i> Receipt by British Minister of request from Chinese Foreign Minister that the embargo be lifted in view of the resumption of civil strife in China; nonreceipt by the American Minister of such a request.	526
Apr. 8	<i>Memorandum by the Secretary of State</i> Conversation with the German Ambassador in which the Ambassador stated that his Government was anxious to follow U. S. lead in the matter of the arms embargo and was advised that no step had yet been taken to abrogate it.	526
Apr. 9 (271)	<i>From the Minister in China (tel.)</i> Information from the Japanese Chargé that Japanese Foreign Office concurs in proposed cancellation of arms embargo but that the question must be discussed with other interested ministries and approved by the Cabinet.	527
Apr. 16 (287)	<i>From the Minister in China (tel.)</i> Receipt by British Minister of instructions to make formal notification at diplomatic body meeting, April 19, of desire to terminate arms embargo and corollary agreement, and failing unanimity, within one week thereafter to withdraw from embargo agreement; American Minister's intention to state position that, while preferring joint action, U. S. Government reserves right to withdraw from agreement and to rescind Executive Order of March 4, 1922, at any time after April 26.	527
Apr. 18 (128)	<i>To the Minister in China (tel.)</i> Approval of Minister's intention set forth in telegram No. 287 of April 16.	528
Apr. 18	<i>Memorandum by the Secretary of State</i> Conversation with the German Ambassador in which he stated that his Government had decided to lift the embargo May 1.	528

CHINA

CANCELATION OF THE EMBARGO ON SHIPMENTS OF ARMS TO CHINA AND TERMINATION OF THE AGREEMENT TO REFRAIN FROM ASSISTING CHINA IN NAVAL CONSTRUCTION—Continued

Date and number	Subject	Page
1929 Apr. 19 (295)	<i>From the Minister in China (tel.)</i> Decision of diplomatic body to notify Foreign Minister on April 26 of cancellation of arms embargo as of that date; adoption by the powers participating in the corollary agreement of a resolution terminating that agreement as of April 19.	529
Apr. 25 (137)	<i>To the Minister in China (tel.)</i> Instructions to telegraph what, if any, are present Government restrictions on importations of arms.	529
[Apr. 26]	<i>From the Senior Minister in China to the Chinese Minister for Foreign Affairs</i> Notification of cancellation of arms embargo agreement.	529
Apr. 27 (139)	<i>To the Minister in China (tel.)</i> Information that Presidential proclamation of March 4, 1922, regarding shipment of arms to China will be left undisturbed and that exports of arms and munitions of war for use of the Chinese Government will be authorized upon request by the Chinese Government through its representative in Washington, prospective exporters being required to secure export licenses from the Department of State.	530
Apr. 27	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the German Ambassador in which the Ambassador stated that, upon expiration of the German embargo law on April 30, his Government would have no authority to exercise control over German shipments of arms.	530
May 2 (339)	<i>From the Minister in China (tel.)</i> Telegram from the Consul at Nanking (text printed) advising that the Government is now preparing regulations governing importation and subsequent use of arms and ammunition, exclusive of importations for hunting or self-defense for which regulations are already in existence.	531
Sept. 20 (313)	<i>To the Minister in China (tel.)</i> Willingness to accept notification from Legation that Chinese Government has issued import permit as alternative to request for export to be made by Chinese Government through its representative in Washington; observation that prospective exporters will still be required to secure export licenses through Department of State; instructions to suggest procedure.	532
Oct. 5 (327)	<i>To the Minister in China (tel.)</i> Conclusion, after consideration of the Minister's suggested procedure and comments, that serious difficulties would arise if any alternative were authorized to requirements set forth in Department's telegram No. 139 of April 27; instructions to inform interested persons that export licenses will be issued only upon presentation of request by Chinese diplomatic representative at Washington.	532
Oct. 14 (1378)	<i>To the Minister in China</i> Observation that the requirement imposed as a condition precedent to the issuing of export licenses is in substantial accord with chapter II article 2, of the arms convention signed at Geneva in 1925.	533

CHINA

CANCELATION OF THE EMBARGO ON SHIPMENTS OF ARMS TO CHINA AND TERMINATION OF THE AGREEMENT TO REFRAIN FROM ASSISTING CHINA IN NAVAL CONSTRUCTION—Continued

Date and number	Subject	Page
1929 Nov. 15 (1400)	<i>To the Minister in China</i> Confirmation of Minister's conclusion that so far as American law is concerned American citizens are free to import arms into China from Europe.	534

ATTITUDE OF THE DEPARTMENT OF STATE IN REGARD TO THE PROMOTION OF SALES OF AMERICAN AIRCRAFT IN CHINA

1929 Mar. 16 (1146)	<i>To the Minister in China</i> Instructions to inform consular officers that, while the Department is anxious not to discourage their efforts to focus attention of prospective purchasers of commercial aircraft upon aircraft of American manufacture, they should observe scrupulous impartiality in assisting American competitors.	534
Apr. 6 (121)	<i>To the Minister in China (tel.)</i> Inability of Department to approve proposed rental or sale by Curtiss interests to Chinese interests of airplanes for an obviously military purpose.	536
May 15 (161)	<i>To the Minister in China (tel.)</i> Statement from the chairman of the board of Aviation Exploration, Inc. (text printed), that Chinese aviators will be used to the fullest possible extent in the company's enterprise; instructions to direct the Consul at Nanking to convey this message as from the company to such Chinese authority as he sees fit.	536
Oct. 12	<i>To the Consul at Nanking</i> Information that consular officers should not participate in negotiations for purchase by Chinese Government of arms or munitions of war. (Footnote: Request to the Minister in China, in instruction No. 1380, October 16, that consular officers be informed of this instruction.)	537

REDUCTION OF AMERICAN ARMED FORCES IN CHINA

1929 Jan. 2 (2)	<i>To the Minister in China (tel.)</i> Information that the commander in chief, Asiatic Fleet, has been authorized to withdraw the U. S. Marine force from Tientsin during latter part of January.	538
Jan. 8	<i>From the Minister in China to Brigadier General Smedley D. Butler, Commanding Third Brigade, United States Marines, Tientsin</i> Farewell message and expression of appreciation for the cooperation and services rendered by the Marines.	538
Feb. 7 (55)	<i>To the Minister in China (tel.)</i> Plan of Navy Department to withdraw three light cruisers from China on April 25.	539

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REDUCTION OF AMERICAN ARMED FORCES IN CHINA—Continued

Date and number	Subject	Page
1929 Apr. 24 (135)	<i>To the Minister in China (tel.)</i> Request for opinion regarding possible withdrawal of all or part of Marine force from Shanghai.	539
Apr. 30	<i>To the Secretary of the Navy</i> Opinion, in view of the resurgence of internal disorder in China, as reported by the Minister in China and Consul General at Canton, and the former's feeling that further reduction of Marine forces available for protection of American lives and property would involve grave risk, that the Marine force at Shanghai should not be withdrawn. (Footnote: Information from the Navy Department, March 4, 1930, that the Marine force at Shanghai consisted of about 1,200 men.)	539
May 2 (341)	<i>From the Minister in China (tel.)</i> From Shanghai, May 1: Recommendation for continuance of the Marines in Shanghai, and reasons for this view.	540

ATTITUDE OF THE DEPARTMENT OF STATE REGARDING CHINESE COMPLAINTS AGAINST MEMBERS OF THE AMERICAN ARMED FORCES IN CHINA

1929 Dec. 5 (1417)	<i>To the Chargé in China</i> Opinion that the suggested transfer to the U. S. Court for China of jurisdiction over cases of importance involving charges by Chinese against members of the U. S. armed forces in China would be inadvisable; request that the Chargé instruct consular officers to afford all possible assistance to U. S. military and naval authorities charged with responsibility for disposing of such cases.	542
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INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS BY THE UNITED STATES AND OTHER POWERS

1929 Jan. 5	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Chinese Special Representative who proposed conclusion of a simple treaty providing for termination of extraterritoriality on July 1, 1930, and presented two memoranda from the Chinese Legation (texts printed), one relating to the Chinese-Italian treaty of November 27, 1928, the other setting forth suggestion that the Chinese Government would take into its service for a 3-year period a number of foreign legal counselors to observe the working of Chinese courts and to make recommendations for improvement of laws and their administration.	543
Jan. 8	<i>From the Assistant Secretary of State to the Chief of the Division of Far Eastern Affairs</i> Inability to see any advantage in suggestion for foreign legal counselors.	546

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INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS
BY THE UNITED STATES AND OTHER POWERS—Continued

Date and number	Subject	Page
1929 Jan. 9	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Chinese Special Representative, at which the Assistant Secretary of State was also present, in which it was emphasized that the Department could not consider a proposal regarding relinquishment of extraterritoriality which would place Americans in a position less favored than that of nationals of the most-favored nation.	546
Jan. 10	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Chinese Special Representative in which the Chief of the Division of Far Eastern Affairs observed that the tentative proposal submitted on January 5 did not offer a basis for discussion and stated also, in response to inquiry as to what sort of working scheme would be required, that he had in mind provisions which would meet the situation reported on by the Extraterritoriality Commission in 1926 and which would carry out the recommendations of that Commission.	547
Jan. 11	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Chinese Special Representative, who inquired whether the Department would be willing to consider entering into a treaty similar to the Chinese-Italian treaty, and was advised that if the substance of a group of provisions, similar to that treaty, were informally and unofficially put in writing, it would be submitted to higher officers in the Department for consideration.	548
Feb. 19	<i>To the Japanese Embassy</i> Views on question of revision of treaties with China; expression of willingness to discuss extraterritorial matters informally with representatives of the Japanese and other governments.	549
Mar. 13 (173)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, March 12 (text printed), reporting Foreign Minister's understanding that the U. S. Government is exchanging views with other governments concerning abolition of consular jurisdiction and his expectation that foreign consular jurisdiction will be abolished before the first of the year.	554
Mar. 15 (6036)	<i>From the Consul General at Shanghai</i> Memorandum by Consul E. J. Jacobs (text printed) of interview by representatives of the Kemmerer Commission of Financial Advisers to the Chinese Government, March 12, regarding certain phases of extraterritoriality bearing on the question of enforcement of fiscal legislation.	554
May 2	<i>From the Chinese Minister</i> Note from the Chinese Government (text printed), requesting immediate and sympathetic consideration of desire that the restrictions on China's jurisdictional sovereignty be removed at the earliest possible date. (Footnote: Receipt by the Minister in China of a similar note, dated April 27.)	559

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INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS
BY THE UNITED STATES AND OTHER POWERS—Continued

Date and number	Subject	Page
1929 May 3 (146)	<i>To the Minister in China (tel.)</i> Request to be advised whether notes similar to the Chinese note of May 2 have been received by the Ministers of the United States, Great Britain, France, Brazil, Norway, and the Netherlands; invitation to submit comments or suggestions on reply to be made.	561
May 6 (355)	<i>From the Minister in China (tel.)</i> Receipt by the Minister of note dated April 27; receipt of similar notes by interested colleagues; intention of Senior Minister to call meeting of interested diplomatic representatives to exchange views.	561
May 7 (360)	<i>From the Minister in China (tel.)</i> Belief that the termination of extraterritoriality would be followed by a progressive intensification of ill-feeling between foreign nations and China; opinion of the Minister and his British, French, and Netherlands colleagues that replies should be substantially identical and should state that any modification is deemed premature pending further demonstration by Chinese judicial institutions of capacity to deal with cases that affect foreign interests.	562
May 9 (368)	<i>From the Minister in China (tel.)</i> Draft reply prepared by the American Minister and interested colleagues (text printed).	563
May 9 (2082)	<i>From the Minister in China</i> Opinion that essence of the problem is not a matter of codes and principles of law, but the question of their respect and proper application.	565
May 21 (406)	<i>From the Minister in China (tel.)</i> From Shanghai, May 20: Resolution by the American, British, French, and Japanese Chambers of Commerce, May 10 (text printed), petitioning the powers to refrain from modifying the existing status of foreigners in China until a further joint investigation shall have demonstrated China's fulfillment of the conditions indicated by the Extraterritoriality Commission.	566
May 21	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the First Secretary of the Japanese Embassy who inquired if the French Government had approached the U. S. Government on the subject of reply to the Chinese note, and also intimated that all the governments should work together.	567
May 22 (410)	<i>From the Minister in China (tel.)</i> Information that British draft reply, which is lengthy and argumentative, will be considered at a meeting of the interested diplomatic representatives; also, that the French Minister has been authorized to reply along lines similar to draft submitted in telegram No. 368 of May 9.	568
May 23 (413)	<i>From the Minister in China (tel.)</i> Preference of majority of interested diplomatic colleagues for draft reply submitted in telegram No. 368 of May 9.	569
May 27 (129)	<i>From the Chargé in Great Britain (tel.)</i> British draft reply (text printed).	569

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INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS
BY THE UNITED STATES AND OTHER POWERS—Continued

Date and number	Subject	Page
1929 May 31 (435)	<i>From the Minister in China (tel.)</i> Receipt by the Belgian and Japanese Ministers of confidential intimations that Chinese Government intends to declare the abolition of all extraterritorial rights next January 1.	572
June 8	<i>Memorandum by the Assistant Secretary of State</i> Conversation between the British Ambassador and the Secretary of State in which the latter stated that he would have to discuss the extraterritoriality matter with the President before any decision could be reached.	573
June 11 (1922)	<i>From the Minister in the Netherlands</i> Information that the Netherlands reply, sent to Peking, but not yet delivered, states in conciliatory terms that the Chinese demand cannot be accepted because a reasonable protection of Netherlands interests is deemed necessary.	574
June 13	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Netherlands Minister in which he stated hope that the powers would do nothing to give up the guarantees they had in China.	574
June 17	<i>From the American Chamber of Commerce at Hankow to President Hoover (tel.)</i> Opposition to any commitment by the U. S. Government tending to modify extraterritorial status.	575
June 21	<i>Memorandum by the Assistant Secretary of State</i> Conversation with Thomas F. Millard, Adviser to the Chinese Government, in which he stated that the present Government would and must demand immediate and unconditional surrender of extraterritorial rights.	575
June 25 (213)	<i>To the Minister in China (tel.)</i> Desire for opinion as to prospects for the future, especially in the event that the note recommended in telegram No. 368, May 9, be sent, and the Chinese denounce their extraterritoriality treaty with the United States.	577
July 5 (541)	<i>From the Minister in China (tel.)</i> Opinion that firm and definite action, inaugurated by dispatch of note along line recommended in telegram No. 368, May 9, especially in cooperation with Great Britain, France, Japan, and the Netherlands, would avert a premature forcing of the extraterritoriality issue.	578
July 9 (551)	<i>From the Minister in China (tel.)</i> French reply (text printed) to Chinese note of April 27, for delivery when the other replies are delivered.	580
July 9 (226)	<i>To the Minister in China (tel.)</i> Desire for information concerning Chinese evasion of obligations, before discussing present situation with the Chinese Minister; request for views in detail regarding recommendation for joint action with the powers, inasmuch as such action would involve substitution of a policy of international cooperation for the independent policy followed hitherto.	581

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INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS BY THE UNITED STATES AND OTHER POWERS—Continued

Date and number	Subject	Page
1929 July 10 (172)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to ascertain whether the recent change in the British Government might involve a change in their China policy.	583
July 15 (191)	<i>From the Ambassador in Great Britain (tel.)</i> Advice that the British attitude on the extraterritoriality question remains unchanged.	584
July 15 (573)	<i>From the Minister in China (tel.)</i> Information concerning principal evasions by the Chinese of general obligations; opinion that U. S. cooperation with other nations in protecting common interests or in preserving identical rights would not involve any reversal of policy; belief that it is not too late to avert a forcing of the extraterritoriality issue.	585
July 15 (574)	<i>From the Minister in China (tel.)</i> Netherlands draft reply (excerpt printed); information that the British, French, and Netherlands Legations are still holding their replies in the hope of being able to dispatch them simultaneously with the U. S. reply.	590
July 16 (195)	<i>From the Ambassador in Great Britain (tel.)</i> Information concerning British views on the extraterritoriality issue; also, Japanese views as expressed by the Japanese Ambassador in London.	591
July 17 (196)	<i>From the Ambassador in Great Britain (tel.)</i> Advice from the Foreign Secretary that the new government contemplates no change in their China policy but that the uncertainty of the Chinese situation might affect the present attitude.	592
July 18	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Japanese Ambassador who observed that the crux in the situation lay in the question of China's willingness to open China to foreigners if extraterritorial rights were given up, and stated his Government's belief that there should be some gradual relinquishment of extraterritorial rights.	593
July 23	<i>Memorandum by the Secretary of State</i> Conversation with the British Ambassador who expressed his Government's concern over the possibility that China might unilaterally denounce the extraterritoriality treaties, and inquired when the U. S. note would be dispatched, whether it was similar in nature to the other notes, and what U. S. plans were in case China should denounce the treaty.	594
July 29	<i>Memorandum by the Secretary of State</i> Conversation with the French Ambassador who presented a memorandum (text printed), expressing approval of dispatch of an identic note to the Chinese Government and stating hope that the U. S. Government would take a similar step.	595

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Date and number	Subject	Page
1929 Aug. 1 (254)	<p><i>To the Minister in China (tel.)</i> Draft reply for the Chinese Government (text printed), for consideration of the Minister's interested colleagues; observation that the Department concurs in British view that identic notes should be avoided.</p> <p>Information that copies of draft note are being communicated to the British and French Governments.</p> <p>(Instructions to repeat to Tokyo, requesting the Embassy to communicate copy of draft to the Foreign Office.)</p>	596
Aug. 6 (675)	<p><i>From the Minister in China (tel.)</i> Arrangements with interested colleagues for dating the notes August 10 and delivering them to the Foreign Office on August 12; advice that it has been understood all along that replies would not be identical, although of similar tenor.</p>	599
Aug. 15	<p><i>Memorandum by the Secretary of State</i> Conversation with the Chinese Minister in which the Minister expressed his disappointment over the U. S. note and the Secretary of State, while expressing regret, observed that the note contained a constructive suggestion relating to negotiations and a gradual termination of extraterritoriality.</p>	600
Aug. 19 (736)	<p><i>From the Minister in China (tel.)</i> Information concerning nature of Norwegian note dispatched August 15.</p>	600
Aug. 27	<p><i>Memorandum by the Assistant Secretary of State</i> Conversation with the Japanese Ambassador who inquired concerning a proposal for a warning to be served by the several interested powers upon China not to abrogate unilaterally her treaties, and was advised that the Secretary of State had not made any decision and had advised the American Minister that the matter might be brought up later and discussed if it was thought proper.</p>	601
Aug. 29	<p><i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Second Secretary of the French Embassy who inquired whether the U. S. Government had accepted the principle of simultaneous action with regard to a warning to China and was informed that the U. S. Government had not accepted the principle and that the Secretary of State had as yet made no decision or commitment.</p>	601
Sept. 3	<p><i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with Mr. Millard who urged that the United States do everything possible to encourage and strengthen the present Chinese Government and declared that the relinquishment of extraterritoriality was one of the most important factors.</p>	602
Sept. 10 (811)	<p><i>From the Minister in China (tel.)</i> Chinese note, September 5 (text printed), requesting the U. S. Government to enter into immediate discussions with the Chinese representative for making the necessary arrangements for abolition of extraterritoriality.</p>	604
Sept. 14	<p><i>Memorandum by the Secretary of State</i> Conversation with the Japanese Ambassador who stated that China claimed to have annulled the extraterritoriality rights of Japan but that Japan had not admitted it.</p>	607

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1929 Oct. 5 (861)	<i>From the Minister in China (tel.)</i> From Canton, October 4: Information from Nationalist officials that the Government had just considered abolition of extraterritoriality by mandate but preferred to negotiate for cancelation over a period of years, and that the Chinese notes were designed to open negotiations for foreign abolition.	607
Oct. 7 (865)	<i>From the Minister in China (tel.)</i> Tentative draft note (text printed) prepared for the interested Ministers by the Senior Minister, acknowledging Chinese note of September 5, and stating disposition to study any concrete proposals which take into consideration the main points of the previous note sent by each power. Decision of interested Ministers to renew suggestion that the Chinese representatives in the various capitals be warned of the seriousness with which Chinese repudiation or impairment of extraterritorial rights would be regarded.	607
Oct. 11 (329)	<i>To the Minister in China (tel.)</i> Understanding that proposal contained in telegram No. 865, October 7, is for individual, not identic, notes; approval of draft note, with modifications; authorization to convey separately the Secretary's suggestion that negotiations be held in Washington at a time convenient to the Chinese Government.	608
Oct. 17 (900)	<i>From the Minister in China (tel.)</i> Draft note (text printed) proposed by the British Minister in lieu of note set forth in telegram No. 865, October 7; inquiry as to acceptability.	609
Oct. 17 (901)	<i>From the Minister in China (tel.)</i> Opinion that the suggestions made in telegram No. 329, October 11, would not strengthen the position taken in U. S. note of August 10; recommendation that, before undertaking negotiations, the United States require from the Chinese a statement of their proposals.	610
Oct. 22 (342)	<i>To the Minister in China (tel.)</i> Information that last sentence in British draft note would not suffice for U. S. reply, as U. S. Government's note of August 10 did not predicate willingness to take part in negotiations upon condition that China should first communicate proposals; suggested substitution for the last sentence (text printed); withdrawal of instruction regarding a separate communication; instructions to proceed to prepare note.	611
Oct. 25 (927)	<i>From the Minister in China (tel.)</i> Information that the Minister informed his interested colleagues of the Secretary's views contained in telegram No. 342 of October 22 and offered, subject to the Secretary's approval, to delay note until November 1 in the hope of securing their cooperation in simultaneous dispatch.	612
Oct. 26 (351)	<i>To the Minister in China (tel.)</i> Approval of suggested delay.	613

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Date and number	Subject	Page
1929 Oct. 28 (354)	<i>To the Minister in China (tel.)</i> Belief that an offer of negotiations provides the sole possible means whereby denunciation of treaty provisions may be delayed and the period of transition protracted and ameliorated so as to safeguard, through a graduated process of relinquishment, the position of American citizens in China.	614
Nov. 2 (359)	<i>To the Minister in China (tel.)</i> Request to be advised what action has been or is being taken.	615
Nov. 4 (958)	<i>From the Minister in China (tel.)</i> Note to the Foreign Minister, November 1 (text printed).	616
Nov. 7 (970)	<i>From the Minister in China (tel.)</i> Information concerning nature of the British, French, and Netherlands replies of November 1.	617
Nov. 8	<i>Memorandum by the Counselor of Legation in China</i> Report of a meeting at the American Legation, November 8, of the American, British, Japanese, and Netherlands Ministers, a representative of the French Minister, and the American Counselor, in which the British Minister stated that he had been instructed to express preference for relinquishment of extraterritoriality by categories of jurisdiction rather than by the geographical method; views of the other participants, and the American Minister's preference for relinquishment by the geographical method as expressed in a memorandum which he read.	617
Undated [Rec'd Dec. 21]	<i>Memorandum by the Counselor of Legation in China</i> Statement of views concerning British Minister's instructions with regard to relinquishment of extraterritoriality. (Footnote: Information that copies of this memorandum were distributed at the meeting held on November 8 at the American Legation in China.)	618
Nov. 9 (977)	<i>From the Minister in China (tel.)</i> Information concerning discussion at Legation, November 8, of the British Minister's instructions with regard to relinquishment of extraterritoriality. Press dispatch from Nanking, November 7 (text printed), reporting that the Chinese Government believes the powers' replies offer a definite way for the abolition of extraterritoriality and has decided to adhere to original resolution to abolish consular jurisdiction on January 1, 1930.	620
Nov. 11 (320)	<i>From the Chargé in Great Britain (tel.)</i> Inability of British Government to accept proposals for abolition of extraterritoriality by geographical areas.	621
Nov. 11	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister who stated that he had been instructed to inform the Secretary of State that he was prepared to take up the discussion of abolition of extraterritorial rights in China.	621

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INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS
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Date and number	Subject	Page
1929 Nov. 14	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister who inquired when discussions could begin and was informed that as soon as the Secretary of State returned and could consider the matter, the Assistant Secretary would inform the Chinese Minister.	623
Nov. 15	<i>Memorandum by the Assistant Secretary of State</i> Conversation between the Acting Secretary of State and the British Chargé in which the Chargé stated that his Government desired an opportunity to present reasons for relinquishment of extraterritoriality by categories of jurisdiction rather than by geographical areas, and that although they had been approached by the Chinese to begin separate negotiations, they believed that negotiations should take place in China and should be conducted jointly with the powers.	624
Nov. 18	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the British Chargé who set forth the British point of view on ways of meeting Chinese desires regarding abolition of extraterritoriality.	624
Nov. 19 (1009)	<i>From the Minister in China (tel.)</i> Receipt by French and Netherlands Ministers of Chinese replies urging that they proceed to Nanking as soon as possible to discuss abolition of extraterritoriality; nonreceipt of notes by the American and British Ministers.	625
Nov. 20 (1014)	<i>From the Minister in China (tel.)</i> From Nanking, November 19: Information from the Foreign Minister that, owing to the fact that the American Minister was departing from Peiping, he had telegraphed his reply to the Chinese Minister in Washington for communication to the Department of State.	625
Nov. 20 (1018)	<i>From the Minister in China (tel.)</i> Local press dispatch (excerpt printed) stating that on November 18 the Foreign Minister reaffirmed determination to effect abolition of extraterritoriality by January 1, 1930.	626
Nov. 21	<i>Memorandum by the Assistant Secretary of State</i> Conversation between the Secretary of State and the Chinese Minister in which the latter inquired whether any decision had been reached with regard to the extraterritorial question and was told that the Secretary thought he had made his position clear in the note dispatched on November 1.	626
Nov. 21 (1024)	<i>From the Minister in China (tel.)</i> Press dispatch from Nanking, November 20 (text printed), stating that the Government had decided to issue a declaration on January 1, 1930, announcing abrogation of extraterritoriality, and that this did not mean abrogation of treaties but merely the clauses relating to exercise of extraterritorial rights.	627
Nov. 26 (1044)	<i>From the Chargé in China (tel.)</i> Report of meeting of interested Heads of Legation, November 25, in which French and Netherlands representatives stated views on British suggestions of a basis for extraterritorial negotiations, and the British Minister advised that his Government had warned the Chinese Minister in London against unilateral denunciation of extraterritoriality and had refused Chinese request to hold the negotiations in London.	628

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1929 Nov. 27 (1047)	<i>From the Chargé in China (tel.)</i> Press dispatch from Nanking, November 25 (text printed), stating that the Chinese Ministers in London and Washington have been instructed to request that delegates be appointed before January 1 to discuss settlement of the extraterritoriality question, and reporting Chinese decision to abolish consular jurisdiction on that date.	629
Nov. 29 (398)	<i>To the Chargé in China (tel.)</i> Information that the British suggestions regarding extraterritoriality are being considered but that the Department has not formulated its views in reply or committed itself in any way.	629
Dec. 2	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Assistant Secretary stated that in view of the fact that the Chinese Government had no suggestions to offer as to a method for the gradual relinquishment of extraterritorial rights, the responsibility for devising a method devolved upon the Department of State, and inquired as to what steps had been taken and what improvements had been achieved in the enactment and enforcement of a modern system of laws in China.	629
Dec. 3 (1074)	<i>From the Chargé in China (tel.)</i> Information from the British Minister that the Chinese Government had decided to abrogate extraterritorial rights on January 1, and would establish at Canton, Hankow, Harbin, Shanghai, and Tientsin modern courts in which foreign advisers would be employed; request for instructions regarding attitude which the Legation and consular officers are to take in event Chinese plans are carried out.	631
Dec. 3	<i>From the Chinese Minister</i> Memorandum from the Chinese Legation (text printed) outlining the progress of judicial reform.	632
Dec. 3	<i>From the French Embassy</i> Résumé of Foreign Minister's instructions to the French Minister in China regarding extraterritoriality. (Footnote: Transmitted to the Department of State by the French Ambassador with a note (excerpt printed) expressing desire for comment.)	634
Dec. 4	<i>To the British Chargé</i> <i>Aide-mémoire</i> (text printed) commenting on the British proposals for dealing with the question of extraterritoriality.	635
Dec. 5	<i>Memorandum by the Assistant Secretary of State</i> Conversation between the Secretary of State and the Chinese Minister in which the latter stated that he felt he was not making any great progress in his conversations with the Assistant Secretary, and the Secretary expressed the hope that they would find it possible to discuss the various matters frankly and come to some conclusion.	639

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1929 Dec. 7 (1104)	<i>From the Chargé in China (tel.)</i> Information that the British Minister is awaiting final instructions whether to proceed to Nanking to commence negotiations; also, that the French Government intends to reply to the Chinese note of November 26 by stating that the Chinese right to abrogate the extraterritorial rights of France on January 1, 1930, cannot be recognized and that the question can be determined only by juridical means.	639
Dec. 7 (1103)	<i>From the Chargé in China (tel.)</i> From Nanking, December 7: Opinion that Chinese Government is now uncertain as to its course. From Nanking, December 6: Statement by the Foreign Minister to J. B. Powell (text printed), declaring that if the United States, Great Britain, and France come to a definite understanding with China before January 1 on negotiations, China will not take unilateral action, but if they do not, Chinese public opinion may force the Government unilaterally to declare abolition of extraterritoriality.	640
Dec. 7 (409)	<i>To the Chargé in China (tel.)</i> Inability of Department to issue definite instructions regarding the hypothetical situation set forth in telegram No. 1074 of December 3; instructions, however, to recognize no change in present legal status of American citizens and property unless instructions to that effect are received.	642
Dec. 9	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Assistant Secretary observed that numerous instances have led Americans to be uncertain of ability of Chinese courts to protect them, and suggested the possibility that in the transition period it might be feasible to have Chinese law administered through the existing American courts in China; memorandum from the Chinese Legation (text printed) setting forth statistics on courts in China.	642
Dec. 10	<i>From the French Ambassador</i> Résumé, December 6, of instructions sent by the Foreign Minister to the French Ambassador in London, and note from the Foreign Ministry to the British Embassy at Paris, November 25 (texts printed), setting forth views on course of action.	647
Undated [Rec'd Dec. 12]	<i>From the Chinese Legation</i> Opinion that suggestion for application of Chinese law by American courts in China is hardly practicable or acceptable; reasons for this view.	651
Dec. 17	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister who presented a memorandum from the Legation (text printed), proposing that on January 1 all American nationals in China be subject to Chinese laws and courts, special courts to be established in certain cities to handle civil and criminal cases having Americans as defendants, with foreign legal advisers to observe proceedings.	651

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1929 Dec. 20	<i>To the French Ambassador</i> Comments on document received from the Ambassador on December 3; information that the Secretary is committed to entering upon negotiations at convenience of the Chinese Government and is considering various projects of possible courses alternative to Chinese proposal for immediate abolition of extraterritoriality.	653
Dec. 21	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Assistant Secretary explained the unacceptability of the Chinese proposal of December 17 and presented a memorandum of comment thereon (text printed) and a note (text printed) proposing entrance into an agreement for establishment of a commission to examine Chinese laws and to determine whether they are being effectively applied by the courts.	655
Dec. 21 (667)	<i>From the British Ambassador</i> Copy of <i>aide-mémoire</i> handed to the Chinese Minister in London by the Foreign Secretary, December 20 (text printed), which states willingness to enter into detailed negotiations, as soon as political conditions in China permit, with a view to agreeing on a method and program for gradual relinquishment of extraterritoriality, and declares willingness to agree that January 1 should be treated as the date from which the process of gradual abolition of extraterritoriality should be regarded as having commenced in principle.	657
Dec. 24 (1188)	<i>From the Chargé in China (tel.)</i> Information that the Foreign Minister, upon receiving text of the British <i>aide-mémoire</i> of December 20, stated that a declaration would be issued on December 31 to abrogate extraterritoriality effective 6 months thereafter.	659
Dec. 26	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister who presented a note (text printed) setting forth a counterproposal to the U. S. proposal of December 21.	660
Dec. 28 (1197)	<i>From the Chargé in China (tel.)</i> Understanding that the British Minister plans to depart for Nanking on January 2 to initiate negotiations for the gradual relinquishment of extraterritoriality.	661
Dec. 28	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Chinese Minister in which the Chief of the Division of Far Eastern Affairs stated that the Chinese counterproposal of December 26 was unacceptable, and presented to the Minister a revised proposal and also read to him a statement of the U. S. Government's views (texts printed <i>infra</i>).	662
Dec. 28	<i>To the Chinese Legation</i> Revised proposal for the gradual relinquishment of extraterritorial rights during a transitional period.	664
Undated	<i>To the Chinese Legation</i> Statement that the U. S. Government cannot as a matter of law, and is unwilling as a matter of policy, to assent to the abolition of extraterritorial rights other than by an agreed upon and gradual process.	665

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INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS
BY THE UNITED STATES AND OTHER POWERS—Continued

Date and number	Subject	Page
1929 Dec. 28	<p><i>From the Consul at Nanking (tel.)</i> Mandate issued by the Chinese Government (text printed), abrogating extraterritorial rights as of January 1, 1930, and directing the executive and judiciary branches to prepare a plan for execution of the mandate. (Footnote: Notation by the Chief of the Division of Far Eastern Affairs, December 30, expressing opinion that the declaration is comparatively harmless.)</p>	666
Dec. 29 (1200)	<p><i>From the Chargé in China (tel.)</i> Instructions issued to representatives at Nanking to make no acknowledgment of the Chinese mandate of December 28, and to maintain the same attitude as previously with regard to continuance and progress of negotiations. (Footnote: Information that the Department expressed approval of instructions.)</p>	667
Dec. 30	<p><i>From the Consul at Nanking (tel.)</i> Manifesto issued by the Foreign Minister (text printed) with regard to the mandate of December 28, stating readiness to consider and discuss any representations made with reference to the plan now under preparation.</p>	668
Dec. 30 (1204)	<p><i>From the Chargé in China (tel.)</i> Receipt by British Minister of telegram from the Chinese Foreign Minister (text printed), requesting the immediate initiation and conclusion of negotiations. Receipt by the French and Netherlands Ministers of similar telegrams.</p>	669
Dec. 30 (1205)	<p><i>From the Chargé in China (tel.)</i> From Shanghai, December 28: Press dispatch from Nanking, December 27 (text printed), regarding the meeting of the Central Political Council, at which the abrogation of extraterritoriality was decided, and the remarks of a Government spokesman concerning expectation of much from the understanding between the Chinese and U. S. Governments.</p>	670
Dec. 30	<p><i>From the French Embassy</i> Declaration by the Foreign Minister to the Chinese Minister at Paris that, in the absence of any precise proposals by the Chinese Government, the French Government did not find it possible to admit that January 1 should be the starting point of negotiations.</p>	670
Dec. 31 (435)	<p><i>To the Chargé in China (tel.)</i> Advice that the Department does not regard the Chinese mandate of December 28 as having altered the legal <i>status quo</i>.</p>	671
Dec. 31	<p><i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation with the Chinese Minister who stated that he would like to have it a matter of record that the U. S. Government approved, as had the British Government, the issuing of the declaration of December 28, and was advised that the statement of views read to him on December 28 and the proposals put forward in the recent conversations sufficiently indicated the U. S. Government's view.</p>	672

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INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS BY THE UNITED STATES AND OTHER POWERS—Continued

Date and number	Subject	Page
1929 Dec. 31 (439)	<p data-bbox="206 378 497 404"><i>To the Chargé in China (tel.)</i></p> <p data-bbox="206 404 852 552">Authorization to answer inquiries with the information that no agreement has been entered into, nor any encouragement given to the idea that the U. S. Government must assent to abolition of extraterritorial rights by unilateral action of China; information that conversations are being held with the Chinese Minister and that it is anticipated that the discussions will continue.</p>	674

ABOLITION BY CHINA OF OFFICES OF COMMISSIONERS OF FOREIGN AFFAIRS

1929 Sept. 10 (809)	<p data-bbox="206 661 543 687"><i>From the Minister in China (tel.)</i></p> <p data-bbox="206 687 852 751">Receipt of note from the Foreign Minister, August 17, announcing that offices of Commissioners of Foreign Affairs will be abolished; procedure therefor (text printed).</p> <p data-bbox="206 751 852 904">Exchange of telegrams between the Consulate at Nanking and the Legation, August 29 and September 3 (texts printed), regarding attitude to be taken in handling pending protection cases. Request for Department's approval of Legation's instructions that Consulate adopt a defensive attitude, seeking to protect American interests by dealing if possible with the highest local territorial official.</p>	675
Sept. 17 (309)	<p data-bbox="206 914 519 940"><i>To the Minister in China (tel.)</i></p> <p data-bbox="206 940 852 1091">Approval of Legation's position; suggestion that reply to the Foreign Minister advise that U. S. Government is prepared to cooperate with Chinese authorities with a view to bringing the new procedure into operation with a minimum of inconvenience, at the same time making full reservation of American rights under the treaties; authorization to discuss question with interested colleagues.</p>	677
Oct. 4 (856)	<p data-bbox="206 1100 543 1126"><i>From the Minister in China (tel.)</i></p> <p data-bbox="206 1126 852 1190">Draft note proposed to be forwarded to the Foreign Minister by the Senior Minister in the name of the diplomatic body (text printed); request for Department's approval.</p>	678
Oct. 10 (328)	<p data-bbox="206 1199 519 1225"><i>To the Minister in China (tel.)</i></p> <p data-bbox="206 1225 852 1289">Approval of substance of draft note; instructions to suggest certain changes in phraseology to ameliorate its peremptory tone; authorization to approve note with suggested changes.</p>	679
Oct. 30 (938)	<p data-bbox="206 1298 543 1324"><i>From the Minister in China (tel.)</i></p> <p data-bbox="206 1324 852 1371">Dispatch by the Senior Minister, October 28, of note embodying suggested changes.</p>	679
Nov. 12 (372)	<p data-bbox="206 1380 519 1406"><i>To the Minister in China (tel.)</i></p> <p data-bbox="206 1406 852 1492">Instructions to suggest to Foreign Office that, upon abolition of offices of Commissioners of Foreign Affairs, other officials be specifically authorized to issue Section Six certificates to Chinese citizens desiring to enter the United States.</p>	679
Nov. 14 (997)	<p data-bbox="206 1503 543 1529"><i>From the Minister in China (tel.)</i></p> <p data-bbox="206 1529 852 1593">Information that a note along the lines indicated in telegram No. 372 of November 12 was sent to the Foreign Ministry on October 22.</p>	680

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ABOLITION BY CHINA OF OFFICES OF COMMISSIONERS OF FOREIGN AFFAIRS—
Continued

Date and number	Subject	Page
1929 Dec. 13 (1140)	<i>From the Chargé in China (tel.)</i> Receipt of note from Foreign Minister dated December 3 stating that Section Six certificates will be issued by local organizations charged with the issuance of passports in accordance with the procedure quoted in telegram No. 809 of September 10.	680
Dec. 20 (422)	<i>To the Chargé in China (tel.)</i> Instructions to request from Foreign Minister a list of officials authorized to issue Section Six certificates; reference to Legation's despatch No. 39, December 17, 1913, transmitting list of officials authorized to issue the certificates and rules of the Department of Labor, October 1, 1926, governing the admission of Chinese.	681
Dec. 23	<i>From the Consul General at Canton (tel.)</i> Receipt of formal notice from the Commissioner of Foreign Affairs that his office will be closed on December 31, after which matters will be handled by the special municipal government of Canton; Consul General's intention to insist upon right to correspond and deal with the Governor and other high officials as conditions may require.	681
Dec. 27 (431)	<i>To the Chargé in China (tel.)</i> Advice that consular officers should be guided by principles enunciated in diplomatic body's note to the Foreign Minister, October 28, and that copy should be circularized to consular officers.	682
Dec. 30 (433)	<i>To the Chargé in China (tel.)</i> Instructions to direct consular officers to decline to visa Section Six certificates unless they are issued by authorized officials whose names are included in the list mentioned in telegram No. 422 of December 20, and until list has been approved by Department. (Footnote: Information that the Chinese Government thereafter authorized duly designated officials to issue Section Six certificates.)	682
NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI		
1929 May 18 (399)	<i>From the Minister in China (tel.)</i> Note from the Foreign Minister, May 8 (text printed), proposing that negotiations be entered into for the purpose of reorganizing the Provisional Court at Shanghai, and advising that similar notes have been sent to Ministers of the other interested powers; transmittal of draft reply prepared by the Senior Minister. Repetition of note and draft reply to the Consul General at Shanghai for comment.	682

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1929 June 11 (461)	<i>From the Minister in China (tel.)</i> Note from the Senior Minister to the Foreign Minister, June 7 (text printed), stating that the interested Ministers are of the opinion that reorganization should be examined by a commission composed of their local representatives and Chinese representatives, and that the conclusions reached should be submitted to the several Ministers and to the Chinese Government.	683
June 29 (520)	<i>From the Minister in China (tel.)</i> From Shanghai, June 28: Letter from the Commissioner of Foreign Affairs to the Senior Consul (text printed), stating that the provisional agreement for the rendition of the Shanghai Mixed Court is deemed inapplicable under the present circumstances.	684
July 2 (532)	<i>From the Minister in China (tel.)</i> Telegram from the Senior Consul at Shanghai to the Senior Minister, June 29 (text printed), containing text of Senior Consul's reply to the Commissioner of Foreign Affairs in which it is stated that letter of June 28 is presumed to be intended as the notice provided for in article 7 of the rendition agreement of August 31, 1926.	685
July 11 (558)	<i>From the Minister in China (tel.)</i> Note from the Foreign Minister to the interested Ministers, July 3 (text printed), stating inability to concur in suggestion for study of question by Legations' local representatives and expressing hope that negotiations will be opened directly with the Foreign Ministry. Draft reply by the Senior Minister (text printed), requesting reconsideration of proposal for study of question by a joint commission in Shanghai; American Minister's request for Department's approval of draft reply.	685
July 25 (626)	<i>From the Minister in China (tel.)</i> Adoption by diplomatic body of alternative text of draft reply presented by British Minister (text printed), stating that while the interested Ministers adhere to preference for study of question in the first instance by a joint local commission they reaffirm willingness to enter into negotiations in accordance with article 7 of the 1926 agreement and await receipt from the Chinese Government of such concrete proposals as might furnish a basis for the negotiations. (Footnote: Information that note as sent was dated August 2.)	687
July 27 (251)	<i>To the Minister in China (tel.)</i> Acceptability of draft note contained in telegram No. 626 of July 25.	689
Aug. 20 (277)	<i>To the Minister in China (tel.)</i> Observations on negotiations and request for Minister's comments in regard to methods of procedure and subject matter.	689

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1929 Aug. 31 (777)	<i>From the Minister in China (tel.)</i> Memorandum by the Senior Minister of conversation with the Councilor of the Judicial Yuan, July 29 (text printed), in which the latter stated that the Foreign Minister requested the interested Ministers or their personal representatives to proceed to Nanking to begin negotiations at once and advised that the appointment of consuls general at Shanghai would be unacceptable, and the Senior Minister replied that it was essential that the Foreign Minister reply to note of August 2 and make concrete proposals, and also that the Foreign Minister could not lay down rules as to who could or could not be appointed as representatives to the negotiations.	690
Sept. 4 (6111)	<i>From the Consul General at Shanghai to the Minister in China</i> Comments on the questions raised in Department's telegram to the Minister, No. 277 of August 20.	692
Sept. 10 (302)	<i>To the Minister in China (tel.)</i> Opinion that the powers should manifest a disposition to discuss the question promptly and not stand on technicalities of procedure; instructions to inform colleagues and Foreign Minister of readiness to proceed to Nanking or to send a representative thereto.	694
Sept. 12 (820)	<i>From the Minister in China (tel.)</i> Note from the Foreign Minister, September 6 (text printed), requesting that representatives be sent to Nanking by September 23 for the purpose of opening discussions, and stating belief that the Settlement judicial machinery should be abolished and endeavor made to establish an entirely new court adapted to the judicial system of China.	695
Sept. 14 (829)	<i>From the Minister in China (tel.)</i> Information concerning tentative plan of action formulated by the Minister and certain of his colleagues; request for authorization to proceed along these lines; opinion that the direction in which the matter is developing makes it inadvisable to execute instructions contained in telegram No. 302, September 10, unless specifically instructed to do so.	696
Sept. 19 (834)	<i>From the Minister in China (tel.)</i> Reply by Senior Minister to the Foreign Minister (excerpt printed), stating that, as the proposal contained in note of September 6 opens fresh ground and requires fullest consideration, it will not be feasible to begin discussions by September 23.	698
Sept. 20 (312)	<i>To the Minister in China (tel.)</i> View that an entirely new court should be substituted for the old and the present court; authorization, however, to discuss with colleagues the plan outlined in telegram No. 829 of September 14; opinion that the diplomatic body is unduly meticulous, if not querulous, and that the U. S. Government's wish to be responsive should be demonstrated both to the Minister's colleagues and to the Foreign Minister.	699
Sept. 28 (2354)	<i>From the Minister in China</i> Inability to understand the Department's assumption that the Legation has been diverted from carrying out the liberal intentions of the U. S. Government by permitting itself to be dominated by reactionary influences.	700

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1929 Sept. 30 (6164)	<p><i>From the Consul General at Shanghai to the Minister in China</i> Transmittal of text of note to the Commissioner of Foreign Affairs for Kiangsu, September 24, protesting against delay in the hearing of American civil cases in the Appeal Court of the Bureau of Foreign Affairs and requesting return of such cases to the Provisional Court for retrial.</p>	702
Oct. 9 (875)	<p><i>From the Minister in China (tel.)</i> Preparation by committee appointed by interested Ministers of a draft proposal, entitled "Scheme A", for establishment of a new court, and an alternative proposal in form of instructions for revision of Provisional Court agreement; information that the two proposals will soon be considered by the six interested Ministers and later by the entire diplomatic body.</p>	702
Oct. 10 (876)	<p><i>From the Minister in China (tel.)</i> Scheme A and notes containing additional suggestions for possible use in negotiating a new agreement (texts printed).</p>	703
Oct. 15 (335)	<p><i>To the Minister in China (tel.)</i> Authorization to join interested colleagues in proposing Scheme A to the Chinese Government; comments on certain of its provisions.</p>	707
Oct. 31 (942)	<p><i>From the Minister in China (tel.)</i> Proposal by British Minister (excerpt printed) that the Chinese Government be informed that the interested Ministers have completed their preliminary study and are ready to open negotiations; his declaration, also, that presentation of any plan such as Scheme A must be done apart from joint negotiations and must not commit the British representative to responsibility therefor. Note from the Senior Minister to the Chinese Foreign Minister (text printed), stating readiness of interested Ministers to begin negotiations. Request for authorization to designate as American delegates Edwin S. Cunningham, Consul General at Shanghai, Joseph E. Jacobs, Consul at Shanghai, and Howard Bucknell, Jr., Second Secretary of Legation. Request for authorization for American delegates to submit Scheme A for consideration if and when a suitable opportunity is presented.</p>	708
Nov. 2 (360)	<p><i>To the Minister in China (tel.)</i> Authorization to name two or three delegates from a list containing names of Judge Milton D. Purdy, Mahlon F. Perkins, Counselor of the Legation, Messrs. Bucknell and Jacobs. Opinion that Consul General Cunningham should participate as an authorized but undesignated adviser, and that the delegation should not at the outset or at any given moment submit a plan worked out and agreed upon among the principal foreign Ministers.</p>	710
Nov. 6 (965)	<p><i>From the Minister in China (tel.)</i> Information that interested Ministers are appointing their respective Consuls General at Shanghai; renewal of request for authorization to designate Consul General Cunningham. Recommendation that American delegates be acquainted with reasons for Department's apprehension underlying instructions of telegram No. 360 of November 2, but that they be authorized to treat the matter at their discretion.</p>	710

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1929 Nov. 8 (366)	<i>To the Minister in China (tel.)</i> Acquiescence in appointment of Consul General Cunningham, provided Judge Purdy or Counselor Perkins is made the ranking delegate; permission to authorize American delegates to depart from course outlined in telegram No. 360, November 2, if circumstances make it advisable to do so.	711
Nov. 9 (976)	<i>From the Minister in China (tel.)</i> Receipt from Foreign Minister of telegram announcing that conference at Nanking will begin November 19 and requesting names of Legation's staff representatives. Receipt by Senior Minister of personal message for the Foreign Minister stating desire that no consular officers be appointed as delegates; Senior Minister's personal message in reply, to the effect that he would strongly urge Foreign Minister not to stand upon so preposterous and obstructive a suggestion.	712
Nov. 12 (983)	<i>From the Minister in China (tel.)</i> Designation of Consul Jacobs and Secretary Bucknell as delegates; request for approval of plan to send Mr. Bucknell to Shanghai, November 14, for consultation with Consul General Cunningham and Consul Jacobs. (Footnote: Information that Department expressed approval in telegram No. 374, November 13.)	712
Nov. 14 (1000)	<i>From the Minister in China (tel.)</i> Information that on November 11 the Senior Minister notified the Foreign Minister of names of the American, British, French, Japanese, and Netherlands delegates. Foreign Minister's reply, November 13 (text printed), stating that the treaty with Japan having expired, Japan had not been invited to participate, pointing out that American and British delegates are acceptable provided the Legation officials are named the ranking delegates, and requesting that, in the case of France and the Netherlands, Legation officials be substituted or added to the delegations as ranking members. Draft reply by Senior Minister (text printed), stating that Japan is entitled to participate and that the delegates already named bear a diplomatic character by reason of appointment as special representatives of their Legations. Request for approval of draft note.	713
Nov. 16 (377)	<i>To the Minister in China (tel.)</i> Instructions to join in note if Japanese Government indicates desire to participate in negotiations.	714
Nov. 18 (1004)	<i>From the Minister in China (tel.)</i> From Jacobs and Bucknell: Advice that, pending further instructions by the Legation, American delegates will not proceed to Nanking, and that other delegates are taking similar action. Information that the Minister sent telegraphic approval.	715

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1929 Nov. 18 (1005)	<i>From the Minister in China (tel.)</i> Despatch from the Consul General at Shanghai (excerpt printed) reporting that he unsuccessfully endeavored to convince the Commissioner of Foreign Affairs that the American consular official had the right to try cases jointly with the Chinese judge and that the Commissioner refused to return pending cases to the Provisional Court for retrial. Request by the Consul General and the Minister for instructions.	715
Nov. 19 (1010)	<i>From the Minister in China (tel.)</i> Telegram from the Peiping Bureau of the Foreign Ministry (text printed) containing text of instructions from Nanking to notify names of Chinese delegates to the American, Brazilian, British, French, Netherlands, and Norwegian Legations. Decision of interested Ministers to send draft message quoted in telegram No. 1000, November 14, when British Minister has received instructions. From Shanghai: Departure of Japanese Consul General for Nanking to discuss with Foreign Minister personally the question of Japanese participation in negotiations.	716
Nov. 20 (1012)	<i>From the Minister in China (tel.)</i> From Nanking, November 19: Report that the Japanese Consul General has urged the Chinese Foreign Minister to permit Japanese representatives to participate in the negotiations but that he has refused.	717
Nov. 21 (382)	<i>To the Minister in China (tel.)</i> Importance of reaching agreement with the Chinese at an early date; opinion that negotiations might well be begun by American, British, French, and Netherlands delegates.	717
Nov. 21 (1022)	<i>From the Minister in China (tel.)</i> From Jacobs and Bucknell, Shanghai, November 20: Information from the Japanese Consul General that Foreign Minister is willing to conduct separate negotiations with the Japanese but refuses to admit them to joint negotiations.	718
Nov. 24 (1037)	<i>From the Chargé in China (tel.)</i> Information that draft note quoted in telegram No. 1000, November 14, was dispatched on November 22, and that all the delegates have remained in Shanghai because of questions raised by the Foreign Minister in his reply to Senior Minister, November 13.	718
Nov. 25 (1041)	<i>From the Chargé in China (tel.)</i> Intention of Japanese to press the Chinese in matter of participation, but nonobjection to commencement of negotiations by the other delegates; decision of interested Ministers to await reply to their note to the Foreign Minister, November 22; Chargé's intention to concur in dispatch of further protest to Foreign Minister if he should persist in refusing to admit Japanese participation.	719
Nov. 26 (1043)	<i>From the Chargé in China (tel.)</i> From Shanghai, November 25: Letter from Kiangsu Provincial Government to the Shanghai Provisional Court (text printed) announcing that from January 1, 1930, the Court shall be directly subordinate to the Central Government.	720

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1929 Nov. 27 (389)	<i>To the Chargé in China (tel.)</i> Opinion, in connection with situation reported in telegram No. 1005, November 18, that it would be preferable to rely on the rendition agreement rather than on the treaty and that present difficulty may best be overcome by endeavoring to have cases returned to Provisional Court for retrial before a different judge and consular officer or by designating a different consular officer in appeal court.	720
Nov. 28 (1052)	<i>From the Chargé in China (tel.)</i> Advice that Foreign Minister replied, November 26, refusing to permit Japanese participation, but consenting not to maintain his former point of view regarding question of rank of delegates. Plan of interested Ministers to reply to Foreign Minister by reaffirming previous position with regard to Japanese participation but stating that, in view of reluctance of Japanese to cause delay, delegates are being instructed to proceed with commencement of negotiations.	721
Dec. 2 (1066)	<i>From the Chargé in China (tel.)</i> Dispatch on November 30 of message outlined in telegram No. 1052, November 28. (Footnote: Information that negotiations were set to commence on December 9.)	722
Dec. 3	<i>Memorandum by the Assistant Chief of the Division of Far Eastern Affairs</i> Receipt from the Navy Department of a telegram from China, November 30, stating that the Foreign Minister had told Mr. Bucknell that he hoped some solution of the court question could be reached through early negotiations, since it would not be desired by either China or the United States that there should be a repetition of the Shanghai incident of May 30, 1925.	722
Dec. 10 (1122)	<i>From the Chargé in China (tel.)</i> From Jacobs and Bucknell, Nanking, December 9: Draft agreement proposed by Chinese delegation for establishment of judicial system in Shanghai (text printed); opinion of foreign delegates that the proposal is an attack upon the integrity of the Settlement and cannot be considered in its present form.	722
Dec. 11 (1124)	<i>From the Chargé in China (tel.)</i> From Jacobs and Bucknell, December 10: Chinese proposal that a court with foreign judicial personnel employed by the Chinese Government would be acceptable only in the event that jurisdiction of the court be extended to include extraterritorial nationals in the Settlement.	724
Dec. 12 (1132)	<i>From the Chargé in China (tel.)</i> From Jacobs and Bucknell, December 11: Information concerning amendments to Chinese draft presented by foreign delegates.	724
Dec. 13 (1144)	<i>From the Chargé in China (tel.)</i> Decision of interested Ministers to refer to their Governments the Chinese proposal that jurisdiction of court be extended to include extraterritorial nationals within the Settlement; request for instructions with regard to attitude to be taken by American delegates.	725

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1929 Dec. 15 (1150)	<i>From the Chargé in China (tel.)</i> Press despatch from Nanking, December 13 (text printed), reporting that Foreign Minister stated that foreign delegates had submitted counterproposals to Chinese plans, and observed that Conference outlook was far from bright.	726
Dec. 15 (1152)	<i>From the Chargé in China (tel.)</i> From Jacobs and Bucknell, December 14: Statement by foreign delegates to Chinese delegates (text printed), being a summary of Chinese objections to foreign delegates' amendments to Chinese plan, as well as a summary of the foreign delegates' position from which they cannot depart without further instructions from their Legations.	727
Dec. 18 (1161)	<i>From the Chargé in China (tel.)</i> From Jacobs and Bucknell, December 16: Joint telegram of foreign delegates to the interested Ministers (text printed), containing text of Chinese delegation's summary of position, as presented at meeting of November 14, and list of points which foreign delegates feel should be referred to their Legations before negotiations can be continued, and suggesting necessity of securing Chinese consent to continuing present agreement beyond expiration date, December 31: From Jacobs and Bucknell, December 16: Concurrence in joint telegram and expression of personal views.	730
Dec. 18 (418)	<i>To the Chargé in China (tel.)</i> Concurrence in Chargé's opinion that it would be unwise to assent to a plan that would establish within the Settlement a court exercising jurisdiction over all persons in the Settlement.	733
Dec. 18 (1165)	<i>From the Chargé in China (tel.)</i> From Jacobs and Bucknell, Shanghai, December 17: Understanding that some plan for employment of foreign jurists as advisers to the Chinese judges may be proposed by the Chinese at next meeting on December 19.	734
Dec. 19 (1168)	<i>From the Chargé in China (tel.)</i> From Senior Consul at Shanghai to the Senior interested Minister, December 18: Announcement by a Chinese judge of the Provisional Court, December 18, that as the court would cease to function on December 31, no cases would be set for hearing after that date; suggestion that arrangements should be made with Chinese Government to continue court until the rendition agreement is superseded by a new agreement. From the Consul General at Shanghai, December 18: Urgency of securing extension of present agreement until conclusion of negotiations.	735
Dec. 20 (1172)	<i>From the Chargé in China (tel.)</i> Advice that interested Ministers are dispatching a joint telegram to their delegates at Nanking containing a statement of recommendations to the interested home Governments, which the delegates are to act upon as definite instructions unless objections from the home Governments are received by noon, December 24; request for Department's approval of statement.	736

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1929 Dec. 20 (1173)	<i>From the Chargé in China (tel.)</i> Joint telegram to the respective foreign delegates at Nanking (text printed), referred to in telegram No. 1172.	736
Dec. 21 (1177)	<i>From the Chargé in China (tel.)</i> Telegram from the interested Ministers to the foreign delegates, December 20 (text printed), instructing them to inform Chinese representatives that, in view of possibility that negotiations may not be concluded before end of the year, it is assumed that nothing will be done meanwhile to disturb the <i>status quo</i> .	739
Dec. 21 (1178)	<i>From the Chargé in China (tel.)</i> From Jacobs and Bucknell, December 20: Observation that alternative proposal of Chinese delegation for consular representation on the court does not provide the necessary safeguards.	739
Dec. 21	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Assistant Secretary of State expressed the hope that the Chinese Government would make provision to continue the machinery of the court until the present negotiations could be completed.	739
Dec. 21 (426)	<i>To the Chargé in China (tel.)</i> Approval of joint telegram set forth in telegram No. 1173 of December 20; comments thereon.	740
Dec. 27 (1190)	<i>From the Chargé in China (tel.)</i> From Shanghai, December 24: Consul General's comments on specific points under negotiation.	741
Dec. 30 (1202)	<i>From the Chargé in China (tel.)</i> Information from the Consul General at Shanghai, December 28, that the Municipal Council plans to declare a state of emergency if the Provisional Court should cease functioning at the close of 1929.	742
Dec. 31 (437)	<i>To the Chargé in China (tel.)</i> Suggestion, if it should appear that Chinese Government contemplates withdrawing Chinese judicial officers from the Provisional Court before provision has been made for another court, that the interested Legations propose continuation of the court until the negotiations have reached a satisfactory conclusion.	743
Dec. 31	<i>From the Chinese Commissioner of Foreign Affairs for Kiangsu to the Senior Consul at Shanghai</i> Instruction from the Kiangsu Provincial Government, December 30 (text printed), stating that after December 31 all matters pertaining to the Shanghai Provisional Court are to be submitted to the Central Government.	743
1930 Jan. 3 (11)	<i>From the Chargé in China (tel.)</i> Advice from the Consul General at Shanghai, December 30, 1929, that the docket in the Provisional Court is now being made up for 1930 and indications are that the court is to be continued as at present; information in press dispatch from Shanghai, December 30, that, pending reorganization, the court will function as usual.	743

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI—Continued

Date and number	Subject	Page
1930 Jan. 4 (18)	<i>From the Chargé in China (tel.)</i> Summary of the points under discussion between the Chinese and the foreign delegates.	744
Jan. 6 (21)	<i>From the Chargé in China (tel.)</i> From Jacobs and Bucknell, January 5: Joint telegram from the foreign delegates to the Senior interested Minister (text printed), concerning discussions with the Chairman of the Shanghai Municipal Court on the Provisional Court question, and expressing approval of his views, since these and other concessions already authorized afford much greater possibility of reaching an agreement. Intention of advocating to interested Ministers that the joint instructions to the foreign delegates be modified so as to accord with the Council's views.	748

REFUSAL OF AMERICAN CONSULATE GENERAL AT SHANGHAI TO COMPLY WITH REQUEST OF SHANGHAI PROVISIONAL COURT THAT CONSUL TESTIFY IN CASE ARISING IN CONNECTION WITH OFFICIAL DUTIES

1929 Sept. 23 (2341)	<i>From the Minister in China</i> Despatch No. 6132, September 12, from the Consul General at Shanghai and enclosures (texts printed), regarding Consulate General's refusal, on grounds of international law, to comply with request of Shanghai Provisional Court that Consul J. E. Jacobs be directed to appear as a witness in a case arising in connection with official duties.	749
Nov. 22 (1406)	<i>To the Minister in China</i> Approval of attitude taken by Consul General at Shanghai.	752

PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING AMERICAN CITIZENS IN CHINA

1929 Feb. 18	<i>Memorandum by the Counselor of Legation in China</i> Conversation with the Foreign Minister at Nanking, January 17, in which the Minister stated that Rodney Gilbert, American journalist connected with certain British publications in China, was <i>persona non grata</i> with the Chinese Government and would be deported if it were not for extraterritoriality. (Footnote: Information that Mr. Gilbert left China for the United States in February.)	753
Feb. 13 (109)	<i>From the Minister in China (tel.)</i> Information from Tientsin that the <i>North China Star</i> , an American enterprise, has been refused further use of postal facilities because of its publication on December 17, 1928, of an alleged seditious article by Demaree C. Bess, Peking representative of the United Press; advice that the Counselor of Legation has requested the Foreign Minister to investigate the reason for such arbitrary action but that as yet no explanation had been received.	754

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PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING AMERICAN CITIZENS
IN CHINA—Continued

Date and number	Subject	Page
1929 Feb. 19 (69)	<i>To the Minister in China (tel.)</i> Desire that the Minister consult with the editor of the <i>North China Star</i> , Charles James Fox, with a view to making such representations as may seem wise and necessary.	755
Feb. 21 (125)	<i>From the Minister in China (tel.)</i> To Nanking: Instructions to express to the Foreign Minister the American Minister's feeling that action taken against the <i>North China Star</i> is unfair and unfriendly toward an American enterprise and is especially unfortunate in forcing an issue as to freedom of speech and of comment.	755
Feb. 25 (139)	<i>From the Minister in China (tel.)</i> From Nanking: Delivery of message to the Vice Minister of Foreign Affairs, who stated that the action taken was the result of a misunderstanding and that the ban would be lifted in two or three days.	756
Mar. 7 (84)	<i>To the Minister in China (tel.)</i> Information that the ban remains unlifted; instructions to direct the Consul at Nanking to make further representations.	756
Mar. 11 (165)	<i>From the Minister in China (tel.)</i> Assurance by Foreign Minister that he is exerting every effort to have the ban removed.	756
Mar. 12 (171)	<i>From the Minister in China (tel.)</i> Despatch from the Consul General at Tientsin, March 10 (excerpt printed), stating that Mr. Fox has been informed by Foreign Minister that postal facilities will be restored if Mr. Fox will write to the Central Executive Committee expressing regret for publication of the article in question, but that Mr. Fox is unwilling to comply. American Minister's reply (excerpt printed), concurring in Mr. Fox's attitude.	757
Mar. 14 (95)	<i>To the Minister in China (tel.)</i> Approval of American Minister's attitude outlined in telegram No. 171 of March 12. (Footnote: Information from the Minister that it was reported from Tientsin, April 3, that postal ban was lifted that day.)	758
Apr. 23 (5945)	<i>From the Consul General at Shanghai to the Minister in China</i> Information concerning alleged demand of Chinese Government that George E. Sokolsky, American journalist and contributor to the <i>North China Daily News</i> , a British publication in Shanghai, be requested to leave China; press dispatch from Nanking, April 18 (text printed), reporting decision of Central Executive Committee to demand that Mr. Sokolsky leave China, to prohibit use of postal facilities by the paper, and to instruct Customs to search steamers leaving Shanghai to prevent shipment by freight.	758
Apr. 30 (331)	<i>From the Minister in China (tel.)</i> Press report from Shanghai that the Chinese Government has instructed its Minister at Washington to request the <i>New York Times</i> and the <i>Chicago Tribune</i> to withdraw from China their respective correspondents at Peking, Hallett Abend and Charles Dailey, on ground of their unsympathetic attitude and alleged false reports.	760

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PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING AMERICAN CITIZENS
IN CHINA—Continued

Date and number	Subject	Page
1929 May 9 (2083)	<i>From the Minister in China</i> Transmittal of confidential reports on the Shanghai press situation by Messrs. Abend and Bess; Minister's opinion that reports deserve serious consideration.	761
May 10 (372)	<i>From the Minister in China (tel.)</i> From Shanghai, May 9: Information that in response to Dollar Steamship Co.'s request for advice as to whether to receive papers of <i>North China Daily News & Herald</i> , with Chinese stamps affixed, for delivery to Hong Kong, Manila, Japan, and American ports, Consul General advised that no legal reason was perceived for refusing to accept the packages. To Shanghai: Opinion that the company should have been referred to their legal advisers, and that company should be advised that Consul General cannot undertake any responsibility or give any advice in connection with this matter.	761
May 13 (157)	<i>To the Minister in China (tel.)</i> Instructions to point out to the Dollar Co. that the packages would undoubtedly be handled by the sea post offices aboard vessels and that assistance given to publisher might raise an issue of international concern and might also prejudice the company's interests; information that matter is being taken up with the Post Office Department.	762
May 20 (168)	<i>To the Minister in China (tel.)</i> Reply by the Postmaster General, May 17 (excerpt printed), stating that mailing of the publications in the manner suggested would be contrary to the provisions of the Universal Postal Convention. Instructions to inform Shanghai.	762
June 17 (719)	<i>From the Chinese Minister for Foreign Affairs to the American Minister in China</i> Request that the American Minister have Mr. Abend deported from China, on account of his allegedly libelous and seditious despatches to the <i>New York Times</i> .	763
June 26 (512)	<i>From the Minister in China (tel.)</i> Information concerning note of June 17 from the Foreign Minister.	765
July 2	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Assistant Secretary of State stated that the American Minister had no power to deport anyone and that the Chinese Government was powerless to act.	766
July 6	<i>Memorandum by the Assistant Secretary of State</i> Observation that Mr. Abend enjoys the protection of extra-territoriality and that the Chinese cannot touch him; opinion that there is no power under U. S. law under which an American can be deported from China.	766

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PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING AMERICAN CITIZENS
IN CHINA—Continued

Date and number	Subject	Page
1929 July 10 (556)	<i>From the Minister in China (tel.)</i> To Shanghai, July 6: Request that the U. S. District Attorney advise whether Mr. Abend could be prosecuted in the U. S. Court for China on complaint by the Chinese Government on ground of libelous or seditious character of his despatches. Opinion of District Attorney that libel charge against Mr. Abend might be made if Chinese officials concerned would appear to testify. Minister's intention to reply to the Foreign Minister along the lines discussed.	767
July 12 (229)	<i>To the Minister in China (tel.)</i> Instructions to withhold action until the Department has received word from the <i>New York Times</i> .	768
July 18 (235)	<i>To the Minister in China (tel.)</i> Letter from the <i>New York Times</i> , July 16 (excerpt printed), stating nonobjection to trial or investigation by any fair and impartial tribunal of charges against Mr. Abend. Authorization to reply to Foreign Minister's note as suggested in telegram No. 556 of July 10, incorporating such information from <i>New York Times</i> letter as may be deemed advisable.	768
July 19 (595)	<i>From the Minister in China (tel.)</i> Advice that after news of Mr. Abend's transfer to Shanghai had become known, a Government official sought him out and offered to be of all assistance to him in his new assignment; Minister's hope that the campaign against Mr. Abend will be dropped, and suggestion that reply to Foreign Minister's note be withheld.	769
July 23 (243)	<i>To the Minister in China (tel.)</i> Opinion that the Foreign Minister should be informed of impossibility of deporting Mr. Abend and advised of American Minister's readiness to discuss possible recourse to legal procedure.	769
July 31 (657)	<i>From the Minister in China (tel.)</i> Information that on July 24 the editor of the <i>Peking Leader</i> , an English language paper incorporated in Delaware but of international—including Chinese—ownership, was notified that the Ministry of Interior had ordered censorship of the paper.	769
Aug. 1 (661)	<i>From the Minister in China (tel.)</i> Transfer of the <i>Peking Leader</i> to new ownership and control; advice that the <i>Journal de Pékin</i> was refused postal facilities on July 31.	770
Aug. 8 (692)	<i>From the Minister in China (tel.)</i> Opinion that it would be a tactical error to reopen the Abend case; request for authorization to make no reply unless situation alters.	771
Aug. 9 (264)	<i>To the Minister in China (tel.)</i> Cancellation of Department's telegram No. 243, July 23.	771

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PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING AMERICAN CITIZENS
IN CHINA—Continued

Date and number	Subject	Page
1929 Nov. 16 (6253)	<i>From the Consul General at Shanghai to the Minister in China</i> Transmittal of pertinent material and correspondence in the matter of request received from the Commissioner of Foreign Affairs for institution of legal proceedings against Carl Crow, editor of the American <i>Shanghai Evening Post</i> , arising out of strike of the paper's Chinese employees, subsequent denial of postal privileges, and publication of caricatures and criticisms of Chinese authorities.	771
Dec. 23 (6324)	<i>From the Consul General at Shanghai to the Chargé in China</i> Advice that attitude of the <i>Shanghai Evening Post</i> in the matter of the strike has been upheld by labor committee of the Shanghai Municipality; also, that the postal ban continues but that the newspaper does not suffer materially, having made other arrangements for distribution.	773

TREATY REGULATING TARIFF RELATIONS BETWEEN THE UNITED STATES
AND CHINA, SIGNED JULY 25, 1928

1929 Jan. 4 (7)	<i>From the Minister in China (tel.)</i> Desire for authorization to request of the Chinese Government confirmation of U. S. Government's understanding that, under Sino-American tariff treaty of July 25, 1928, the United States is entitled to claim for goods imported into China by American nationals and for all American produce and manufactures imported into China the treatment established by any subsequent treaties concluded between China and foreign powers.	773
Jan. 7 (9)	<i>To the Minister in China (tel.)</i> Note for personal delivery to the Foreign Minister (text printed), stating U. S. Government's understanding of the purport and intent of the treaty, and requesting assurance that it is also the Chinese Government's understanding; information that Senate consideration of the treaty will be postponed pending receipt of such assurance.	775
Jan. 22 (45)	<i>From the Minister in China (tel.)</i> From Perkins, Counselor of Legation, at Nanking: Information that the Foreign Minister, upon receipt of note, January 17, stated that the meaning of the treaty was clear and that there would be no difficulty in meeting U. S. Government's wishes, indicating assent to request for written reply.	776
Jan. 22 (46)	<i>From the Minister in China (tel.)</i> Assumption that satisfactory written reply from the Chinese will be awaited before further action is taken on the treaty.	777
Jan. 22 (28)	<i>To the Minister in China (tel.)</i> Advice that the Chinese reply should quote text of American note and should state that such is Chinese understanding of purport and intent of the treaty.	777

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TREATY REGULATING TARIFF RELATIONS BETWEEN THE UNITED STATES AND CHINA, SIGNED JULY 25, 1928—Continued

Date and number	Subject	Page
1929 Jan. 23 (50)	<p><i>From the Minister in China (tel.)</i> From Perkins, January 22: Reply from the Foreign Minister, January 21, stating the Chinese Government's interpretation of the treaty. Information that the Counselor of Legation is being instructed to obtain from the Foreign Minister a note in the form prescribed by telegram No. 28 of January 22.</p>	777
Jan. 24	<p><i>To the Consul at Nanking (tel.)</i> For Perkins: Advice that the Chinese reply should quote text of American note and should state that such is the Chinese understanding of the purport and intent of the treaty.</p>	778
Jan. 24 (30)	<p><i>To the Minister in China (tel.)</i> Advice that the Department does not wish to lodge any protest against putting the new Chinese tariff schedule into effect; instructions, however, to transmit from the Secretary of State to the Foreign Minister a message (text printed), stating that it is noted with regret that the new tariff imposes on certain commodities, imported principally from the United States, duties higher than those regarded as equitable by the Peking Tariff Conference of 1926.</p>	779
Jan. 28 (36)	<p><i>To the Minister in China (tel.)</i> Probability that Senate will begin consideration of treaty on January 30; instructions to address another note to the Foreign Minister in event he does not reply in terms requested in pursuance of the Department's instructions.</p>	779
Jan. 28	<p><i>From the Consul at Nanking (tel.)</i> From Perkins: Inability of Foreign Minister to accept precise phraseology used by the Department.</p>	780
Jan. 29	<p><i>From the Minister in China to the Consul at Harbin</i> Opinion that, after ratification of the new treaty, the only valid protest against new levies would be in the case of clear discrimination against American goods or American interests.</p>	780
Jan. 29 (67)	<p><i>From the Minister in China (tel.)</i> Request that the Department reconsider proposal of accepting a compromise, as set forth in telegram No. 36, January 28, and authorize the Minister to inform the Foreign Minister that the Senate will begin consideration of the treaty on January 30 and that ratification will be withheld unless the required assurances are received.</p>	781
Jan. 29 (39)	<p><i>To the Minister in China (tel.)</i> Advice that Department merely wishes the Foreign Minister to be informed of its understanding of treaty's meaning, so that correspondence may cease at that point.</p>	782
Jan. 29	<p><i>From the Consul at Nanking (tel.)</i> From Perkins: Acceptance by Foreign Minister of exact wording of part of Legation's note; proposal for changes in phraseology of remainder.</p>	782
Jan. 29	<p><i>From the Consul at Nanking (tel.)</i> From Perkins: Opinion that, if Department desires to adhere exactly to phraseology of American note, means other than argument and persuasion will be needed in an effort to influence the Foreign Minister.</p>	783

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TREATY REGULATING TARIFF RELATIONS BETWEEN THE UNITED STATES AND CHINA, SIGNED JULY 25, 1928—Continued

Date and number	Subject	Page
1929 Feb. 1	<i>Memorandum by the Chief of the Division of Far Eastern Affairs</i> Conversation of the Chinese Minister with the Secretary of State, and subsequently with other officers of the Department, in which it was explained that the point at issue was the apparent unwillingness of the Foreign Minister to commit himself in writing to the U. S. Government's understanding of the treaty, and the Chinese Minister explained that he did not see his way free to go into the matter with his Government.	783
Feb. 1	<i>To the Consul at Nanking (tel.)</i> For Perkins: Instructions to endeavor to come to an agreement with the Foreign Minister upon a mutually acceptable text; noninsistence by the Department on any particular phraseology so long as the adopted formula is comprehensive, clear, and unequivocal in assuring that treaty is to be interpreted as providing most-favored-nation treatment.	785
Feb. 4	<i>From the Consul General at Shanghai (tel.)</i> From Perkins: Information that agreement has been reached with Foreign Minister that text shall be the same as original U. S. draft with the substitution of one clause (text printed), and that Foreign Minister in return will quote U. S. note and give assurance asked for; request for the Department's approval and authorization to sign.	785
Feb. 4	<i>To the Consul General at Shanghai (tel.)</i> To Perkins: Transmittal of text of note as Department now understands it to read, with instructions, if this text is as agreed upon, to effect signature and exchange immediately. (Footnote: Information in telegram from Perkins, February 6, that notes were exchanged February 6.)	786
Feb. 6 (728)	<i>From the Counselor of the American Legation in China to the Chinese Minister for Foreign Affairs</i> Understanding regarding most-favored-nation character of the treaty.	786
Feb. 6 (660)	<i>From the Chinese Minister for Foreign Affairs to the Counselor of the American Legation in China</i> Setting forth text of U. S. note of the same date and confirming that such is the understanding of the Chinese Government.	787
Feb. 13 (104)	<i>From the Minister in China (tel.)</i> Request for authorization to address to Foreign Minister, on occasion of exchange of ratifications of the treaty, a note observing that although treaty is not to become operative until four months after exchange of ratifications, the U. S. Government is not disposed to initiate any protest against the application by China of the new import tariff.	787
Feb. 23	<i>From the Chinese Minister for Foreign Affairs (tel.)</i> Expression of felicitation on the occasion of the mutual ratification of the treaty. (Footnote: Exchange of ratifications at Washington, February 20.)	788
Feb. 24 (136)	<i>From the Minister in China (tel.)</i> Telegram of felicitation from the Minister of Finance, February 23, and American Minister's reply of the same date (texts printed), on occasion of ratification of the treaty.	788

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TREATY REGULATING TARIFF RELATIONS BETWEEN THE UNITED STATES AND CHINA, SIGNED JULY 25, 1928—Continued

Date and number	Subject	Page
1929 Feb. 25	<i>To the Chinese Minister for Foreign Affairs (tel.)</i> Expression of appreciation for message of February 23.	789
Feb. 25	<i>To the Consul General at Shanghai (tel.)</i> For the Minister: Information that the Department is pleased with the telegrams transmitted in telegram No. 136 of February 24, and that they are being published, together with the personal telegrams exchanged between the Secretary of State and the Foreign Minister.	789
Mar. 1	<i>To the Consul General at Shanghai (tel.)</i> For the Minister: Opinion that the U. S. Government should rest content with making the adverse comment which was outlined in telegram No. 30, January 24, and that it would be inexpedient to make the official protest outlined in the Minister's telegram No. 104 of February 13.	790

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE

1929 Jan. 3 (2)	<i>From the Minister in China (tel.)</i> Request for authorization to forward to the Chinese Government a note (text printed) protesting against the action of local authorities at Canton in illegally seizing and detaining two Standard Oil Co. vessels, and observing that their unwillingness to meet with American officials contributed to the protracted delay in release of vessels.	791
Jan. 5 (8)	<i>To the Minister in China (tel.)</i> Approval of proposed note.	791
Jan. 10	<i>From the Minister in China to the Consul at Hankow</i> Authorization to discuss informally with local authorities the fact that imposition of increased tobacco tax is operating unfairly against the Liggett and Myers Tobacco Co., and to suggest that enforcement be delayed until the company have been given a fair opportunity to receive sufficient stocks to place them on an equal basis with their competitors.	792
Jan. 19 (24)	<i>To the Minister in China (tel.)</i> Telegram from Werner G. Smith Co. of Cleveland, Ohio, to the Department of Commerce (text printed) alleging that the action of the Chinese Government at Hankow in imposing heavy tax on wood oil exports without due notice is unfair; instructions to investigate and take such action as appears appropriate.	793
Jan. 21 (42)	<i>From the Minister in China (tel.)</i> Information that upon receipt of notification from the Consul at Hankow, January 15, that local wood oil tax would be imposed on January 16, the Legation sent instructions to the Counselor of Legation at Nanking (text printed) to urge Foreign Minister that tax be postponed in order to permit exporters to protect themselves insofar as shipments already contracted for. From the Counselor of Legation, January 18: Information from the Foreign Minister that the Minister of Finance is issuing orders to cancel tax.	793

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EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION
IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE—Continued

Date and number	Subject	Page
1929 Feb. 1 (1906)	<i>From the Minister in China</i> Reported intention of the Kwangtung Government to put certain consumption taxes into effect in the Canton area; Counselor of Legation's discussion of the matter with the Foreign Minister, and latter's advice, January 18, that the taxation would not go into effect.	794
Feb. 2 (46)	<i>To the Minister in China (tel.)</i> Assumption that the Legation has been advised that the Chinese authorities at Hankow have received no instructions regarding cancelation of tax and has instructed the Counselor of Legation to bring matter to attention of Foreign Minister.	796
Feb. 7 (1899)	<i>From the Consul at Harbin to the Minister in China</i> Customs notification No. 433, February 1 (text printed), concerning levy of surtaxes effective February 1; information with regard to attitude of British and Japanese colleagues.	796
Feb. 21 (189)	<i>From the Consul at Mukden to the Minister in China</i> Information that the Consulate lodged a protest with the Commissioner of Foreign Affairs, February 8, against confiscation of oil stocks of the Texas Co. at Tiehling.	798
Feb. 21 (276)	<i>From the Consul at Tsingtao to the Minister in China</i> Inquiry as to advisability of making representations regarding discrimination against American interests arising from refusal of local Japanese authorities to permit imposition of customs surtaxes on Japanese subjects.	799
Mar. 1 (1920)	<i>From the Consul at Harbin to the Minister in China</i> Opinion that, in view of determination of provincial authorities to collect consumption and sales taxes, it would appear useless to protest against their levy; observation that it is hoped the Central Government will some day be in a position to prevent levy of exorbitant local import taxes.	801
Mar. 5 (192)	<i>From the Consul at Mukden to the Minister in China</i> Report upon Japanese attitude toward the application of new import tariff and export surtaxes at Antung and the special arrangements made for collection of duties from Japanese subjects.	802
Mar. 12	<i>From the Minister in China to the Consul at Tsingtao</i> Instructions to make formal protest to local authorities against nonpayment of surtaxes by Japanese; authorization to use good offices with Customs Surtax Bureau to the end that merchandise for export contracted for by American interests prior to date of promulgation of surtaxes should be exempted.	804
Apr. 1 (670)	<i>From the Consul General at Hankow to the Minister in China</i> Information that local authorities are completely ignoring instructions of the Nanking Government and are bringing every possible pressure to bear on local exporters of wood oil to pay the special tax.	805

CHINA

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION
IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE—Continued

Date and number	Subject	Page
1929 Apr. 15 (283)	<i>From the Minister in China (tel.)</i> Request for authorization to protest to the Chinese Government against discrimination against American nationals and goods arising from the special treatment accorded to Japanese nationals and goods in the matter of imposition of certain surtaxes; transmittal of proposed draft note in this sense.	806
Apr. 17 (209)	<i>From the Consul at Mukden to the Minister in China</i> Information concerning the special arrangements whereby export surtaxes are not being paid by Japanese shippers at Newchwang.	806
Apr. 20 (131)	<i>To the Minister in China (tel.)</i> Authorization to send note as drafted, with certain changes.	807
Apr. 22	<i>From the Minister in China to the Consul General at Hankow</i> Doubt that the facts in the case of payment by the Smith Co. of the special export tax on wood oil at Hankow, which the Minister of Finance has ordered canceled, would justify the filing of a diplomatic claim.	808
Apr. 26	<i>From the Minister in China to the Consul General at Tientsin</i> Opinion that, in the absence of any discriminatory feature regarding the imposition or collection of stamp taxes on goods imported from Shanghai under exemption certificates, Consulate General should take no action in the matter.	809
Apr. 30 (2066)	<i>From the Minister in China</i> Note No. 757 to the Foreign Minister (text printed) in regard to discriminatory practices against American nationals and goods in collection by Chinese authorities of certain surtaxes.	809
May 18 (1223)	<i>To the Minister in China</i> Transmittal of letter from the Smith Co., May 11, stating belief that they should receive refund of wood oil taxes paid at Hankow; instructions to take such action as is deemed advisable.	811
June 20	<i>From the Consul General at Tientsin to the Minister in China</i> Decision of consular body to transmit to their ministers a protest by the Tientsin General Chamber of Commerce against action of the Provincial Government in ordering an increase in likin rates in violation of undertakings of the National Government.	811
June 27 (515)	<i>From the Minister in China (tel.)</i> Inquiry whether, in view of Legation's instruction to Hankow, April 22, it is desired that action be taken on Department's instruction No. 1223 of May 18.	812
July 1 (221)	<i>To the Minister in China (tel.)</i> Instructions to direct Consul General at Hankow to take up matter with local authorities and attempt to effect local settlement; suggestion that company may consider it desirable to prepare formal diplomatic claim.	812

CHINA

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED BY IMPOSITION
IN CHINA OF TAXES CONSIDERED UNFAIR TO AMERICAN TRADE—Continued

Date and number	Subject	Page
1929 July 12 (564)	<p><i>From the Minister in China (tel.)</i> From Hankow, July 10: Recommendation that Nanking Government be requested to cancel special tax imposed on the Smith Co. for storage of wood oil at Hankow, as tax is purely discriminatory.</p> <p>Information that this message was repeated to Nanking with instructions (text printed) to register emphatic protest with Foreign Ministry and urge cancellation of tax.</p>	813
July 23 (617)	<p><i>From the Minister in China (tel.)</i> Advice that Consul at Nanking is being instructed to renew representations to the Foreign Minister in the matter of discrimination against the Smith Co.</p> <p>From Hankow, July 16: Advice that present tax on storage of wood oil has no relation to the special tax abolished in April.</p>	813
Aug. 17 (725)	<p><i>From the Minister in China (tel.)</i> From Nanking, August 15: Advice from Foreign Minister that Customs at Hankow has been instructed to discontinue collection of taxes on wood oil stored by the Smith Co.</p>	814
Oct. 18 (903)	<p><i>From the Minister in China (tel.)</i> Observation that customs notification No. 1157, August 12 (excerpt printed), provides for unilateral action by customs authorities in matter of disputes with regard to valuation of imports instead of arbitral method of procedure specified in Sino-American treaty of October 20, 1920; assumption that no protest should be made.</p>	814
Oct. 21	<p><i>From the Minister in China to the Consul at Tsingtao</i> Instructions to lodge protest with local authorities against discriminatory features of the goods tax now being collected at Tsingtao.</p>	816
Oct. 24 (347)	<p><i>To the Minister in China (tel.)</i> Advice that no reasons are perceived for protesting against application of the new procedure outlined in telegram No. 903, October 18.</p>	816
Nov. 20 (1016)	<p><i>From the Minister in China (tel.)</i> From Hankow, November 18: Information that the trade is again agitated by collection of special tax on wood oil under consolidated tax schedules and that tax officials are enforcing tax in a drastic manner.</p> <p>Proposal to instruct Consul General that, in absence of discrimination, a protest to Foreign Ministry is not called for, and to suggest that he attempt informally to bring about less drastic means of collecting tax.</p> <p>(Footnote: Information that the Department approved the proposal by telegram No. 383, November 23.)</p>	816

CHINA

PROTESTS BY THE UNITED STATES AGAINST PROPOSED CHINESE FINANCIAL MEASURES DIVERTING REVENUES FROM PAYMENT OF AMERICAN LOANS IN DEFAULT

Date and number	Subject	Page
1929 Jan. 28 (59)	<p><i>From the Minister in China (tel.)</i> Note from the Foreign Minister, January 18 (text printed), advising of State Council's decision to set aside \$5,000,000 of new customs revenues for adjustment of foreign and domestic loans and to establish a committee to adjust such loans; proposal of American Minister to acknowledge receipt of note without comment.</p>	817
Feb. 7 (54)	<p><i>To the Minister in China (tel.)</i> Inquiry whether action has been taken on Department's telegram No. 414, December 19, 1928 which directed transmittal to Foreign Minister of request for assurance that no policy will be adopted regarding obligations to foreign creditors that will result in discrimination against American creditors. Approval of Minister's proposal contained in telegram No. 59 of January 28.</p>	818
Feb. 8 (95)	<p><i>From the Minister in China (tel.)</i> Advice that note in accordance with instructions of telegram No. 414 of December 19, 1928, was dispatched on December 27, 1928; also, that Foreign Minister's note of January 18 was acknowledged without comment in note of February 7.</p>	818
Feb. 21 (1932)	<p><i>From the Minister in China</i> Foreign Minister's note No. L-661, February 6 (text printed), stating that the various American claims are being considered jointly with other foreign claims with a view to establishing a method of procedure for handling.</p>	818
Mar. 9	<p><i>Memorandum by the Assistant Secretary of State</i> Conversation with George Bronson Rea of Shanghai concerning possibilities of assisting the Chinese Government to obtain funds for a program of railroad construction.</p>	819
Mar. 21 (196)	<p><i>From the Minister in China (tel.)</i> Receipt of communications (excerpt printed) from Charles R. Bennett, American group representative in Peking of the Hukuang Railway loan group banks, regarding serious discrimination against foreign bondholders in charges on customs revenues, and expressing hope that protest will be lodged with the Chinese Government. Recommendation for authorization to take up matter with Foreign Minister either jointly or coincidentally with interested British, French, and German colleagues.</p>	820
Mar. 27 (105)	<p><i>To the Minister in China (tel.)</i> Doubt whether renewed protest would accomplish anything of immediate value; permission to discuss matter with colleagues.</p>	821
June 15 (198)	<p><i>To the Minister in China (tel.)</i> Understanding that Central Executive Committee is considering proposal whereby 150 millions of British and Russian Boxer Indemnity funds may be used for issuance of bonds to finance completion of Canton-Hankow and Lunghai Railways; instructions to investigate and report, especially as to possible granting of preferential rights to the countries named in supplying of materials.</p>	822

CHINA

PROTESTS BY THE UNITED STATES AGAINST PROPOSED CHINESE FINANCIAL MEASURES DIVERTING REVENUES FROM PAYMENT OF AMERICAN LOANS IN DEFAULT—Continued

Date and number	Subject	Page
1929 June 21 (499)	<i>From the Minister in China (tel.)</i> From Nanking, June 20: Approval by Central Executive Committee, June 17, of proposal substantially as outlined in Department's telegram No. 198, June 15; information that there will be no preference as to nationality of materials to be purchased abroad.	822
June 26 (510)	<i>From the Minister in China (tel.)</i> From Nanking, June 24: Information from the British Minister that Parliament had not yet made public the terms by which the British Boxer Indemnity would be remitted to China, and that it was likely that Parliament would decide that the money should be used to purchase British goods.	823
June 29 (522)	<i>From the Minister in China (tel.)</i> From Nanking, June 28: Advice that the British Minister reminded the Foreign Minister of the existing contractual obligations with respect to railway construction which the British Government expected to be fulfilled by the Chinese Government.	823
July 3 (2174)	<i>From the Minister in China</i> Information that a joint note was forwarded on June 24 to the Foreign Minister by the American, British, and French diplomatic representatives, protesting against partial default in payment of the service of the loan due June 3.	824
Aug. 5 (1313)	<i>To the Minister in China</i> Instructions to investigate reported formation and first meeting of a commission for readjustment of domestic and foreign debts, and to furnish opinion whether the formation of this commission affords a favorable occasion for calling attention to the sums owed by the Chinese Government to American citizens and organizations.	824
Sept. 3	<i>Memorandum by the Assistant Secretary of State</i> Conversation with Mr. Rea of Shanghai who expressed the opinion that the speech at Amsterdam by Mr. Lamont of J. P. Morgan & Co. had put a quietus on any possibility of securing such a loan as Mr. Rea had originally undertaken to obtain for Chinese railway construction.	825
Sept. 9	<i>From the Consul at Nanking (tel.)</i> Assurance by Foreign and Finance Ministries that work of committee is just beginning and that there is no foundation for press reports that foreign creditors will soon be invited to Nanking.	826
Oct. 16 (893)	<i>From the Minister in China (tel.)</i> Memorandum of conversation between the Consul General at Shanghai and the Chinese Minister of Finance, October 5 (text printed), from which the Consul General gained the impression that all indebtedness for railway equipment would be given preference over loans and other debts.	827
Oct. 24 (346)	<i>To the Minister in China (tel.)</i> Request for opinion as to advisability of arranging for presentation to the Commission of American claims of indebtedness.	828

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PROTESTS BY THE UNITED STATES AGAINST PROPOSED CHINESE FINANCIAL MEASURES DIVERTING REVENUES FROM PAYMENT OF AMERICAN LOANS IN DEFAULT—Continued

Date and number	Subject	Page
1929 Oct. 26 (930)	<i>From the Minister in China (tel.)</i> Opinion that the politico-military situation makes the present time unadvantageous for presenting American claims to the Commission.	828

CONTINUED NEGOTIATIONS CONCERNING THE FEDERAL TELEGRAPH COMPANY'S CONTRACT WITH THE CHINESE GOVERNMENT

1929 Sept. 25 (1353)	<i>To the Minister in China</i> Draft note for the Foreign Minister (text printed), requesting on behalf of the Federal Telegraph Co. that the Chinese Government fulfill certain obligations imposed upon it by contract of January 8, 1921, as amended, in order that the company may proceed with erection and operation of radio stations in China. (Footnote: Information that the note was dated and dispatched October 31.)	829
Nov. 4 (959)	<i>From the Minister in China (tel.)</i> From Nanking: Confirmation by Ministry of Communications of press report concerning proposed establishment of special government committee to revise existing cable, telephone, and wireless contracts with foreign corporations.	831
Nov. 14 (998)	<i>From the Minister in China (tel.)</i> From Nanking, November 3: Information from the Ministry of Communications that proposed special committee will deal only with contracts of Great Northern and Eastern Extension Telegraph Companies.	831
Dec. 16 (1156)	<i>From the Chargé in China (tel.)</i> Press dispatch, December 14 (text printed), reporting that the Eastern Cable Co. will soon be notified that its contract will not be renewed in its present form.	832
Dec. 29 (1199)	<i>From the Chargé in China (tel.)</i> Press dispatch from Nanking, December 26 (text printed), reporting that notice of cancellation of contract was served on the Federal Telegraph Co. on December 24 and that the notice requested dispatch of representatives to Nanking to enter into new negotiations. (Footnote: Information that notice that their contracts would expire on December 31, 1930, was given to the Great Northern Telegraph Co., Ltd; to the Eastern Extension, Australasia and China Telegraph Co., Ltd; and to the Commercial Pacific Cable Co., Ltd.)	832
1930 Jan. 3 (9)	<i>From the Chargé in China (tel.)</i> From Nanking, December 30, 1929: Information from Minister of Communications that the Government has not yet officially notified the Federal Telegraph Co. of cancellation of its contract, but that both the American and Japanese wireless contracts will definitely be canceled.	833

CHINA

CHINESE REGULATIONS RESTRICTING IMPORTATION OF RADIO EQUIPMENT AND MATERIALS

Date and number	Subject	Page
1929 Mar. 1 (1133)	<i>To the Minister in China</i> Instructions to ascertain whether regulations governing importation and use of radio apparatus have been promulgated by the National Government, and if they have, whether they would prohibit dissemination of radio messages received by broadcast from stations in foreign countries.	833
Apr. 20 (D-67)	<i>From the Consul at Nanking to the Minister in China</i> Letter from official of Ministry of Communications, April 17 (excerpt printed), reporting recent issuance of an order that permission of Ministry of War must be secured for importation of radio apparatus; press dispatch, April 18 (text printed), stating that the Commissioner of Foreign Affairs of Kiangsu has been instructed to lodge a protest with the French Consul General in Shanghai against the dispatching and receiving of commercial messages by the French radio station.	834
May 16	<i>From the Consul General at Shanghai (tel.)</i> To Peking: Information that the prohibition against further importation of radio equipment, issued April 13, was only brought to the attention of American exporters when they attempted to enter shipments from America, and that there is over \$100,000 of American radio materials now on the high seas.	835
May 18 (166)	<i>To the Minister in China (tel.)</i> Instructions to advise the Chinese Government of the hardship inflicted upon American importers by lack of reasonable notice and urge extension of time for entry of goods now in transit.	836
May 23 (415)	<i>From the Minister in China (tel.)</i> Information that the Department's telegram No. 166, May 18, was repeated to the Consul General at Shanghai with instructions (text printed) for representations if deemed expedient; report from the Consul General, May 22, that he deemed immediate action necessary and made representations to the Foreign Minister.	836
June 1 (181)	<i>To the Minister in China (tel.)</i> Inquiry as to present status of prohibition against importation of radio equipment.	837
June 5 (448)	<i>From the Minister in China (tel.)</i> From Shanghai, June 4: Advice that the embargo is still absolute. Consul General's representations of May 22 (text printed); inquiry whether Department desires that further representations be made.	837
June 7 (187)	<i>To the Minister in China (tel.)</i> Authorization for the Legation to act on its own discretion; suggestion that further representations be withheld unless specific complaints are received from importers.	838

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CHINESE REGULATIONS RESTRICTING IMPORTATION OF RADIO EQUIPMENT AND MATERIALS—Continued

Date and number	Subject	Page
1929 June 20 (495)	<i>From the Minister in China (tel.)</i> From Shanghai, June 19: Note from the Foreign Ministry, June 14 (text printed), quoting text of letter from Minister of Finance in which it is stated that the issuance of permits by the Ministry of War for the import of radio apparatus has been discontinued by mandate and that Finance Ministry is now considering a way to modify or adapt the restrictions to circumstances.	838
July 15 (570)	<i>From the Minister in China (tel.)</i> From Nanking, July 13: Advice that ratification by China of the international radio telegraph convention signed at Washington in 1927 is almost completed. (Footnote: Information that the Chinese instrument of ratification, together with a declaration, was deposited by the Chinese Minister with the Department of State on June 23, 1930.)	839
July 31	<i>Chinese Regulations</i> Restricting importation of radio equipment and materials.	839
Dec. 12 (6309)	<i>From the Consul General at Shanghai to the Chargé in China</i> Letter from the local Commissioner of Customs (excerpt printed), stating that he has not been notified of removal of the embargo.	840

DIFFICULTIES IN CHINA OF THE CENTRAL ASIATIC EXPEDITION OF THE AMERICAN MUSEUM OF NATURAL HISTORY

1929 May 13	<i>Memorandum by the Secretary of State</i> Conversation with the Chinese Minister in which the Secretary of State pointed out the impossibility of the conditions which the Chinese Government was seeking to impose on the Roy Chapman Andrews expedition and requested that the Foreign Minister be advised of these views in order that the expedition might be permitted to go forward as soon as possible.	841
May 20	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Secretary of State, after having heard replies received by the Minister from his Government, stated that the replies did not quite meet the situation, and the Minister promised to telegraph again, hoping to have a more favorable answer.	842
June 4	<i>Memorandum by the Assistant Secretary of State</i> Conversation between the Secretary of State and the Chinese Minister in which the Secretary expressed the hope that the Minister could persuade his Government to find some solution to permit the finds of the expedition to leave China, so that the expedition could proceed with its work.	843
June 10 (460)	<i>From the Minister in China (tel.)</i> Information concerning Minister's efforts with the Foreign Minister on behalf of the Andrews expedition.	846

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DIFFICULTIES IN CHINA OF THE CENTRAL ASIATIC EXPEDITION OF THE AMERICAN MUSEUM OF NATURAL HISTORY—Continued

Date and number	Subject	Page
1929 June 12	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister who advised that his Government had issued a permit for export from China of the 35 cases of finds of the Andrews expedition into Mongolia in 1928, but stated that the question of disposal of the collections of the 1929 expedition remained to be settled under the new regulations now in preparation.	847
June 18	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Assistant Secretary advised that Dr. Andrews had sent a telegram from which it would appear that the Cultural Society was itself dictating the terms under which the expedition should proceed and that the Museum was very much discouraged and was prepared to withdraw its expedition rather than go ahead under these arrangements.	847
June 24	<i>Memorandum by the Secretary of State</i> Conversation with the Chinese Minister who stated that a demand for a Chinese expert to go as co-director with Dr. Andrews had been made by the Chinese society, but not by the Chinese Government, and stated that he did not anticipate any trouble on that score.	849
June 28 (219)	<i>To the Minister in China (tel.)</i> Request for information on present status of Andrews expedition.	849
July 2 (528)	<i>From the Minister in China (tel.)</i> Advice that Dr. Andrews considers situation hopeless due to the unfriendly attitude of the Cultural Society, but that he is awaiting further instructions from the Museum.	849
July 12	<i>Memorandum by the Secretary of State</i> Conversation with the Chinese Minister who stated that the Chinese had given up their claim to have a Chinese co-director go with the expedition.	850
July 19 (596)	<i>From the Minister in China (tel.)</i> Insistence of Cultural Society on division of 1929 finds before permission is granted to send collections to the United States for study; Minister's concurrence in Dr. Andrews' report to Museum that no hope is seen for the future unless there is a complete change in attitude of the Government.	850
July 26	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the Chinese Minister in which the Assistant Secretary of State explained that the attitude of the Cultural Society made it impossible for the expedition to go ahead.	851
July 29	<i>From the President and the Director of the American Museum of Natural History, New York</i> Information that Dr. Andrews has been directed to send the other members of the expedition back to the United States but to remain in Peking himself and await the results of further negotiations; statement of views on the points at issue.	852

CHINA

INFORMAL REPRESENTATIONS TO PROTECT AMERICAN FIRM FROM ACTION OF THE
JAPANESE POLICE IN THE SOUTH MANCHURIA RAILWAY ZONE

Date and number	Subject	Page
1929 June 25 (2179)	<i>From the Minister in China</i> Instructions to the Consul at Mukden (text printed), informing him that informal representations have been made to the Japanese Legation which it is hoped will prove sufficient to cause the Japanese police to cease their efforts to close the office of Foster-McClellen Co., an American firm, doing business in the Japanese Railway Settlement at Mukden, such action being in complete disregard of the extraterritorial privileges enjoyed by American citizens in China.	853
Aug. 16 (2262)	<i>From the Minister in China</i> Belief that the action of the Japanese police was taken not in response to Government regulations, but in response to regulations of June 1928, as promulgated by an association of Japanese chemists and drug dealers which has been fairly successful in driving out German and Russian competitors in Manchuria. (Footnote: Information from the Minister in despatch No. 438, September 4, 1930, that no further action in the case was taken; also, that company's office was not closed.)	855

ASSENT BY THE UNITED STATES TO THE PROPOSAL OF THE CHINESE GOVERNMENT
RESPECTING PAYMENT OF REMITTED BOXER INDEMNITY FUNDS

1929 Aug. 14	<i>To the Secretary of the Treasury</i> Inquiry whether any objection is seen to granting to the Minister in China authorization to make the monthly payments of the 1908 Boxer indemnity remission directly to the China Foundation of Education and Culture, in accordance with arrangements now before the Executive Yuan for approval.	856
Sept. 24 (315)	<i>To the Minister in China (tel.)</i> Letter from the Treasury Department (excerpt printed), stating nonobjection to suggested procedure for payment of the 1908 Boxer indemnity remission, and suggesting form of receipt to be secured; instructions to hand the payments to the China Foundation when the proposed procedure has been approved by the Executive Yuan.	857
Oct. 18 (904)	<i>From the Minister in China (tel.)</i> Receipt of sealed petition of Ministry of Education and sealed Order in Council of the Executive Yuan; transmittal to China Foundation of July, August, and September installments of the 1908 remission.	858

DETERMINATION AND PAYMENT OF AMERICAN CLAIMS UNDER THE AGREEMENT
IN SETTLEMENT OF THE NANKING INCIDENT OF MARCH 24, 1927

1929 Jan. 22 (43)	<i>From the Minister in China (tel.)</i> Refusal of Chinese Commissioners on Sino-American Claims Commission to consider claims filed by the Woo brothers, American citizens of Chinese parentage; request for instructions as to support to be given to their claims, in view of their dual nationality and domicile in country of their other allegiance.	858
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DETERMINATION AND PAYMENT OF AMERICAN CLAIMS UNDER THE AGREEMENT
IN SETTLEMENT OF THE NANKING INCIDENT OF MARCH 24, 1927—Continued

Date and number	Subject	Page
1929 Jan. 30 (41)	<i>To the Minister in China (tel.)</i> Advice that the Woo claims should be accorded the same support as other American claims.	859
Feb. 2 (83)	<i>From the Minister in China (tel.)</i> From American Commissioners: Information that all American claims have been verified and assessed with the exception of the U. S. Government's claim, which the Chinese request be submitted in detailed form, and the matter of payment of interest on claims, to which the Chinese refuse to agree. Instructions to American Commissioners, January 15, to reaffirm position that the claims settlement agreement specifies that the Commission is to accept and approve the U. S. Government's claim as presented.	859
Feb. 9 (57)	<i>To the Minister in China (tel.)</i> Approval of instructions to American Commissioners; instructions to direct Commissioners to reopen discussion of the interest question.	861
Feb. 27 (79)	<i>To the Minister in China (tel.)</i> Instructions to direct American Commissioners to dispose of the Woo claims and the interest question by reserving right to negotiate elsewhere for adjustment; also, if the Commission concludes its work as suggested, to endeavor to secure agreement with Chinese Government regarding the Woo claims, the interest question, and payment of further installments on total damages awarded.	862
Mar. 11 (168)	<i>From the Minister in China (tel.)</i> Concurrence of Foreign Minister in view that the Woo claims and the interest question should be reserved for diplomatic negotiations; his intention to consult Finance Minister with regard to hastening payment of further installments.	862
Mar. 15	<i>From the American Commissioners on the Sino-American Joint Commission</i> Final report of the Commission, March 13 (text printed).	863
June 1 (182)	<i>To the Minister in China (tel.)</i> Instructions to inform the Foreign Minister of the U. S. Government's satisfaction at the way in which the Joint Commission has done its work; to enquire regarding the time and manner of payment of the awards; and to state that if the amounts awarded to American claims are paid promptly, the U. S. Government will not be disposed to press further the claim for interest.	869
June 10 (2138)	<i>From the Minister in China</i> Information that the note was dispatched to the Foreign Ministry, June 10, in accordance with telegram No. 182, June 1, but that it was deemed inexpedient to include suggestion regarding waiver of interest.	870
July 11 (228)	<i>To the Minister in China (tel.)</i> Instructions to point out to Foreign Minister that certain claimants are in urgent need of the sums awarded to them and to urge prompt settlement.	870

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DETERMINATION AND PAYMENT OF AMERICAN CLAIMS UNDER THE AGREEMENT
IN SETTLEMENT OF THE NANKING INCIDENT OF MARCH 24, 1927—Continued

Date and number	Subject	Page
1929 July 16 (578)	<i>From the Minister in China (tel.)</i> Information from the Foreign Minister that the Finance Minister has been instructed to devise means of payment.	871
Aug. 2 (667)	<i>From the Minister in China (tel.)</i> Note from the Foreign Minister, July 29 (excerpt printed), stating that it is planned to make monthly payments of \$100,000 each, beginning in August. (Footnote: Information that the first payment of \$100,000 Mex. had been made in April 1929 and that the final payment was made in 1933.)	871

EFFORTS OF THE UNITED STATES TO OBTAIN AMENDS FROM THE CHINESE GOVERNMENT FOR THE KILLING OF DR. WALTER F. SEYMOUR

1929 Jan. 9 (719)	<i>From the American Minister in China to the Chinese Minister for Foreign Affairs</i> Unacceptability of Foreign Minister's note of November 27, 1928 (excerpt printed), which states that Dr. Walter F. Seymour was apparently killed by a stray bullet, inasmuch as all evidence points conclusively to wanton murder.	872
Feb. 20	<i>Memorandum by the Counselor of Legation in China</i> Conversation with the Foreign Minister, January 24, in which the Counselor of Legation remarked on U. S. Government's dissatisfaction with the way the Chinese Government had handled the Seymour case.	837
Undated	<i>Memorandum by the Minister in China</i> Conversation with the Foreign Minister, March 7, in which the Foreign Minister requested the name of the gatekeeper who saw the shooting, and said that he would endeavor to obtain the gatekeeper's testimony. (Note: Information that the Minister in China, in a memorandum of a conversation with the Foreign Minister, February 26, 1930, stated that he had gained the impression that nothing further on the subject could be expected.)	874

SPECIAL MISSION TO THE STATE BURIAL OF THE LATE NATIONALIST LEADER,
SUN YAT-SEN, AT NANKING, JUNE 1, 1929

1929 Feb. 28 (80)	<i>To the Minister in China (tel.)</i> Opinion that U. S. Government should accede to the request of the Chinese Government for appointment of a special representative to participate in the state burial of Sun Yat-sen.	875
Mar. 18 (96)	<i>To the Minister in China (tel.)</i> Belief that instructions to the Minister to attend ceremonies as special representative of the U. S. Government will be sufficient, such instructions to be forwarded by the Minister to the Chinese Government.	876

CHINA

SPECIAL MISSION TO THE STATE BURIAL OF THE LATE NATIONALIST LEADER,
SUN YAT-SEN, AT NANKING, JUNE 1, 1929—Continued

Date and number	Subject	Page
1929 Apr. 25 (317)	<i>From the Minister in China (tel.)</i> Foreign Office note, February 9 (text printed), extending invitation to the state burial. Agreement of the diplomatic body to notify the Foreign Office of appointment in a manner similar to the procedure suggested in telegram No. 96, March 18.	876
May 3 (147)	<i>To the Minister in China (tel.)</i> Instructions to inform the Chinese Government that the American Minister has been designated to attend the ceremonies; authorization to take the military and/or naval attaché.	877
May 22 (169)	<i>To the Minister in China (tel.)</i> Information that the Navy Department has instructed the commander in chief, Asiatic Fleet, to attend the ceremonies as a member of the special mission.	877
June 24 (2166)	<i>From the Minister in China</i> Report on the ceremonies.	878

COLOMBIA

AGREEMENT BETWEEN THE UNITED STATES AND COLOMBIA GRANTING RECIPROCAL FACILITIES TO AIRCRAFT OF AMERICAN REGISTRY IN COLOMBIA AND OF COLOMBIAN REGISTRY IN THE UNITED STATES, INCLUDING THE PANAMA CANAL ZONE

1929 Feb. 9 (11)	<i>To the Minister in Colombia (tel.)</i> Draft note proposed to be exchanged between the United States and Colombia (text printed) granting reciprocal facilities to aircraft of American registry in Colombia and of Colombian registry in the Panama Canal Zone; instructions to endeavor to obtain agreement of Colombian authorities.	879
Feb. 15 (14)	<i>To the Minister in Colombia (tel.)</i> Inquiry whether any progress has been made and request for opinion whether agreement can be concluded shortly.	880
Feb. 15 (26)	<i>From the Minister in Colombia (tel.)</i> Advice that the Colombian Minister in Washington has been instructed to accept proposed exchange of notes with certain modifications, the principal one being the granting of reciprocal facilities to Colombia in the United States, as well as in Panama.	880
Feb. 16 (16)	<i>To the Minister in Colombia (tel.)</i> Acceptability of proposed changes, with slight modifications.	881
Feb. 19 (27)	<i>From the Minister in Colombia (tel.)</i> Information that Colombian Minister has been authorized to sign agreement with one slight addition.	881
Feb. 23	<i>To the Colombian Minister</i> Confirmation of understanding regarding reciprocal facilities for commercial aircraft.	882

COLOMBIA

AGREEMENT BETWEEN THE UNITED STATES AND COLOMBIA GRANTING RECIPROCAL FACILITIES TO AIRCRAFT OF AMERICAN REGISTRY IN COLOMBIA AND OF COLOMBIAN REGISTRY IN THE UNITED STATES, INCLUDING THE PANAMA CANAL ZONE—Continued

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1929 Feb. 23 (327)	<i>From the Colombian Minister</i> Confirmation of understanding regarding reciprocal facilities for commercial aircraft.	883
Feb. 27 (28)	<i>From the Minister in Colombia (tel.)</i> Opinion of Foreign Minister that Pan American Airways could begin service upon formal notification to the Colombian Government through the American Legation that the company desired to initiate service.	884
Feb. 28 (18)	<i>To the Minister in Colombia (tel.)</i> Presumption that the Legation has forwarded formal notice requested by Foreign Minister.	884
Mar. 1 (29)	<i>From the Minister in Colombia (tel.)</i> Reply in the affirmative.	884

SUSPENSION OF NEGOTIATIONS FOR COMMERCIAL TREATIES WITH COLOMBIA AND OTHER COUNTRIES

1929 Nov. 9 (107)	<i>To the Minister in Colombia</i> Authorization to state, if occasion arises, that U. S. Government has temporarily suspended all commercial treaty negotiations.	885
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CUBA

PROPOSAL BY CUBA THAT THE COMMERCIAL CONVENTION BETWEEN THE UNITED STATES AND CUBA, SIGNED DECEMBER 11, 1902, BE REVISED

1929 Jan. 10	<i>From the Cuban Ambassador</i> Observations on the U. S. Tariff Commission's report entitled "The Effects of the Cuban Reciprocity Treaty of 1902"; suggestion that the Cuban Government would be willing to enter into an understanding on the basis of a reciprocal interest, whereby Cuba would be granted free entry of a limited quantity of sugar.	887
Feb. 20	<i>To the Cuban Ambassador</i> Advice that careful consideration is being given to the suggestion and arguments contained in note of January 10.	893

REPRESENTATIONS AGAINST PROPOSED LEGISLATION CONTRAVENING THE RIGHT OF AMERICAN INTERVENTION IN CUBA

1929 Apr. 23 (359)	<i>To the Ambassador in Cuba</i> Instructions to make oral representations to President Machado against possibility of enactment of a bill introduced into the legislature which would contravene the right of American intervention in Cuba.	894
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CUBA

REPRESENTATIONS AGAINST PROPOSED LEGISLATION CONTRAVENING THE RIGHT OF AMERICAN INTERVENTION IN CUBA—Continued

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1929 May 2 (653)	<i>From the Ambassador in Cuba</i> Assurance by President Machado that he would use his influence to prevent passage of the bill and that, if it were passed, he would veto it.	896
AGREEMENT BETWEEN THE UNITED STATES AND CUBA TO SUBMIT THE CLAIM OF CHARLES J. HARRAH TO ARBITRATION		
1926 June 12 (720)	<i>To the Ambassador in Cuba</i> Facts in the claim of Charles J. Harrah, an American citizen, against Cuba for damages arising from alleged illegal demolition of his railroad and other property and consequent destruction of the business for which the railway was built; opinion that claimant has suffered a denial of justice and that the amount of damages could best be determined by arbitration; instructions to bring matter to attention of the Foreign Office.	897
July 16 (119)	<i>From the Chargé in Cuba (tel.)</i> Receipt of Foreign Office reply, dated July 13, containing refusal to entertain proposal of arbitration.	902
1927 Apr. 14 (943)	<i>To the Ambassador in Cuba</i> Transmittal of brief by Mr. Harrah's attorneys, March 29, restating the case and making categorical replies to allegations contained in Cuban Government's note of July 13, 1926; instructions to renew representations to the Foreign Office, furnishing a copy of the brief.	902
June 23 (2128)	<i>From the Chargé in Cuba</i> Transmittal of Foreign Office reply to Embassy's latest representations; information concerning interview with the Cuban Under Secretary of State who stated that the brief would be submitted to President Machado so that another attorney might be delegated to study matter, but pointed out that the Cuban Government considered the brief very unjust.	904
Aug. 5 (1036)	<i>To the Chargé in Cuba</i> Instructions to deliver to Foreign Office a note stating U. S. Government's view that it is entitled to have the claim considered on its merits, which was not done in the recent Cuban note; further instructions for oral representations. (Footnote: Dispatch of note, August 11, 1927, to the Foreign Office.)	905
1928 Mar. 14 (57)	<i>To the Ambassador in Cuba (tel.)</i> Instructions to inform Foreign Office that 7 months' delay in replying to U. S. Government's representations is prejudicing Mr. Harrah's other financial interests.	909

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AGREEMENT BETWEEN THE UNITED STATES AND CUBA TO SUBMIT THE CLAIM OF CHARLES J. HARRAH TO ARBITRATION—Continued

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1928 Aug. 16 (216)	<i>To the Ambassador in Cuba</i> Information that the allegations of the claimant have not been satisfactorily disposed of by the answers of the Cuban Government, including Cuban reply of March 30; opinion that matter is one properly to be submitted to an arbitral tribunal for decision; instructions to take up matter with the Cuban Government and to emphasize the strong desire of the U. S. Government to see the case brought to an early and satisfactory conclusion.	909
1929 Jan. 11 (550)	<i>From the Ambassador in Cuba</i> Information that the Ambassador asked President Machado, in an informal note dated January 3, for an answer on the question of arbitration; advice from the Secretary of State that President Machado had decided to submit question to a committee of lawyers; desire to submit copy of draft arbitral agreement to lawyers' committee for study.	913
Feb. 13 (315)	<i>To the Ambassador in Cuba</i> Transmittal of draft arbitral agreement; observation that United States cannot be bound by report of lawyers' committee; instructions to press President Machado for an early decision.	914
Feb. 21 (589)	<i>From the Chargé in Cuba</i> Intention of President Machado to give an answer within a fortnight.	915
Apr. 4 (626)	<i>From the Ambassador in Cuba</i> Information that the Ambassador requested President Machado and the Cuban Secretary of State to have the report of the lawyers' committee expedited.	916
Apr. 18 (36)	<i>To the Ambassador in Cuba (tel.)</i> Instructions to state to President Machado and the Foreign Office that the U. S. Government must insist that the claim be submitted to arbitration without further delay.	916
May 7 (655)	<i>From the Ambassador in Cuba</i> Information from President Machado that the Cuban Government would agree to arbitrate; intention of Cuban Secretary of State to submit in a few days his suggestions concerning form of proposed arbitration agreement.	917
May 24 (54)	<i>To the Ambassador in Cuba (tel.)</i> Inability to understand why the Cuban Secretary of State's suggestions have not been forthcoming; instructions to insist that matter be given prompt attention.	917
May 31 (687)	<i>From the Ambassador in Cuba</i> Receipt of note from the Cuban Secretary of State containing statement of willingness to arbitrate; Ambassador's intention, in view of absence of reference to draft arbitral agreement, to inquire regarding acceptability of the stipulations of the draft.	918
June 13 (716)	<i>From the Chargé in Cuba</i> Inability to obtain any definite date when the Foreign Office reply regarding draft arbitral agreement may be expected.	918

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1929 July 6 (412)	<i>To the Chargé in Cuba</i> Inability to understand delay in deciding form of arbitral agreement; transmittal of draft agreement revised to conform with general treaty of inter-American arbitration signed on January 5; instructions to take up matter with Foreign Office and present copy of revised draft.	919
Aug. 21	<i>Memorandum by Mr. Jacob A. Metzger, Assistant to the Solicitor</i> Opinion that, with the exception of certain points objected to by claimant's attorneys, Cuban counterdraft of arbitral agreement should be acceptable to the Department.	920
Oct. 1 (105)	<i>From the Chargé in Cuba (tel.)</i> Signature of arbitral agreement.	921
Oct. 1	<i>Agreement Between the United States of America and Cuba</i> Submitting the Harrah claim to arbitration.	921
Undated [Rec'd Dec. 3]	<i>From the American Arbitrator (tel.)</i> Information that the arbitral tribunal began its sessions on December 2. (Note: Information in memorandum by the Office of the Legal Adviser, October 23, 1936, that the arbitral tribunal decided May 27, 1930, that the Cuban Government was liable; also, that the Cuban Government offered a settlement of \$350,000, which was accepted by the U. S. Government and is being paid to the claimant.)	923

DENMARK

ARRANGEMENT BETWEEN THE UNITED STATES AND DENMARK FOR RECIPROCAL TREATMENT OF PASSENGER MOTOR VEHICLES

1928 Sept. 4 (125)	<i>From the Danish Minister</i> Willingness, on condition of reciprocity, to grant freedom from taxation for three months to passenger automobiles of foreign ownership and registry; inquiry as to formalities and conditions which would have to be complied with to exempt Danish automobiles in the United States.	924
Oct. 27	<i>To the Danish Minister</i> Information that there is no Federal tax on automobiles and that the States grant reciprocity to foreign visitors; data on customs exemptions; hope that reciprocal treatment will be granted to American citizens desiring to drive automobiles in Denmark.	924
1929 Feb. 2 (14)	<i>From the Danish Minister</i> Regulation issued by the Ministry of Public Works, January 18, and copy of act of July 1, 1927, concerning taxation on automobiles (texts printed), providing exemption from taxation for three months for passenger automobiles of American ownership and registry.	925

DENMARK

PROPOSED RECIPROCAL EXTENSION OF FREE IMPORTATION PRIVILEGES TO
CONSULAR OFFICERS OF THE UNITED STATES AND DENMARK

Date and number	Subject	Page
1929 Apr. 2 (792)	<i>From the Minister in Denmark</i> Inability of Danish Government to agree to proposed reciprocal extension of free importation privileges to American and Danish consular officers.	927
Apr. 6 (795)	<i>From the Minister in Denmark</i> Report of conversations with the Foreign Minister and the Director General of the Foreign Office in which they expressed regret that they were unable to obtain consent of the Ministry of Finance to proposed reciprocal extension of free importation privileges to American and Danish consular officers.	929

EGYPT

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES
AND EGYPT, SIGNED AUGUST 27, 1929

1928 Aug. 17 (27)	<i>To the Minister in Egypt (tel.)</i> Delivery to Attaché of the Egyptian Legation, August 16, of note proposing negotiation of treaties of arbitration and conciliation and submitting draft texts.	931
Oct. 20 (41)	<i>From the Minister in Egypt (tel.)</i> Observation by the Under Secretary of Foreign Affairs that, as proposed treaties could in no way involve mixed court decisions, no obstacle existed to their conclusion.	931
Nov. 2 (33)	<i>To the Minister in Egypt (tel.)</i> Assertion that the treaties have the same relation to mixed courts and their decisions as to other Egyptian courts; instructions to make no unsought explanations but, if it appears necessary, to inform Foreign Office orally of the Department's views.	931
Dec. 27 (103)	<i>From the Minister in Egypt</i> Foreign Minister's intention to instruct Egyptian Minister at Washington to conclude proposed treaties.	932
1929 Aug. 27	<i>Treaty Between the United States of America and Egypt</i> Of arbitration.	932
Aug. 27	<i>Treaty Between the United States of America and Egypt</i> Of conciliation.	934

PROPOSED CHANGES IN THE REGIME OF THE MIXED COURTS IN EGYPT

1929 Jan. 9 (3)	<i>To the Minister in Egypt</i> Desire for the Legation's recommendations before formulating reply to the Egyptian note of October 28, 1928, reopening general question of capitulations and mixed courts.	936
Jan. 14 (1)	<i>From the Minister in Egypt (tel.)</i> Suggestions for U. S. Government's reply.	936

EGYPT

PROPOSED CHANGES IN THE REGIME OF THE MIXED COURTS IN EGYPT—Con.

Date and number	Subject	Page
1929 Jan. 25 (3)	<i>From the Minister in Egypt (tel.)</i> Opinion that U. S. Government should make known its desire for representation on the mixed courts on a par with the other principal capitulatory powers; suggestion that early reply to Egyptian note is desirable.	938
Jan. 26 (4)	<i>To the Minister in Egypt (tel.)</i> Note for the Egyptian Government (text printed).	939
Feb. 1 (136)	<i>From the Minister in Egypt</i> Dispatch of note, January 31, with one slight departure from Department's text.	940
Mar. 8 (10)	<i>To the Minister in Egypt (tel.)</i> Instructions to advise the Egyptian Government that an unfortunate impression would be produced upon the U. S. Government by failure to recognize principle of equal representation, so far as Americans are concerned, in the forthcoming appointments to the Mixed Courts of Appeal and of First Instance.	941
Apr. 18 (95)	<i>From the American Minister in Egypt to the Egyptian Prime Minister and Acting Minister for Foreign Affairs</i> Desire for recognition of principle of equal representation of principal capitulatory powers on mixed court judiciary; supplementary memorandum (text printed), which is a written statement of oral remarks made on the subject by the American Minister's predecessor.	942
May 10 (29)	<i>From the Minister in Egypt (tel.)</i> Information from the Acting Foreign Minister concerning Egyptian intention to present to the powers a proposal to extend mixed court jurisdiction to all cases now adjudged by consular courts and to make the suggested constitution of a new chamber of five judges dependent upon replies of the powers; his assurance that U. S. wishes regarding representation will be given every consideration.	952
May 11 (32)	<i>From the Minister in Egypt (tel.)</i> Understanding that it is unlikely that a new chamber of appeals consisting of five judges will be created; promise of British judicial adviser to support appointment of an American to fill expected vacancy in Court of First Instance.	953
June 3 (40)	<i>From the Minister in Egypt (tel.)</i> Inquiry whether to take advantage of judicial adviser's promise to support nomination of an American for a vacancy in the Cairo courts coming up in October.	954
June 12 (42)	<i>From the Minister in Egypt (tel.)</i> Advice that judicial adviser will support eventual appointment of a third American judge to the Court of First Instance at Cairo; information from the Prime Minister that he has secured consent to appointment of another American judge to fill vacancy reported in telegram No. 40, June 3.	954
Nov. 19 (69)	<i>From the Minister in Egypt (tel.)</i> Receipt of formal note from Foreign Minister requesting nominations for the Cairo appointment; desire for instructions.	955

EGYPT

PROPOSED CHANGES IN THE REGIME OF THE MIXED COURTS IN EGYPT—Con.

Date and number	Subject	Page
1929 Nov. 29 (82)	<p data-bbox="274 336 529 361"><i>To the Minister in Egypt</i></p> <p data-bbox="274 361 918 404">Names of three candidates; instructions to advise when Egyptian Government has made its choice.</p> <p data-bbox="274 404 918 470">(Footnote: Telegram No. 13, January 21, 1930, from the Minister in Egypt, reporting that decree appointing Julian Wright was published in the official journal, January 20.)</p>	955

PROPOSED ESTABLISHMENT OF AN EGYPTIAN CUSTOMS REGIME THROUGH LEGISLATIVE ACTION

1929 Feb. 20 (145)	<p data-bbox="274 597 556 621"><i>From the Minister in Egypt</i></p> <p data-bbox="274 621 918 734">Foreign Office note, February 14 (text printed), stating intention to establish a new customs regime through legislative action upon lapse, February 16, 1930, of the conventions still in force; Foreign Minister's plan to submit draft of commercial treaty.</p>	955
Aug. 6 (35)	<p data-bbox="274 748 575 772"><i>To the Chargé in Egypt (tel.)</i></p> <p data-bbox="274 772 918 861">Disinclination of the Department to raise the issue whether Egyptian Government has authority to make new customs tariffs without obtaining consent of the capitulatory powers; instructions to ascertain views of colleagues.</p>	957
Aug. 16 (50)	<p data-bbox="274 869 591 894"><i>From the Chargé in Egypt (tel.)</i></p> <p data-bbox="274 894 918 982">Information that colleagues seem to be willing for conclusion of <i>modus vivendi</i> providing acceptance of new tariff provisionally for a limited period, but that they wish first to examine proposed customs law and tariff schedules.</p> <p data-bbox="274 982 918 1043">(Note: Transmittal to the Department by the American Minister, December 19, 1929, and January 4, 1930, of texts of draft customs laws and schedules.)</p>	957

ASSENT BY THE UNITED STATES TO THE COLLECTION OF THE GAFFIR TAX FROM AMERICAN NATIONALS

1929 Aug. 7	<p data-bbox="274 1175 918 1227"><i>From the Egyptian Minister for Foreign Affairs to the American Chargé in Egypt</i></p> <p data-bbox="274 1227 918 1291">Desire for assent by U. S. Government to application to American nationals of new gaffir tax proposed to be levied beginning January 1, 1930.</p>	958
Oct. 8 (42)	<p data-bbox="274 1300 588 1324"><i>To the Minister in Egypt (tel.)</i></p> <p data-bbox="274 1324 918 1439">Authorization, if and when the other capitulatory powers consent to collection of gaffir tax from their nationals, to give U. S. Government's consent to collection from American nationals, effective from date of notification of U. S. Government's consent.</p>	960
Nov. 22 (70)	<p data-bbox="274 1447 609 1472"><i>From the Minister in Egypt (tel.)</i></p> <p data-bbox="274 1472 918 1569">Receipt of Egyptian note requesting early reply; request for permission to reply that the U. S. Government's consent may be considered effective if and when the other powers consent, and to propose clarification of article 2 of the gaffir tax law.</p>	960
Dec. 5 (51)	<p data-bbox="274 1578 580 1602"><i>To the Minister in Egypt (tel.)</i></p> <p data-bbox="274 1602 761 1630">Nonobjection to proposal regarding article 2.</p>	960

EGYPT

ASSENT BY THE UNITED STATES TO THE COLLECTION OF THE GAFFIR TAX FROM AMERICAN NATIONALS—Continued

Date and number	Subject	Page
1929 Dec. 6 (170)	<p data-bbox="208 366 851 418"><i>From the American Minister in Egypt to the Egyptian Minister for Foreign Affairs</i></p> <p data-bbox="208 418 851 499">Notification of U. S. Government's consent to application of gaffir tax to American nationals if and when other capitulatory powers give their consent; suggestion for clarification of article 2.</p> <p data-bbox="208 499 851 552">(Footnote: Information concerning subsequent modification of draft decree and its eventual promulgation on May 2, 1931.)</p>	961

ESTONIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND ESTONIA, SIGNED AUGUST 27, 1929, AND NEGOTIATIONS FOR SIMILAR TREATIES WITH LATVIA

1928 Apr. 16	<p data-bbox="208 739 851 791"><i>To the Estonian Consul General in New York in Charge of Legation</i></p> <p data-bbox="208 791 851 843">Proposal for conclusion of treaties of arbitration and conciliation; submittal of draft texts.</p> <p data-bbox="208 843 851 887">(Sent <i>mutatis mutandis</i> on April 6 to the Latvian Consul General in New York in Charge of Legation.)</p>	963
June 4 (5346)	<p data-bbox="208 895 474 921"><i>From the Minister at Riga</i></p> <p data-bbox="208 921 851 1008">Note from the Estonian Assistant Minister for Foreign Affairs, May 26 (text printed), declaring willingness to enter into treaty negotiations and stating intention to submit certain alterations in draft treaties.</p>	964
Aug. 28 (5523)	<p data-bbox="208 1017 474 1043"><i>From the Minister at Riga</i></p> <p data-bbox="208 1043 851 1147">Desire of Latvian and Estonian Foreign Ministers to follow a common policy with regard to international undertakings; confidential memorandum from the Latvian Foreign Minister, August 20 (text printed), respecting revisions desired in the treaties.</p>	965
Sept. 11 (554)	<p data-bbox="208 1156 447 1182"><i>To the Minister at Riga</i></p> <p data-bbox="208 1182 851 1251">Desire to maintain uniformity in the series of arbitration and conciliation treaties; instructions to endeavor to expedite negotiations.</p>	967
Oct. 20 (60)	<p data-bbox="208 1260 501 1286"><i>To the Minister at Riga (tel.)</i></p> <p data-bbox="208 1286 851 1355">Instructions to point out to Estonian and Latvian Governments that the proposed amendments seem unnecessary, giving reasons for this view.</p>	967
Nov. 6 (90)	<p data-bbox="208 1364 506 1390"><i>From the Chargé at Riga (tel.)</i></p> <p data-bbox="208 1390 851 1543">Information that the Latvian Foreign Minister believes the Department's arguments will probably remove objections, but that he requests a list showing the countries with which the United States has concluded similar arbitration and conciliation treaties; advice from the Consul at Tallinn that the Secretary General of Estonian Foreign Office doubts that the Department's arguments could change Estonia's viewpoint.</p>	968

ESTONIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND ESTONIA, SIGNED AUGUST 27, 1929, AND NEGOTIATIONS FOR SIMILAR TREATIES WITH LATVIA—Continued

Date and number	Subject	Page
1928 Nov. 6 (5683)	<i>From the Chargé at Riga</i> Confirmation of telegram No. 90. Despatch from the Consul at Tallinn, October 30 (text printed), regarding conversation with the Estonian Assistant Minister for Foreign Affairs, October 29, in which the latter explained reasons for proposing amendments to the draft treaties.	968
Nov. 10 (63)	<i>To the Chargé at Riga (tel.)</i> List of countries with which the United States has concluded similar treaties of arbitration and conciliation; further arguments in support of contention that treaties as drafted should be acceptable; instructions to endeavor to obtain Estonia's acquiescence but not to refuse to receive specific alternative proposals.	972
1929 Jan. 2 (5805)	<i>From the Chargé at Riga</i> Note dated December 17, 1928, from the Estonian Assistant Minister for Foreign Affairs (text printed) setting forth interpretation of article I of the draft arbitration treaty and requesting to be advised whether the U. S. Government concurs in that interpretation.	972
Jan. 30 (5)	<i>To the Minister at Riga (tel.)</i> Willingness to accede to Estonian interpretation of article I. (Footnote: Communication of this position to the Estonian Foreign Minister in American Minister's note of March 27.)	973
June 11 (6203)	<i>From the Minister at Riga</i> Note to the Latvian Foreign Minister, May 29, and his reply, June 3 (texts printed), setting forth identical interpretation of article I of draft arbitration treaty.	974
Aug. 27	<i>Treaty Between the United States of America and Estonia</i> Of arbitration.	975
Aug. 27	<i>Treaty Between the United States of America and Estonia</i> Of conciliation.	977
Sept. 10 (6399)	<i>From the Minister at Riga</i> Information that the Commission on Foreign Relations of the Saeima is studying the whole matter of Latvian adherence to the optional clause of the Hague Statute and proposed conclusion of treaties of arbitration and conciliation with the United States and other powers. (Footnote: Signature by the United States and Latvia, January 14, 1930, of treaties of arbitration and conciliation.)	979

ETHIOPIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND ETHIOPIA, SIGNED JANUARY 26, 1929

1928 Sept. 10 (15)	<i>To the Minister in Ethiopia</i> Instructions to transmit to the Ethiopian Government for consideration draft texts of treaties of arbitration and conciliation; suggested covering note (text printed).	980
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ETHIOPIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND ETHIOPIA, SIGNED JANUARY 26, 1929—Continued

Date and number	Subject	Page
1928 Dec. 19	<i>From the Minister in Ethiopia (tel.)</i> Readiness of Ethiopian Government to conclude treaties with certain modifications.	981
Dec. 28 (27)	<i>To the Minister in Ethiopia (tel.)</i> Nonobjection to modifications; advice that full powers to sign are being forwarded.	981
1929 Jan. 26	<i>Treaty Between the United States of America and Ethiopia</i> Of arbitration.	982
Jan. 26	<i>Treaty Between the United States of America and Ethiopia</i> Of conciliation.	983

PROPOSED COURT IN ETHIOPIA TO HAVE JURISDICTION OVER FOREIGN NATIONALS

1929 Aug. 10 (38)	<i>To the Minister in Ethiopia (tel.)</i> Information that the proposal of diplomatic corps at Addis Ababa for establishment of court having jurisdiction over foreign nationals is agreeable to the Department, but that the proposal needs further redrafting and consideration; instructions to ascertain attitude of the other interested powers.	986
Aug. 14 (241)	<i>From the Minister in Ethiopia</i> Approval and submission by the other diplomatic representatives of written proposal to the Ethiopian Government. Request for instructions, since the Ethiopians will assume U. S. adherence unless the Legation makes a formal statement to the contrary.	986
Nov. 1 (101)	<i>To the Minister in Ethiopia</i> Information that the Department's objections were not leveled against scheme as a whole but that it was thought a more careful drafting was needed.	988

FRANCE

SUPPLEMENTARY EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND FRANCE, SIGNED JANUARY 15, 1929

1929 Jan. 15 (9294)	<i>From the Chargé in France</i> Explanation of the revisions made in draft text of supplementary extradition convention negotiated with France.	990
Jan. 15	<i>Supplementary Extradition Convention Between the United States of America and France</i> Enlarging the list of crimes and offenses on account of which extradition may be granted under convention of January 6, 1909, to include infractions of laws concerning poisonous substances.	991

FRANCE

PROBLEMS OF TARIFF ADMINISTRATION REGARDING FRENCH EXPORTS TO THE UNITED STATES AND AMERICAN EXPORTS TO FRANCE

Date and number	Subject	Page
1929 Mar. 7 (9400)	<i>From the Ambassador in France</i> Foreign Office note, March 6, and enclosed draft agreement (texts printed), relative to the verification by U. S. Treasury officials in France of declarations of value made by French exporters.	992
July 13 (4161)	<i>To the Chargé in France</i> Reply for Foreign Office (text printed) explaining nature of duties which U. S. Treasury representatives would perform in France, and advising that the State and Treasury Departments have recommended to Congress the elimination of section 510 of the Tariff Act which prohibits entry of goods from a foreign manufacturer or shipper who refuses to give U. S. Treasury representatives necessary information to enable determination of foreign or export value.	995
Aug. 13 (9759)	<i>From the Chargé in France</i> Foreign Office reply, August 9 (text printed), stating non-objection to return of Treasury representatives to France, in view of modifications which abrogation of section 510 and assurances set forth in U. S. reply would effect in their powers, and expressing desire that representatives be attached to American consulates.	999

EXEMPTION FROM TAXATION OF UNITED STATES TRADE COMMISSIONERS AND CUSTOMS REPRESENTATIVES IN FRANCE

1928 May 19 (142)	<i>To the Ambassador in France (tel.)</i> Instructions to request French authorities to postpone efforts to collect income, personal, and local taxes from U. S. trade commissioners and customs representatives in France in order that whole question of taxation of U. S. officials in France may be discussed.	1002
May 25 (8635)	<i>From the Ambassador in France</i> Promise of Foreign Office to transmit question to Finance Ministry with favorable recommendation.	1002
1929 Jan. 8 (9265)	<i>From the Chargé in France</i> Foreign Office note, December 30, 1928 (text printed), stating that trade commissioners and customs representatives will be considered as forming part of the American diplomatic mission and will be exempt from personal taxes.	1003
Feb. 15 (3065)	<i>To the Ambassador in France</i> Information that trade commissioners and customs representatives are not to be considered as being invested with a diplomatic character or as enjoying general diplomatic immunities other than exemption from taxation.	1005

FRANCE

EFFORTS BY THE DEPARTMENT OF STATE TO PROTECT AMERICAN MOTION PICTURE INTERESTS FROM RESTRICTIONS IMPOSED BY FRENCH FILM REGULATIONS

Date and number	Subject	Page
1929 Mar. 28 (86)	<p><i>To the Chargé in France (tel.)</i> Memorandum for the Foreign Minister (text printed), expressing hope that appropriate steps will be taken to alleviate serious injury to American motion picture interests resulting from restrictions imposed on importation of foreign films. (Instructions to repeat to Berlin, Budapest, Madrid, Prague, Rome, and Vienna.) (Footnote: Information that following presentation of notes to the respective Foreign Ministers at Berlin, Budapest, Madrid, Prague, Rome, and Vienna, no further action on the part of the Department was taken.)</p>	1006
Apr. 19 (161)	<p><i>From the Chargé in France (tel.)</i> Receipt of French reply; information that informal conversations will start the following day between the Under Secretary of Fine Arts, the Commercial Attaché, and representatives of American and French film interests.</p>	1007
Apr. 19 (9487)	<p><i>From the Chargé in France</i> Foreign Minister's reply of April 18 (text printed), phrased in courteous and general terms.</p>	1008
May 2 (189)	<p><i>From the Chargé in France (tel.)</i> Understanding that at meeting of American and French film interests held on May 1 the American representatives had no proposals to suggest and took an aggressive attitude which is believed to be ill-calculated to facilitate the course of further negotiations.</p>	1009
May 4	<p><i>To the President of the Motion Picture Producers and Distributors of America, Inc. (tel.)</i> Observation, in view of Embassy's report concerning meeting of French and American film interests, May 1, that success of the present negotiations is largely dependent on cordiality and united action.</p>	1010
May 5	<p><i>From the President of the Motion Picture Producers and Distributors of America, Inc. (tel.)</i> Concurrence in suggestion that cordiality and united action are essential; observation that reports at hand do not agree with inference received from the Department's telegram; intention to send a representative to call on the Department.</p>	1010
May 7 (138)	<p><i>To the Chargé in France (tel.)</i> Information from representative of the Hays organization that American interests are unalterably opposed to contingent plan and will fight present system in any form, but that they would find acceptable increased customs duties or taxes.</p>	1011
May 9 (145)	<p><i>To the Chargé in France (tel.)</i> Observation, in connection with press reports that French Government is considering a plan to levy high tax on foreign films entering France and turn the proceeds over to the French film industry, that section 303 of the Tariff Act apparently makes mandatory the imposition of countervailing duties on exportation to the United States of any articles enjoying directly or indirectly benefit of a bounty or grant upon production in the country of origin.</p>	1011

FRANCE

EFFORTS BY THE DEPARTMENT OF STATE TO PROTECT AMERICAN MOTION PICTURE INTERESTS FROM RESTRICTIONS IMPOSED BY FRENCH FILM REGULATIONS—
Continued

Date and number	Subject	Page
1929 May 11 (206)	<i>From the Chargé in France (tel.)</i> Inquiry whether application of section 303 is so probable that the Commercial Attaché should inform the Under Secretary of Fine Arts with regard to it.	1012
May 13 (154)	<i>To the Chargé in France (tel.)</i> Opinion that the Commercial Attaché should mention section 303 and its possible consequences in the course of his conversations with the Under Secretary of Fine Arts.	1013
May 28 (177)	<i>To the Chargé in France (tel.)</i> Concern of Hays organization over report that Commercial Attaché told the Minister of Fine Arts that film industry would be satisfied with continuance of the previous year's status; instructions to report the facts.	1013
May 29 (242)	<i>From the Chargé in France (tel.)</i> Information that the Commercial Attaché made it clear to the Under Secretary of Fine Arts that only the complete abolition of the contingent system would be acceptable, but stated personal opinion that, if maintenance of the <i>status quo</i> was the only possible temporary method of keeping the way open for eventual adoption of another system, American film interests might be willing to resume their sales.	1014
June 3 (180)	<i>To the Chargé in France (tel.)</i> Receipt of report that French Cabinet will probably decide on 4 to 1 quota and 30 percent free entry for 3 years; instructions to inform Foreign Office that American film interests cannot accept such decision and will withdraw entirely from France as soon as their contracts expire.	1015
June 7 (266)	<i>From the Chargé in France (tel.)</i> Information from the Foreign Office that the French Government has reached no decision; also that it hopes that Hays can be persuaded to withdraw his instructions regarding the closing of film establishments in France.	1015
June 10 (274)	<i>From the Chargé in France (tel.)</i> Understanding that the Under Secretary of Fine Arts stated to representatives of American film interests on June 7, that the Cabinet could not come to a decision on the film question until the matter of debt agreements was out of the way.	1016
June 10 (192)	<i>To the Chargé in France (tel.)</i> Statement issued to the press (text printed) concerning the negotiations at Paris on the film question; suggestion that it might be well for the Chargé to issue a similar statement in Paris.	1016
June 11 (277)	<i>From the Chargé in France (tel.)</i> Opinion that it would be unwise for the Embassy to give out the press statement. (Footnote: Department's instructions to the Chargé in telegram No. 197, June 13, to use his discretion regarding release of statement.)	1017

FRANCE

EFFORTS BY THE DEPARTMENT OF STATE TO PROTECT AMERICAN MOTION PICTURE INTERESTS FROM RESTRICTIONS IMPOSED BY FRENCH FILM REGULATIONS—
Continued

Date and number	Subject	Page
1929 July 12 (333)	<i>From the Chargé in France (tel.)</i> Note from the Under Secretary of Fine Arts (text printed) asking whether the American film representatives have replied in the negative to film commission's inquiry regarding their willingness to continue or resume business in France during the time which would be required to study and adopt a new system.	1018
Sept. 18 (427)	<i>From the Chargé in France (tel.)</i> Information from Hays organization representative concerning clause which they desire to have inserted in the proposed agreement.	1019
Sept. 19 (429)	<i>From the Chargé in France (tel.)</i> Approval by Under Secretary of Fine Arts and American film representatives of draft agreement; desire of Under Secretary that, if agreement is accepted by Hays and there remains no further obstacle to immediate signature and required action by the French film commission, U. S. Government send an official reply to French Government's note of July 11.	1019
Sept. 19 (433)	<i>From the Chargé in France (tel.)</i> Signature of agreement; presumption that the French film commission will take the necessary action at its next meeting.	1021
Sept. 21 (299)	<i>To the Chargé in France (tel.)</i> Telegram from Mr. Hays, September 20 (excerpt printed), giving assurances that upon approval of agreement by the French film commission and the competent ministry, American companies will start selling in France; instructions to convey these assurances to French authorities.	1021
Sept. 25 (447)	<i>From the Chargé in France (tel.)</i> Information that the U. S. official reply was gratifying to French authorities; advice that as the French film commission approved the agreement on September 24 and the Under Secretary of Fine Arts has reiterated his approval, the present negotiations have come to a successful conclusion.	1022

PROTEST AGAINST USE OF THE DESIGN OF THE AMERICAN FLAG FOR ADVERTISING PURPOSES AS CONTRAVENING THE CONVENTION OF JUNE 2, 1911, FOR THE PROTECTION OF INDUSTRIAL PROPERTY

1929 Sept. 19 (4253)	<i>To the Chargé in France</i> Information that the French trade-mark office issued a trade-mark which bears the design of the American flag, in contravention of the convention of June 2, 1911, for the protection of industrial property; instructions to request the Foreign Office to take steps to have the trade-mark invalidated.	1023
Nov. 23 (10035)	<i>From the Chargé in France</i> Receipt of Foreign Office note stating that owner will register a renunciation of the trade-mark.	1024

GERMANY

INTEREST OF THE UNITED STATES IN THE PLAN FOR THE FINAL SETTLEMENT
OF GERMAN REPARATIONS RECOMMENDED BY THE COMMITTEE OF EXPERTS,
JUNE 7, 1929

Date and number	Subject	Page
1929 Jan. 12	<i>Memorandum of a Conversation Between the Secretary of State and the British Ambassador</i> Discussion of the U. S. Government's desire not to have an American as the chairman of the Experts Committee.	1025
Jan. 17 (32)	<i>From the Chargé in France (tel.)</i> Letter from the Reparation Commission and enclosure (texts printed), inquiring whether the U. S. Government has any objection to the appointment of Owen D. Young and John Pierpont Morgan to the Experts Committee; receipt of identical communication from the German Government. Commission's desire that the U. S. reply be furnished by January 19.	1026
Jan. 18 (29)	<i>To the Chargé in France (tel.)</i> Inability to understand what further communication the Governments need, inasmuch as they all authorized the British Ambassador at Washington to make arrangements for participation of American experts and he has already received the U. S. Government's approval.	1027
Jan. 19 (39)	<i>From the Ambassador in France (tel.)</i> Information that Young and Morgan have been appointed to the Committee and that the Committee expects to meet in Paris on February 9; also that replies have been made to the Reparation Commission and the German Government in the sense of the Department's telegram No. 29, January 18. Explanation that the British Ambassador at Washington had acted on his own initiative and unknown to the Commission, which, in submitting the communication transmitted January 17, was merely conforming to the procedure previously arranged with the Department.	1027
Jan. 21 (31)	<i>To the Ambassador in France (tel.)</i> Explanation that the Department had understood that, when the British Ambassador spoke in the name of the Governments, the procedure previously arranged was canceled; approval of replies sent by the Ambassador. (Note: List of members of the Experts Committee under the chairmanship of Mr. Young.)	1028
Feb. 28 (60)	<i>To the Ambassador in France (tel.)</i> For Young: Desire for general review of the work of the Committee.	1029
Mar. 3 (84)	<i>From the Ambassador in France (tel.)</i> From Young: Information concerning the work of the Committee. Advice that a study is being made of the question of establishing an international bank to handle German obligations through normal channels of finance and commerce.	1029
Mar. 28 (114)	<i>From the Ambassador in France (tel.)</i> From Young: Advice that the Committee had reached an impasse through inability to get figures on the table and that the chairman, therefore, made a statement at the morning meeting (text printed), proposing certain figures for discussion.	1034

GERMANY

INTEREST OF THE UNITED STATES IN THE PLAN FOR THE FINAL SETTLEMENT
OF GERMAN REPARATIONS RECOMMENDED BY THE COMMITTEE OF EXPERTS,
JUNE 7, 1929—Continued

Date and number	Subject	Page
1929 Mar. 28 (115)	<i>From the Ambassador in France (tel.)</i> Memorandum circulated at the morning session by the Belgian, British, French, and Italian experts (texts printed) proposing that German reparation payments be divided into two categories to cover (1) exterior debts of creditor European states towards the United States, and (2) internal claims resulting from damage sustained by civilian population.	1036
Apr. 8 (102)	<i>To the Chargé in France (tel.)</i> For Wilson, American unofficial representative on the Reparation Commission: Message for Young (text printed) quoting a Treasury Department memorandum which expresses opposition to having an American serve as director of the international bank, to division of German payments into two categories, and to reduction of payments made on account of mixed claims below amount payable under standard annuity.	1038
Apr. 9 (103)	<i>To the Chargé in France (tel.)</i> Instructions to confer with Frank B. Kellogg, former Secretary of State, concerning the subjects contained in telegram No. 102, April 8, and, if Mr. Kellogg is in accord with the sentiments expressed in the Treasury memorandum, to state hope that he will confer with American experts and use his influence along lines of the memorandum.	1040
Apr. 10 (139)	<i>From the Chargé in France (tel.)</i> From Kellogg: Concurrence in views expressed in telegram No. 102, April 8, and arrangements for conference with American experts.	1040
Apr. 11 (141)	<i>From the Chargé in France (tel.)</i> From Kellogg: Report of conference with American experts.	1041
Apr. 11 (145)	<i>From the Chargé in France (tel.)</i> From Young: Advice that, as the American experts were designated to act as free agents and not as representatives of the U. S. Government, they cannot regard the Treasury memorandum as an instruction; opinion that the apprehensions set forth in that memorandum rest upon a misunderstanding.	1043
Apr. 12 (146)	<i>From the Chargé in France (tel.)</i> From Wilson: Letter to Young (text printed), expressing concern over reported intention of the four principal creditor groups to submit definite proposals to the Germans whereby all army costs in arrears, including the largely unsatisfied U. S. Army costs, will be wiped out and the mixed claims awards of the United States and Germany paid over a period of 58 years; Young's statement that American experts had declined to sign the proposal or assume any responsibility for it.	1045
Apr. 12 (147)	<i>From the Chargé in France (tel.)</i> From Kellogg: Information of his conferences with Lamont and Young regarding the Allied proposals.	1048

GERMANY

INTEREST OF THE UNITED STATES IN THE PLAN FOR THE FINAL SETTLEMENT OF GERMAN REPARATIONS RECOMMENDED BY THE COMMITTEE OF EXPERTS, JUNE 7, 1929—Continued

Date and number	Subject	Page
1929 Apr. 12 (148)	<i>From the Chargé in France (tel.)</i> From Young: Advice that, as now drafted, the offer of the four principal creditor powers does not contain any provision for U. S. Army costs but does provide for payment of mixed claims over a 58-year period; information that offer will be made to the Germans in plenary session, that if they consider it, subcommittee will be appointed to hear proposals of minor powers, and that the U. S. Government could file its protests or state its views to the subcommittee at that time.	1049
Apr. 13 (149)	<i>From the Chargé in France (tel.)</i> Memorandum by the experts of the four principal creditor powers (text printed) submitted to the Germans at the morning plenary session and containing proposed series of annuities.	1051
Apr. 13 (109)	<i>To the Chargé in France (tel.)</i> For Young: Understanding that reparation figures will soon be made public; hope that no publicity will be given to the figures until complete statement of the U. S. Government's position can be forwarded.	1054
Apr. 15 (154)	<i>From the Chargé in France (tel.)</i> From Young: Memorandum prepared by Young at the request of the four principal creditors, and submitted to the full Committee (text printed) proposing, on the basis of his statement of March 28, definite figures for each of the four principal creditors and schedule of annuities to be paid by Germany.	1054
Apr. 15 (112)	<i>To the Chargé in France (tel.)</i> For Young: Complete statement of the U. S. Government's position on the points under discussion.	1059
Apr. 15 (155)	<i>From the Chargé in France (tel.)</i> Receipt by American Chargé and representatives of minor powers of invitation to confer with experts of five creditor powers in orders that basis of their proposals may be explained and views may be requested. Request for instructions.	1062
Apr. 17 (156)	<i>From the Chargé in France (tel.)</i> From Young: Opinion that the way for U. S. Government's views to be indicated, and perhaps to have the Allied proposals modified, would seem to be opened by the invitation from the principal creditor powers.	1063
Apr. 17 (114)	<i>To the Chargé in France (tel.)</i> Instructions, if and when meeting is held, to telegraph immediately the specific questions asked and request instructions.	1064
Apr. 19 (163)	<i>From the Chargé in France (tel.)</i> From Young: Intention, as soon as present critical situation has crystallized sufficiently to permit a forecast as to possibility of holding further conferences with any hope of reaching agreement, to make full reply to message of April 15.	1065
May 2 (133)	<i>To the Chargé in France (tel.)</i> For Young: Inquiry whether, if work of Committee is resumed, it might not still be possible to attack the problem from a purely economic point of view.	1065

GERMANY

INTEREST OF THE UNITED STATES IN THE PLAN FOR THE FINAL SETTLEMENT
OF GERMAN REPARATIONS RECOMMENDED BY THE COMMITTEE OF EXPERTS,
JUNE 7, 1929—Continued

Date and number	Subject	Page
1929 May 10 (203)	<i>From the Chargé in France (tel.)</i> Opinion that it would be inadvisable for the Chargé to appear before Committee unless the U. S. Government is willing to state readiness to accept a proportionate reduction in U. S. share of German annuity.	1067
May 11 (148)	<i>To the Chargé in France (tel.)</i> Concurrence in Chargé's judgment; authorization to tell Young, however, that in event experts are ever definitely prepared to allocate the annuity among the various creditors, the Chargé will appear before Committee and state U. S. Government's position; outline of the basis of settlement which the United States would accept.	1068
May 13 (208)	<i>From the Chargé in France (tel.)</i> Observation that the 1,988 million gold marks average annuity is exclusive of the service of the Dawes loan; request for confirmation of assumption that this fact was taken into consideration when position defined in telegram No. 148 of May 11 was formulated.	1070
May 13 (152)	<i>To the Chargé in France (tel.)</i> Advice that service of the loan was not taken into consideration in making calculations; willingness, however, to stand on figures contained in telegram No. 148 of May 11.	1070
May 16	<i>Statement Issued to the Press by the Secretary of State</i> Information that the U. S. Government will not permit any officials of the Federal Reserve System to participate in the proposed new international bank now under discussion by the Experts' Committee.	1070
May 17 (216)	<i>From the Chargé in France (tel.)</i> Advice that press statement of May 16 has caused considerable reaction, that the French expert is considerably discouraged, and that the German expert is being attacked by Nationalists on ground that the United States now disapproves bank scheme.	1071
May 17 (164)	<i>To the Chargé in France (tel.)</i> Instructions to inform Young that the U. S. Government does not object to creation of the proposed international bank nor to participation therein of private American banks and bankers, but does object to participation of any American official in a bank for the collection and distribution of reparations, which it has been against U. S. policy to claim.	1072
May 18 (224)	<i>From the Chargé in France (tel.)</i> Advice that the situation has apparently been straightened out by the message contained in telegram No. 164, May 17, and that the problem now is the question of distribution.	1073

GERMANY

INTEREST OF THE UNITED STATES IN THE PLAN FOR THE FINAL SETTLEMENT
OF GERMAN REPARATIONS RECOMMENDED BY THE COMMITTEE OF EXPERTS,
JUNE 7, 1929—Continued

Date and number	Subject	Page
1929 May 19 (165)	<i>To the Chargé in France (tel.)</i> Instructions to state to Young, for communication to the Committee, that the President will recommend to Congress that the United States agree: (1) To accept 90 percent of its claims, due September 1, 1929, provided France and Great Britain will make similar concession, (2) to accept a flat annuity of 40,800,000 gold marks to be paid annually until mixed claims are discharged, and (3) to place Army costs in the conditional class, but to insist, however, that mixed claims payments be placed in the unconditional class.	1075
May 20 (225)	<i>From the Chargé in France (tel.)</i> Information that the position stated in telegram No. 165, May 19, was communicated by the Chargé to the representatives of the four principal creditor groups in informal meeting. Request for clarification of certain minor points.	1076
May 21 (167)	<i>To the Chargé in France (tel.)</i> Supplementary explanations of points set forth in telegram No. 165, May 19.	1077
May 23 (233)	<i>From the Chargé in France (tel.)</i> Letter to presiding officer of the creditor groups (text printed) conveying the recommendations which the President will make to Congress. Information that the creditor groups have reached agreement on distribution, which the Chargé feels is insufficient to satisfy American claims. Suggestion that the United States accept lower interest rate of 4½ percent. Request for certain Treasury figures.	1078
May 25 (171)	<i>To the Chargé in France (tel.)</i> Reasons why it will be impossible for the United States to take further steps until the experts' report is sent to the governments; advice that any further diminution in annuities to be paid the United States might add seriously to the opposition in Congress to acceptance of the schedule to be presented by the President.	1081
May 25 (174)	<i>To the Chargé in France (tel.)</i> Transmittal of certain Treasury figures as requested.	1082
May 31 (246)	<i>From the Chargé in France (tel.)</i> Advice that the Committee appears to be reaching agreement and may have final report ready for signature within a week; understanding that creditor groups have not allotted to the United States anything in the unconditional group; opinion that this matter can be taken up when the conference of governments is held to put the new plan into effect. (Footnote: Information that the report was signed on June 7.)	1082
(Note: Information that the conference was held at The Hague, August 6-31, 1929, for the purpose of putting the experts' plan into effect, and that the United States was represented by Wilson as observer with specifically limited powers.)		

GERMANY

NEGOTIATIONS FOR AN AGREEMENT TO PROVIDE FOR PAYMENT OF AMERICAN
ARMY OF OCCUPATION COSTS AND MIXED CLAIMS COMMISSION AWARDS

Date and number	Subject	Page
1929 Sept. 14 (64)	<i>To the Ambassador in Germany (tel.)</i> Instructions to ascertain whether Germany will enter into agreement to pay directly to the United States the annuities recommended in report of the Experts Committee. (Instructions to inform Edwin C. Wilson, American acting observer on the Reparation Commission.)	1083
Oct. 26 (201)	<i>From the Ambassador in Germany (tel.)</i> Foreign Office <i>aide-mémoire</i> , October 25 (text printed), stating readiness to enter into negotiations and suggesting that the two Governments jointly acquaint the other creditor governments with the fact of negotiations.	1085
Oct. 26 (78)	<i>To the Ambassador in Germany (tel.)</i> Information that press reports of U. S.-German negotiations made it necessary for the Secretary of State to announce the fact at his press conference; nonobjection if German Minister at Brussels wishes to notify the president of the Hague conference, but inability to see necessity for American Minister to be associated with him in such action.	1086
Nov. 2 (359)	<i>To the Chargé in France (tel.)</i> Telegram for repetition to Berlin (text printed), stating that Wilson is being instructed to proceed to Berlin to present draft agreement and enter into negotiations with German representative.	1087
Nov. 7 (209)	<i>From the Ambassador in Germany (tel.)</i> From Wilson: Presentation of draft agreement; German representative's hope that a postponement or safeguard clause similar to the revision clause contained in Young Plan might be included; and American representative's view that such a clause would probably be unacceptable to the United States.	1087
Nov. 12 (215)	<i>From the Ambassador in Germany (tel.)</i> From Wilson: German inquiry whether the United States would agree to renounce its rights to sanctions and special pledges under the treaties; German desire for revision or safeguard clause.	1088
Nov. 13 (217)	<i>From the Ambassador in Germany (tel.)</i> From Wilson: Discussion of further points raised by German representative; German inquiry whether the 45 million marks allocated to mixed claims might be maintained until the claims are paid, reducing proportionately in the first years the allocation to army costs and increasing it in the later years; German desire for information as to the basis on which the total of mixed claims awards has been computed.	1091
Nov. 19 (83)	<i>To the Ambassador in Germany (tel.)</i> For Wilson: Nonobjection in principle to ultimate renunciation of rights to sanctions and pledges in event proposed agreement and Young Plan become effective; inability to accept any so-called revision or safeguard clause.	1094
Nov. 19 (84)	<i>To the Ambassador in Germany (tel.)</i> For Wilson: Inability to consider reallocation of annuities as between army costs and mixed claims; revised figures on estimated total of mixed claims awards.	1097

GERMANY

NEGOTIATIONS FOR AN AGREEMENT TO PROVIDE FOR PAYMENT OF AMERICAN
ARMY OF OCCUPATION COSTS AND MIXED CLAIMS COMMISSION AWARDS—
Continued

Date and number	Subject	Page
1929 Nov. 19	<i>Memorandum by the Assistant Secretary of State</i> Record of conversations with representatives of the Belgian, British, French, and Italian Embassies individually, in which the Assistant Secretary outlined nature of the agreement under discussion with Germany.	1101
Nov. 29 (241)	<i>From the Ambassador in Germany (tel.)</i> From Wilson: Receipt by Foreign Office of practically identical notes from the four principal creditor governments; British note, November 20 to the president of the Hague conference (text printed), stating acquiescence in proposed U. S.-German agreement.	1101
Dec. 2 (247)	<i>From the Ambassador in Germany (tel.)</i> From Wilson: German decision to waive safeguard clause, on strictly confidential understanding that Germany reserves the right to reopen negotiations in event other powers at The Hague raise objection to U. S.-German agreement and thereby make it impossible to put agreement into force without changing the Young Plan; German request for new draft regarding U. S. renunciation of pledges and right to employ sanctions; German request for provision granting Germany 5½ percent discount on advance payments.	1102
Dec. 8 (103)	<i>To the Ambassador in Germany (tel.)</i> For Wilson: Opinion that the strictly confidential understanding desired by Germany is unnecessary and undesirable; suggestion for revising clause relating to renunciation of pledges and sanctions; inability to accede to request for 5½ percent discount on advance payments.	1104
Dec. 28 (117)	<i>To the Ambassador in Germany (tel.)</i> Statement issued to the press by the Acting Secretary of the Treasury, for release December 29 (text printed), advising that the U. S. and German Governments have reached accord on an agreement which will be submitted to Congress for authorization to conclude it. (Footnote: Information that agreement was subsequently signed on June 23, 1930, pursuant to act of Congress, June 5, 1930.)	1105

RECIPROCAL TREATMENT TO BE ACCORDED BY THE UNITED STATES AND
GERMANY TO CONSULAR STAFFS IN THE PAYMENT OF IMPORT DUTIES AND
OTHER TAXES

1926 Apr. 9 (72)	<i>From the Ambassador in Germany (tel.)</i> Refusal of Hamburg customs authorities to admit goods duty-free for American consuls; information from Foreign Office that it is ready to accept on a basis of reciprocity whatever interpretation U. S. Government cares to put on article 27 of the treaty of friendship, commerce and consular rights of December 8, 1923.	1106
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GERMANY

RECIPROCAL TREATMENT TO BE ACCORDED BY THE UNITED STATES AND
GERMANY TO CONSULAR STAFFS IN THE PAYMENT OF IMPORT DUTIES AND
OTHER TAXES—Continued

Date and number	Subject	Page
1926 Apr. 12 (25)	<p><i>To the Ambassador in Germany (tel.)</i> Information that free entry privileges are being accorded to German consular officers of career under article 27 of the treaty; instructions to insist on full reciprocity for American consular officers in Germany.</p>	1107
1929 Apr. 29 (4504)	<p><i>From the Ambassador in Germany</i> <i>Aide-mémoire</i>, February 1, to the Foreign Minister (text printed), requesting that American consular officers be granted exemption from internal revenue taxation on articles imported by them; Foreign Office <i>note verbale</i> No. V526, April 11 (text printed), stating that the German Government cannot grant the desired exemption but reserves right to revise its point of view in case U. S. Government should arrive at a broader interpretation of the term "consular officers" which has been under discussion by the German Embassy and the Department of State in Washington.</p>	1107
Dec. 9 (5142)	<p><i>From the Ambassador in Germany</i> Receipt from Foreign Office of decree granting to foreign consular officers in Germany exemption from customs duties and internal taxes, provided reciprocity is granted by the appointing state. Request for telegraphic authorization to inform Foreign Office that German consular officers in the United States enjoy the privilege of free importation on basis of reciprocity.</p>	1111
Dec. 31 (118)	<p><i>To the Ambassador in Germany (tel.)</i> Authorization as requested.</p>	1111

BELGIUM

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND BELGIUM, SIGNED MARCH 20, 1929

711.5512A/1

The Acting Secretary of State to the Belgian Ambassador (De Ligne)

WASHINGTON, March 26, 1928.

EXCELLENCY: I have the honor to transmit herewith for the consideration of your Government and as a basis for negotiation a proposed draft of a treaty of arbitration between Belgium and the United States.¹

The provisions of this draft operate to extend the policy of arbitration enunciated in the arbitration conventions concluded in 1908 between the United States and several other countries,^{1a} and are identical in effect with the provisions of the arbitration treaty signed between the United States and France on February 6, 1928, a copy of which is also enclosed.²

You will observe that Article I of the treaty with France does not appear in the draft submitted herewith. Its language was borrowed from the language of the Treaty for the Advancement of Peace signed in 1914,³ and some question having arisen as to whether the new treaty affected the status of the Treaty of 1914, the matter has been resolved in the case of France by an exchange of notes⁴ recording the understanding of both Governments that the earlier conciliation treaty was in no way affected by the later arbitration treaty. In order to obviate further questions of this nature, however, it seemed desirable to avoid the incorporation in other arbitration treaties of any portion of the language of the earlier conciliation treaties, where such treaties exist, and in such cases I have therefore proposed the elimination of Article I of the French treaty and amended Article II (which is Article I of the draft transmitted herewith) by substituting for the words "the above-mentioned Permanent International Commission" the words "the Permanent International Commission constituted pursuant to" the applicable treaty of conciliation. As no such conciliation treaty is in force

¹ Draft not printed.

^{1a} For index references to treaties of 1908, see *Foreign Relations*, 1908, p. 832; *ibid.*, 1909, p. 676.

² *Ibid.*, 1928, vol. II, p. 816.

³ *Ibid.*, 1915, p. 380.

⁴ Dated March 1 and 5, 1928, *ibid.*, 1928, vol. II, p. 819.

between Belgium and the United States, this latter formula cannot of course be used. I have therefore made no mention in Article I of any Permanent International Commission referring instead to "an appropriate commission of conciliation". The negotiation and conclusion of an arbitration treaty can thus proceed independently of negotiations with respect to a conciliation treaty.

The Government of the United States would be pleased, however, to conclude with the Government of Belgium not only the arbitration treaty referred to above, but also a conciliation treaty modeled after the so-called Bryan treaties which were signed by the United States with many other countries in 1913 and 1914,⁵ and I take this opportunity to transmit for the consideration of your Government and as a basis of negotiation a proposed draft of a treaty of conciliation⁶ identical in effect with other treaties to which the United States is a party.

I feel that by adopting treaties such as those suggested herein we shall not only promote the friendly relations between the Peoples of our two countries, but also advance materially the cause of arbitration and the pacific settlement of international disputes. If your Government concurs in my views and is prepared to negotiate treaties along the lines of the two drafts transmitted herewith, I shall be glad to enter at once upon such discussions as may be necessary.

Accept [etc.]

ROBERT E. OLDS

711.5512 Anti-War/9

The Belgian Ambassador (De Ligne) to the Secretary of State

[Translation]

WASHINGTON, June 6, 1928.

MR. SECRETARY OF STATE: I did not fail to forward to my Government the drafts of Conciliation and Arbitration Treaties which Your Excellency was pleased to send me with your note of March 26 last.

The texts suggested by the Government of the United States have been given careful examination by the Belgian Government. It accepts them as affording ground for discussion but deems it expedient to suggest a few changes that are shown in the margin of the French translation of the texts which I have the honor to enclose herein.⁷

In instructing me to lay these proposals before Your Excellency, Mr. Minister for Foreign Affairs wishes me to convey to you the wish of the King's Government that they be taken into consideration by

⁵ For index references to the Bryan treaties, see *Foreign Relations*, 1914, p. 1130; *ibid.*, 1915, p. 1328; *ibid.*, 1916, p. 1007.

⁶ Draft not printed.

⁷ Not printed; for proposed changes, see note to the Belgian Ambassador, March 8, 1929, p. 4.

the Government of the United States. If Your Excellency were pleased to designate one of your Assistants to that effect, I should be extremely happy to give Mr. Silvercruys, Counsellor of the Embassy, all the needful directions to impart to him the reasons why the Belgian Government believes it desirable to have the changes that are here suggested embodied in the treaty draft.

I take [etc.]

P[RINCE] ALBERT DE LIGNE

711.5512A/8

The Belgian Ambassador (De Ligne) to the Secretary of State

[Translation]

WASHINGTON, January 29, 1929.

MR. SECRETARY OF STATE: I had the honor to inform Your Excellency on June 6 last that the Government of the King accepted as a basis of discussion the drafts of treaties of conciliation and arbitration which had been communicated to me on March 26 last, but that it believed it expedient on that occasion to suggest to you some changes to be incorporated in the text of those treaties.

Having myself left the United States on leave, the Chargé d'Affaires had the opportunity, in the course of various interviews with the members of the State Department whom Your Excellency had been good enough to designate for that purpose, to set forth the reasons for which the Belgian Government considered it desirable that the drafts of treaties which had been submitted to it be modified. Mr. Silvercruys having been called to a conference by them, on September 21 last he came to an agreement with Messrs. Barnes and McClure⁸ upon a revised draft of the text which was to be submitted to Your Excellency for approval as well as to the Minister of Foreign Affairs at Brussels.

Upon my return to the United States, knowing the importance which the Belgian Government, on its part, also attached to the conclusion and signing of the agreements under consideration, I took the liberty, on different occasions, to recall both to Your Excellency and to your immediate associates that the Government of the King would be very glad to see the negotiations which had been opened on the proposal of the Government of the United States brought to a close.

Mr. Hymans⁹ having requested me by telegraph to let him know the present state of these negotiations, I should be very grateful to Your Excellency if you would be kind enough to inform me of the decision you have made in order that I, on my part, may report thereon to the Minister of Foreign Affairs at Brussels.

I take [etc.]

ALBERT DE LIGNE

⁸ Charles M. Barnes and Wallace McClure, Chief and Assistant Chief, respectively, of the Treaty Division of the Department of State.

⁹ Belgian Minister for Foreign Affairs.

711.5512A/10

The Secretary of State to the Belgian Ambassador (De Ligne)

WASHINGTON, March 8, 1929.

EXCELLENCY: I have the honor to reply to Your Excellency's notes dated January 29, 1929, and June 6, 1928, referring to this Government's proposal of March 26, 1928 for the negotiation of a treaty of arbitration and a treaty of conciliation between the United States and Belgium. I am sincerely gratified to know of Belgium's acceptance, as affording ground for discussion, of the draft treaties which this Government submitted. I have noted the suggestions of the Belgian Government that certain changes of text would be appropriate. Careful attention has been accorded to these proposed changes and I take pleasure in stating, in the following paragraphs, the attitude of this Government with reference to them.

The first two proposals for change presented by the Belgian Government occur in respect of Article II of the draft treaty of arbitration.

In place of the lettered paragraph (a) in the draft as originally proposed, which reads "(a) is within the domestic jurisdiction of either of the High Contracting Parties", the following language was suggested: "(a) has been submitted (*est soumis*) to the domestic jurisdiction of either of the High Contracting Parties". I venture to suggest that the meaning which this Government attached to the passage in question has not been made wholly clear to the Government of Belgium. Mr. Silvercruys indicated in oral conversations that Your Excellency's Government was under the impression that the exception in question to the obligation to arbitrate referred to disputes arising out of cases that have been or may be brought for adjudication before the courts of the respective countries. The intention, however, which this Government attempted to express had nothing to do with the question of adjudication by the courts of one or other of the two countries. The intended meaning covered only those cases which, in international law, are recognized as pertaining wholly to individual nations, concerning which each country must decide as to the propriety of its own acts.

Accordingly, the exception in question pertains to the subject-matter of disputes, not to whether they may, at any stage, be brought before a national tribunal of one of the Parties to the treaty.

In place of lettered paragraph (b) of Article II of the draft treaty, which excepts from the obligation to arbitrate any dispute the subject matter of which "involves the interests of third parties", the Belgian Government would substitute any dispute which "involves the interests of third parties, unless these powers have them-

selves a right under a convention to refer the dispute to an arbitration tribunal". This Government understands this proposal to have been made in view of the fact that treaties similar to the one under negotiation are in force or contemplated between the respective parties and various other countries.

This Government is of opinion, notwithstanding the arguments advanced on behalf of the foregoing proposal, that a bilateral arbitration treaty should deal solely with disputes substantial interest in which pertains to the two parties only. It is believed that provision for dealing with disputes of more widespread interest should be made by means of multilateral treaties. The fact that Belgium and the United States cooperate with many other powers in maintaining the Permanent Court of Arbitration at The Hague, which may be resorted to in tripartite or multipartite disputes, would seem to render consideration of them in the treaty under negotiation of diminished importance. I hope, accordingly, that the Belgian Government may be satisfied with the proposed treaty without altering its language at this point.

The requested alteration in Article III of the draft treaty of arbitration and in Article IV of the draft treaty of conciliation, involving the insertion of "His Majesty the King of the Belgians" in place of "Belgium" is, of course, accepted by this Government.

In Article I of the Draft treaty of conciliation the Belgian Government has requested a change the effect of which would evidently be to require disputes not settled by ordinary diplomatic proceedings to be referred to a conciliation commission, regardless of the availability of arbitration as an alternative method of solution.

Your Excellency's Government has undoubtedly noted, in respect of the two draft treaties simultaneously submitted to it by the United States, that Article I of the arbitration treaty provides: "All differences . . ., which it has not been possible to adjust by diplomacy, *which have not been adjusted as a result of reference to an appropriate commission of conciliation*, and which are justiciable . . ., shall be submitted to the Permanent Court of Arbitration . . . or to some other competent tribunal"; while Article I of the conciliation treaty provides that "any disputes . . . of whatever nature . . ., shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties *do not have recourse to adjudication by a competent tribunal*, be submitted for investigation and report to a Permanent International Commission."

The existence of these provisions in the two complementary instruments is interpreted by the United States as leaving the order of utilization of the alternative remedies of arbitration and conciliation open for decision at the time the particular dispute arises, provided always that it is of such a nature as to fall within the limitations of

the arbitration treaty as well as within the more inclusive provisions of the treaty of conciliation.

In the opinion of this Government it is wise to leave the matter open. Other Governments are understood to prefer different stated orders for the invocation of arbitration and conciliation. To avoid fixing a sequence at least meets half-way the Belgian policy of conciliation before arbitration when ordinary diplomacy has failed. I venture to hope that the Belgian Government may be persuaded to find the text as originally submitted acceptable.

The Belgian Government has proposed the elimination, at the end of Article I of the conciliation treaty, of the words "and they agree not to declare war or begin hostilities during such investigation and before the report is submitted;" and instead to insert, "and they agree not to apply coercive measures to each other and to refrain from any measure likely to aggravate the difference during investigation and pending delivery of the report." It is understood that this proposal was made in view of the renunciation of war by the two Governments through the multilateral treaty signed August 27, 1928,¹⁰ and this Government is glad to join the Government of Belgium in adopting more appropriate language. While this Government is prepared to accept the foregoing amendment as proposed, I should prefer, provided the same is equally acceptable to the Belgian Government, the following: "and they agree not to resort with respect to each other to any act of force during the investigation to be made by the commission and before its report is handed in." This is the language of the existing Franco-American conciliation treaty and I have agreed to accept it for insertion in the corresponding passage in the treaty now under negotiation with Luxemburg. Should it be acceptable to Belgium, appropriate alteration may readily be made at the Embassy in the accompanying revised draft of the treaty.

In Article II of the conciliation treaty, which provides for the composition of the International Commission, the following passage occurs in the draft submitted by this Government:

"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, it being understood that he shall not be a citizen of either country."

The Government of Belgium proposes the following in place of the foregoing:

"Each Government shall appoint a member from among its nationals; the other three members, including the President, shall be appointed in common accord, it being understood that they shall not be under the jurisdiction of either one of the two countries."

¹⁰ Kellogg-Briand Pact, *Foreign Relations*, 1928, vol. I, p. 153.

The Government of the United States accepts this change, understanding that, by it, Your Excellency's Government seeks a greater disinterestedness among the members of the Commission.

In Article III of the draft conciliation treaty the Belgian Government proposes a change the effect of which would make it permissible for either Party to bring a dispute before the International Commission without the cooperation of the other and, furthermore, enable the Commission to offer its services in the event of a dispute by a majority instead of a unanimous vote of its members. A proposed added provision would enable the Commission, by a unanimous vote, to lay before the parties the terms of any arrangement it may deem suitable—presumably without any reference of the dispute to it by the Parties to the treaty.

These proposals of the Belgian Government are more far-reaching than the Government of the United States is prepared to accept. Believing that their practical import is not great, it hopes that the Belgian Government may be in a position to recede from them.

Draft texts of arbitration and conciliation treaties, revised in accordance with the foregoing, are transmitted herewith.¹¹ Trusting that these drafts may be acceptable to Your Excellency's Government and that, accordingly, signature may take place in due course, I request Your Excellency to accept [etc.]

FRANK B. KELLOGG

Treaty Series No. 823

*Arbitration Treaty Between the United States of America and Belgium, Signed at Washington, March 20, 1929*¹²

The President of the United States of America and His Majesty the King of the Belgians

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when perfection of international arrangements for the pacific settlement of international dis-

¹¹ See signed treaties. *infra*.

¹² In English and French; French text not printed. Ratification advised by the Senate, May 22 (legislative day of May 16), 1929; ratified by the President, June 4, 1929; ratified by Belgium, July 22, 1930; ratifications exchanged at Washington, August 25, 1930; proclaimed by the President, August 25, 1930.

putes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries:

The President of the United States of America:

Frank B. Kellogg, Secretary of State of the United States of America; and

His Majesty the King of the Belgians:

His Highness Prince Albert de Ligne, His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, having communicated to each other their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Belgium in accordance with the constitutional laws of Belgium.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Belgium in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty 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 King of the Belgians in accordance with the Constitution.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and French languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the 20th day of March, one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]
P. ALBERT DE LIGNE [SEAL]

Treaty Series No. 824

*Conciliation Treaty Between the United States of America and Belgium, Signed at Washington, March 20, 1929*¹³

The President of the United States of America and His Majesty the King of the Belgians, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States of America:

Frank B. Kellogg, Secretary of State of the United States of America; and

His Majesty the King of the Belgians:

His Highness Prince Albert de Ligne, His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America;

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

Any disputes arising between the Government of the United States of America and the Government of Belgium, of whatever nature

¹³ In English and French; French text not printed. Ratification advised by the Senate, May 22 (legislative day of May 16), 1929; ratified by the President, June 4, 1929; ratified by Belgium, July 22, 1930; ratifications exchanged at Washington, August 25, 1930; proclaimed by the President, August 25, 1930.

they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to resort with respect to each other to any act of force during the investigation to be made by the Commission and before its report is handed in.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: Each Government shall appoint a member from among its nationals; the other three members, including the President, shall be appointed in common accord, it being understood that they shall not be under the jurisdiction of either one of the two countries. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and 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, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the 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 America by and with the advice and consent of the Senate

thereof, and by His Majesty the King of the Belgians in accordance with the Constitution.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and French languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the 20th day of March, one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]
P. ALBERT DE LIGNE [SEAL]

AGREEMENT FOR THE ERECTION OF CERTAIN MEMORIALS IN BELGIUM BY THE AMERICAN BATTLE MONUMENTS COMMISSION, SIGNED OCTOBER 4, 1929

855.413/18a

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

No. 191

WASHINGTON, February 13, 1929.

SIR: As you are doubtless aware, the American Battle Monuments Commission established by Act of Congress in March 1923¹⁴ contemplates undertaking certain work of a memorial nature in Belgium. You are accordingly requested to extend all possible assistance to the Commission's representatives in order to facilitate their work.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

855.413/20

The Chargé in Belgium (Reed) to the Secretary of State

No. 467

BRUSSELS, July 8, 1929.

[Received July 20.]

SIR: I have the honor to refer to the Department's instruction No. 191 of February 13, 1929, regarding the intention of the American Battle Monuments Commission to undertake certain work of a memorial nature in Belgium.

After extended negotiations a representative of the Battle Monuments Commission and the Ministry of Finance have reached agreement on the text of a proposed convention between the American

¹⁴ 42 Stat. 1509.

and Belgian Governments for the acquisition of sites for monuments to be erected in Belgium. This text was transmitted to the Embassy by the Minister for Foreign Affairs, by note of June 27, 1929, (enclosed in copy and translation)¹⁵ with the request that it be submitted to the consideration of the American Government. The text of the proposed convention is also enclosed herewith¹⁶ and the Embassy has been informed that it is approved in its entirety by the American Battle Monuments Commission.

It will be observed that the Ministry for Foreign Affairs expresses the hope that the Department will be good enough, if the text of the convention meets with its approval, to confer regarding its signature with the Belgian Ambassador in Washington, who has been duly instructed in the premises.

I have [etc.]

EDWARD L. REED

855.413 American Battle Monuments Commission/1 : Telegram

*The Acting Secretary of State to the Ambassador in Belgium
(Gibson)*

WASHINGTON, August 19, 1929—6 p. m.

55. Draft enclosed with your No. 467 July 8 satisfactory to American Battle Monuments Commission, who authorize General John J. Pershing, chairman of the commission, who is now in Europe, to sign on behalf of the American Government. Inform General Pershing and Foreign Office and arrange execution of agreement. If General Pershing's address unknown to you, inquire of Embassy at Paris.

CASTLE

Treaty Series No. 812

*Agreement Between the United States of America and Belgium,
Signed at Paris, October 4, 1929*¹⁷

AGREEMENT CONCLUDED BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND BELGIUM COVERING THE ERECTION BY THE AMERICAN BATTLE MONUMENTS COMMISSION OF CERTAIN MEMORIALS IN BELGIUM

This Agreement made at Paris, on October 4, 1929, by and between the Government of the United States of America, represented by General John J. Pershing, of the American Battle Monuments Commission, party of the first part, and the Royal Belgian Government,

¹⁵ Not printed.

¹⁶ See signed convention, *infra*.

¹⁷ In English and French; French text not printed. Ratified by the President, January 11, 1930; ratified by Belgium, April 8, 1930; ratifications exchanged at Brussels, April 17, 1930; proclaimed by the President, April 23, 1930.

represented by Baron E. de Gaiffier d'Hestroy, Belgian Ambassador in Paris, party of the second part, for the acquisition by the Royal Belgian Government of lands intended as sites for monuments which the American Battle Monuments Commission is to erect in Belgium, in accordance with and by authority of the Act of Congress of the United States approved March 4th., 1923, entitled "An act for the creation of an American Battle Monuments Commission to erect suitable memorials, commemorating the services of the American soldiers in Europe and for other purposes", witnesseth that:

ARTICLE 1

The Belgian Government will acquire, by mutual agreement with the proprietors, the lands necessary for the erection of the American memorials.

ARTICLE 2

The negotiations with the owners or tenants for the cession of the said lands will be pursued by the American Battle Monuments Commission, who will reimburse the Belgian Government for the purchase price thereof and for any expenses occasioned by the acquisition.

ARTICLE 3

The said lands, as well as the monuments erected thereon, will be the property of the Belgian Government, who will grant to the Government of the United States without cost and in perpetuity the use and free disposal thereof.

ARTICLE 4

The lands acquired will be devoted in perpetuity to the purpose above mentioned, but the Belgian Government shall have no responsibility with respect to the maintenance or the preservation of the monuments and their accessories.

If, in the future, the monuments should disappear or fall into ruin as a result of abandonment that can be considered as definite, and after the Belgian Government has informed the Government of the United States of their condition sufficiently in time so as to permit the latter to remedy the same if it so desires, the Belgian Government shall no longer be bound to permit the said lands to remain unproductive in perpetuity and shall have the right to use them for other purposes.

ARTICLE 5

It is expressly agreed that the said lands can be divested of their special character for reasons of the public welfare or public utility, of which the Belgian Government alone shall be judge.

In such case, after having consulted the American Battle Monuments Commission or eventually the Secretary of War, the Belgian Government will undertake, as far as it is still practicable, to rebuild at its own expense at another place in its territory and under similar conditions the monuments erected upon the lands in question.

ARTICLE 6

The American Battle Monuments Commission or the organization which will eventually replace it will administer the land and monuments in perpetuity, in conformity with the Belgian laws and regulations, and will bear all expenses incident thereto so that the Belgian Government shall not be involved in any way.

ARTICLE 7

The Belgian Government will settle all difficulties which may arise with owners or tenants of adjoining lands; it will institute and pursue any suit or sustain any defense concerning the properties acquired which may hereafter appear necessary. The cost involved and the amount of any possible judgments rendered against the Belgian Government will be repaid by the Government of the United States.

It is agreed, however, that settlement for damages caused by the personnel appointed by the Government of the United States for the maintenance and guarding of the American memorials or by the equipment belonging to it, will be undertaken by the representative appointed by that Government.

The present Accord is to be ratified by both Governments. The exchange of ratifications is to take place in Brussels.

IN WITNESS WHEREOF the date, month and year above-mentioned, this Agreement has been signed in four copies, each copy having the same value and effect as an original, by the Government of the United States, represented by General John J. Pershing of the American Battle Monuments Commission, and the Royal Belgian Government, represented by Baron E. de Gaiffier d'Hestroy, Belgian Ambassador in Paris.

[SEAL] JOHN J. PERSHING
[SEAL] E. DE GAIFFIER

BOLIVIA

THE CHACO DISPUTE BETWEEN BOLIVIA AND PARAGUAY

(See volume I, pages 818 ff.)

BULGARIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND BULGARIA, SIGNED JANUARY 21, 1929

711.7412A/2

The Minister in Bulgaria (Wilson) to the Secretary of State

No. 960

SOPIA, February 2, 1927.

[Received March 4.]

SIR: When I was in Washington in 1921, Mr. Panaretoff, who was then Bulgarian Minister to the United States, told me that he was going to suggest to his Government the negotiation of an arbitration treaty between Bulgaria and the United States, and I believe I mentioned this fact to the then Director of the Division of Near Eastern Affairs. However, the internal situation of Bulgaria became such that the matter was apparently dropped, and later came the resignation of Mr. Panaretoff. I heard nothing more of the proposed arbitration treaty until 1924 when the Bulgarian-American Extradition and Naturalization Treaties were being negotiated. At that time an official from the Foreign Office asked me if I could let him have copies of some of the arbitration treaties which the United States had negotiated with other countries. A number of these were furnished to him but nothing more was heard of the matter at that time.

A few days ago the Secretary General of the Foreign Office telephoned me to say that he intended to telegraph the Bulgarian Minister in Washington that Bulgaria was willing to negotiate an arbitration treaty with the United States, and he inquired whether I knew if any suggestion along this line had ever been made by the Legation to the Bulgarian Government. I replied that I was certain that the Legation had never received any instruction to approach the Bulgarian Government on this matter, but that so far as I knew, the initiative had come as stated above, from Mr. Panaretoff, the Bulgarian Minister in Washington.

Yesterday an official from the Political Section of the Foreign Office, spoke to me about the proposed treaty again and said that telegraphic instructions would shortly be sent to Mr. Radeff to inquire whether the United States would be willing to make such a treaty with Bulgaria. He also inquired whether I did not think it would be preferable to have such a treaty signed in Sofia, to which

I replied that the place of signature could probably be best arranged between the State Department and Mr. Radeff.

I think, probably, the renewed interest shown in this matter of the Bulgarian-American proposed arbitration treaty may be attributed to the invitation on the part of the American Government to Mr. Hadji-Mischeff to be the non-national American member on the commission provided for in the American-Norwegian Arbitration [*sic*] Treaty.¹ As already reported, this choice of a Bulgarian as a member of the Commission has given the greatest satisfaction and pleasure to Bulgarian officials to whom it is known.

I have [etc.]

CHARLES S. WILSON

711.7412A/4: Telegram

The Secretary of State to the Minister in Bulgaria (Wilson)

[Paraphrase]

WASHINGTON, March 23, 1928—11 a. m.

4. This is for your information. Yesterday the Department informed the Bulgarian Minister that it is ready to conclude an arbitration treaty with Bulgaria, identical in effect with the treaty with France, signed February 6, 1928;² also a conciliation treaty based on the Bryan treaty with Great Britain, signed September 15, 1914.³ In about ten days' time the proposed texts will be furnished the Bulgarian Minister.

KELLOGG

711.7412A/7: Telegram

The Secretary of State to the Minister in Bulgaria (Wilson)

WASHINGTON, April 20, 1928—7 p. m.

7. The Department today handed to the Bulgarian Minister a draft of a proposed treaty of arbitration between the United States and Bulgaria and a draft of a treaty of similar purport to the so-called Bryan treaties.^{3a} The provisions of the draft treaty of arbitration operate to extend the policy of arbitration enunciated in the arbitration conventions concluded in 1908 between the United States and several other countries.^{3b} The language of this draft is identical in effect with that of the arbitration treaty recently signed with France and with the draft arbitration treaties already submitted to

¹ Presumably the Bryan Treaty for the Advancement of General Peace, signed June 24, 1914; *Foreign Relations*, 1914, p. 971.

² *Ibid.*, 1928, vol. II, p. 816.

³ *Ibid.*, 1914, p. 304.

^{3a} For index references to the Bryan treaties, see *ibid.*, p. 1130; *ibid.*, 1915, p. 1328; *ibid.*, 1916, p. 1007.

^{3b} For index references to treaties of 1908, see *ibid.*, 1908, p. 832; *ibid.*, 1909, p. 676.

other governments in the general program for the extension of these principles. The text of the proposed treaties will be forwarded in next pouch.

KELLOGG

711.7412A/10

The Secretary of State to the Minister in Bulgaria (Wilson)

No. 271

WASHINGTON, September 15, 1928.

SIR: The Department, in its No. 250 of April 30, 1928,⁴ informed you that, on April 20th, it had submitted to the Bulgarian Minister in Washington drafts of a proposed treaty of arbitration and of a proposed treaty of conciliation between the United States and Bulgaria. On April 23, 1928, the Bulgarian Minister advised the Department of the receipt of these drafts and of their communication by him to his Government.

This Government has now offered similar treaties of arbitration to thirty countries and similar treaties of conciliation to twenty countries and has proceeded to the signature of eight arbitration treaties and five conciliation treaties. It is desirable that as large a number as possible of these treaties shall be signed before the convening of Congress on December 3, in order that they may be submitted to the Senate for its advice and consent.

On the other hand, the Department desires to maintain as far as practicable the uniformity of this series of treaties and would avoid alterations at the suggestion of the other countries as far as possible. It would avoid, through an appearance of too great anxiety in the matter, inviting other countries to feel that they can readily obtain changes in the draft treaties.

Keeping the foregoing in mind, however, you are requested to make an effort to expedite the consideration of this matter by the Bulgarian Government and to encourage it to instruct its Minister at this capital to proceed to signature at an early date.

I am [etc.]

FRANK B. KELLOGG

711.7412A/13 : Telegram

The Chargé in Bulgaria (Kodding) to the Secretary of State

SOFIA, November 22, 1928—2 p. m.

[Received 3:42 p. m.]

30. Mr. Minkoff⁵ informs me that Bulgarian Legation in Washington was instructed yesterday by telegraph to sign the proposed treaties of arbitration and conciliation without modifications.

KODDING

⁴Not printed; see Department's telegram No. 7, *supra*.

⁵Secretary General of the Bulgarian Foreign Office.

Treaty Series No. 792

*Arbitration Treaty Between the United States of America and Bulgaria, Signed at Washington, January 21, 1929*⁶

The President of the United States of America and His Majesty the King of the Bulgarians

Determined to prevent so far as in their power lies any interruption in the peaceful relations now happily existing between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

His Majesty the King of the Bulgarians:

Mr. Simeon Radeff, His Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States;

Who, having communicated to each other their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

⁶ Ratification advised by the Senate, January 31, 1929; ratified by the President, February 14, 1929; ratified by Bulgaria, July 2, 1929; ratifications exchanged at Washington, July 22, 1929; proclaimed by the President, July 22, 1929.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Bulgaria in accordance with its constitutional laws.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Bulgaria in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty 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 Bulgaria in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate and hereunto affixed their seals.

Done at Washington the twenty-first day of January in the year of our Lord one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]

S. RADEFF [SEAL]

Treaty Series No. 793

*Conciliation Treaty Between the United States of America and Bulgaria, Signed at Washington, January 21, 1929*¹

The President of the United States of America and His Majesty the King of the Bulgarians, being desirous to strengthen the bonds of amity that bind their two countries together and also to advance

¹ Ratification advised by the Senate, January 31, 1929; ratified by the President, February 14, 1929; ratified by Bulgaria, July 2, 1929; ratifications exchanged at Washington, July 22, 1929; proclaimed by the President, July 22, 1929.

the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

His Majesty the King of the Bulgarians:

Mr. Simeon Radeff, His Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States;

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

Any disputes arising between the Government of the United States of America and the Government of Bulgaria, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

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, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and 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, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it

shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the 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 America by and with the advice and consent of the Senate thereof, and by Bulgaria in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate, and hereunto affixed their seals.

Done at Washington the twenty-first day of January in the year of our Lord one thousand nine hundred and twenty-nine.

FRANK B. KELLOGG [SEAL]

S. RADEFF [SEAL]

CANADA

AGREEMENT BETWEEN THE UNITED STATES AND CANADA TO SUBMIT THE CASE OF THE "I'M ALONE" TO ARBITRATION¹

811.114 I'm Alone/55

The Secretary of State to the Canadian Minister (Massey)

WASHINGTON, March 28, 1929.

SIR: I have the honor to refer to your visit to the Department on March 26, 1929, when you requested that you be furnished with a statement of the facts concerning the sinking of the vessel *I'm Alone* by the United States Coast Guard on March 22 last.

According to information furnished by the appropriate authorities of this Government, the *I'm Alone* was a notorious smuggling vessel, having been engaged in smuggling liquor into the United States for several years. It is stated that until the latter part of 1928, the *I'm Alone* operated on the New England Coast and had caused the Coast Guard forces a great deal of trouble. During the latter part of 1928, the *I'm Alone* changed its base of operations to Belize, British Honduras.

On February 2, 1929, the *I'm Alone* cleared from Belize for Nassau with a cargo of liquor, and six days later the vessel was sighted by the United States Coast Guard off the coast of Louisiana. The *I'm Alone* returned to Belize on March 6, 1929, in ballast without having proceeded to the destination for which it cleared on February 2. On March 12, 1929, the *I'm Alone* again cleared from Belize with a cargo of liquor, this time for Hamilton, Bermuda.

On March 20, 1929, the *I'm Alone* was sighted by the United States Coast Guard vessel *Wolcott* northwest of Trinity Shoal, within approximately ten and one half miles of the Coast of the United States. The *Wolcott* ordered the *I'm Alone* to heave to for boarding and examination, but this order was ignored, whereupon the *Wolcott* fired a warning shot across the bow of the *I'm Alone* and repeated its command for the vessel to heave to. When the second command was not complied with, the *Wolcott* fired through the sails and rigging of the vessel. The *I'm Alone* was proceeding seaward and the *Wolcott* took up the chase. The *Wolcott's* gun jammed and it could not therefore stop the *I'm Alone* but it kept in close chase and re-

¹The records of the arbitration are printed in the Department of State Arbitration Series No. 2 (pts. 1-7): *I'm Alone* Case.

ported the incident to the Commanding Officer of the Coast Guard Base at Pascagoula, Mississippi, who dispatched the vessels *Dexter* and *Dallas* to assist the *Wolcott*.

The *Wolcott* continued the pursuit of the *I'm Alone* and, according to statements of the appropriate authorities, was at all times within sight of it. The Coast Guard vessel *Dexter* overhauled the *Wolcott* close up with the *I'm Alone* about eight a. m. on March 22 with the latter vessel heading toward Yucatan. The Commander of the *Dexter* ordered the *I'm Alone* to heave to but the master of the latter vessel refused saying that he would be sunk rather than stop. The commanding officer of the *Dexter* then spoke to the master of the *I'm Alone* through a megaphone and informed him that the *I'm Alone* would be sunk unless it obeyed the command to stop. Warning shots were fired ahead, and, when the vessel did not stop, the *Dexter* fired through the rigging and later put about a dozen shots into the hull of the *I'm Alone*. It is stated that the sea was too rough to permit the *I'm Alone* to be boarded and seized by force and that furthermore the master of the *I'm Alone* waved a revolver in a threatening manner indicating that he would resist forcibly any attempt to board his vessel.

The *I'm Alone* sank about 9:05 a. m. on March 22, in latitude 25°41' and longitude 90°45'. The Coast Guard vessels picked up the members of the crew of the *I'm Alone* with the exception of one person who was drowned. When the body of this seaman was taken from the water, the members of the Coast Guard worked for more than two and one-half hours in an attempt to resuscitate him but without avail.

Accept [etc.]

For the Secretary of State:
W. R. CASTLE, JR.

811.114 I'm Alone/76

The Canadian Minister (Massey) to the Secretary of State

No. 52

WASHINGTON, 9 April, 1929.

SIR: I have the honour to acknowledge the receipt of Mr. Castle's note of March 28th, 1929 in which he transmitted to me information furnished by the appropriate authorities of the Government of the United States concerning the sinking of the Canadian schooner *I'm Alone* by the United States Coast Guard on March 22nd. I did not fail to bring the contents of this note immediately to the notice of His Majesty's Government in Canada, and I have now been instructed by the Secretary of State for External Affairs to thank you for the promptness with which my request for information was complied with, and to direct your attention to certain aspects of the incident.

2. The schooner *I'm Alone*, which was registered at Lunenburg, Nova Scotia, had unquestionably been engaged for a number of years, under various owners, in endeavouring to smuggle liquor into the United States.

3. In the present instance, the schooner *I'm Alone* arrived off the Louisiana coast early on the 20th. March, and anchored at a point which, according to the information furnished by Mr. Castle, was ten and a half miles from the shore, and according to the master was not less than fourteen and a half miles distant. On the approach of the United States Revenue Cutter *Wolcott*, the schooner hove up anchor and made off south by west. It is stated that half an hour later the cutter came up and ordered the *I'm Alone* to heave to for examination, and that her captain refused on the ground that he was not within United States jurisdiction. After firing some blank shots the *Wolcott* proceeded to a tanker steaming westward, and upon returning took up the pursuit. Following a fruitless colloquy on board the schooner between the captain of the *Wolcott* and the master of the schooner, pursuit continued; the cutter, after again demanding that the schooner should heave to, fired several shots through her sails and rigging. The pursuit was continued on the high seas for two days and two nights. On the morning of the 22nd, when the schooner was in latitude $25^{\circ}41'$ and longitude $90^{\circ}45'$, or over two hundred miles from the United States coast, the cutter *Dexter* came up from another direction and signalled to the schooner to heave to or be fired upon. The captain is stated to have refused on the ground that the coast guard vessel had no jurisdiction on the high seas. Fire was then opened with a three inch gun and rifles, some sixty or seventy shells being stated to have struck the schooner, though no member of the crew appears to have been hit. At frequent intervals the schooner was summoned to heave to, but repeatedly refused. Finally the schooner was sunk and the crew plunged into the sea, which was now rough from a rising gale. All the members were picked up by the two cutters, but the boatswain, a French citizen from St. Pierre, had apparently died from drowning before being picked up and could not be resuscitated. The crew were conveyed to New Orleans, and placed under arrest.

4. The adoption by the United States of a policy of national prohibition of the importation, manufacture or sale of intoxicating liquors for beverage purposes, differing materially from the policies in regard to control of the liquor traffic which were in force in the majority of countries, inevitably foreshadowed international difficulties through the likelihood of smuggling operations on a large scale. Owing to its close proximity and extensive common borders, no country was likely to be more concerned than Canada or more conscious of the desirability

of making certain that all possible neighbourly requirements should be fulfilled. The United States Government is familiar with the extent to which the Government of Canada has endeavoured to fulfil this neighbourly obligation. Under a convention signed on the 6th. June 1924,² provision was made for the furnishing of information regarding clearances issued to vessels suspected of being engaged in an attempt to smuggle goods into the other country, and for the refusal of clearances to vessels obviously unfit to carry their cargoes to the destination named in the applications for clearance. The extension in 1927 of the requirement of a bond in double duties on the exportation of liquor from Canadian Customs warehouses, to cover cargoes of vessels coming into Canadian ports for provisions, shelter or repairs, made it difficult for vessels with liquor cargoes which might be intended for United States consumption to establish bases in Canadian ports, and very materially aided the United States authorities in preventing smuggling by sea in the North Atlantic. The adoption in 1928 of measures, to take full effect in 1930, to prevent the storing of imported liquors, other than liquors imported by the provincial authorities, in Customs warehouses, particularly in Nova Scotia and British Columbia, from which re-export might be made after payment of duty, is leading to the elimination of another source of smuggling into the United States. Other measures have been adopted which have had similar results, and a conference has recently been held in Ottawa between United States and Canadian officials to consider the possibility of further action and proposals made for additional measures.

5. The most difficult problem, however, was that of the measures which could be taken to prevent smuggling along the coasts of the United States. It was apparent that difficulty would arise in controlling smuggling, particularly at the outset, if the preventive operations of the United States authorities were to be confined wholly to territorial waters. On the other hand, assent to the extension of such operations to foreign vessels on the high seas presented serious difficulty to other countries, in view of the vital importance of the long established rule of free passage on the high seas in time of peace. It was desirable that there should be an agreed and absolutely definite understanding as to how these conflicting interests could be reconciled.

6. The United States Government accordingly took the initiative in June 1922, in proposing to His Majesty's Government in the United Kingdom the conclusion of a treaty authorizing the exercise of the right of search beyond the three-mile limit of territorial waters.³ Negotiations continued for over a year. In November 1923, advantage was taken of the presence in London of representatives of the Canadian and other Dominion Governments at the Imperial Conference of that

² *Foreign Relations*, 1924, vol. I, p. 189.

³ See *ibid.*, 1922, vol. I, pp. 558 ff., and *ibid.*, 1923, vol. I, pp. 133 ff.

year to discuss the question fully. The Canadian representatives supported the view that, while affirming the principle of the three-mile limit, it was desirable to meet the United States request for an extension of the right of search beyond the three-mile limit for the purpose in question. A Convention to this end, approved by all His Majesty's Governments, was signed, and ratifications were exchanged, at Washington in 1924.⁴

7. The Convention, it will be recalled, was stated to be concluded because the parties were desirous of avoiding any difficulties which might arise in connection with the laws in force in the United States on the subject of alcoholic beverages. The parties reaffirmed their intention to uphold the three-mile limit of territorial waters. His Britannic Majesty agreed that he would raise no objection to the boarding of private vessels under the British flag outside territorial waters by United States authorities for enquiry and if appearances warranted, for search as to whether the vessel was endeavouring to smuggle liquor into the United States. If reasonable cause appeared for belief that the vessel had committed or was committing or was attempting to commit an offence against United States laws prohibiting the importation of alcoholic beverages, it might be seized and taken into a United States port. The rights so conferred were not to be exercised at a greater distance from the United States coast than could be traversed in one hour by the vessel suspected of endeavouring to commit the offence, or by any other vessel in which the liquor was intended to be conveyed to shore.

8. It was of the essence of the Convention that its provisions covered the whole field of extra-territorial seizures. The conclusion that seizures of British vessels outside territorial waters would not be warranted, except in accordance with the terms to be agreed upon, was clearly expressed in a note from the Secretary of State to the British Ambassador of the 19th. July 1923,⁵ as follows:

"It may confidently be asserted that there would be no disposition on the part of the American authorities, and the special agreement would not justify any attempt to seize a British vessel, save within the limits proposed, and when it was clear that the vessel concerned was directly involved in an attempt to introduce its illicit cargo into the territory of the United States".

9. Animated, therefore, by a friendly desire not to hinder the Government of the United States in the enforcement of its laws, and anxious solely to uphold the exact performance of treaty obligations and the maintenance in full integrity of the rules which protect the freedom of traffic on the high seas, His Majesty's Government in

⁴ Convention signed January 23, 1924; ratifications exchanged May 22, 1924, *Foreign Relations*, 1924, vol. I, p. 158.

⁵ See telegram No. 193, July 20, 1923, to the Chargé in Great Britain, *ibid.*, 1923, vol. I, p. 168.

Canada has given most careful consideration to the circumstances of the sinking of the *Im Alone*, as set forth in Mr. Castle's note and in depositions made before His Majesty's Consul General in New Orleans by the Captain of the vessel and by members of his crew. The conclusion has been reluctantly reached that, on the evidence now available, the pursuit and sinking of the vessel appears not to have been authorized either by the terms of the Convention of January 1924 or by the rules of international law.

10. It appears to be established that the vessel was at all times beyond the limit of an hour's sailing distance from the shore. To determine the validity, under the Convention of January 1924, of any interference with the vessel when she was first sighted on March 20th. by the United States Coast Guard vessel *Wolcott*, it is necessary to examine the evidence regarding both the speed and the exact position of the *Im Alone*. The testimony of the Captain concerning the vessel's speed given before His Majesty's Consul General in New Orleans, is as follows:

Q. "What was the speed of your vessel just before you anchored?"

A. "Positively not more than $6\frac{3}{4}$ knots" . . .

Q. "What is the longest run in 24 hours that the boat has ever done with engines running and sails set?"

A. "231 knots, with a moderate gale on the quarter, and then under conditions in which the vessel had to be in ballast. We did less with cargo" . . .

(After the Captain had described the beginning of the pursuit)

Q. "Could you give me any estimate of your speed?"

A. "At that moment at the very outside we were making about $6\frac{3}{4}$ knots, perhaps, it would be just about our best speed, as I knew that if I ran my port engine on full speed opened out that the old trouble would probably leave us in jeopardy".

(The Captain previously testified that he was at anchor when observed by the *Wolcott* in order to examine his port engine, in which a bottom-end cylinder bearing had burned out)

The deposition of the mate of the *Im Alone*, John Williams, contains the following evidence on the vessel's speed:

Q. "What speed were you going then?" (i. e. when first hailed by the *Wolcott*)

A. "Roughly $7\frac{1}{2}$ knots, sir".

Q. "Could you do 8"?

A. "No, sir, couldn't do eight knots with power. I had been looking after the log for 20,000 miles and the best we ever did with canvas and power and a gale was $9\frac{1}{2}$ knots.["]

Q. "You have never known her to do better?"

A. "No, sir".

Q. "When she did that run were the engines in perfect condition?"

A. "Yes, sir. That was the first trip, we took her from Halifax to St. Pierre".

The deposition of the Chief Engineer includes the following testimony:

Q. "What speed do you consider you could get out of the schooner with both engines well?"

A. "The condition in which the shape of the engines were we could not do better than $7\frac{1}{2}$ knots, a little better with sails and a fair breeze. It was quite a good while since we were docked and the bottom was pretty dirty".

From the testimony it appears that the vessel's speed at the time her pursuit began, with one engine partially disabled, was not more than $7\frac{1}{2}$ knots an hour, and that the best speed of which she was capable in the most favourable conditions was $9\frac{1}{2}$ knots an hour. Since in the note from your Government it is stated that the vessel was "within approximately ten and one half miles of the coast of the United States" when sighted by the *Wolcott*, it appears that, if that indeed were her position, she was then beyond an hour's sailing distance from the shore.

11. There are, however, reasons of considerable force for believing that the *I'm Alone* was in fact at a still greater distance from the shore than $10\frac{1}{2}$ miles. The Captain, a navigator of long experience, has deposed that on the morning on which the pursuit began he had anchored in order to examine his defective engine, a purpose which provided no incentive to come close inshore. He plotted his course to his place of anchorage from a fixed point, the Trinity Shoal Light Buoy, which is some twenty four miles from the shore, and his evidence of his course thence to his anchorage is as follows:

"I was looking for an inconspicuous place to anchor to make examination of my engines. I ran on a course from that buoy west-north-west 5 miles and then north $\frac{1}{2}$ west, which is true north another 5 miles, and allowing 2 knots of current with me to the north-west, I estimated my position, allowing for such current, to be $14\frac{1}{2}$ to $14\frac{3}{4}$ miles from the coast of the United States. I knew positively from the speed of my ship and from the log which I had been using for thousands of miles to be correct, that I could not be any nearer in at that point after running such a short distance. I anchored there roughly, I do not know the exact time, I may be 10 or 15 minutes out, about 5 a. m. I had the intention of going out again shortly after if the weather was favourable and engines in good condition".

The Captain's statement of the distance run from the Trinity Shoal Light Buoy to his anchorage is supported by the mate's evidence as follows:

Q. "Could you see the Trinity Shoal Light Buoy?"

A. "Yes, sir. We passed it".

Q. "How far do you think you were from the Buoy? When you anchored?"

A. "The Captain told me that when she ran 5 miles west-north-west to let him know, which I did, after that he changed the course to north and told me to let him know when she had ran 5 miles".

Q. "Did you then drop anchor?"

A. "He gave me orders to drop anchor. The engines had to be fixed".

This course of the vessel, making allowance for current as stated in the Captain's testimony, would place the position at which she anchored between 14½ and 15 miles from the shore.

12. In any case the pursuit lasted through two days and two nights, far beyond the starting point, and the sinking took place over two hundred miles southward in open sea. It has been intimated that pursuit and seizure on the high seas might be justified on the ground of hot and continuous pursuit. It is agreed that international law recognizes that pursuit begun within territorial waters may be continued on the high seas, if immediate and continuous. The validity of this doctrine has been fully recognised by Canadian courts. It does not, however, appear to apply to the present case. The pursuit did not begin within the territorial three-mile limit which is an essential factor. That the pursuit should be initiated within strictly territorial waters was clearly recognised by the Secretary of State in an address on January 23rd. 1924, shortly after the signature of the treaty:—

"It is quite apparent that this government is not in a position to maintain that its territorial waters extend beyond the three-mile limit, and in order to avoid liability to other governments, it is important that in the enforcement of the laws of the United States this limit should be appropriately recognised It does not follow, however, that this government is entirely without power to protect itself from the abuses committed by hovering vessels. There may be such a direct connection between the operation of the vessel and the violation of the laws prescribed by the territorial sovereign as to justify seizure even outside the three-mile limit. This may be illustrated by the case of 'hot pursuit', where the vessel has committed an offense against those laws and is caught while trying to escape. The practice which permits the following and seizure of a foreign vessel which puts to sea in order to avoid detention for violation of the laws of the State whose waters it has entered, is based on the principle of necessity for the effective administration of justice". (*Foreign Affairs*, Special Supplement to Vol. II, No. 2, pps. IV. and V.)

It is further to be noted that the cutter which sank the schooner had not participated in the original pursuit, but had come up from an entirely different direction two days later. Under these circumstances, the most essential elements of justification under the doctrine of hot pursuit appear to be lacking.

13. It is desired, finally, to bring to your attention the exact language of section 2 of Article II of the Convention of January 1924:

“If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offence against the laws of the United States, its territories or possessions prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions for adjudication in accordance with such laws”.

The right of seizure conferred by this Article may be admitted to carry with it constructively the right to exercise the minimum amount of force necessary to effect seizure. Even within the treaty-limit, His Majesty's Government in Canada would be loth to admit that the phrase “the vessel may be seized and taken into a port of the United States” would warrant action so drastic as the destruction of a vessel; still less does authority appear to be conferred for the destruction of a vessel by shell-fire on the high seas, accompanied by loss of life, after a pursuit lasting for two days. It further seems probable that the *Wolcott* could have boarded the *I'm Alone* without endangering either vessel soon after the *I'm Alone* was first sighted by the *Wolcott* on March 20th. The evidence of the Captain on this point is as follows:

Q. “Could she have boarded you at that time? Assuming that she could have run up alongside?”

A. “Yes, sir. He might possibly have done so had he tried”.

Q. “Did he try?”

A. “No, sir”.

The mate deposed on the point as follows:

Q. “Could he have come alongside at that time had he wished?”

A. “Easy”.

Q. “Did he?”

A. “No, sir”.

It clearly appears furthermore that, when the United States Coast Guard vessel *Dexter* joined in the pursuit on March 22nd. and commenced firing on the *I'm Alone*, it was with the deliberate intention of sinking the vessel and not merely of rendering her helpless, as might have been done, for example, by crippling her rudder. The mate of the *I'm Alone* records in his deposition the following conversation with the Captain of the *Wolcott* after he had been rescued from the sea:

Q. “Did you speak to any of the crew of the *Wolcott*?”

A. “They were talking to us. The Captain said to me that it was too bad, he said he would not have done it. He said that he advised the Captain of the *Dexter* to wait for smoother weather and he would have gone up alongside and tried to put men on board and avoid bloodshed”.

I may add that Captain Randell denies that he ever threatened to use force if an attempt were made to board his ship, or that he flourished a revolver at any time during the pursuit; his testimony is supported by the evidence of the mate and chief engineer. If, as is intimated, the sea was too rough for boarding, it was doubly unfortunate that the vessel was deliberately sunk and the crew plunged into the sea, in imminent peril of drowning, with the result, in fact, of the death of one member of the crew.

14. I have been instructed to state that His Majesty's Government in Canada remains fully convinced of the desirability of continued co-operation with the Government of the United States in dealing with the smuggling traffic under the Convention of January 1924 and the other measures to which I have alluded; there is no desire to support in any way vessels engaged in this traffic against any measures adopted by the United States for the enforcement of its laws which in their international aspect have been the subject of agreement. It is believed, however, that the Government of the United States will agree that it is essential for the effective operation of the Convention of January 1924 and for the attainment of the definite and agreed procedure which was the object of the contracting parties, that the terms of the Convention should be strictly observed. His Majesty's Government in Canada trusts that the Government of the United States will further agree that the search and seizure of vessels beyond territorial waters should be exercised in accordance with the terms of the Convention, that pursuit should not be continued beyond an hour's sailing distance from the shore unless initiated within territorial waters, that the measures adopted for enforcing the rights conferred by the Convention should be confined to the reasonable minimum necessary for their enforcement, and that in the present instance the extreme course adopted constitutes just ground for such redress as is now possible.

I have [etc.]

VINCENT MASSEY

811.114 I'm Alone/111

The Secretary of State to the Canadian Minister (Massey)

WASHINGTON, April 17, 1929.

SIR: I have the honor to acknowledge the receipt of your note No. 52, of April 9, 1929, concerning the sinking of the Canadian schooner *I'm Alone* by the United States Coast Guard on March 22, last.

Before proceeding to a discussion of this case, I should like to assure you that this Government is profoundly grateful to your Government for the measure of cooperation which it has received from your officials in the matter of the prevention of smuggling into the United States. The Convention which was signed on June 6, 1924, to suppress smug-

gling, has been helpful, and your officials have faithfully discharged their obligations under this Convention. Canada has, as pointed out in your note, enacted a number of laws the effect of which has been to render it more difficult for smugglers to use Canadian ports in their efforts illegally to introduce liquor into the United States. The Government of the United States is deeply grateful to your Government for this friendly interest and valuable cooperation which has thus been manifested.

With respect to the case of the *I'm Alone*, may I point out that I recognize fully the position of your Government in feeling the necessity of making representations even though these representations are made in the case of a vessel which has for several years openly violated the laws of the United States and even though the Captain of the vessel has boasted of this fact. There is not in the mind of this Government the slightest question as to the propriety of representations in this and similar cases. This Government recognizes that in cases of this nature the Canadian Government is interested primarily in the principles of international law involved, and it is also an established principle of law that every alleged offender has the right to the most competent advocate of his case.

It is the contention of this Government that the *I'm Alone* was sighted and commanded to heave to at a point not more than 10.8 miles from the coast of the United States; that this distance is less than the distance which could be traversed by the vessel in one hour; that the master of the *I'm Alone* refused to obey the repeated commands of the Coast Guard officers to heave to for boarding and examination; and that, under the doctrine of "Hot Pursuit", the Coast Guard vessels possessed authority to follow the *I'm Alone* beyond the distance of one hour's sailing stipulated in the Treaty between the United States and Great Britain of January 23, 1924, and to compel it to comply with the orders of the Coast Guard officers to stop.

A detailed report in regard to this incident has been received from the Secretary of the Treasury who, as you know, has jurisdiction over the Coast Guard. In preparing this report the Coast Guard officers received the cooperation of a Special Agent of the Customs Bureau. Moreover, an assistant to the Attorney General of the United States, who went to New Orleans for the purpose, has carefully checked all of the information contained in this report.

According to this exhaustive report, the *I'm Alone* was first hailed and commanded to stop when at a distance of not more than 10.8 miles from the nearest land at 6:10 A. M. on March 20, 1929. The calculations of the commanding officer of the *Wolcott* have been carefully checked by expert navigating officers of the Coast Guard and have been found to be correct. I wish here to invite your especial attention to a circumstance wherein a wholly disinterested observer has fur-

nished conclusive evidence which corroborates beyond question the testimony of the commanding officer of the *Wolcott* in his determination of the position of the *I'm Alone* at the time the chase began. The American tank steamer *Hadnot*, bound from Charleston to Galveston, had passed Trinity Shoals Gas and Whistling Buoy No. 4 close aboard about 8 A. M. that day. On sighting the *Hadnot* while the pursuit was in progress, the commanding officer of the *Wolcott*, with rare presence of mind, decided to check his own position with that of this intermediary vessel which he knew must have known its own position accurately because of its departure from this prominent and well known aid to navigation shortly before. At the time the *Hadnot* was spoken by the *Wolcott* about 8:20 A. M., it was five miles to the westward of the buoy. This fact, together with the *Wolcott's* ship's log, has enabled the officers of the Coast Guard reviewing the case definitely to work back the navigation data of the *Wolcott* and to fix the position of the *I'm Alone*, at the beginning of the pursuit, with certainty. This computation results in an agreement with the statement of the commanding officer of the *Wolcott* that the *I'm Alone* was not at a greater distance than 10.8 miles from the shore line of the United States. The master of the *Hadnot* furnished an affidavit to the Headquarters of the Coast Guard recounting this occurrence. Impartial evidence such as this, corroborating as it does the precise, scientific calculations of the commanding officer of the *Wolcott*, cannot but negative the statement of his position given by the master of the *I'm Alone*.

It may be added that all of the data respecting the position of the *I'm Alone* at the time the pursuit began have been carefully checked by a captain in the Coast Guard, who is a graduate of the United States Naval Academy and who has had forty years of nautical experience. The calculations of the master of the *I'm Alone* are not only based upon less scientific methods but are also unchecked and unsupported by other evidence.

With further relation to the distance of the *I'm Alone* from shore when first commanded to heave to, may I point out that the action of Captain Randell in refusing to comply with this order would seem to contradict his statement that he was beyond treaty limits. If, as Captain Randell alleges, he believed that his vessel was beyond one hour's sailing distance from shore when first hailed, he must have known that his vessel could not legally be seized by the Coast Guard vessel and that he had nothing whatever to fear in complying with the command to stop and be examined. Instead of complying with this order, Captain Randell saw fit to flee and thus to defy a Coast Guard vessel of the United States engaged in the lawful exercise of its police powers, and he later allowed his vessel to be shelled and sunk rather

than stop. It would thus appear that by his very action in fleeing and thus placing in jeopardy the safety of his ship and the lives of his crew, Captain Randell admitted his own belief that his vessel was within Treaty limits and thus subject to seizure.

As regards the speed of the *I'm Alone*, I may say that, according to my information, this vessel was originally built as a fishing craft similar in type to the so-called "Gloucester" fishing vessels. These vessels are designed to transport fish over long distances in as short a time as possible in order that the cargo may be delivered to market in good condition. It appears that the *I'm Alone* was equipped with two 100 h. p. engines, in addition to full sails. Mr. Edward C. Hobbs, engineer of the *I'm Alone*, testified under oath at New Orleans on March 24 that the speed of the *I'm Alone*, with the engines alone, was 8 to 8½ knots. It is well known that vessels of the type of the *I'm Alone* have frequently attained speeds of more than 14 knots. The *I'm Alone* was well known to officers of the Coast Guard. For a period of more than four years, it successfully eluded the patrol vessels of that Service chiefly because of its superior speed.

On March 27, 1929, Mr. Melville L. Matson, of the Coast Guard, testified that on the evening of November 30, 1928, while he was in command of the Coast Guard Cutter *Wolcott*, he pursued the *I'm Alone* off the coast of Louisiana and that the latter vessel, because of its superior speed, was able to escape. Mr. Matson testified that during this chase the *Wolcott's* speed was 10½ knots and that, since the *I'm Alone* out-sailed his vessel, it is his opinion that the speed of the *I'm Alone* was not less than 12 knots.

According to the records of the Coast Guard, at 10 a. m. on July 6, 1926, the *I'm Alone* was being trailed by the Coast Guard vessel *Acushnet* off Newport, Rhode Island. It suddenly put on full speed (power and sail) and began to draw away from the *Acushnet*. The latter vessel put on full speed and made every possible effort to keep up with the *I'm Alone* but by 10:30 a. m. the latter had placed such a distance between itself and the *Acushnet* that further pursuit was fruitless. The *Acushnet* has steam engines designed to develop 1000 h. p. and, according to its log, developed during this chase a speed of 12.6 knots. The Coast Guard authorities, who have carefully checked the computations of the *Acushnet* with respect to its speed, estimate that on this occasion the maximum speed of the *I'm Alone* must have been not less than 14.1 knots.

At 7:35 p. m. October 13, 1926, the U. S. S. *Ossipee* was trailing the British schooner *I'm Alone* off the New England coast. The sea was smooth and the wind was south by east, force 5 Beaufort scale. The *I'm Alone* was heading approximately 80 degrees magnetic when it suddenly took full advantage of the prevailing wind and began

to make full speed. The *Ossipee* is a high powered vessel and it was compelled to attain its maximum speed of 13.5 knots to keep the fleeing *I'm Alone* in sight. The commanding officer of the Coast Guard vessel, Commander Stanley B. Parker, reported at the time in his official cruise report that 13 knots would have been insufficient to keep the *I'm Alone* in sight and that the speed of 13.5 knots barely permitted him to regain his former position close astern of the schooner.

From the foregoing, it would seem to be established that the *I'm Alone* when first commanded to heave to was within one hour's sailing of the United States. When the master of the *I'm Alone* refused to obey the repeated commands to heave to, the *Wolcott*, after firing warning shots across the bow, fired through the sails and rigging of the schooner, the Commanding Officer of the *Wolcott* continuing his demand that the *I'm Alone* heave to. Since the master of the *I'm Alone* still refused to stop, it would have been difficult, and even dangerous, for an attempt to be made by the Coast Guard vessel forcibly to board it. In this regard, the following question was put to Captain Randell on March 24, last, during the course of his examination by a Special Agent of the Customs Bureau at New Orleans:

"In view of the rate of speed at which you were traveling and the condition of the sea, could he have put a boarding party on board your boat without your slowing down?"

Captain Randell's answer was: "Positively no, Sir. He would have jeopardized his ship and his men." Captain Randell had previously testified that his vessel did not decrease its speed when ordered by the *Wolcott* to heave to, but that it continued on at the same speed at all times.

During the course of the same examination, the following question was propounded to Captain Randell:

"From the time the *Wolcott* first picked you up on the 20th, until your vessel was sunk, as stated on the 22nd, was she continuously in your sight?"

Captain Randell's answer, under oath, was "Yes". From the foregoing and the other evidence in the case, there can be no question that the pursuit was immediately begun and was continuous.

The legal aspects of the case as raised in your note appear to be the following, namely,

(1) whether the doctrine of hot pursuit is applicable to the case since,

(a) the chase began not from territorial waters (i. e. the 3 mile limit) but from the treaty distance of one hour's sailing;

(b) The arrest of the vessel was performed not by the original pursuing vessel, but by another which had been called for assistance.

(2) whether the degree of force used in this case was warranted.

It is not understood that your Government questions the validity of the doctrine of hot pursuit as such, but merely its application in the instant case. It may, however, be of passing interest to note that in the case of the *North*, an American fishing vessel found violating the fishing laws of Canada within the 3 mile limit which was pursued beyond that limit and seized upon the high seas, the Supreme Court of Canada upheld the doctrine of hot pursuit. Discussing the doctrine the Court said *inter alia*:

“ . . . This right has been repeatedly asserted by legislation relative to breaches of shipping laws, neutrality laws, and customs or revenue laws, as well as the case of fisheries. In each case the reasonable necessity seems to have been the basis for such legislation and the reason for its recognition in international law.” (37 Canadian Supreme Court Reports, 385).

The question whether the doctrine of hot pursuit is applicable in cases where the chase began without the customary three mile limit, but within the treaty distance of one hour's sailing, has been given consideration by the Federal courts of the United States, notably, in the cases of the *Pescawha*,⁶ the *Newton Bay*⁷ and the *Vinces*.⁸ In the last named case, it may be recalled that the British schooner *Vinces* was signalled to stop by a Coast Guard vessel seven and one-half miles from the shore. This she refused to do and she was chased to a distance of twelve and three-quarters miles from the shore. In the course of its opinion upholding the validity of the seizure of the vessel the Court expressed itself in part as follows:

“ . . . We think it is clear under the hot pursuit doctrine that if the right of seizure existed at the time the vessel was signalled the right was not lost because she had succeeded in getting further from port [*shore*] in her attempt to run away.”⁹

It may be added that in the two other cases cited above the Courts of the United States have upheld the validity of the seizure on the high seas of vessels suspected of violating the laws of the United States where such vessels had escaped, not from territorial waters of

⁶ *Woitte v. United States*, 19 Fed. (2d) 506 (Circuit Court of Appeals, 9th Circuit); certiorari denied 275 U. S. 545.

⁷ 30 Fed. (2d) 444 (District Court, E. D., New York); affirmed 36 Fed. (2d) 729 (Circuit Court of Appeals, 2d Circuit).

⁸ 20 Fed. (2d) 164 (District Court, E. D., South Carolina); affirmed *Gillam v. United States*, 27 Fed. (2d) 296 (Circuit Court of Appeals, 4th Circuit); certiorari denied 278 U. S. 635.

⁹ 27 Fed. (2d) 299.

the United States (i. e. the 3 mile limit), but from the distance of one hour's sailing from the coast of the United States. While I am not unmindful that the decisions of municipal tribunals, however considered their opinion may be, cannot necessarily be regarded as laying down principles of international law binding on foreign states, they are entitled to respectful consideration. It may not be amiss in this respect to point out that the Courts of the United States have not hesitated to denounce executive officers of this Government where their activities, in the Court's estimation, have been in violation of municipal or international law. This occurred notably in the cases of the *Sagatind*¹⁰ and the *George and Earl*,¹¹ where the Courts held the seizures illegal.

Moreover, may I be permitted to point out that no complaint has been made by His Majesty's Governments in Canada or Great Britain against the enforcement of the doctrine of hot pursuit in the cases of the *Pescawha*, the *Newton Bay* and the *Vinces*, above referred to, which from the statement of the facts in these cases, appear to have been similar to that in the instant case with the possible exception of the amount of force used to bring the vessel to a stop.

In the estimation of this Government, the correct principle underlying the doctrine of hot pursuit is that if the arrest would have been valid when the vessel was first hailed, but was made impossible through the illegal action of the pursued vessel in failing to stop when ordered to do so, then hot pursuit is justified and the locus of the arrest and the distance of the pursuit are immaterial provided:

- (1) that it is without the territorial waters of any other state;
- (2) that the pursuit has been hot and continuous.

With regard to the duration of pursuit I may state that it is the view of this Government that this is unimportant provided the other elements of hot pursuit are always present. In this relation, may I cite the opinion of the British publicist, Piggott, in his work entitled *Nationality*, volume II, pages 35-40, in which he holds that "there appears to be no limit of space or time during which it may continue." On the same point Pitt Cobbett makes the following comment:

"This is sometimes called the law of 'hot pursuit' because it is an essential condition of its validity that the pursuit should be started immediately, and that the arrest should be effected, if at all, in the

¹⁰ 4 Fed. (2d) 928 (District Court, S. D., New York) ; affirmed 11 Fed. (2d) 673 (Circuit Court of Appeals, 2d Circuit).

¹¹ 30 Fed. (2d) 441 (District Court, E. D., New York).

course of the pursuit. Subject to this, the pursuit may be continued indefinitely or until the vessel passes into the territorial waters of another State." (*Leading Cases on International Law*, 4th ed. Part I, p. 175)

The following quotation from Piggott is believed to be of interest in this relation :

"The two familiar examples of the application of the principle are offences against the revenue laws, or against the fishery laws, committed within the revenue or the fishery waters respectively. In these cases there is authority both in practice and judicial opinion, that hot pursuit outside those areas on to the high sea would be justified and the seizure upheld as consistent with the law of nations." (*Nationality*, Vol. II, pp. 35-40)

Article II of the Convention between the United States and Great Britain of January 23, 1924, recognizes the right of the United States to seize a British vessel within one hour's sailing distance from the coast where there is reasonable cause to believe that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States. One of the purposes of Article II of the Convention just referred to was to extend in effect the distance from the coast of the United States within which the jurisdiction of this country might be exercised with respect to certain classes of British ships. Should the right of the United States authorities be denied to continue the pursuit of vessels on the high seas when they have been hailed within the treaty limit, it would seem that the advantages purported to be granted by the treaty are illusory, since it would always be open to offending vessels to refuse to stop when signalled, and flee to the high seas. While it is true that most publicists have predicated the right of "Hot Pursuit" upon an effort to arrest within territorial waters, may I point out that the rights conferred in the so-called liquor treaty between the United States and Great Britain are of a novel character and have extended the right of arrest to a greater distance than had heretofore been acknowledged under international law.

With regard to the fact that the arrest of the *I'm Alone* was performed not by the original pursuing vessel but by another which had been called for assistance, I desire to present the following considerations.

It would seem perfectly clear from the statement of the facts in this case that the *Wolcott* was in continuous pursuit of the *I'm Alone* and that it was present at all times until the latter was sunk by the *Dexter* which had been called for assistance in view of the fact that the *Wolcott* had jammed its gun. It should be understood that the *Dexter* and the *Wolcott* were operating conjointly as a unit of the

same force and under one command. Discussing the limitations upon the doctrine of "Hot Pursuit", the British publicist Hall says:

"The restriction of the permission within the bounds stated may readily be explained by the abuses which would spring from a right to waylay and bring in ships at a subsequent time, when the identity of the vessel or of the persons on board might be doubtful." (Hall, 7th ed., 266.)

It is perfectly clear, of course, that in this case there could have been no doubt of the identity of the vessel and that there was no question of waylaying and bringing in the *I'm Alone* "at a subsequent time."

It is submitted that so long as the *Wolcott* was present at all times and was actually cooperating with the *Dexter* in a joint endeavor to make the *I'm Alone* stop, the requirements of the doctrine of "Hot Pursuit" were met and the additional factor that the *Dexter* joined in the chase does not invalidate the legality of the action of the American authorities.

The only remaining question is whether the Coast Guard officials were justified in sinking the *I'm Alone*. The undisputed evidence is that the master of the *I'm Alone* refused to stop although repeatedly warned, and that there was no way of boarding it while in motion and that the Coast Guard officials had the choice of allowing it to escape or sinking it. A significant fact in the case is that the master of the *I'm Alone* preferred to be sunk rather than to be taken into court for adjudication by the courts of the United States where the nature of its activities, its distance from the coast, its speed and the other factors in the case would have been subject to impartial judicial examination.

The Captain of the *I'm Alone* could at any time have signalled his readiness to comply with the Coast Guard's request, thus putting an end to any danger either to his vessel or to himself and his crew. If the Captain of the *I'm Alone* considered that he was being illegally treated, his proper recourse would seem to have been to surrender under protest and to seek his remedy in the courts and through diplomatic channels.

The officers of the Coast Guard used the utmost discretion, and refrained from using force except as a last resort, and in firing on the *I'm Alone* used the greatest precaution to avoid any loss of life. The one member of the *I'm Alone* crew who died as a result of drowning was pulled out of the water by a member of the Coast Guard who jumped overboard for that purpose.

May I point out that should it become generally known that Coast Guard vessels would not enforce their orders to stop, offending vessels, when hailed within treaty distance would probably always

endeavor to escape and thus defeat the purpose for which the various liquor treaties to which the United States is a party were negotiated.

In this connection it may not be amiss to recall the case of the United States fishing vessel *Siloam* which on May 24, 1923, was found by the Canadian preventive vessel *Malaspina* in the vicinity of Solander Island off the coast of British Columbia. While there was some disagreement as to the actual facts in the case, it is undeniable that an American fishing schooner was sunk and a member of its crew was killed by rifle fire from the Canadian preventive vessel while the Canadian vessel was trying to enforce its police powers. The British Embassy transmitted two notes to the Department reporting this incident and the Department acknowledged these notes without protest or comment. Regardless of where the pursuit of the *Siloam* began, it can scarcely be denied that the degree of force exercised by a preventive vessel of your Government in its effort to compel obedience to its authority in that case constitutes a striking parallel to that employed by the Coast Guard in endeavoring to force the *I'm Alone* to stop. It is presumed that the action of the commanding officer of the *Malaspina* was based on the provisions of Chapter 43, Section 7 (2) of the Revised Statutes of Canada which reads as follows:

“On any such ship, vessel or boat, failing to bring to when required, being chased by any such Government vessel or cruiser having such pennant and ensign hoisted, the captain, master or other person in charge of such Government vessel or cruiser may, after first causing a gun to be fired as a signal, fire at or into such ship, vessel or boat.”

I need hardly state that the Government of the United States deplores the loss of the life of Mr. Leon Maingui, a member of the crew of the *I'm Alone*, by drowning. In connection with his death, however, it must be taken into account that, as already pointed out, the master of the *I'm Alone* had it within his power to remove at any time prior to the sinking of the vessel the danger in which the lives of the members of his crew were placed by complying with the order to stop. It must also be remembered that at least two members of the crew of the *I'm Alone*, Jens Jensen and Edouard Fouchard, testified under oath at New Orleans that the members of the crew of the *I'm Alone* implored the Captain to obey the command of the Coast Guard officers to stop. These same men testified that there were no life preservers on board the vessel.

With reference to the responsibility for the death of Mr. Maingui, Mr. Edouard Fouchard, a cousin of the deceased, was asked during his examination at New Orleans the following direct question:

“Do you think that the Captain (of the *I'm Alone*) was the cause of your cousin's death?”

His answer, under oath, was as follows:

“If there were life preservers on board and the Captain had surrendered like a sensible man, my cousin would never have died.”

Your note states that when the Coast Guard vessel *Dexter* joined in the pursuit and commenced firing on the *I'm Alone*, it was with the deliberate intention of sinking the vessel and not merely of rendering it helpless, as, you suggest, might have been done by crippling its rudder. In this regard, may I remind you that the commanding officer of the *Dexter*, as well as the master of the *Wolcott* repeatedly commanded the *I'm Alone* to stop and made every possible effort to force it to do so before sinking it. The Coast Guard authorities point out that perhaps the easiest way to stop an offending vessel in ordinary circumstances is to fire into its engine room and thus disable its engines. Unfortunately, the officers of the *Dexter* did not know the location of the *I'm Alone's* engines, and they feared that if they fired into the vessel with the view of disabling its engines, the shells might kill members of the crew.

It may be added that, according to a statement of the commanding officer of the *Dexter*, during the latter part of the chase, several members of the crew of the *I'm Alone* were observed aft on the schooner. There was a heavy sea and the vessels were rolling badly. The commanding officer of the *Dexter* feared that, if he tried, in such circumstances, to disable the schooner's rudder, a shell might strike it high and kill those members of the crew who were aft. It thus appeared to him that the safest course to pursue was to fire into the vessel below the water line and this was done. It is to be noted that no member of the crew was injured by gun fire, and, had there been life preservers on board, there is every reason to believe that the life of Mr. Leon Maingui would have been spared.

It is my earnest hope that the above statement may satisfy the Canadian Government that in the case of the *I'm Alone* the American authorities were justified by the facts in pursuit of the vessel on the high seas; that their sinking of the ship was, in the circumstances, inevitable and that they acted throughout in full accord with the law. I hope even more that this may prove to be true because I so thoroughly appreciate the very important assistance generously accorded by the Canadian Government in the prevention of the smuggling of intoxicating liquor into the United States. I am sure you will realize that it is the aim of all branches of this Government in the enforcement of the Prohibition Law, as well as all other laws, to act themselves not only in a strictly legal manner but with due regard to the dictates of humanity.

If your Government, however, after a careful examination of this

note, still finds itself unable to concur in the findings of facts and the conclusions of law set forth herein, the Government of the United States will gladly agree to submit the matter to arbitration as provided for in Article IV of the Convention between the United States and Great Britain of January 23, 1924.

Accept [etc.]

HENRY L. STIMSON

811.114 I'm Alone/119

The Canadian Minister (Massey) to the Secretary of State

No. 67

WASHINGTON, 24 April, 1929.

SIR: 1. I have the honour to acknowledge the receipt of your note of the 17th. of April 1929, concerning the sinking of the Canadian schooner *I'm Alone* by the United States Coast Guard, and to state that I communicated it immediately to my government.

2. I have been instructed by the Secretary of State for External Affairs to inform you that His Majesty's Government in Canada have given careful consideration to the contents of the note. They desire to convey their appreciation of the expression of gratitude on the part of the Government of the United States for the friendly co-operation of Canada in the prevention of smuggling of alcoholic liquors into the United States. The Government of Canada appreciates also the full and reasoned statement which you have presented of the facts and the principles of international law bearing on the case, as they appear to the Government of the United States. They regret, however, their inability to concur in certain important aspects of this presentation.

3. Upon the question of fact as to the position of the schooner when commanded by the revenue cutter *Wolcott* to heave to for examination and as to the speed of the vessel, there is marked discrepancy between the evidence of the Coast Guard officers and the evidence of the captain and members of the crew of the schooner. These discrepancies appear capable of solution only by an examination of all the evidence by an impartial tribunal, and it is therefore considered unnecessary to repeat the statements cited in my previous note, or to review the contrary evidence which has been furnished you through the Secretary of the Treasury.

4. It appears desirable, however, to advert briefly to a point brought forward in your note as proving that the position in question was within the hour's sailing distance from shore within which the Convention of 1924 accords the right of search and seizure. The view is advanced that Captain Randell's refusal to heave to when first commanded may be taken as evidence that he knew that he was within an hour's sailing distance from shore, as he must have been

aware that otherwise his vessel could not legally be seized and that he would have nothing to fear in complying with a command to stop and be examined. It is surely the contrary deduction that is to be drawn. Such a contention might be taken to lead to the conclusion that the further a vessel was out on the high seas and the less ground there was for an order to halt, the more readily should the order be obeyed. If the schooner was outside the treaty limits, an order to halt was without legal force. There had been a number of previous cases where vessels which had been seized were later found by the courts to have been outside the treaty limits, but where heavy loss followed the long delays involved in the court proceedings; in a number of cases claims have been advanced for compensation on such grounds.

5. Even, however, were it not established that the *I'm Alone* was beyond the treaty limits when ordered to stop, the Government of Canada cannot agree that any adequate ground has been established for pursuit on the high seas. They have previously indicated their view that the doctrine of hot pursuit which has been advanced is not applicable to a pursuit which, as is agreed to have been the case in the present instance, did not begin in territorial waters. The doctrine is adequately summarized by the latest and most authoritative United States expositor, as follows:

“The case (of hot pursuit) is one where a vessel has committed an offence against the territorial laws within the three mile limit. The agents of the local sovereign attempt to arrest the offender which endeavours to escape. If the pursuit is not brought to a successful end before the ship leaves territorial waters, the pursuit may be continuously pursued upon the high seas.” (Jessup, *The Law of Territorial Waters and Maritime Jurisdiction*, New York, 1927, p. 106).

The doctrine in any form has not found complete acceptance. Under the arbitral award of M. Asser, it was held that capture of the United States sealers *James Hamilton Lewis* and *C. H. White* on the high seas could not be justified on the ground of pursuit from territorial waters (1902 *Foreign Relations of the United States*, App. I., pps. 454-462). Where recognized, it is under the distinct limitation that the pursuit must be initiated within territorial waters. This limitation was clearly accepted by the Secretary of State of the United States in the address given shortly after the signature of the 1924 Convention, to which reference was made in my previous note. In his work, *International Law, chiefly as interpreted and applied by the United States*, (Vol. I, p. 420), Mr. Charles Cheney Hyde, after stating that “when a foreign vessel, after having violated the municipal laws of a State, within its territorial waters, puts to sea

to avoid detention, conditions justifying immediate pursuit and capture on the high seas, on grounds of self-defence, are . . . rarely if ever present", supports on the ground of effective administration of justice, pursuit and capture, "if the pursuit be commenced before the ship has actually escaped from the territorial waters". Article VIII of the Rules on the Definition and Regime of the Territorial Sea, adopted by the Institute of International Law in 1894, confined the right to "a pursuit commenced in the territorial sea". In the statement made in the Fur Seal Arbitration by Sir Charles Russell, which is usually relied upon as expressing the acquiescence of Great Britain in the doctrine, there is a significant qualification: "It must be a hot pursuit, it must be immediate, and it must be within limits of moderation". In the case of the *North*, in the Canadian courts, which has been cited, pursuit began from territorial waters.

6. The contrary findings of United States courts in the *Vinces*, *Pescawha* and *Newton Bay* cases have not, as you have fully recognized, international validity, nor have they been accepted by either the British or the Canadian Government. With regard to the *Vinces*, His Majesty's Ambassador in Washington communicated with the Secretary of State, asking for information regarding the attitude of the United States Government, and declaring that though not desiring to make any representations, His Majesty's Government did not wish it to be thought that they accepted all the principles upon which the decision of the District Court had been based, and fully reserved their rights. As to the *Newton Bay*, which is still before the courts, and the *Pescawha*, the question of representations has been under discussion between this Legation and the Government of Canada. During the recent Conference on Commercial Smuggling in Ottawa, reference was made by the Canadian representatives to the tendency of the United States enforcing authorities to go beyond the letter and spirit of the Convention of January, 1924.

7. In support of the extended interpretation of the doctrine of hot pursuit, you have pointed out that the rights conferred by the Convention of 1924 are of a novel character and may therefore be taken as extending the right of arrest to a greater distance than had heretofore been acknowledged under international law; and state that one of the purposes of the Convention was to extend in effect the distance from the coast within which the jurisdiction of the United States might be exercised with respect to certain classes of British ships. The Government of Canada is unable to accept this view. The first article of the Convention expressed the firm intention of the high contracting parties to uphold the principle that the three-mile zone constituted the proper limit of territorial waters. The provisions as

to search and seizure beyond the three-mile limit were explicit exceptions to that recognized principle. They did not extend the territorial limits of the United States nor confer any general jurisdiction. The very fact that the rights conferred were of a novel character appears to be a conclusive reason against still further extension by any forced construction. It is submitted that if any such extension had been contemplated it would have been effected by explicit agreement, as was done in the Treaty of Helsingfors of the 19th. August, 1925, between the Baltic States.¹³ This treaty, it will be recalled, provided for the mutual exercise of the right of search within a twelve-mile zone. It was clearly recognized, however, that such a provision did not involve extension of the doctrine of hot pursuit to cover pursuit originating within this enlarged zone. It was found necessary, in order to secure such a right, to provide explicitly in this treaty, "without prejudice to the attitude taken by each of the contracting parties with regard to the legal principle governing territorial and customs zones", that "if a vessel suspected of engaging in contraband traffic is discovered in the enlarged zone hereinbefore described, and escapes out of this zone, the authorities of the country exercising control over the zone in question may pursue the vessel beyond such zone into the open sea and exercise the same rights in respect of it as if it had been seized within the zone".

8. Nor is the Government of Canada able to recognize the force of the view that such an extension is to be implied, because otherwise the advantages granted by the Convention would be illusory. According to recent statements of the head of the Coast Guard Service, "the problem of Rum Row has been practically solved", and "smuggling from the high seas is now only about one-eighth of what it was a few years ago". Yet out of the scores of seizures effected, it is believed that only in four have the Coast Guard authorities themselves considered recourse necessary to the extended version of the practice. Even if the treaty had failed to yield the results anticipated, that would hardly appear to warrant its indefinite extension.

9. The chief remaining question is whether the force used, which resulted in sinking the vessel, was warranted. The determination of the degree of compulsion rightly exercisable in pursuit is not without difficulty. The force used, it is submitted, should in any case be limited to the minimum necessary to effect seizure, and be designed to make seizure possible. There does not appear to be warrant for the adoption of measures regardless of the outcome and such as to defeat the possibility of seizure and the necessary subsequent adjudication. If it was not possible to cripple the schooner without sinking her, or to board her in the weather prevailing, it is

¹³ League of Nations Treaty Series, vol. XLII, pp. 73, 79, art 9.

considered that it would have been possible to continue pursuit further without reaching the territorial waters of another state, during which time the weather might have cleared and boarding been effected. According to the deposition of the mate of the *Im Alone*, the captain of the *Wolcott* stated later that he had urged this course on the captain of the *Deater*, but his advice was disregarded. When all the circumstances are taken into account, including the persistent rifle fire and the putting of the crew in irons, the impression that is formed is of a distinctly punitive intent. The view that the responsibility for the sinking should be shifted to the captain of the schooner rests on two assumptions for which, as had been indicated above, there does not appear to be valid ground—that the schooner was within treaty limits when ordered to halt, and that pursuit beginning within the treaty limits but outside territorial waters would be justified. Whatever view may be taken of the course of the captain of *Im Alone*, it would hardly appear possible to absolve from responsibility the captain and crew of the revenue cutter, who two hundred miles from the United States coast riddled the schooner with shells and plunged its crew into a rough sea, and to transfer the responsibility for the loss of life to the captain of the schooner for failing to provide life belts for such a contingency.

10. The case of the United States fishing vessel *Siloam* is cited as a parallel. Without taking the ground that the procedure of the Canadian preventive vessel *Malaspina* on that occasion was absolutely without fault, it may be observed that the two cases appear to present essential differences. The *Siloam* was found and pursued within Canadian territorial waters. Upon repeated refusals to heave to, and after threatening action on the part of the *Siloam's* captain, the *Malaspina* fired shells around the vessel. Later, rifles were used with the object of disabling the steering gear, and one shot unfortunately killed a sailor on the *Siloam*. The vessel, however, was not sunk by shell fire, but apparently was scuttled by her crew.

11. I regret therefore to find that the Government [of the] United States and the Government of Canada have not been able to reach similar conclusions as to the facts in the present case and as to the applicable principles of law. Both Governments have an interest in the full and strict observance of international agreements, and it is desirable that a definite agreement be reached as to the interpretation of the treaty provisions which is to be accepted. The Convention itself provides the means for determining whether in any case the enforcing authorities have proceeded within the rights conferred by Article II. I am therefore instructed to say that His Majesty's Government in Canada has much pleasure in accepting the proposal of the United States to submit the matter to arbitration as provided for

in Article IV. of the Convention between His Britannic Majesty and the President of the United States of America of the 23rd. January, 1924. I shall be prepared to discuss with you at your convenience the procedure to be adopted to this end.

I have [etc.]

VINCENT MASSEY

**COMMERCIAL SMUGGLING ACROSS THE INTERNATIONAL BORDER
BETWEEN THE UNITED STATES AND CANADA**

*Press Release Issued by the Department of State, May 15, 1929*¹⁴

(For the information of the Correspondents)

**SUMMARY OF CORRESPONDENCE BETWEEN THE GOVERNMENTS OF CANADA
AND THE UNITED STATES ON THE SUBJECT OF COMMERCIAL SMUGGLING
ACROSS THE INTERNATIONAL BORDER.**

On October 1, 1925, the Secretary of State addressed a note to the Chargé d'Affaires ad interim of Great Britain, at that time in charge of Canadian affairs, with reference to two Conventions between the United States and Great Britain in respect of Canada, one of which was signed on June 6, 1924,¹⁵ and provides for the suppression of smuggling operations, and the other, signed on January 8, 1925,¹⁶ provides for the extradition of persons charged with crimes and offenses against the narcotic laws of the respective Governments.

The Secretary of State pointed out that as the result of the consideration which had been given to these subjects since the Conventions were signed, it would seem to be desirable to make further provision for restricting and suppressing illicit smuggling operations, particularly in view of the fact that ships with cargoes of liquor on board were being cleared from Canadian ports for places in the United States when it was well known that the importation of such cargoes into the United States is prohibited by its laws. He expressed the hope that it would be found possible to take measures whereby clearances of ships with cargoes of liquor destined for the United States might be refused by the Canadian authorities, since it is evident when such clearances are requested that the object of the expedition is unlawful. He also stated that it would be helpful if provision might be made for extradition between the United States and Canada of persons guilty of violating the customs laws of either Government and seeking refuge within the territory of the other.

He therefore suggested that a Convention supplementary to the

¹⁴ Correspondence released to the press with this press release for publication in papers of May 16, 1929, not printed.

¹⁵ *Foreign Relations, 1924*, vol. I, p. 189.

¹⁶ *Ibid.*, 1925, vol. I, p. 542.

Convention of June 6, 1924, be concluded between the United States and Canada to provide for the refusal of clearances to shipments of prohibited merchandise by water, air or land from any of the ports of either country to a port of entrance of the other, unless there has been complete compliance with the conditions of the laws of both countries.

In order to provide for extradition in cases of persons charged with violations of the customs laws, the Secretary of State suggested that a Convention supplementary to the Extradition Convention of July 12, 1889,¹⁷ be concluded.

The receipt of this note was duly acknowledged by the British Embassy which stated that copies thereof had been forwarded to the Government of Canada.

On December 8, 1925, the Secretary of State again addressed a note to the British Embassy to inquire whether he might be furnished with the views of the Government of Canada regarding the proposals.

In the meantime, Mr. Chilton, the Chargé d'Affaires ad interim of the British Embassy, in a note dated October 13, 1925, transmitted copies of an Order-in-Council containing regulations governing the execution of the Convention of June 6, 1924, between the United States and Canada for the suppression of smuggling, to have effect in so far as they relate to Canada and to Government employees or officers of the Canadian Government. The receipt of this note was acknowledged with thanks by the Secretary of State in a communication dated October 17, 1925, forwarding at the same time copies of the Executive Order of September 19, 1925, containing the regulations on the subject to govern the acts of officers of the United States.

In a note dated December 11, 1925, the British Ambassador expressed regret that he had not as yet been furnished with the views of the Government of Canada on the contents of the note of the Secretary of State dated October 1, 1925, but stated that the matter was again being referred to the Dominion Government. Similar information was contained in a later note dated April 8, 1926, from the British Ambassador. On June 19, 1926, the matter was orally brought to the attention of a member of the staff of the British Embassy who promised to take it up urgently.

As a conference had taken place in London in July, 1926, between officials of the British and American Governments to discuss administrative measures to prevent smuggling,¹⁸ the Secretary of State in his note dated September 10, 1926, informed the British Embassy

¹⁷ Malloy, *Treaties, 1776-1909*, vol. I, p. 740.

¹⁸ See Joint Report of Discussion Between British and American Officials With Regard to Liquor Smuggling, *Foreign Relations, 1926*, vol. II, p. 350.

that it had been suggested by the British representatives at the conference that certain matters should be taken up separately with the Canadian authorities. As no Canadian representative was present at the conference, the Secretary of State suggested that it would be very helpful if such a conference with the Canadian authorities could be held at an early date and, if possible, provision made to put into effect between Canada and the United States the arrangements worked out in London. He stated that it was also desired to consider the interpretations of certain provisions of the Convention of June 6, 1924, between the United States and Canada and to ascertain whether amendments are necessary in order to make it effective in preventing smuggling operations between the two countries.

A reply to this note was received from the British Embassy dated October 11, 1926, in which it was stated that the Dominion Government would be pleased to take part in a joint conference, as suggested, but attention was called to the fact that a Royal Commission which was appointed to continue inquiries into the customs administration, had been instructed to make an inquiry into the operation of the Convention of June 6, 1924, and particularly as to whether the Convention is being carried out according to its declared intention and as to whether any amendment is necessary or desirable to insure the suppression of smuggling. The Canadian Government was therefore of the opinion that it would be desirable to await its findings before setting a date for the proposed conference between representatives of Canada and the United States.

Under date of October 22, 1926, a further communication was received from the British Embassy stating that it was the desire of the Canadian Government that Mr. N. W. Rowell, who had been appointed Counsel to the Royal Commission, should have an opportunity of conferring with a representative of the United States Government regarding the operation of the Convention of June 6, 1924, and inquiring whether the United States Government would be disposed to appoint a representative with authority to confer with Mr. Rowell.

In reply the Department stated on November 10, 1926, that a communication had been received from the appropriate authority of this Government suggesting that Mr. Rowell meet the heads of the various divisions dealing with the situation as well as certain officials of the Department of State and the Department of Justice who could furnish him with information as to the operation of the Convention. It was believed that this arrangement would in all probability be highly preferable to a conference with one representative, and it was suggested that the meeting be held in Washington on November 13, 1926.

In a note dated November 12, 1926, the Secretary of State informed the British Ambassador with reference to his note of October 11, 1926, that the interested authorities of this Government concurred in the suggestion that the fixing of a date for the proposed conference should be deferred pending the findings of the Royal Commission. However, on account of the growth of smuggling operations it was considered desirable to suggest that the conference be held at the earliest practicable date following the submission of the report and recommendations of the Royal Commission.

Under date of December 7, 1926, the Secretary of State informed the British Embassy that as it appeared that the investigations being carried on by the Royal Commission would not be completed until February, 1927, and as this Government hoped that the Canadian Government would find it possible to enter into further treaty arrangements to prevent smuggling operations between the two countries supplementing those contained in the Convention of June 6, 1924, it was felt that the preliminary discussions should take place not later than January, 1927. He urged this in view of the fact that the session of the Congress of the United States which had convened on December 6, 1924, would adjourn on March 4, 1927, and a further regular session would not be held until December, 1927. The Secretary of State also suggested that some difficulties might be dealt with under existing laws and treaties and stated that this Government desired to discuss with the Canadian authorities the extent to which the arrangements worked out at London during July, 1926, could be applied to the smuggling operations being carried on from Canada.

To this the British Ambassador replied on February 21, 1927, that the Dominion Government concurred in the advisability of holding a conference to consider the various proposals put forward, but desired that the discussions should not be confined merely to the question of the illicit liquor trade but should cover all forms of commercial smuggling across the international border. It was also suggested that the conference should consider whether any of the recommendations which they may make to their respective Governments as a result of their discussions could be more appropriately carried out by a supplementary convention, by concurrent legislation, or by administrative regulations. It was added that as the Royal Commission had not yet made its report, the Government of Canada were of the opinion that the date of the proposed conference should not be settled until later.

The reports and recommendations of the Royal Commission having been completed, the American Minister to Ottawa addressed a communication on November 27, 1928, to the Prime Minister of Canada

inquiring whether it would be agreeable to have the proposed informal conference take place at Ottawa during the first week of January, 1929, to which the Under Secretary of State for External Affairs of Canada replied on December 12, 1928, that the Canadian Government would be prepared to arrange for participation in a conference to discuss the advisability of taking further action for the prevention of commercial smuggling between the two countries.

It was decided not to discuss the matter of extradition during the Conference, in view of the fact that there was no connection whatever between the two proposals advanced in the note of the Secretary of State dated October 1, 1925, which formed the basis for the Conference. The amendment to the Extradition Treaty proposed therein would apply to actual customs offenses and would not cover cases involving conspiracy to violate the customs or other laws. The proposed amendment to the Smuggling Convention provided for the refusal of clearances to shipments of commodities from either country destined to the other, when the importation of the commodity was prohibited in the country of destination.

The matter of the refusal of clearances to prohibited commodities is of a great deal of importance in combating smuggling and the informal conference was proposed primarily in order that United States officials might discuss the subject at length with the Canadian authorities. It was felt that the subject of extradition, being a separate matter, would doubtless be dealt with independently by the two Governments in due course.

An informal conference to discuss further measures for the prevention of smuggling between the two countries consequently took place in Ottawa January 8-10, 1929, which was attended by the following Canadian and American delegates:

American delegates:

Admiral F. C. Billard, Commandant, United States Coast Guard,
head of group,

James M. Doran, Commissioner of Prohibition, Treasury Department,

E. W. Camp, Commissioner of Customs,

Ferdinand L. Mayer, Counselor of American Legation, Ottawa,

Irving N. Linnell, American Consul General at Ottawa.

Francis Colt de Wolf, Assistant to Solicitor, State Department,

Harry J. Anslinger, Liaison Officer between State and Treasury Departments,

Arthur W. Henderson, Special Assistant to the Attorney General,

Lynn W. Meekins, Commercial Attaché, Ottawa,

Frank J. Murphy, Treasury Department, Technical Assistant,

Elmer J. Lewis, Treasury Department, Technical Assistant,

Miss Clara Borjes, Secretary to Delegation.

Canadian delegates:

Doctor O. D. Skelton, Under-Secretary of State for External Affairs,
 W. Stuart Edwards, Deputy Minister of Justice,
 R. W. Breadner, Commissioner of Customs,
 G. W. Taylor, Commissioner of Excise;
 C. P. Blair, Assistant Commissioner of Excise,
 F. W. Cowan, Chief, Customs-Excise Preventive Service,
 William Ide, Acting General Executive Assistant,
 E. Hawken, Assistant Deputy Minister, Department of Marine,
 C. H. L. Sharman, Narcotic Division, Department of Pensions and National Health,
 H. L. Keenleyside, Third Secretary, Department of External Affairs.

Admiral Billard, the head of the American delegation, submitted his report of the Conference to the Secretary of State under date of January 21, 1929. The American delegation explained to the Canadians the importance of the Canadian Government's discontinuing the existing practice of clearing liquor direct from Canadian to American ports, and thus refusing to allow its instrumentalities to be used by persons engaged in breaking the laws of this country. They outlined what is being done in the United States for the enforcement of Prohibition and pointed out the physical impossibility of controlling the movement of small speedy craft across water only a mile in width. They asked the Canadian delegation to report to its Government that the opinion of the United States Government is that nothing short of the discontinuance of the existing practice of issuing clearances or other official documents permitting the exportation from Canada to the United States of goods, the importation of which into the United States is illegal, would be of material assistance to the United States in dealing with the problem of smuggling, or would be of material assistance in preventing further development of unfavorable conditions along the border, which affect both countries alike.

The Canadian delegates, on the other hand, explained the general system of control of exports of liquor from Canada and, while they evinced a readiness to issue more stringent regulations under the existing treaty, they were inclined to foresee difficulties in any attempt to refuse to allow liquor to be cleared from Canada to the United States. They promised, however, to lay before their Government the proposal of the American delegation and to point out the importance attached by the United States to its acceptance by the Canadian Government.

On March 15, 1929, the Prime Minister of Canada addressed a note to the American Minister at Ottawa, forwarding a copy of the

report of the Canadian delegation to the Anti-Smuggling Conference. In this note the Prime Minister stated, *inter alia*, that "without making at the present time a final decision on this proposal, the Canadian Government is in accord with the opinion expressed by the Canadian representatives that the problem of enforcement facing United States officials, particularly on the Detroit and Niagara border, might in large measure be solved by a further extension of the system of furnishing information of shipments of liquor provided by the Convention of June 1924." He then makes the following offer: "To cooperate with, and assist further the Government of the United States in the effective enforcement of its laws, the Canadian Government is prepared to permit the United States officers to be stationed on the Canadian side of the border, at ports of clearance to be determined, in order to enable the United States officials themselves to transmit immediately to the appropriate authorities in the United States information to be furnished by the Canadian customs officials as clearances are obtained, as to the clearance of all vessels for the United States carrying liquor cargoes".

While the Government of the United States appreciated the graciousness of the offer made by the Canadian Government, it was the view of the competent authorities that the proposed arrangement would not be a solution of the problem, and the American Minister at Ottawa was accordingly instructed to inform the Canadian Government which he did under date of April 20, 1929, that the information provided for in Article I of the Convention of June 6, 1924, between the United States and Canada, has been promptly furnished by the Canadian officials, except in a very few cases which were speedily adjusted by the Canadian Government as soon as its attention was called to the matter. But the necessary information to identify the vessels engaged in liquor smuggling has not been available because the data furnished to the Canadian authorities and transmitted to the American officials, were in most cases fictitious. Mr. Phillips added that Canadian officials have faithfully discharged their duties under the Convention, and there is no reason to believe that the information would be more accurate or more helpful if transmitted through American officials stationed on the Canadian side of the border.

He concluded by saying that, "While the Government of the United States appreciates the gracious offer of the Canadian Government to permit American officials to transmit information of this kind from Canadian soil, it remains convinced that the only effective means of dealing with the smuggling problem along the border is the conclusion of a treaty amending the Convention of June 6, 1924, to the end that clearance be denied to shipments of commodities from either country when their importation is prohibited in the other."

UNPERFECTED CONVENTION BETWEEN THE UNITED STATES AND
CANADA FOR THE PROTECTION OF THE FRASER RIVER SOCKEYE
SALMON FISHERIES ¹⁹

711.428/1248

The Canadian Minister (Massey) to the Secretary of State

No. 2

WASHINGTON, 2 January, 1929.

SIR: In previous correspondence ending with Mr. Castle's note of July 6th. 1927,²⁰ the Governments of Canada and the United States expressed their accord on the desirability of reaching an international agreement to provide for the protection and rehabilitation of the Sockeye Salmon fisheries of the Fraser River. I now have the honour, under instructions from the Secretary of State for External Affairs, to present to you for your consideration the enclosed draft of a Treaty²¹ to attain this object, and to inform you that His Majesty's Government in Canada is prepared to proceed with the immediate signature in Washington of a treaty in this form.

I shall be pleased if you will be good enough to inform me at an early date whether the Government of the United States is prepared to accept this draft and to approve its signature.

I have [etc.]

H. H. WRONG
(For the Minister)

Unperfected Treaty No. Q-6

*Convention Between the United States of America and Canada,
Signed at Washington, March 27, 1929*²²

The President of the United States of America and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, recognizing that the protection, preservation and extension of the sockeye salmon fisheries in the Fraser River system are of common concern to the United States of America and the Dominion of Canada; that the supply of this fish in recent years has been gravely depleted and that it is of the utmost importance in the mutual interest of both countries that this source of wealth should be restored and maintained, have resolved to conclude a convention and to that end have named as their respective plenipotentiaries;

¹⁹ For previous correspondence, see *Foreign Relations*, 1928, vol. II, pp. 30 ff.

²⁰ Not printed.

²¹ Not printed. On March 21, 1929, the Secretary of State transmitted to the Canadian Minister a revised draft; on March 25 the Canadian Minister in his turn transmitted to the Secretary of State an amended revised draft, which proved acceptable. Correspondence and drafts not printed (711.428/1248, 1265).

²² Not ratified; ordered December 13, 1929, by the Senate, to be returned to the President.

The President of the United States of America :

Mr. Frank B. Kellogg, Secretary of State of the United States of America ; and

His Majesty, for the Dominion of Canada :

The Honourable Charles Vincent Massey, P. C., His Envoy Extraordinary and Minister Plenipotentiary for Canada at Washington ;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following Articles :

ARTICLE I

The provisions of this Convention and the regulations issued pursuant thereto shall apply to the Fraser River and the streams and lakes tributary thereto and to all waters frequented by sockeye salmon included within the following boundaries :

Beginning at Carmanah Lighthouse on the southwest coast of Vancouver Island, thence in a straight line to a point three marine miles due west astronomic from Tatoosh Lighthouse, Washington, thence to said Tatoosh Lighthouse, thence to the nearest point of Cape Flattery, thence following the southerly shore of Juan de Fuca Strait to Point Wilson, on Quimper Peninsula, thence in a straight line to Point Partridge on Whidbey Island, thence following the western shore of the said Whidbey Island, to the entrance to Deception Pass, thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island, thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough, in line with the track of the Great Northern Railway, thence northerly following the shore line of the mainland to Atkinson Point at the northerly entrance to Burrard Inlet, British Columbia, thence in a straight line to the southern end of Bowen Island, thence westerly following the southern shore of Bowen Island to Cape Roger Curtis, thence in a straight line to Gower Point, thence westerly following the shore line to Welcome Point on Seechelt Peninsula, thence in a straight line to Point Young on Lasqueti Island, thence in a straight line to Dorcas Point on Vancouver Island, thence following the eastern and southern shores of the said Vancouver Island to the starting point at Carmanah Lighthouse as shown on the United States Coast and Geodetic Survey Chart Number 6300, as corrected to October 20, 1924, and on the British Admiralty Chart Number 579.

The High Contracting Parties engage to have prepared as soon as practicable charts of the waters described in this Article, with the above described boundaries and the International boundary line indicated thereon. They further agree to establish within the territory of the United States and the territory of the Dominion of Canada such buoys and marks for the purposes of this Convention as

may be recommended by the Commission hereinafter authorized to be established, and to refer such of these recommendations as relate to points on the boundary to the International Boundary Commission, United States-Alaska and Canada, for action pursuant to the provisions of the Treaty respecting the boundary between the United States and Canada signed February 24, 1925.

ARTICLE II

The High Contracting Parties agree to establish and maintain a Commission to be known as the International Pacific Salmon Fisheries Commission, hereinafter called the Commission, consisting of six members, three on the part of the United States of America, and three on the part of the Dominion of Canada.

The Commissioners on the part of the United States shall be appointed by the President of the United States, and the Commissioner of Fisheries of the United States shall be one of them. The Commissioners on the part of the Dominion of Canada shall be appointed by His Majesty on the recommendation of the Governor-General-in-Council.

The Commission shall continue in existence so long as this Convention shall continue in force, and each High Contracting Party shall have power to fill and shall fill from time to time vacancies which may occur in its representation on the Commission in the same manner as the original appointments are made. Each High Contracting Party shall pay the salaries and expenses of its own Commissioners, and the joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moities.

ARTICLE III

The Commission shall make a thorough investigation into the natural history of the Fraser River Sockeye salmon, into hatchery methods, spawning ground conditions and other related matters. It shall conduct the sockeye salmon fish cultural operations in the area described in Article I, and to that end it shall have power to improve spawning grounds, acquire, construct and maintain hatcheries, rearing ponds and other such facilities as it may determine to be necessary for the propagation of sockeye salmon in the water covered by this Convention, and to stock the waters with sockeye salmon by such methods as it may determine to be most advisable. The Commission shall also have authority to recommend to the two Governments the removal of obstructions to the ascent of sockeye salmon in the waters covered by this Convention, that may now exist or may from time to time occur, and to improve conditions for the ascent of sockeye salmon, where investigation may show such to be desirable. The Commission shall report annually to the two

Governments what it has accomplished and the results of its investigations.

The cost of all such work shall be borne equally by the two Governments, and the said Governments agree to appropriate annually such money as each may deem desirable for such work in the light of the reports of the Commission.

ARTICLE IV

The International Salmon Fisheries Commission established pursuant to Article II of this Convention is hereby empowered, between the first day of June and the twentieth day of August in any year, for the whole or any part of the aforesaid period, to limit or prohibit the taking of sockeye salmon in respect of all the waters described in Article I of this Convention, or in respect of waters of the United States and Canadian waters separately, provided, that when any order is adopted by the Commission limiting or prohibiting the taking of sockeye salmon in regard to waters of the United States or Canadian waters separately, it shall extend to all of the waters of the United States or Canadian waters to which this Convention applies, and Provided further, that no order limiting or prohibiting the taking of sockeye salmon adopted by the International Salmon Fisheries Commission shall be construed to suspend or otherwise affect the requirements of the laws of the State of Washington or of the Dominion of Canada as to the procuring of a license to fish in the waters on their respective sides of the boundary line. Any order adopted by the Commission limiting or prohibiting the taking of sockeye salmon in said waters during said period, or any part thereof, shall remain in full force and effect unless and until the same be modified or set aside by the Commission. The taking of sockeye salmon in said waters during said period in violation of the orders of the Commission adopted from time to time is hereby prohibited.

ARTICLE V

In order to secure a proper escapement of sockeye salmon during the spring or chinook salmon fishing season, the International Salmon Fisheries Commission may prescribe the size of the meshes in all fishing gear and appliances operated in the waters described in Article I of this Convention which are frequented by sockeye salmon.

Whenever the taking of sockeye salmon in said waters during said period between the first of June and the twentieth of August in any year is permitted under the orders adopted by the Commission in respect of waters of the United States, any fishing appliance legally authorized by the State of Washington may be used in such waters by any person thereunto authorized by that State, and whenever the taking of sockeye salmon in said waters during said period is per-

mitted under the orders adopted by the Commission in respect of Canadian waters any fishing appliances authorized by the laws of the Dominion of Canada may be used in such waters by any person thereunto legally authorized.

ARTICLE VI

No action taken by the Commission under the authority of Articles IV and V of this Convention shall be effective unless it is affirmatively voted for by at least two of the Commissioners from each country.

ARTICLE VII

Inasmuch as the purpose of this Convention is to establish for the High Contracting Parties, by their joint effort and expense, a fishery that is now largely non-existent, each of the High Contracting Parties should share equally in the fishery. The Commission shall, consequently, in regulating the fishery do so with the object of enabling, as nearly as they can, an equal portion of the fish that is allowed to be caught each year to be taken by the fishermen of each High Contracting Party.

ARTICLE VIII

Each High Contracting Party shall be responsible for the enforcement of the regulations provided by the Commission in the portion of their respective waters covered by the Convention, and to this end they agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention, with appropriate penalties for violations thereof.

ARTICLE IX

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 in accordance with constitutional practice, and it shall become effective upon the date of the exchange of ratifications which shall take place at Washington as soon as possible and shall continue in force for a period of sixteen years, and thereafter until one year from the day on which either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

In witness whereof, the respective plenipotentiaries have signed the present Convention, and have affixed their seals thereto.

Done in duplicate at Washington, the twenty-seventh day of March, one thousand nine hundred and twenty-nine.

[SEAL] FRANK B. KELLOGG
[SEAL] VINCENT MASSEY

711.428/1346

The Acting Secretary of State to the Canadian Minister (Massey)

WASHINGTON, January 4, 1930.

SIR: I have the honor to notify you officially that the convention for the preservation and extension of the sockeye salmon fisheries of the Fraser river system, which you signed with the Secretary of State on March 27, 1929, and which was transmitted by the President to the Senate with a view to receiving the advice and consent of that body to its ratification, has been withdrawn from the Senate for further consideration by the executive authorities of this Government. The matter is now receiving that consideration and this Government probably will shortly bring to the attention of the Canadian Government certain modifications in the provisions of the convention assigned and propose a new convention embracing these modifications to be signed in substitution for the convention signed on March 27, 1929.

The American Chargé d'Affaires ad interim at Ottawa has been instructed to inform His Majesty's Government in Canada in the foregoing sense.

Accept [etc.]

J. P. COTTON

PROPOSED CONVENTION TO REPLACE THE HALIBUT FISHERY CONVENTION OF MARCH 2, 1923, BETWEEN THE UNITED STATES AND GREAT BRITAIN²³

711.428/1284

The Canadian Minister (Massey) to the Secretary of State

No. 80

WASHINGTON, 6 May, 1929.

SIR: I have the honour to refer to Mr. Castle's note of November 5th, 1928²⁴ concerning the carrying out of the recommendations of the International Fisheries Commission for the preservation of the Northern Pacific halibut fishery, in which he stated that it was hoped that the United States Government would shortly be in a position to inform the Government of Canada of its views on the proposals made in this Legation's note No. 126 of August 24th, 1928.²⁵ In Mr. Castle's further note of April 3rd, 1929²⁶ concerning a conference suggested by the Government of Canada to discuss all outstanding fisheries questions, it was stated that it was deemed inadvisable by the United States Government to undertake a general discussion of the

²³ Continued from *Foreign Relations*, 1928, vol. II, pp. 7-30.

²⁴ Not printed.

²⁵ *Foreign Relations*, 1928, vol. II, p. 29.

²⁶ See note of April 3 signed by Mr. Castle for the Secretary of State, p. 76.

fisheries situation pending the conclusion of a new treaty governing the halibut fishing industry.

The International Commission established under the provisions of the Treaty for the Preservation of the Halibut Fishery of the North Pacific of 1923,²⁷ submitted its first report to the two Governments early in 1928,²⁸ making five recommendations for the protection of the fishery, including a recommendation to extend the length of the close season. The report and recommendations were approved by both Governments, but Mr. Kellogg, in a note dated 2nd. August 1928,²⁹ stated that the United States Government considered that a new Treaty was necessary to put the recommendations into effect. In replying to this note the Government of Canada stated that the existing Canadian legislation gave adequate powers to carry out the recommendations, but that no objection was made to the proposal of the United States for the conclusion of a new Treaty. The necessity, therefore, of a further international agreement to make the Commission's recommendations effective has arisen in the United States.

I am instructed to represent that His Majesty's Government in Canada consider that action should be taken at an early date to conclude a Treaty to make effective the recommendations of the International Commission, which have been formally approved by both Governments, in order that the work of the International Commission may be proceeded with as soon as possible. I am desired to express the earnest hope that, in order that certain pressing questions related to the international fisheries may be dealt with without further postponement, you will concur in this view, and that you will be prepared to conclude the negotiation of the Treaty without delay.

I have [etc.]

VINCENT MASSEY

711.428/1291

The Secretary of State to the Minister in Canada (Phillips)

No. 548

WASHINGTON, May 29, 1929.

SIR: Reference is made to your despatch No. 468, June 11, 1928,³⁰ on the subject of the first report of the International Fisheries Commission created under Article III of the Halibut Fisheries Convention between the United States and Great Britain concluded March 2, 1923.

This Government is now prepared to conclude a convention imple-

²⁷ *Foreign Relations*, 1923, vol. I, p. 468.

²⁸ *Ibid.*, 1928, vol. II, p. 7.

²⁹ *Ibid.*, p. 28.

³⁰ Not printed.

menting the recommendations contained in the report of the International Fisheries Commission. There is enclosed a draft of a proposed convention. This draft is word for word the same as the convention between the United States and Great Britain concluded at Washington March 2, 1923, excepting the portions underscored. The underscored portions of the draft denote amendments and are confined substantially to Articles I and III. Underscored alterations elsewhere in the draft are believed to be self-explanatory. The following comment is made on the alterations contained in Articles I and III:

ARTICLE I

Paragraph 1. The closed season provided by the convention now in force will be modified by the new convention, and will begin on the first day of November in lieu of the sixteenth day, thereby increasing the closed season fifteen days; this period covers the spawning season and it is particularly desirable during this time to have the fishing areas closed.

Paragraph 2. Under the convention now in force, the International Fisheries Commission can not modify the closed season when occasion warrants it. It can only be done by a new convention. The proposed convention gives the International Fisheries Commission authority, subject to the approval of the President of the United States and the Governor-General of Canada, to open up certain fishing areas during this period when the Commission is of the opinion that such areas could be opened without materially affecting the conservation policy.

Paragraph 4. The International Fisheries Commission will have to carry on fishing operations for investigational purposes in order to perform efficiently its functions under the convention. The last paragraph of Article II was inserted in order to make it clear that the International Fisheries Commission is not prohibited from fishing for the purposes stated, between November 1 and February 15.

ARTICLE III

Paragraph 1. Provision is made for the continuation of the International Fisheries Commission, both as such, and as to personnel. There is no intention to effect a change in either. Since it is probable that this convention will be of longer duration than the 1923 convention, provision is made for the filling of vacancies in the Commission membership.

Paragraph 2. It may be stated that this paragraph comprises the core of the new convention. It contains technical provisions which are calculated to give flexibility to the administration of the halibut conservation policy adopted by the United States and Canada. The

only practicable means of obtaining the desired flexibility is by placing the power to regulate the fishing in the International Fisheries Commission, subject to the approval of the President of the United States and the Governor-General of Canada. Identical regulations for the two countries are thus assured, and possible arbitrary action by the Commission is guarded against sufficiently by vesting approval of the Commission's action in the executives. This paragraph authorizes the International Fisheries Commission to subdivide the area over which the convention applies for the purpose of separate treatment in administration. Regulation of the halibut fishing will differ in the subdivided areas according to the peculiar conditions of those areas. The Commission will have the authority, subject to the approval of the President and Governor-General, to close certain areas indefinitely to halibut fishing, to prevent the present use of destructive fishing gear, to license and clear vessels engaged in halibut fishing in the treaty waters, and to obtain information in regard to the catch.

The draft submitted herewith has the endorsement of the Bureau of Fisheries of this Government and the International Fisheries Commission. Moreover, the draft in its present form would seem to have fair prospect of receiving official approval of the Canadian Government, inasmuch as Mr. Found, of the Department of Marine and Fisheries of the Dominion Government, as a member of the International Fisheries Commission, has informally approved the draft.

You are instructed to transmit the enclosed draft to His Majesty's Government in Canada for its consideration. A copy of the draft has also been sent to the Canadian Minister in Washington.

I am [etc.]

HENRY L. STIMSON

[Enclosure]

Draft of a New Convention Between the United States and Great Britain for the Preservation of the Halibut Fishery

The President of the United States of America and His Majesty the King of Great Britain, Ireland, and of the British Dominions beyond the Seas, Emperor of India, for and in respect of the Dominion of Canada, being equally desirous of securing the preservation of the halibut fishery of the Northern Pacific Ocean have resolved to conclude a Convention for this purpose, and have named as their plenipotentiaries:

The President of the United States of America :

..... ;
 and His Majesty:..... ;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The nationals and inhabitants and fishing vessels and boats, of the United States and of the Dominion of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) both in the territorial waters and in the high seas off the western coasts of the United States, including Bering Sea, and of the Dominion of Canada, from the first day of November next after the date of the exchange of ratifications of this Convention, to the fifteenth day of the following February, both days inclusive, and within the same period yearly thereafter.

The International Fisheries Commission provided for by Article III is hereby empowered, subject to the approval of the President of the United States and the Governor General of the Dominion of Canada, to suspend or modify the closed season provided for by this article, as to part or all of the convention waters, when it finds after investigation such changes are necessary.

It is understood that nothing contained in this article shall prohibit the nationals or inhabitants and the fishing vessels or boats of the United States and of the Dominion of Canada, from fishing in the waters hereinbefore specified for other species of fish during the season when fishing for halibut in such waters is prohibited by this Convention or by any regulations adopted in pursuance of its provisions. Any halibut that may be taken incidentally when fishing for other fish during the season when fishing for halibut is prohibited under the provisions of this Convention or by any regulations adopted in pursuance of its provisions may be retained and used for food for the crew of the vessel by which they are taken. Any portion thereof not so used shall be landed and immediately turned over to the duly authorized officers of the Department of Commerce of the United States or of the Department of Marine and Fisheries of the Dominion of Canada. Any fish turned over to such officers in pursuance of the provisions of this article shall be sold by them to the highest bidder and the proceeds of such sale, exclusive of the necessary expenses in connection therewith, shall be paid by them into the treasuries of their respective countries.

It is further understood that nothing contained in this article shall prohibit the International Fisheries Commission from conducting fishing operations for investigation purposes during the closed season.

ARTICLE II

Every national or inhabitant, vessel or boat of the United States or of the Dominion of Canada engaged in halibut fishing in violation of the preceding article may be seized except within the juris-

diction of the other party by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be mutually agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention, or any regulations which may be adopted in pursuance of its provisions, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

ARTICLE III

The High Contracting Parties agree to continue under this Convention the Commission as at present constituted and known as the International Fisheries Commission, established by the convention between the United States and His Britannic Majesty for the Preservation of the Halibut Fishery of the Northern Pacific Ocean including Bering Sea, concluded March 2, 1923, consisting of four members, two appointed by each party, and this commission shall publish a report of its activities from time to time. Each of the High Contracting Parties shall have the power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each party shall pay the salaries and expenses of its own members, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The High Contracting Parties agree that for the purpose of protecting and conserving the halibut fishery of the Northern Pacific Ocean, the International Fisheries Commission, with the approval of the President of the United States and of the Governor General of the Dominion of Canada, from time to time may designate fishing areas in any of the convention waters, and within such areas may establish seasons during which fishing may be limited or prohibited as it may prescribe. Under this authority to regulate fishing in any area so set apart and reserved, the Commission, with the approval of the President of the United States and of the Governor General of Canada, may (a) fix the size and character of trawls, boats or other gear and appliances to be used therein; (b) limit the catch of fish to be taken from any area; (c) make such regulations as to time, means, methods and extent of fishing as may be deemed desirable; (d) make such regulations for the collection of statistics of the

catch, including the licensing and clearance of vessels, as will enable the Commission to determine the condition and trend of the fishery by banks and areas as a proper basis for protecting and conserving the fishery.

ARTICLE IV

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulations adopted thereunder, with appropriate penalties for violations thereof.

ARTICLE V

The present Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

This Convention shall, from the date of the exchange of ratifications be deemed to supplant the Convention between the United States and His Britannic Majesty for the Preservation of the Halibut Fishery of the Northern Pacific Ocean including Bering Sea, concluded March 2, 1923.

ARTICLE VI

This Convention shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in Washington as soon as practicable, and the Convention shall come into force on the day of the exchange of ratifications.

In faith whereof, the respective plenipotentiaries have signed the present Convention in duplicate, and have hereunto affixed their seals.

Done at the day of
, in the year one thousand nine hundred and
 twenty-nine.

711.428/1329

The Minister in Canada (Phillips) to the Secretary of State

No. 1159

OTTAWA, October 7, 1929.

[Received October 14.]

SIR: Referring to the Legation's despatch No. 1109 of August 24, 1929,³¹ on the matter of the proposed convention implementing the recommendations contained in the report of the International Fish-

³¹ Not printed.

eries Commission created under Article III of the Halibut Fisheries Convention between the United States and Great Britain concluded March 2, 1923, I have the honor to report that I am now in receipt of note No. 128, dated October 3, 1929, from the Department of External Affairs on this question.

It will be observed from the note that the Canadian Government expresses the view that, according to the wording of the second paragraph of Article III in the draft presented by the Government of the United States, the regulations which the Commission may make with the approval of the Governor General of Canada and the President of the United States might perhaps be taken to be limited to areas set apart and reserved.

The communication states that it is not doubted that what the Commission had in mind was that certain areas known in the industry as nurseries and frequented mainly by young halibut should be set apart from all fishing and that the remainder of the waters covered by the Convention should be divided into areas so that the total quantity of halibut that might be taken from any area in any one season might be defined and controlled.

The Canadian Government in the note in question presents an amended draft of the proposed Convention, and expresses its willingness to conclude such a Convention at an early date, expressing the hope that the Government of the United States will find the amended draft acceptable.

I should be glad to be instructed as to what reply I should make to the Canadian Government.

A copy of the note of the Canadian Government, as well as its enclosure, being the amended draft of the proposed Convention, is transmitted herewith enclosed for the information of the Department.³²

I have [etc.]

WILLIAM PHILLIPS

[Enclosure—Extract]

*Amended Draft of a New Convention Between Canada and the United States for the Preservation of the Halibut Fishery*³³

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and the President of the United States of America, being equally desirous of securing the preservation of the halibut fishery of the Northern Pacific Ocean

³² Note not printed.

³³ Articles 1, 4, and 6, which have been omitted, are the same as those of the American draft convention, p. 63.

and Bering Sea have resolved to conclude a Convention for this purpose, and have named as their plenipotentiaries:

His Majesty: for the Dominion of Canada, ;
and the President of the United States of America:

. ;
Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE II

Every national or inhabitant, vessel or boat of the Dominion of Canada or of the United States engaged in halibut fishing in violation of the preceding article may be seized except within the jurisdiction of the other party by the duly authorized officers of either High Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon. The authorities of the nation to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention, or any regulations which may be adopted in pursuance of its provisions, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

ARTICLE III

The High Contracting Parties agree to continue under this Convention the Commission as at present constituted and known as the International Fisheries Commission, established by the Convention between His Britannic Majesty and the President of the United States for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, concluded March 2, 1923, consisting of four members, two appointed by each Party, which Commission shall make such investigations as are necessary into the life history of the halibut in the treaty waters and shall publish a report of its activities from time to time. Each of the High Contracting Parties shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each Party shall pay the salaries and expenses of its own members, and joint

expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

The High Contracting Parties agree that for the purposes of protecting and conserving the halibut fishery of the Northern Pacific Ocean and Bering Sea, the International Fisheries Commission, with the approval of the Governor General of the Dominion of Canada and of the President of the United States, may

- (a) divide the treaty waters into areas;
- (b) limit the catch of halibut to be taken from each area;
- (c) fix the size and character of halibut fishing appliances to be used therein;
- (d) make such regulations for the collection of statistics of the catch of halibut including the licensing and clearance of vessels, as will enable the International Fisheries Commission to determine the condition and trend of the halibut fishery by banks and areas, as a proper basis for protecting and conserving the fishery;
- (e) close to all halibut fishing such portion or portions of an area or areas, as the International Fisheries Commission find to be populated by small, immature halibut.

ARTICLE V

The present Convention shall remain in force for a period of five years and thereafter until two years from the date when either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

This Convention shall, from the date of the exchange of ratifications be deemed to supplant the Convention between His Britannic Majesty and the President of the United States for the Preservation of the Halibut Fishery of the Northern Pacific Ocean including Bering Sea, concluded March 2, 1923.

ESTABLISHMENT OF A COMMISSION TO INVESTIGATE THE FISHERIES PROBLEM IN MISSISQUOI BAY³⁴

711.428/1254

The Secretary of State to the Chargé in Canada (Mayer)

No. 476

WASHINGTON, March 13, 1929.

SIR: Referring to the Department's instruction No. 255 [225] of May 9, 1928,³⁵ and to a despatch from your Legation No. 482 of

³⁴ For previous correspondence, see *Foreign Relations*, 1928, vol. II, pp. 37 ff.

³⁵ *Ibid.*, p. 37.

June 19, 1928,³⁶ regarding seine fishing in the Missisquoi Bay section of Lake Champlain, you are instructed to again take up the question with the Secretary of State for External Affairs regarding the appointment in the near future of a joint fact-finding commission to investigate this fisheries question and to make recommendations regarding its solution. The representations to be made are contained in the Department's instruction No. 225 of May 9, 1928.

Careful consideration has been given to the suggestions contained in the note of June 16, 1928, from the Secretary of State for External Affairs transmitted with your despatch No. 482 of June 19, 1928. With respect to the suggestion made in their note that it is not feasible to appoint a fact-finding commission to deal with the Missisquoi Bay situation alone until at least steps are taken to advance the settlement of the more important fisheries cases outstanding between the United States and Canada, it may be stated that steps are being taken looking to the settlement of the halibut fisheries question in the Pacific³⁷ and fishing problems in the Fraser River.³⁸ Inasmuch as these matters are being dealt with individually, it would seem reasonable that the same procedure should be pursued in the Missisquoi Bay case, without further delay. You will please communicate with the Secretary of State for External Affairs in the sense of the foregoing and transmit his reply to the Department as soon as you receive it.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, JR.

711.428/1261

The Chargé in Canada (Mayer) to the Secretary of State

No. 906

OTTAWA, March 19, 1929.
[Received March 21.]

SIR: I have the honor to refer to the Department's instruction No. 476 of March 13, 1929, regarding seine fishing in the Missisquoi Bay section of Lake Champlain, in which the Legation is requested again to take up with the Canadian Government the matter of the appointment in the near future of a joint fact-finding commission to investigate this fisheries question and to make recommendations regarding its solution.

On February 27th the Under-Secretary of State for External Affairs was good enough to furnish the Legation with a copy of that Department's instruction of the same date to the Honorable Vincent Massey, Canadian Minister at Washington, directing him to ascer-

³⁶ *Foreign Relations*, 1928, vol. II, p. 41.

³⁷ See pp. 60 ff.

³⁸ See pp. 55 ff.

tain whether the Government of the United States would be prepared to participate in a further conference between fully accredited representatives of the two governments, looking to a satisfactory solution of outstanding fishery questions. Mr. Massey was further instructed, in view of the approach of another fishing season, to endeavor to arrange "some date in March or early in April as a suitable occasion for the convening of such a conference". (A copy of the instruction is enclosed).³⁹

I venture to enquire whether, in the circumstances, the Department still desires me to take up the Missisquoi Bay question separately with the Department of External Affairs.

In this general relation I have the honor to inform the Department that the Canadian authorities still continue to express a lively interest in the status of the discussion of a treaty on the subject of the sockeye salmon question on the Pacific Coast.

I have [etc.]

FERDINAND LATHROP MAYER

711.428/1261

The Secretary of State to the Minister in Canada (Phillips)

No. 493

WASHINGTON, March 29, 1929.

SIR: Referring to a despatch from your legation No. 906 of March 19, 1929, regarding seine fishing in the Missisquoi Bay section of Lake Champlain and the appointment in the near future of a joint fact-finding commission to investigate this fishery and make recommendations regarding its solution, it is noted that further instructions are requested in the light of the request made by the Under Secretary of State for External Affairs that a conference be held between representatives of the two Governments looking to a satisfactory solution of outstanding fishery questions between the two countries.

It is the view of the Department, as expressed in previous instructions, that progress can best be made in the practical solution of pending fisheries questions between the United States and Canada by taking up each case separately upon its individual merits. You will, therefore, please communicate with the Secretary of State for External Affairs, basing your representations upon the Department's instructions Nos. 255 [225] of May 9, 1928, and 476 of March 13, 1929. Please transmit to the Department the reply of the Secretary of State for External Affairs as soon as you receive it.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

³⁹ Not printed; but see note No. 34, March 2, 1929, from the Canadian Minister, p. 74.

711.428/1269

The Minister in Canada (Phillips) to the Secretary of State

No. 923

OTTAWA, April 4, 1929.

[Received April 8.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 493 of March 29, 1929, regarding seine fishing in the Missisquoi Bay section of Lake Champlain, and to enclose a copy of a note dated April 3 which I have this morning presented personally to the Prime Minister.⁴⁰

In my conversations with Mr. King I traced the history of the negotiations, cited all the arguments in connection therewith, and made a special request that the Canadian Government should now agree to the appointment of a fact-finding commission to investigate this whole question. I drew his attention to the note which the Legation had presented to the Canadian Government a year ago, and to the nature of the Canadian reply. Furthermore, I reminded him that the only objection raised by the Government of the Dominion to the appointment of a fact-finding commission appeared to have been a preference that this question should be dealt with in connection with other outstanding fishery matters rather than by itself. However, I said, he would recollect that with the disposition of the halibut fishery situation in the Pacific and the sockeye salmon in the Fraser River, the Canadian Government had given evidence of a willingness to treat the fishery questions individually, and I expressed the hope, therefore, that the Government would find it reasonable to pursue the same procedure in the Missisquoi case.

Personally Mr. King seemed rather sympathetic with our point of view. He did not appear to have the facts of the matter in mind, but he assured me that he would look into it at once and send me a reply with the least possible delay.

I have [etc.]

WILLIAM PHILLIPS

711.428/1282

The Minister in Canada (Phillips) to the Secretary of State

[Extract]

No. 959

OTTAWA, April 23, 1929.

[Received April 26.]

SIR: I have the honor to refer to my confidential telegram No. 53 of April 20, 12 noon,⁴⁰ regarding seine fishing in the Missisquoi Bay section of Lake Champlain, and to enclose herewith a copy of a note, No. 38, of April 22, 1929 . . .

I have [etc.]

WILLIAM PHILLIPS

⁴⁰ Not printed.

[Enclosure]

The Canadian Secretary of State for External Affairs (Mackenzie King) to the American Minister (Phillips)

No. 38

OTTAWA, April 22, 1929.

SIR: I have the honour to acknowledge your note of April 3, 1929, No. 335, suggesting that in view of the fact that various specific questions affecting fisheries preservation in boundary waters are on the way to a settlement, the Government of the United States trusts that in these circumstances the Canadian Government would be prepared to join in the appointment of a joint fact-finding commission to investigate the Missisquoi Bay fishery question and to make recommendations regarding a solution.

I have pleasure in stating that the Canadian Government accepts the proposal of a fact-finding commission, and will be prepared to discuss appropriate arrangements. In accepting the proposal, however, it is desired to point out that, according to the information which has been conveyed to the competent Canadian department, in addition to the pickerel taken in the seines in Missisquoi Bay, large quantities of the more undesirable fish such as perch are taken, and that if the latter fish are not removed their ascendancy in the whole lake area might result in detriment to the pickerel fishery. It is also understood that in Lake Champlain waters fishing through the ice is carried on to an important extent, resulting in the capture of pickerel with detrimental results. It is therefore considered that these points among others should be carefully inquired into by the proposed commission.

Accept [etc.]

W. L. MACKENZIE KING

711.428/1282

The Acting Secretary of State to the Minister in Canada (Phillips)

No. 561

WASHINGTON, June 19, 1929.

SIR: Reference is made to your despatch No. 959 of April 23, 1929, regarding seine fishing in the Missisquoi Bay Section of Lake Champlain, with which you enclosed a copy of a note, No. 38, of April 22, 1929, from the Secretary of State for External Affairs, expressing the pleasure of the Canadian Government in stating that it accepts the proposal of a fact-finding commission and will be prepared to discuss appropriate arrangements. I am gratified to note that you have been successful in securing the agreement of the Canadian Government to discuss this question upon its individual merits.

It is noted that the Canadian Government points out that in addi-

tion to the pickerel taken in seines in Missisquoi Bay, large quantities of the more undesirable fish such as perch are taken, and that, if the latter fish are not removed, their ascendancy in the whole lake area might result in detriment to the pickerel fishery. It is also noted that the Canadian Government understands that in Lake Champlain waters fishing through the ice is carried on to an important extent, resulting in the capture of pickerel with detrimental results. The suggestion of the Canadian Government that these points among others should be carefully inquired into by the proposed commission, is agreeable to this Government. Should any other international questions regarding game fishery conservation in Lake Champlain waters develop during the investigation, this Government will be pleased to receive recommendations from the commission regarding their solution.

In agreeing to the broadened scope of the investigation, you will not fail to call to the attention of the Secretary of State for External Affairs, the original proposal of this Government set forth in instruction No. 225 of May 8 [9], 1928,⁴² which I understand is acceptable to the Canadian Government.

This Government is prepared to designate Dr. John Van Oosten of the United States Bureau of Fisheries to cooperate with the representative of the Canadian Government in this investigation. Upon being informed of the official to be designated by the Canadian Government, Dr. Van Oosten will be directed to communicate with the Canadian representative.

Please communicate with the Secretary of State for External Affairs in the sense of the foregoing and transmit his reply as soon as it is received.⁴³

I am [etc.]

J. REUBEN CLARK, Jr.

**DISINCLINATION OF THE UNITED STATES TO ACCEPT CANADIAN
PROPOSAL FOR GENERAL DISCUSSION OF FISHERIES QUESTIONS**

711.428/1257

The Canadian Minister (Massey) to the Secretary of State

No. 34

WASHINGTON, 2 March, 1929.

SIR: It will be recalled that as a result of prolonged discussion a conference between representatives of Canada and the United States was held in Washington on the 26th. of February 1926, to discuss the

⁴² *Foreign Relations*, 1928, vol. II, p. 37.

⁴³ In his despatch No. 1148, September 30, 1929, the Minister in Canada reported that the Canadian Government had selected James A. Rodd, director of fish culture of the Dominion Department of Fisheries, as the Canadian representative (711.428/1326).

possibility of arranging a satisfactory settlement of the fisheries questions outstanding between the two countries.⁴⁴ It was agreed at that conference that the matters discussed would be further considered by the United States Government, following which a communication could be addressed to His Majesty's Government in Canada. Up to the present no such communication has been received by His Majesty's Government in Canada.

In view of the conditions under which the fisheries are conducted, it is inevitable that they should be a source of international difficulties unless a full and comprehensive agreement is reached as to the rights, privileges, and methods to be exercised by the vessels and nationals of each country. The desirability of reaching such an accord need not be emphasized.

The fisheries of Canada and the United States are so intimately related that in certain instances they cannot be conserved and properly developed, except by co-operative action by the two countries. A realization of this fact has already resulted in the Pacific Halibut Treaty.⁴⁵ The more that is learned regarding the life history of the different species of Pacific salmon, the clearer it is becoming that,—apart altogether from the Fraser river system, where the need for international action is recognised and a treaty to provide for it is being negotiated,⁴⁶—co-operative effort in extra-territorial waters is essential to the proper conservation and conduct of these fisheries. The development of quick freezing seems to leave no room for doubt that fresh fish, in as good condition as when it was removed from the water, can be economically sent, not only to all parts of this continent, but practically to all parts of the world. This must surely result in making the main problem for all concerned, in the very near future, one of obtaining adequate supplies, rather than of markets.

That the present situation is unsatisfactory and is likely to lead to embarrassing difficulties is evidenced by the fact that on the Atlantic United States vessels are constantly applying for special privileges in waters and ports under the jurisdiction of the Government of Canada. Such privileges were, in fact, granted as a result of applications received through United States consular or other governmental officials to some twenty-six United States vessels there in 1927. On the Pacific coast, notwithstanding repeated warnings, it recently became necessary to seize certain United States salmon trolling boats to prevent the unlawful use of Canadian ports. In protesting against these seizures the Association of Trolling Vessel Owners (a United States

⁴⁴ Correspondence not printed.

⁴⁵ See convention between the United States of America and Great Britain, signed at Washington, March 2, 1923, *Foreign Relations*, 1923, vol. I, p. 468; see also discussion of proposed convention to replace the same, *ante*, pp. 60 ff.

⁴⁶ See pp. 55 ff.

organisation) stated, in substance, that the strict enforcement of existing treaty requirements would make it impossible for them to carry on their industry with success.

It is equally evident that the termination of the privileges now granted to United States halibut vessels on the Pacific coast would have a most serious effect upon that industry. This fact has recently been made very clear by the statements of the United States Fishing Vessels Owners' Association. On the other hand, the continuance of these privileges under existing conditions is for obvious reasons unsatisfactory to the Canadian fishing vessels there.

It is the opinion of the Government of Canada that the problem of maintaining an adequate supply of marine products will shortly become the most important problem facing the industry in both countries, though the question of reciprocal access to markets is a phase of the situation which appears to require consideration.

I have the honour to state that I have been instructed to inform you that His Majesty's Government in Canada, having regard to the importance from all standpoints of a satisfactory solution of outstanding fishery questions being found, and in consideration of the developments which have taken place since the previous conference in 1926, desires to learn whether the Government of the United States would be prepared to participate in a further conference between fully accredited representatives of the two governments. Keeping in view the approach of another fishing season, it is suggested that some date in March or early in April would be a suitable occasion for the convening of such a conference.

I shall be glad if you will be good enough to inform me at any early date of the views on this question of the Government of the United States.

I have [etc.]

VINCENT MASSEY

711.428/1257

The Secretary of State to the Canadian Minister (Massey)

WASHINGTON, April 3, 1929.

SIR: I have the honor to refer to your note No. 34, dated March 2, and the Department's acknowledgment of March 8, 1929,⁴⁷ in regard to the desire of your Government to learn whether the United States Government would be prepared to participate in a conference between representatives of the two Governments to discuss fisheries questions outstanding between the United States and Canada.

As stated in the Department's note of March 8, your note was

⁴⁷ Department's note of March 8, 1929, not printed.

brought to the attention of the appropriate authority of this Government, and a response dealing with this matter has now been received.

It is the opinion of the competent authorities of this Government that the outstanding fisheries questions between the United States and Canada are essentially questions of the proper husbandry of the resources in international waters. Reference in this regard is made to the salmon fisheries situation in the Fraser River, which was dealt with in a treaty signed in this city on March 27 last,⁴⁸ and to the matter of the halibut fishing industry, concerning which a new treaty between the two Governments is now being negotiated with the view to placing further essential safeguards around that fishery to insure its maintenance. Mention should also be made of the Great Lakes fisheries which are seriously depleted and which must yield, sooner or later, to more centralized control if they are to be maintained.

The agreements which have already been reached between Canada and the United States concerning the salmon and halibut fisheries have demonstrated the efficacy of dealing with single phases of the fisheries question independently. It is, therefore, deemed inadvisable by the competent authorities of this Government to undertake a general discussion of the fisheries situation pending the conclusion of the new treaty governing the halibut fishing industry which is now under consideration. I need hardly add, however, that this Government is entirely agreeable to undertaking concurrently with the consideration of the halibut treaty an independent discussion of the Great Lakes fisheries, or of similar phases of the fisheries question.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, Jr.

711.428/1283

*The Canadian Minister (Massey) to the Secretary of State*⁴⁹

No. 79

WASHINGTON, 6 May, 1929.

SIR: I have the honour to refer to Mr. Castle's note of April 3rd, 1929⁵⁰ in regard to the proposal advanced in my note No. 34 of March 2nd, 1929 that a conference should shortly be held to discuss the settlement of fisheries questions outstanding between Canada and the United States.

It was stated in Mr. Castle's note that the competent authorities

⁴⁸ *Ante*, p. 55.

⁴⁹ This note was acknowledged by the Department on August 7, 1929, with the statement that it had been brought to the attention of the appropriate authority of the Government (711.428/1283).

⁵⁰ See note of April 3, 1929, signed for the Secretary of State by Mr. Castle, *supra*.

of the United States Government considered that the outstanding fisheries questions between the two countries were essentially questions of the proper husbandry of the resources in international waters, and the examples were cited of the recent treaty for the preservation of the Salmon fishery in the Fraser River, and of the present negotiations concerning the North Pacific Halibut fishery; the advisability was also mentioned of steps being taken to preserve the Great Lakes fisheries. It was further stated that the United States Government, though entirely agreeable to undertaking an independent discussion of the Great Lakes fisheries or similar problems, deemed it inadvisable to undertake a general discussion of the fisheries situation until the new treaty was concluded governing the North Pacific halibut fishery.

I have been instructed to represent that His Majesty's Government in Canada are of the opinion that, to judge from the correspondence exchanged between the two Governments and from the nature of the Conference held at Washington on February 26th. 1926, the outstanding fisheries problems go beyond the scope of the proper husbandry of the fisheries resources in the international waters in which the two countries are interested, important as this matter is. They further find it difficult to understand in what manner the proposed treaty governing the North Pacific halibut fishery would be involved in the general discussion proposed, since it is understood that the two Governments, having accepted the recommendations of the International Fisheries Commission, are already in full agreement on the steps to be taken further to protect this fishery, and since the only reason for suggesting a treaty is that the United States Government have found it impossible to carry out these recommendations by other means. I have today addressed a note to you ⁵¹ urging on behalf of the Government of Canada the advisability of rapidly concluding the negotiation of this treaty.

His Majesty's Government in Canada see no objection to undertaking at any time an independent discussion of the Great Lakes fisheries or of similar aspects of the fisheries question. They are prepared to begin such a discussion as soon as the negotiations concerning the halibut fishery have been concluded. They desire, however, to suggest that the proposal also should then be revived for a conference on the outstanding fisheries questions generally, inasmuch as these questions extend beyond the problem of the husbanding of the resources in international waters.

I have [etc.]

VINCENT MASSEY

⁵¹ *Ante*, p. 60.

SETTING UP OF AN INTERNATIONAL COMMISSION TO INVESTIGATE
EFFECTS ON FISHERIES OF PROPOSED POWER DEVELOPMENT IN
PASSAMAQUODDY BAY

711.4216C78/1

The Secretary of State to the Minister in Canada (Phillips)

No. 531

WASHINGTON, May 11, 1929.

SIR: The Department has received your despatch No. 977 of May 3, 1929,⁵² in regard to a proposed power development in Passamaquoddy Bay by Dexter P. Cooper, Incorporated of Eastport, Maine. Reference in this regard is also made to a conference which took place in the Department on May 8, 1929, at which you were present, when Mr. Cooper, Governor Gardner and Senator Hale of Maine explained this project in detail.

It appears that, since a part of the works of this proposed project are in Canada, Mr. Cooper and his associates formed a Canadian company, the Canadian Dexter P. Cooper Company, which received a charter from the Dominion Government on June 15, 1926. Under the terms of this charter, the construction of the works must be commenced within three years from that date and be completed within another three years. Article 16 of the Company's charter reads as follows:

"The powers conferred upon the Company by this Act shall not be exercisable until the Company has first submitted the plans showing such works, with a description of the proposed undertaking, to the Ministers respectively of Public Works, of Marine and Fisheries and of the Interior, at Ottawa, and has received the approval of each such Minister thereto, and until the Company has filed a duplicate of each in the office of the registrar of deeds in the county in which the proposed works are to be constructed, nor until the Company's undertaking, including the apportionment of power generated by the Company between the Dominion of Canada and the United States of America, shall have been approved and reported upon by the International Joint Commission and has received the assent of the Governor in Council, subject to such terms and conditions as the Governor in Council deems necessary or desirable in the public interest."

Mr. Cooper's Company has taken steps to obtain the authorization of the competent authorities of the United States and the State of Maine to proceed with this work. Mr. Cooper states that on October 19, 1928, application was made to the Federal Power Commission for a license to build these works. It is understood that before acting on this application, the Federal Power Commission referred the matter

⁵² Not printed.

to the War Department in order that it might receive an opinion from the Engineering Corps of that Department.

The Department has been informally advised by Colonel Robbins of the War Department that the studies of the Army engineers on the engineering aspects of this project have been completed and that a report is now being prepared for the Federal Power Commission. He stated that in this report the War Department will recommend favorably on the project, provided certain conditions are fulfilled including locks to take care of navigation and the posting of a bond to guarantee the completion of the works or to provide funds for their removal in the event the project should be abandoned before completion.

As stated in Mr. Cooper's letter to you of April 27, 1929, his Company has been unable to commence actual construction work on this project because it has not yet obtained the final approval of the Canadian Departments specified in Article 16 of its Canadian charter quoted above. While actual construction has not been started, Mr. Cooper states that a large amount of preliminary engineering work consisting of surveying the site of the proposed project, drilling operations to discover the nature of the terrain, laboratory tests of models and material and the preparation of plans have been carried out. He states that his Company has expended more than \$300,000 in this preliminary work. Realizing sometime ago it would probably be impossible to obtain the final approval of the necessary Canadian Departments by June 15 next, the date on which under the Canadian charter construction must be started, Mr. Cooper asked that the Canadian Government pass legislation to extend the period during which construction might be started for two years from the above-mentioned date. It is understood that a bill in this sense was introduced in the House of Commons this session but was defeated by a vote of 22 to 10 in the Private Bills Committee of the House of Commons.

Mr. Cooper has informed the Department that it is his understanding that the principal objection to the Bill to extend the time during which construction might be started on this project came from fishery interests and the Department of Marine and Fisheries because of a fear that the project would prove detrimental to fisheries in the Bay of Fundy. In this regard the Department has been informed by Mr. Henry O'Malley, United States Commissioner of Fisheries, that a Sub-Committee of the North American Committee on Fisheries Investigation appointed to consider the probable effect of this project on the local fisheries, made the following report:

“(a) That it is the opinion of the Sub-committee that if the proposed construction is carried out the Weir Fisheries for Herring will be eliminated inside the basins enclosed within the proposed dams.

“(b) That the information at present available is not sufficient to allow prediction of the effects to be expected upon the fisheries of the general region outside the dams.”

This Sub-committee consisted of Messrs. Henry O'Malley and Henry B. Bigelow on the part of the United States and Messrs. W. A. Found and A. G. Huntsman on behalf of Canada.

Mr. Cooper stated in the Department on May 8 that he would like very much to have the Canadian Parliament, before adjournment this year reconsider the Canadian Dexter P. Cooper Company Bill No. 73 for the extension of the time to their charter. He added that inasmuch as the fisheries question was ostensibly the cause of the Committee's refusing to grant this extension of time it would seem to be advisable that a Special Commission be appointed by the Canadian Government to go into this matter and to submit a report before December 1, 1929; Mr. Cooper stated that if such a Commission were appointed his Company would like to be represented on it. He added that if the Canadian Government did not look with favor upon the appointment of such a special Commission, the question might well be referred to the International Joint Commission.

The Department desires that you take up Mr. Cooper's case with the appropriate Canadian authorities and that you explain to them the status of the Company's project in the United States, as outlined in the preceding paragraphs. You should also inform the Canadian Government of the keen interest in this project of the Government of the State of Maine, as set forth at the conference in the Department recently by Governor Gardner and Senator Hale. It appears to the Department that this extension of time could be granted by the Canadian Parliament without committing itself in any way to the project, since the approval of three Canadian Departments must be obtained before construction can be started and an Order in Council must be passed authorizing the commencement of the work. In view of these safeguards, the Department finds it difficult to understand why the Canadian Government should be reluctant to grant this Company additional time in which to prove its case. In view of the heavy expenditure which has already been made by Mr. Cooper's Company, it would be an injustice for it to be deprived of this further opportunity to convince the Canadian Department of the feasibility of this project.

You will submit a report of your representations to the Canadian Government on this subject at your early convenience.

I am [etc.]

For the Secretary of State
W. R. CASTLE, JR.

711.4216C78/5

The Minister in Canada (Phillips) to the Secretary of State

No. 997

OTTAWA, May 16, 1929.

[Received May 20.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 531 of May 11th in regard to the proposed power development in Passamaquoddy Bay by Dexter P. Cooper, Incorporated, of Eastport, Maine.

Immediately on receipt of this instruction I sought an interview with the Prime Minister, and yesterday, May 15th, I had a somewhat lengthy conversation with him on the subject. Believing that it would be desirable to leave with him a summary of the case, I handed to him at the end of my conversation an *Aide Memoire* which covered substantially the points raised in the Department's instruction under acknowledgment. I pointed out the interest of the state of Maine in this whole enterprise, as well as the approval which the interested Departments of Government in Washington had already given it; that the Province of New Brunswick, in granting the charter, had very clearly expressed its approval, and that in these circumstances it would seem to be only just and fair to allow the interested Departments of the Canadian Government to express their views. The extension of time which was now requested, I said, was really in the interests of the Canadian Government itself, and at the same time seemed fully justified in view of the heavy expenditure already incurred by the company.

The Prime Minister at first expressed doubt as to whether a bill which had once been disapproved by the Parliamentary Committee on Bills could be brought up again at the present Session, and since the Committee had refused to grant the extension of time requested in the Dexter P. Cooper Company bill No. 73, he felt that it might be difficult for him to respond favorably to our request. However, I continued to press the matter, and Mr. King thereupon sent for a law officer of the House and asked him whether a bill which had once been disapproved by the Committee could be reintroduced at the present Session. The law officer advised the Prime Minister that while the bill itself could not in these circumstances come up for reconsideration by the Committee on Bills, there was nothing to prevent the House from giving consideration to the whole subject on a private motion. In other words, as the law officer explained, the Committee on Bills could not prevent the House from giving consideration to anything which it desired to consider.

Mr. King concluded the interview by saying that the law officer's opinion disposed of the objection which he had previously raised,

and he promised to give the matter prompt and careful consideration.

In this connection I beg to enclose a copy of a communication from the American Consul at St. John, New Brunswick, dated May 10th, which is in reply to an inquiry which I had previously addressed to him with reference to the Passamaquoddy Bay power project. Mr. Wormuth's letter is of such interest that it seems to me the Department would wish to have the information contained therein before it. Inasmuch as the Consul did not send duplicates of the newspaper clippings to which he referred, I am retaining them in the Legation files.

I have [etc.]

WILLIAM PHILLIPS

[Enclosure]

The Consul at Saint John, N. B. (Wormuth) to the Minister in Canada (Phillips)

SAINT JOHN, N. B., May 10, 1929.

SIR: I have the honor to acknowledge receipt of your letter of May 3, 1929 in reference to the Passamaquoddy Bay power project and the information available at this Consulate in reference thereto. In a general way, this project allows the erection of dams for the purpose of utilizing the tides of the Passamaquoddy Bay for the purpose of developing hydro-electric power, the estimated expense of the project being approximately \$100,000,000.

I had the pleasure of attending a meeting of the Engineers' Association at Saint John about a year ago when it was addressed by Mr. Cooper and the project was explained by him in detail. The general impression among the engineers seemed to be that the project was unique but probably feasible. One of the questions seriously debated was whether the initial cost of the development would not be so great as to render the price of power sold too high to be profitable. Opinions seemed to be divided upon this point but Mr. Cooper maintained that the development would furnish cheap hydro-electric power for manufacturing industries in New England and New Brunswick.

Discreet inquiries have been made as to the attitude of the public in Saint John on account of the refusal of the Dominion Government to extend the charter of the Cooper Company and the attitude of everyone except Connors Brothers seems to be favorable to the development. So far as the International Paper Co., an American concern which is developing 60,000 hydro-electric horse power at Grand Falls for manufacture of pulp and paper, and the New Brunswick Power Company, a branch of the Federal Light and Traction Com-

pany of New York City which develops electric power by a steam plant for lighting purposes and the operation of the street railways of Saint John, are concerned, it is believed that their attitude is neutral. The New Brunswick and Maine legislatures have consented to the development. The Commissioner of the Board of Trade informed me that he was somewhat disappointed at the action of the Dominion Legislature in that an investigation had disclosed a reasonable expectation of obtaining cheap power from the Quoddy project, which would encourage the development of manufacturing in New Brunswick.

Geoffrey Stead, Chief Engineer of the Department of Public Works in this city, informed me personally that it would be carried out as he was interested from an engineering standpoint and was inclined to believe the project feasible. The general attitude of the interested and understanding public seems to be that the Quoddy project would be a most hopeful asset in the development of manufacturing industries in New Brunswick, and, of course, New England.

The only decided objection to the project comes from two sources, one, Connors Bros. of Black's Harbour who have the most important sardine canning industry in New Brunswick and who export to many foreign countries, and the fishermen generally in the vicinity of Passamaquoddy Bay. The second objection comes from the Canadian Pacific Railway, who own the Algonquin Hotel at St. Andrews, N. B. in the vicinity of Passamaquoddy Bay.

The important objection is that of the fishing industry, especially Connors Bros. Their objection is based upon the opinion of Dr. Huntsman, who is the director of the Atlantic Biological Station at St. Andrews, N. B. and who expresses the belief that the sardine fisheries of Passamaquoddy Bay depend for their value upon the constant mixing of the waters caused by the tides which brings food for the sardines to the surface and that the erection of the dam would change conditions particularly above the dam to such an extent as to destroy or greatly impair the value of Passamaquoddy Bay as a home for the sardine. He also believes that the Quoddy project would result in the formation of ice above the dam, thus interfering with navigation, and resulting in a climatic change which would tend to impair the value of this section as a summer resort. This opinion of Dr. Huntsman explains the attitude of the Canadian Pacific Railway on account of the loss of custom which they fear will result to the Algonquin Hotel, one of their leading Canadian summer hotels. Several articles of Dr. Huntsman appearing in the *Telegraph-Journal* during 1928 are herewith transmitted as indicating his position in the matter and also giving a general review of the Quoddy project.

The Cooper Company have great difficulty in estimating the dam-

age, if any, that would occur to the fisheries below the dam. The company claims that the mixing of the waters below the dam would not be affected and that the sole damage would occur to the fisheries above the dam and that this damage could be readily estimated.

It is reliably reported that Dexter Cooper has stated that he would go ahead with that portion of his project which involved only the American waters and would result in a fractional development of the tidal power at the mouth of the St. Croix River, no matter what action was taken by the Dominion Government. Such a development would probably furnish whatever power was necessary for American industry on the American side of the St. Croix but would be of little or no benefit to Canadian industry. If the American side only were developed it would be difficult at a subsequent time to develop the entire project as at present contemplated, inasmuch as certain dams would have to be removed and rebuilt, resulting in an initial expense too great probably to insure a profitable return.

The present development of hydraulic resources of the Province of New Brunswick is probably ample to supply the present market for power and a clipping from the *Financial Post* of November 18, 1927, is herewith enclosed as giving a fairly accurate survey of conditions in the Province. The future development of manufacturing industries in this Province, however, necessarily depends upon cheap power and the situation is briefly this, that people interested in the future of New Brunswick trust that the Quoddy project would by furnishing cheap power induce American capital and capital from other parts of Canada to locate in New Brunswick and establish manufacturing industries.

This survey is, of course, rather hastily compiled and a discreet inquiry has been made of our consul at St. Stephen for such information as may be at his disposal, and from other sources, which will be forwarded as soon as received.

I have [etc.]

ROMEYN WORMUTH

711.4216C78/9

The Minister in Canada (Phillips) to the Secretary of State

[Extract]

No. 1015

OTTAWA, June 1, 1929.

[Received June 5.]

SIR: Referring to the Legation's telegram No. 106 of June 1, 4 p. m.⁵⁴ in regard to the proposed power development in Passamaquoddy Bay by the Dexter P. Cooper Company, Incorporated, of

⁵⁴ Not printed.

Eastport, Maine, I have the honor to report that I am in receipt of a *note verbale* from the Secretary of State for External Affairs on this subject.

I have [etc.]

WILLIAM PHILLIPS

[Enclosure]

The Canadian Secretary of State for External Affairs (Mackenzie King) to the American Minister (Phillips)

The Secretary of State for External Affairs presents his compliments to the Minister of the United States and, with reference to his *Note Verbale* of the 15th May, 1929,⁵⁵ regarding the proposed power development in Passamaquoddy Bay by the Canadian Dexter P. Cooper Company, has the honour to request him to convey to his Government the following views taken on this subject by the Government of the Dominion of Canada.

The Act of the Canadian Parliament incorporating the Canadian Dexter P. Cooper Company, which was assented to on the 15th June, 1926, provided as follows in Section 14:

The construction of the works of the company shall be commenced within three years and completed within six years after the passing of this Act, otherwise the powers hereby granted shall cease as respects so much of the said works as then remains uncompleted.

It was further provided that the powers conferred upon the Company by the Act in question should not be exercisable until the plans of the Company had received the approval of the Ministers of Public Works, of Marine and Fisheries and of the Interior, and until certain undertakings had been given and approved.

During the current session of Parliament the promoters of the project secured the introduction by a private member of a Bill extending for two years the period in which construction might be begun. The Bill was referred to the Private Bills Committee, which held extensive hearings and reported against the proposed extension by a vote of twenty-two to ten. The action of the Committee was based largely on evidence presented of the serious effect of the proposed works on the fisheries in the Bay of Fundy. In this connection it may be noted that the Sub-Committee of the North American Committee on Fisheries Investigation, after, as has been indicated in the *Note Verbale* under reference, stating its opinion that if the proposed construction was carried out the Weir Fisheries for Herring inside the dams would be almost wholly eliminated,

⁵⁵ Presumably the *aide-mémoire* referred to in despatch No. 997, May 16, 1929, *supra*; apparently no copy of this *aide-mémoire* was transmitted to the Department.

reported that while it recognized that the effects on the fisheries outside the dams predicted in the report on the subject presented by Dr. A. G. Huntsman, a member of the Sub-Committee, might follow, it was not prepared as a whole to forecast whether these results would or would not follow, believing that a fuller investigation was needed.

The suggestion in the *Note Verbale* from the Minister of the United States that before adjournment the Canadian Parliament might reconsider the application of the Company for extension of time has received careful consideration. It is regretted that after a careful review of all the circumstances it does not appear that this procedure would be feasible. It may be pointed out, however, that while a failure to commence construction of the works within three years involves cessation of the powers conferred by Chapter 23 of 16-17 George V as respects so much of the works as remains uncompleted, the corporate existence of the company is untouched by the provisions of the Section. The Company continues to be an actual and existing corporation, capable of carrying out all its corporate powers save the power of proceeding with the construction of the works. The powers as to construction conferred by the Act may be revived by Parliament should such a course appear to be warranted in the light of subsequent information.

In view of the importance of the fisheries aspect of the question, which is recognized in the *Note Verbale* from the Minister, the Canadian Government would be prepared to authorize the Department of Marine and Fisheries to continue the consideration of the effect of the proposed works on the fisheries, and to cooperate for this purpose with the United States authorities through the Sub-Committee of the North American Committee on Fisheries Investigation or such other agency as may be found most suitable. In the event of such further consideration indicating that the objections based on these grounds had not been substantiated, it would be open to any member of the House of Commons to introduce at a subsequent session a Bill to revive the powers granted to the Company.

OTTAWA, 1 June, 1929.

711.4216C78/20

The Minister in Canada (Phillips) to the Secretary of State

[Extract]

No. 1135

OTTAWA, September 20, 1929.

[Received September 25.]

SIR: Referring to the Department's instruction No. 583 of July 8, 1929,⁵⁶ in regard to the proposed power development in Passama-

⁵⁶ Not printed.

quoddy Bay by Dexter P. Cooper, Incorporated, of Eastport, Maine, I have the honor to report that I am in receipt of a *note verbale* from the Department of External Affairs conveying the decision of the Canadian Government in the matter.

I have [etc.]

WILLIAM PHILLIPS

[Enclosure]

The Canadian Secretary of State for External Affairs (Mackenzie King) to the American Minister (Phillips)

The Secretary of State for External Affairs presents his compliments to the Minister of the United States and with further reference to the note of the 15th May, 1929, from the Honourable William Phillips, regarding the proposed power development in Passamaquoddy Bay by the Canadian Dexter P. Cooper Company, has the honour to invite attention to the meeting of the Sub-Committee of the North American Committee on Fisheries Investigation which was held at St. Andrews, New Brunswick, on the 23rd and 24th July last, with a view to determining what further investigation would likely be needed to demonstrate, as far as such demonstration is possible without constructing the dams themselves, what the effect of the proposed power development would be on the fisheries of that region.

It may be recalled that on the 22nd March, 1929, the Sub-Committee had submitted a report in which the belief was expressed that a fuller investigation was needed. They now report, as a result of their subsequent conference at St. Andrews, that in their opinion such fuller investigation, likely to provide the soundest basis that can be reached for forecasting the effects, should be, for the first year at least, along certain lines which they describe; that this description deals with such complex problems that the investigation can be properly carried out only by a highly trained and experienced personnel and will require at least two years of field observations; that even then it is recognized that the construction of the dams is the only decisive way to determine their effects.

According to our information, the total cost of carrying out the investigation is roughly estimated at \$45,000. per annum.

The Secretary of State for External Affairs has the honour to state that in the opinion of the Canadian authorities it is desirable, in view of the interest of both countries in the fisheries of that region that such an investigation, if approved, should be carried out by the joint efforts and at the joint expense of both Governments. To that end, it is suggested that a Commission or Committee consisting of not more than two or three representatives from each country be given

authority to arrange for the carrying out of the work, to employ such assistance as may be necessary etc., and to consider and agree upon the results thereof.

If this course is acceptable to the Government of the United States and they are prepared to have the work started as soon as possible, the Canadian Government desire to state that no time will be lost in naming their representatives on the proposed Committee.⁵⁷

OTTAWA, 20 September, 1929.

UNPERFECTED CONVENTION BETWEEN THE UNITED STATES AND CANADA FOR THE PRESERVATION AND IMPROVEMENT OF THE NIAGARA FALLS, AND PROTOCOL, SIGNED JANUARY 2, 1929

711.4216N1/268a

The Secretary of State to President Coolidge

THE PRESIDENT: With a view to their transmission to the Senate to receive the advice and consent of that body to ratification, the undersigned, the Secretary of State, has the honor to lay before the President a Convention between the United States and His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India, for the Preservation and Improvement of the Scenic Beauty of the Niagara Falls and Rapids, concluded at Ottawa on January 2, 1929, and a Protocol signed on the same day.

In relation to the Convention, the undersigned respectfully submits a report, as follows:

Pursuant to correspondence exchanged between the Department of State and the British Embassy at Washington,⁵⁸ there was established in 1926 a Special International Niagara Board to study and report upon questions relating to the Niagara Falls and the Niagara River.⁵⁹

⁵⁷ The American members of the Commission were appointed according to an act of Congress approved June 9, 1930 (see the *Report by International Passamaquoddy Fisheries Commission*, printed as House Document No. 300, 73d Cong. 2d sess.). The findings of the Commission were that—

“1. The weir fisheries for young herring inside the bays which produce 2.5 percent of the total annual catch would be very greatly reduced by the construction of the dams.

2. Without further investigation, which the Commission is not in the existing circumstances in a position to conduct, the extent of the effect upon the fisheries outside of the passages to the bay by the Cooper dams cannot be foretold.”

⁵⁸ Not printed.

⁵⁹ See *The Preservation of Niagara Falls, Final Report of the Special International Niagara Board* (Ottawa, F. A. Acland, 1930), pp. 3-4; also S. Doc. 128, 71st Cong., 2d sess., *The Preservation and Improvement of the Scenic Beauty of the Niagara Falls and Rapids* (Washington, Government Printing Office, 1931), pp. 15-17.

With a view to determining how the scenic beauty of the Niagara Falls and rapids could be best maintained and by what means and to what extent the impairment of the falls by erosion or otherwise might be overcome, the Special International Niagara Board was asked more specifically to inquire into and report upon the following questions:

(a) Whether and to what extent the scenic beauty of Niagara Falls has been, is being, or is likely in the future to be adversely affected by erosion or otherwise.

(b) Whether any ascertained or prospective impairment of the scenic beauty of the Falls can be remedied or prevented, and, if so, by what measures or works.

(c) What would be the character, general location, sequence of construction, and cost of any works required.

(d) Upon the carrying out of the proposals of the Board under the foregoing paragraphs, what would be the flow of water required to preserve the scenic beauty of the Falls and River.

(e) What flow may be expected in the Niagara River from time to time, taking into consideration the conditions, including climatic changes, affecting the lake levels and the outflow of the lakes.

(f) What quantity of water might, consistently with the complete preservation of the scenic beauty of the Falls and River, be permitted to be diverted from the latter temporarily or permanently.

(g) From what sections of the River would it be proper to permit any diversions not already provided for by treaty, and to what extent might additional diversions be permitted in each of these sections.

The Board was instructed

(a) Not to make a recommendation as to the apportionment of any additional water available for diversion.

(b) To make such progress reports as may be appropriate, and to complete its inquiry as expeditiously as practicable.

On December 14, 1927, the Special International Niagara Board submitted an interim report in which it recommended the early construction of works at the United States flank of the Horseshoe Falls, at the Canadian flank of the Horseshoe Falls, and in the Chippewa Grass Island Pool. A printed copy of the Board's report is attached.⁶⁰ The works recommended for the United States flank and the Canadian flank of the Horseshoe Falls were to consist of excavations and the construction of submerged weirs for the purpose of re-watering the two flanks of the Horseshoe Falls. The works in the Chippewa Grass Island Pool were to consist of the construction of a submerged weir for the purpose of raising the level of the Grass Island Pool so as to throw more water against the head of Goat Island. The results which the Board anticipated from the construc-

⁶⁰ See *The Preservation of Niagara Falls, Interim Report of the Special International Niagara Board* (Ottawa, F. A. Acland, 1928).

tion of the works on the two flanks of the Horseshoe Falls were the insurance at all seasons of an unbroken crest line from shore to shore, the maintenance of the present blended green and white color effects of the Horseshoe Falls and in a measure a modification of the rate of erosion in the bend of the Horseshoe Falls. The works in Grass Island Pool would insure an adequate flow in the American rapids and Falls and by the Three Sister Islands.

In a letter dated April 9, 1928, (a copy of which is attached)⁶¹ signed jointly in behalf of the Hydro-Electric Power Commission of Ontario and the Niagara Falls Power Company of New York, and addressed to the Special International Niagara Board, the Commission and the Company submitted drawings showing proposed works in the Niagara River which were calculated to conform to the recommendations of the Board made in its interim report of December 14, 1927. A description of the proposed works and estimates of the cost of construction accompanied this joint letter to the Board. The Commission and the Company jointly offered to construct at their own expense the initial remedial works shown on the drawings submitted by them, subject to the following conditions:

1. Detailed plans, designs, methods of construction and sequence of operations will be prepared by the Commission and the Company and submitted to the Board for its approval within three months after notice of acceptance of this proposal. Modification of details, as the work progresses will be made as directed by the Board.

2. The Board will use its best efforts to assist the Commission and the Company to obtain from all Governmental authorities, whose consent is required by law, the necessary permits for the construction of the proposed works.

3. Construction of the proposed works on the flanks of the Horseshoe Falls will be commenced not later than ninety days after receipt by the Commission and the Company of the approval of the Board and all other Governmental authorities, and, subject to any interruption occasioned by Governmental authority, will be completed within two years after commencement, except for such reasonable extensions of time as may be granted by the Board.

4. Construction of the proposed weir in the Grass Island Pool will be commenced at such time as may be directed by the Board after completion of the works on the flanks of the Horseshoe Falls and after receipt by the Commission and the Company of the approval of the designs of the weir by the Board and all Governmental authorities, and, subject to any interruption occasioned by Governmental authority, will be completed within two years after commencement, except for such reasonable extensions of time as may be granted by the Board.

5. To permit observation of the effects of remedial works, after a

⁶¹ Printed in *Convention and Protocol Between Canada and the United States Regarding the Niagara Falls and the Niagara River, signed at Ottawa, January 2, 1929* (Ottawa, F. A. Acland, 1929), p. 11.

substantial beginning shall have been made upon the works on the flanks of the Horseshoe Falls, the amount of water which, under the International Treaty, may be diverted for power purposes from the Niagara River above the Falls on each side of the river shall be increased by an amount not exceeding in the aggregate a daily diversion at the rate of 10,000 cubic feet of water per second during the non-tourist season from October 1st to March 31st, inclusive, yearly.

6. The Board shall have complete supervision and control over the additional waters permitted to be diverted, with power to diminish or suspend such additional diversions.

7. It is understood that diversions for observation purposes, referred to under section (5) hereof, shall be discontinued upon six months' notice given by the Government to the Commission and the Company after a period of not less than ten years from the date of authorization.

8. The construction of the works herein specified shall not be considered as effecting any change in the existing ownership of or title to those parts of the bed of the Niagara River upon which they have been constructed.

In a report dated May 3, 1928, (a copy of which is enclosed)⁶² which the Special International Niagara Board addressed to the Secretary of State of the United States and the Minister of the Interior of Canada, the Board referred to the letter of April 9, 1928, from the Hydro-Electric Power Commission of Ontario and the Niagara Falls Power Company and stated that works which the Commission and the Company offered to build were those recommended by the Board in its interim report. The Board stated further, that if constructed according to the general plans which accompanied the joint letter, modified in detail during construction to secure the effects desired, the works would materially improve present scenic conditions and would demonstrate beyond doubt whether the normally injurious effects of additional diversions for power purposes could be neutralized by the use of such works. The Board recommended that the joint proposal of the Commission and the Company to construct the remedial works should be accepted subject to the following conditions and understandings:

1. Detailed plans, designs, methods of construction and sequence of operations shall be prepared by the Commission and the Company and submitted to the Board for its approval within three months after notice of acceptance of this proposal. Modification of details, as the work progresses, shall be made as directed by the Board.

2. The Commission and the Company shall secure from all Federal, Dominion, State and Provincial authorities, whose consent is required by law, the necessary permits for the construction of the proposed works. The Board will use its best efforts to assist the Commission and the Company in obtaining the said permits.

⁶² Printed in *Convention and Protocol Between Canada and the United States, etc.*, p. 8.

3. Construction of the proposed works on the flanks of the Horseshoe Falls shall be commenced not later than ninety days after receipt by the Commission and the Company of the approval of the Board and all other governmental authorities, and, subject to any interruption occasioned by governmental authority, shall be completed within two years after commencement, except for such reasonable extensions of time as may be granted by the Board.

4. Construction of the proposed weir in the Grass Island Pool shall be commenced at such time as may be directed by the Board after completion of the works on the flanks of the Horseshoe Falls and after receipt by the Commission and Company of the approval of the designs of the weir by the Board and all governmental authorities, and, subject to any interruption occasioned by Governmental authority, shall be completed within two years after commencement, except for such reasonable extensions of time as may be granted by the Board.

5. To permit observation of the effects of remedial works, after a substantial beginning shall have been made upon the works on the flanks of the Horseshoe Falls the amount of water which under the International Treaty may be diverted for power purposes from the Niagara River above the Falls on each side of the river shall be increased by an amount not exceeding in the aggregate a daily diversion at the rate of 10,000 cubic feet of water per second during the non-tourist season from October 1st to March 31st, inclusive, yearly.

6. The Board shall have complete supervision and control over the additional waters permitted to be diverted, with power to diminish or suspend such additional diversions.

7. If, upon completion of said remedial works, the withdrawal of the additional 20,000 cubic feet per second or some part thereof shall not, in the opinion of the Board, appreciably affect the scenic value of the falls and the integrity of the river, it is understood that diversions for observation purposes, referred to under Section (5) hereof, may be continued only so long, not exceeding seven years from date of beginning field construction, as may be necessary to enable negotiations to be undertaken and concluded for the modification of the present International Treaty so as to permit permanent additional diversions of such amount as may then be agreed upon.

8. After construction of the works herein specified, they shall be considered as parts of the bed of the Niagara River and subject to the same ownership and control as those parts of the river in which they have been constructed.

According to the Boundary Waters Treaty between the United States and His Majesty's Government concluded January 11, 1909, the diversion within the State of New York of the waters of the Niagara River above the Falls of Niagara for power purposes not exceeding in the aggregate a daily diversion of 20,000 cubic feet of water per second is permissible. Under the Treaty mentioned the diversion within the Province of Ontario not exceeding in the aggregate a daily diversion of 36,000 cubic feet of water per second is per-

missible. The proposals of the Hydro-Electric Power Commission of Ontario and the Niagara Falls Power Company contemplate a diversion at the rate of 10,000 cubic feet of water per second from the Niagara River above the Falls on each side of the International Boundary in excess of the amount of water which it is permissible under the Treaty of January 11, 1909, to divert.

Representatives of the Canadian Government visited Washington on November 12 to 14 last, when a draft of a convention and Protocol to give effect to the recommendations of the Special International Niagara Board was tentatively agreed upon. With a note dated December 3 the Canadian Minister at Washington formally submitted to the Department of State a draft of a convention and protocol, and stated that the Canadian Government was prepared to sign the convention and protocol in the form submitted.⁶³ The draft of convention and draft of protocol were referred to the Secretary of War, who informed the undersigned that he regarded them as satisfactory and that he deemed it desirable that the convention be concluded and the protocol signed.

In pursuance of the authority conferred by the President upon the American Minister at Ottawa and the authority conferred upon the Prime Minister and Secretary of State for External Affairs of Canada by His Britannic Majesty, the Convention and Protocol were signed by them on January 2, 1929.

Respectfully submitted,

FRANK B. KELLOGG

WASHINGTON, January 16, 1929.

[Enclosure]

*Convention and Protocol Between the United States and Canada for the Preservation and Improvement of the Niagara Falls, Signed at Ottawa, January 2, 1929*⁶⁴

The President of the United States of America;

And His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

Considering that a Special International Niagara Board was established in 1926 by the Government of the United States and the Government of the Dominion of Canada to study and submit to the two Governments a report upon certain questions relating to the Niagara Falls and the Niagara River, more particularly the questions how the scenic beauty of the Niagara Falls and Rapids could be best maintained, by what means and to what extent the impairment thereof by erosion or otherwise might be overcome and prevented,

⁶³ Not printed.

⁶⁴ Submitted to the Senate January 16, 1929. No final action by the Senate.

and what quantity of water might consistent therewith be diverted from the river above the Falls;

And that on the fourteenth day of December, 1927, the said Special International Niagara Board submitted to the two Governments an interim report recommending the construction of certain works in the Niagara River for preserving and improving the scenic beauty of the Falls and Rapids;

And considering that Article 5 of the treaty with respect to the boundary waters between the United States and Canada, concluded between the United States of America and His Majesty, on January 11th, 1909, limits the quantity of water which may be withdrawn from the Niagara River above the Falls;

And that the Special International Niagara Board considers it desirable to make temporary diversions of water from the Niagara River above the Falls in excess of those permitted by Article 5 of the treaty of 1909, as a means of observing and testing the efficacy of the proposed works under widely varying conditions;

Have deemed it necessary to preserve and improve the scenic beauty of the Niagara Falls and Rapids, and to that end to adopt the recommendations of the said Special International Niagara Board, and have resolved to conclude a Convention, and for that purpose have appointed as their respective Plenipotentiaries:

The President: The Honourable William Phillips, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Canada: and

His Britannic Majesty, for the Dominion of Canada: The Right Honourable William Lyon Mackenzie King, Prime Minister and Secretary of State for External Affairs;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I

The High Contracting Parties agree that remedial works shall be constructed in the Niagara River above the Niagara Falls, designed to distribute the waters of the river so as to ensure at all seasons unbroken crestlines on both the American and the Canadian Falls and an enhancement of their present scenic beauty.

ARTICLE II

Concurrently with the construction and tests of the remedial works and as a temporary and experimental measure, diversions of the waters of the Niagara River above the Falls from the natural course and stream thereof additional to the amounts specified in Article 5 of the Boundary Waters Treaty of January 11th, 1909, may be per-

mitted to the extent and subject to the conditions hereinafter provided:

(1) The additional diversions shall be permitted only within the period beginning each year on the first day of October and ending on the thirty-first day of March of the following year, both dates inclusive.

(2) The additional diversion to be permitted within the State of New York shall not exceed in the aggregate a daily diversion at the rate of ten thousand cubic feet of water per second.

(3) The additional diversion to be permitted within the Province of Ontario shall not exceed in the aggregate a daily diversion at the rate of ten thousand cubic feet of water per second.

(4) The provisions of this Article shall terminate seven years from the date of the initial additional diversion authorized under this Convention.

ARTICLE III

The present Convention shall be ratified by the President of United States of America by and with the advice and consent of the Senate thereof and by His Britannic Majesty in accordance with constitutional practice. The ratifications shall be exchanged at Ottawa as soon as possible and the Convention shall take effect on the date of the exchange of ratifications.

IN FAITH WHEREOF the respective Plenipotentiaries have signed this Convention in duplicate and have hereto affixed their seals.

Done at Ottawa on the second day of January in the year of Our Lord One Thousand Nine Hundred and Twenty-Nine.

[SEAL] WILLIAM PHILLIPS
[SEAL] W. L. MACKENZIE KING

PROTOCOL

At the moment of signing the Convention between the United States of America and His Britannic Majesty for maintaining the scenic beauty of the Niagara Falls and Rapids in accordance with the recommendation of the Special International Niagara Board in its interim report dated the 14th day of December 1927, as referred to in the preamble to the Convention, the undersigned Plenipotentiaries have agreed as follows:

I

The construction of the remedial works contemplated in the Board's interim report and authorized in Article I of the Convention, the provision for the cost and for the control thereof, as well as the

control of the diversions of water authorized in Article II of the Convention shall be carried out in accordance with the recommendations of the Special International Niagara Board as set forth in its report dated the 3rd day of May 1928, forwarding to the two Governments a joint proposal, dated the 9th day of April 1928, made by the Niagara Falls Power Company of Niagara Falls, New York, and the Hydro-Electric Power Commission of Ontario, which report and proposal are set out in the annex hereto.

[SEAL] WILLIAM PHILLIPS
[SEAL] W. L. MACKENZIE KING

**DISINCLINATION OF THE CANADIAN GOVERNMENT TO CONSENT
THAT THE INTERNATIONAL JOINT COMMISSION RECONSIDER THE
MATTER OF THE APPORTIONMENT OF THE WATERS OF THE ST.
MARY AND MILK RIVERS**

711.4216Sa22/105

The Secretary of State to the Minister in Canada (Phillips)

No. 16

WASHINGTON, July 26, 1927.

SIR: By an Order of October 4, 1921, a copy of which is enclosed,⁶⁵ the International Joint Commission, provided for the measurement and apportionment of the waters of the St. Mary and Milk Rivers and their tributaries in the United States and Canada. Under paragraph I (b) of the Order Canada is accorded a prior appropriation of 500 cubic feet per second of the water of the St. Mary River. Paragraph I (b) reads as follows:

“(b) During the irrigation season when the natural flow of the St. Mary River at the point where it crosses the international boundary is more than six hundred and sixty-six (666) cubic feet per second Canada shall be entitled to a prior appropriation of five hundred (500) cubic feet per second, and the excess over six hundred and sixty-six (666) cubic feet per second shall be divided equally between the two countries.”

Paragraph II (b) applies the same rule of apportionment to the Milk River the prior appropriation of 500 cubic feet in this instance being accorded to the United States.

The Order of October 4, 1921 is based upon Article VI of the

⁶⁵ See International Joint Commission, United States and Canada, *In the Matter of the Measurement and Apportionment of the Waters of the St. Mary and Milk Rivers and Their Tributaries in the United States and Canada, Under Article VI of the Treaty of January 11, 1909, Between the United States and Great Britain. Order, Ottawa, October 4, 1921; Recommendations, Ottawa, October 6, 1921* (Washington, Government Printing Office, 1923).

Boundary Waters Treaty signed by the United States and Great Britain on January 11, 1909.⁶⁶ That Article reads:

"The High Contracting Parties agree that the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the waters thereof shall be apportioned equally between the two countries, but in making such equal apportionment more than half may be taken from one river and less than half from the other by either country so as to afford a more beneficial use to each. It is further agreed that in the division of such waters during the irrigation season, between the 1st of April and 31st of October, inclusive, annually, the United States is entitled to a prior appropriation of 500 cubic feet per second of the waters of the Milk River, or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cubic feet per second of the flow of St. Mary River, or so much of such amount as constitutes three-fourths of its natural flow.

"The channel of the Milk River in Canada may be used at the convenience of the United States for the conveyance, while passing through Canadian territory, of waters diverted from the St. Mary River. The provisions of Article II of this treaty shall apply to any injury resulting to property in Canada from the conveyance of such waters through the Milk River.

"The measurement and apportionment of the water to be used by each country shall from time to time be made jointly by the properly constituted reclamation officers of the United States and the properly constituted irrigation officers of His Majesty under the direction of the International Joint Commission."

In the view of the Government of the United States, Article VI of the Boundary Waters Treaty primarily contemplates an equal division of the waters of the St. Mary and Milk Rivers between the two countries. Under the Order of October 4, 1921, when the total flow of the St. Mary River at the International Boundary is 800 cubic feet per second Canada receives 567 cubic feet and the United States 233 cubic feet; when the total flow is 1,000 cubic feet per second Canada receives 667 cubic feet and the United States 333 cubic feet; and when the total flow is 2,000 cubic feet Canada receives 1167 cubic feet and the United States 833 cubic feet. It is apparent, therefore, that an equal division of the water is not effected by the Order of October 4, 1921. I have, therefore, brought these views to the attention of the Chairman of the American Section of the International Joint Commission and have requested that the matter be reopened and a new order issued which will secure the equal apportionment contemplated by the Treaty.

I have suggested that the intent of the Treaty would be carried out if the Order of October 4, 1921, should be modified by the sub-

⁶⁶ *Foreign Relations*, 1910, pp. 532, 535.

stitution of a paragraph somewhat as follows, for paragraph I (b) of that Order and of a corresponding paragraph for paragraph II (b):

“During the irrigation season when the natural flow of the St. Mary River at the point where it crosses the international boundary is more than six hundred and sixty-six and two-thirds (666-2/3) cubic feet per second, Canada shall be entitled to and shall be apportioned five hundred (500) cubic feet per second, and all excess over and above such amount shall be allotted to the United States until it shall have received five hundred (500) cubic feet per second; and when both countries shall have received such equal amount, the flow in excess of one thousand (1000) cubic feet per second shall be divided equally between the two countries.”

As the Order of October 4, 1921 is an administrative Order of the Commission, the matter having been taken up by the Commission on its own initiative, the Department considered that the proposal for a revision of the order might appropriately be taken up by it in a letter to the Chairman of the American Section of the Commission as it is now doing and that a joint reference to the Commission was not necessary.

You are instructed to inform the Government of the Dominion of Canada of the foregoing and to express the hope that if the Canadian Government concurs in the views herein above expressed in regard to the interpretation of Article VI of the Treaty, it will so inform the Canadian Section of the Commission.

I am [etc.]

FRANK B. KELLOGG

711.4216Sa22/118

The Minister in Canada (Phillips) to the Secretary of State

No. 313

OTTAWA, March 29, 1928.

[Received April 3.]

SIR: Referring to the Legation's despatch No. 306 of March 27, 1928,⁶⁷ on the subject of the measurement and apportionment of the waters of the St. Mary and Milk Rivers and their tributaries, I have the honor to transmit herewith enclosed copies of a note dated March 23, 1928, received from the Department of External Affairs on the subject.

It will be observed that this note dated the 23rd was only received by the Legation yesterday. In this connection I may call the Department's attention to the fact that the note appears to be substantially in accord with the view expressed to me by the Under Secretary of State for External Affairs as reported in the despatch under reference.

I have [etc.]

WILLIAM PHILLIPS

⁶⁷ Not printed.

[Enclosure]

The Canadian Secretary of State for External Affairs (Mackenzie King) to the American Minister (Phillips)

OTTAWA, 23 March, 1928.

SIR: I have the honour to refer to your letter of July 29th, 1927,⁶⁸ of which acknowledgment was made on August 2nd, inviting the attention of the Canadian Government to certain phases of the measurement and apportionment of the waters of the St. Mary and Milk Rivers and their tributaries. I note that it is the view of the United States Government that Article VI of the Boundary Waters Treaty primarily contemplated an equal division of the water of the St. Mary and Milk Rivers between the two countries, and that such equal division is not effected by the Order of the International Joint Commission of October 4th, 1921. It is further noted that the United States Government has brought this matter to the attention of the Chairman of the United States Section of the International Joint Commission, with a request that the matter should be re-opened and that the Canadian Government is requested, if it concurs in the views expressed in regard to the interpretation of Article VI of the Treaty, to cause the Canadian Section of the Commission to be so informed.

The Canadian Government is deeply concerned that the integrity of the system created by the Treaty of 1909 should be maintained at full strength, and it is confident that the United States Government shares this anxiety. At that time, after careful study of conditions along the boundary conducted by the International Waterways Commission and after extensive interchanges of views, the two Governments finally negotiated this important agreement. They established a set of general principles, and an international tribunal entrusted with the high task of applying these principles to specific questions arising from time to time between the two countries, with a fair assurance that they would be determined with something of that finality and certainty which the domestic courts of each country achieve in their sphere. This great act of state on the part of the two countries in reality broke new ground; it represented at the time a notable advance in the conduct of international relations. The worth of the system has been abundantly proven, not only out of its own experience of now nearly twenty years, but by the adoption of analogous methods in other regions of the world. It has naturally resulted in a growing body of practice and habit of a character appropriate to the exercise of these weighty arbitral functions, and it can scarcely be doubted that it remains a major interest of the peoples of this continent that

⁶⁸ See instruction No. 16, July 26, 1927, to the Minister in Canada, p. 97.

this system and this character of its practice should be perpetuated in every way.

It seems clear to the Canadian Government that if the settlement of any given issue reached under this system could be regarded as subject to being re-opened at any time at the simple request of either party, there could be no hope of finality or of certainty, and the integrity and usefulness of the whole system would be gravely endangered. If the re-opening of such an award is ever justifiable at all, it would seem that such a course could be justified by nothing less than a new situation arising from new conditions, which were not in existence at the time of the award, which could not reasonably have been contemplated at the time, and which are of a character to render the award a substantial denial of justice. In the present case, no such conditions have arisen; there is simply the proposal that the Commission should reconsider a point of interpretation upon which the two Governments held different views at the original hearings and which was fully debated and in the end was finally settled as part of the award of the Commission, though not completely in the sense urged by either Government. This decision of the Commission has been acted upon by both Governments over a long period, and in reliance upon it, important capital investments have been made.

While the Commission's Order did not concede all that Canada had contended for, Canada has nevertheless accepted the Order as a final settlement of what had been a vexed and contentious international question, and has proceeded to utilize to the full her share of the apportioned water, and to authorize the necessary investment in connection therewith. Irrigation development which had been hampered and held up because of uncertainty as to water supply, has since been proceeded with to the limit of the Canadian allotment.

In view of these considerations, the Canadian Government feels the re-opening of this matter in the manner proposed would be unfortunate, and regrets therefore that it cannot see its way to join in a request that the International Joint Commission should reconsider its decision.

These conclusions are based upon general considerations as to the character and procedure of the awards of the International Joint Commission, which appear to make it unnecessary to examine in detail the reasons advanced in favour of re-opening this specific question. Reference, however, may be made to the view expressed in the Secretary of State's letter of July 26th, 1927, that the Boundary Waters Treaty primarily contemplated an equal division of the waters of the St. Mary and Milk Rivers between the two countries, and that in view of the unequal apportionment of the flow of the St. Mary River set forth in the Order of October 4th, 1921, it is apparent

that an equal division of the waters is not effected. Article 6 of the Boundary Waters Treaty provides that the St. Mary and Milk Rivers are to be treated as one stream for the purposes of irrigation and power, and the waters divided equally between the two countries. It is, however, further provided in this Article that in making such an equal apportionment, more than half may be taken from one river and less than half from the other by either country so as to afford more beneficial use to each, and that in the division of the waters during the irrigation season certain priority shall be accorded to the United States as regards the Milk River and to Canada as regards the St. Mary River. It is therefore not apparent how a reference to the one clause alone in the Commission's Order of 1921, providing for an unequal division of the waters of the St. Mary River, with the major portion allotted to Canada, without taking account of the provision for an exactly corresponding unequal division of the waters of the Milk River, with the major portion allotted to the United States, or account of the other provisions of the Order in question, could in any way be held to establish the view that the Order of the Commission was not consistent with the Treaty.

The Canadian Government appreciates the desirability of ensuring as large a volume of water from the rivers in question as is economically feasible for users on both sides of the boundary. In this connection it wishes to refer to the fact that under present conditions there is considered to be a large waste of water. The International Joint Commission on October 6th, 1921, recommended to the two Governments consideration of the construction of certain reservoirs which would make it possible to conserve practically the entire winter flow and flood waters of the two streams, and ensure the greatest beneficial use to both countries. On April 10th, 1922, the Secretary of State of the United States, in a communication to the British Ambassador at Washington,⁶⁹ suggested that as the first step towards the determination of any action which should be taken upon these recommendations, a joint board of engineers should be appointed to make a thorough study of the problems involved in the construction of the proposed reservoirs and the storage and distribution of the waters of the St. Mary and Milk Rivers. Some difficulty was felt in Canada on the ground that the recommendation involved the expenditure of Canadian funds on works to be constructed in the United States, and no definite conclusion was reached. While the Canadian Government still adheres to the reservations expressed in the course of this correspondence, it believes, as a result of subsequent preliminary enquiry, that it might be possible to reach a solution. It would therefore be prepared to consider with the Government of the

⁶⁹ Not printed.

United States the formation of such a joint board to make a thorough study of the problem involved in the construction of storage reservoirs in both countries designed to increase the volume and regularity of the flow, particularly during the irrigation season, of the waters of the St. Mary and Milk Rivers, the apportionment to continue to be on the basis established by the International Joint Commission in its Order of the 4th October, 1921.

The Canadian Government is bringing to the attention of the International Joint Commission its views as set forth in this despatch.

Accept [etc.]

W. L. MACKENZIE KING

711.42168a22/122

The Secretary of State to the Minister in Canada (Phillips)

No. 270

WASHINGTON, June 21, 1928.

SIR: Referring to your despatch No. 313 of March 29, 1928, in regard to the apportionment of the waters of St. Mary and Milk Rivers, the Department encloses herewith for your information a copy of a letter dated June 5, 1928, from the Secretary of the Interior,⁷⁰ from which you will observe that the Department of the Interior is prepared to designate representatives to serve on a joint United States-Canadian Board the establishment of which was suggested in the note of March 23, 1928, which the Secretary of State for External Affairs of Canada addressed to you, the function of the Board being to make a thorough study of the problem involved in the construction of storage reservoirs in the United States and Canada designed to increase the volume and regularity of the flow of the waters of St. Mary and Milk Rivers, particularly during the irrigation season.

You will note that the Secretary of the Interior deems it desirable that the United States be represented on the Board by three members. The Secretary of the Interior designates Mr. R. W. Davenport, Hydraulic Engineer of the United States Geological Survey, Mr. Raymond F. Walter, Chief Engineer, United States Bureau of Reclamation, and Mr. J. S. James, State Engineer of Montana, to serve on the United States Section of the Board.

You will please inform the Secretary of State for External Affairs that except as to the continuance of the apportionment of the waters of the two streams in accordance with the order of the International Joint Commission of October 4, 1921, the Government of the United States concurs in the suggestion made by him regarding the formation of a joint Board and advise him of the names of the persons designated to serve on the United States Section of the Board. It

⁷⁰ Not printed.

is desired also that you request the Secretary of State for External Affairs to inform you of the names of the engineers who will represent the Government of Canada on the Board and to advise you of the time and place at which it will be convenient for the Canadian engineers to meet those designated by the Secretary of the Interior.

The Department regrets that the Secretary of State for External Affairs is unwilling to have the International Joint Commission reconsider the matter of the apportionment of the waters of St. Mary and Milk Rivers with a view to amending the order of October 4, 1921. It is noted that the Secretary of State for External Affairs feels that the integrity and usefulness of the International Joint Commission would be impaired by the reopening by the Commission of the St. Mary and Milk River matter and that reconsideration would be justified only by a new situation arising from new conditions not in existence at the time the order was issued.

The Government of the United States does not perceive that the integrity or usefulness of the Commission would be in any way impaired by the action of the Commission in reconsidering the apportionment of the waters of St. Mary and Milk Rivers directed by its order of October 4, 1921, or by the revision of that order. The Commission had issued a number of interim orders regarding the apportioning of the waters of the two rivers prior to October 4, 1921, and the order of that date was by its terms to endure only until varied, modified or withdrawn by the Commission. It would seem, therefore, that the Commission contemplated reconsideration of the matter at a later date. The order of October 4, 1921, directed the maintenance of a number of gauging stations which have now been in operation for a number of years. The records of these stations are available and it is understood have been furnished to the Commission. It is the view of the Government of the United States that these measurements show that the order of October 4, 1921, operates unequally to the disadvantage of the United States. It is this inequality which the Government of the United States seeks to have corrected. It is deemed proper to look to the Commission for the action necessary to that end. The Commission has authority under the Convention to consider the matter. The Commission has ordered the collection of data which is useful in determining the means for effecting an equal division of the waters of the two rivers between the two countries. It is believed that impairment of the integrity and usefulness of the Commission is more likely to result from failure to exercise its authority under the Convention with respect to a case properly brought before it than from reconsideration of a matter previously before it or from revision of action previously taken.

The Secretary of State for External Affairs observed that Article 6

of the Convention provides that the St. Mary and Milk Rivers are to be treated as one stream for the purpose of irrigation and power and the waters divided equally between the two countries and that in making the equal apportionment more than half might be taken from one river and less than half from the other by either country so as to afford a more beneficial use to each country. The Government of the United States did not overlook the provisions of the Convention to which the Secretary of State for External Affairs referred. Indeed it is the equal division of the waters of the two streams which the Government of the United States seeks. Reconsideration by the Commission was proposed in the hope that in the light of information now available the Commission might so amend the order as to provide for a more nearly equal division of the waters of the two streams than now obtains under the order of October 4, 1921.

Please communicate the substance of the foregoing to the Secretary of State for External Affairs in reply to his note to you of March 23, 1928, and express the hope that the Canadian Government can see its way to consent to the reconsideration of the St. Mary and Milk Rivers matter by the Commission.

I am [etc.]

FRANK B. KELLOGG

711.4216Sa22/131

The Minister in Canada (Phillips) to the Secretary of State

No. 1112

OTTAWA, August 28, 1929.

[Received September 3.]

SIR: Referring to the Legation's telegram No. 166 of August 28, 2 p. m.,¹ on the matter of the St. Mary and Milk Rivers and their tributaries, I have the honor to transmit herewith enclosed a copy of the Canadian note on this subject.

It will be observed from the note that after reviewing the history of the negotiations on the St. Mary and Milk Rivers the Canadian Government feels that it is impracticable to reopen the question and to alter the basis of the apportionment of the waters after extensive capital commitments have been made and land settlement proceeded with.

The Canadian Government further feels that there would be no hope of finality or of certainty should such a settlement as has been reached be subject to be reopened at any time, and therefore regrets that it cannot see its way clear to join in a request that the International Joint Commission should reconsider its decision.

The note, however, suggests the appointment of a representative or representatives to a joint board whose investigations should be

¹ Not printed.

confined to the study of reservoir facilities, and feels that such work could be most advantageously carried out by a small two-man board appointed from the respective reclamation services of the two countries.

I have [etc.]

For the Minister:
H. DORSEY NEWSON
Secretary of Legation

[Enclosure]

The Canadian Secretary of State for External Affairs (Mackenzie King) to the American Minister (Phillips)

No. 111

OTTAWA, August 26, 1929.

SIR: I have the honour to refer to your communications of June 29th, 1928,⁷² and August 14th, 1929,⁷³ concerning the St. Mary and Milk rivers and their tributaries. I note that your Government is prepared to designate representatives to serve on a joint United States Canadian Board to make a thorough study of the problem involved in the construction of storage reservoirs in the United States and Canada designed to increase the volume and regularity of the flow of the waters of the St. Mary and Milk rivers, particularly during the irrigation season; but that your Government does not concur in the view that the apportionment of the waters of the two river systems should continue to be on the basis established by the International Joint Commission in its Order of the 4th of October, 1921.

I further note that your Government is still of the opinion that it would be desirable to have the whole matter of the apportionment of the waters of the St. Mary and Milk rivers and their tributaries re-opened by the International Joint Commission.

I have carefully followed the points raised in your communication, noting especially your comment as to the integrity and usefulness of the International Joint Commission and fear that I have failed in my note of March 23rd, 1928, to make sufficiently clear the views of the Canadian Government. I there expressed deep concern for the maintenance of the integrity of the entire system arising out of the Treaty of 1909, that is to say, the system which provides for the settlement of certain questions affecting the United States and Canada by means of hearings held before the International Joint Commission, for recommendations or awards by such Commission and for the acceptance of such awards by the two Governments con-

⁷² See instruction No. 270, June 21, 1928, to the Minister in Canada, p. 103.

⁷³ Not printed.

cerned. It is this system, which has been so successful, that the Canadian Government desires to maintain in its integrity.

I note your further opinion that the Order of the International Joint Commission of October 4, 1921, operates unequally to the disadvantage of the United States, and that it is this inequality that your Government seeks to have corrected. I would, however, point out that the supposed inequality in the apportionment of the waters of the St. Mary and Milk river systems under the Commission's Order, is dependent entirely upon the interpretation to be applied to Article 6 of the treaty of 1909.

In order that the viewpoint of the Canadian Government may be clearly understood, it is necessary briefly to review the history of the St. Mary and Milk river situation.

Following the passage of the Irrigation Act in Canada in 1894, surveys made by the Canadian Government demonstrated the feasibility of irrigating large tracts of land in Alberta from the St. Mary river. Extensive irrigation projects were shortly afterwards authorized and constructed in Canada designed to utilize the St. Mary river flow. Similarly, on the United States side of the boundary, diversion works were authorized which were designed to utilize the waters of the Milk river, supplemented by waters of the St. Mary river, in this case by diverting the water across country to the Milk river and by carrying it in the Milk river channel for a distance of some 200 miles through Canadian territory and delivering it to the lower reaches of the Milk river in the United States. The Canadian Government protested against this diversion without result. The Canadian Government subsequently authorized the withdrawal of water from the Milk river in Canada for the irrigation of Canadian lands. This led to protests by the United States.

As a result of these developments there was uncertainty on both sides of the international boundary as to what waters would be dependably available in each country for irrigation development and a consequent hesitancy about making capital commitments in irrigation projects.

Finally, after exchanges of views in the matter, representatives were appointed by the two Governments in 1908 to consider the basis of an agreement for the division of the water supply in the two river systems. This agreement was finally effected by the inclusion of Article 6 in the Treaty between His Britannic Majesty and the United States relating to boundary waters, signed at Washington on the 11th of January, 1909, as follows:

“Article 6—St. Mary and Milk River[s].

“The High Contracting Parties agree that the St. Mary and Milk rivers and their tributaries (in the State of Montana and the Prov-

inces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the waters thereof shall be apportioned equally between the two countries, but in making such equal apportionment more than half may be taken from one river and less than half from the other by either country so as to afford a more beneficial use to each. It is further agreed that in the division of such waters during the irrigation season, between the 1st of April and 31st of October, inclusive, annually, the United States is entitled to a prior appropriation of 500 cubic feet per second of the waters of the Milk river, or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cubic feet per second of the flow of St. Mary river, or so much of such amount as constitutes three-fourths of its natural flow.

"The channel of the Milk river in Canada may be used at the convenience of the United States for the conveyance while passing through Canadian territory, of waters diverted from the St. Mary river. The provisions of Article II. of this treaty shall apply to any injury resulting to property in Canada from the conveyance of such waters through the Milk river.

"The measurement and apportionment of the water to be used by each country shall from time to time be made jointly by the properly constituted reclamation officers of the United States and the properly constituted irrigation officers of His Majesty under the direction of the International Joint Commission."

As the treaty provided that the measurement and apportionment of the water to be used by each country should be made jointly by the properly constituted reclamation officers of the United States and the properly constituted irrigation officers of His Majesty under the direction of the International Joint Commission, the Commission proceeded to apportion the combined flow of the two rivers and their tributaries in accordance with the provisions of the treaty.

In order to obtain the viewpoints of the water users and of all interests affected by the flow of the two rivers and their tributaries on both sides of the border, hearings were held at St. Paul in 1915, at Detroit in 1917, at Ottawa in 1920, and in Chinook and Lethbridge in 1921. While the physical problem before the Commission was somewhat complicated, it soon developed that the cardinal difficulty lay in the different interpretations which the United States and Canadian governments placed upon Article 6 of the Treaty.

It was then contended by the Canadian Government that the words "the St. Mary and Milk rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan), are to be treated as one stream for the purpose of irrigation and power" were clear and explicit and provided that all the tributaries of both rivers down to the respective mouths of these rivers were intended to be included, that "The waters thereof shall be apportioned equally between the two countries", and that there was no expressed or implied reservation of certain of the tributaries. It

was also contended that the 500 c.f.s. prior appropriation allocated to Canada under the treaty from the St. Mary river constituted a prior lien and that the equal division of the total flow was to be applied after the 500 c.f.s. had been allocated, and that the same principle was intended to be applied to the priority of 500 c.f.s. from the Milk river allocated to the United States.

It was contended by the United States that the only waters which were to be apportioned under the treaty were the waters which crossed the boundary, that is to say, the waters of the St. Mary and Milk rivers at the points where they cross the international boundary and the waters of those eastern tributaries of the Milk river which cross the boundary from Canada to the United States. With respect to the 500 c.f.s. prior appropriation on the St. Mary and Milk rivers provided for in the treaty, the United States contended that Canada and the United States were entitled to first call on the first 500 c.f.s. from the St. Mary and Milk rivers respectively, and that the amount received by each country should be charged against that country in making the final division.

Because of this difference of viewpoint between the two Governments the International Joint Commission found difficulty in reaching a decision and the hearings extended over a period of seven years before the Commission's Order of the 4th of October, 1921, was issued, twelve years after the signing of the Treaty.

As intimated in my note of the 23rd March, 1928, the Commission's award was not in accord with the views of either Government. Nevertheless, while the Commission's Order did not concede the Canadian contention, the Canadian Government has accepted the Order as a final settlement of what had been a vexed and contentious international question since 1894, and has authorized the use of the full share of the water and the necessary investment in connection therewith. Irrigation development which had been hampered and held up for more than twenty years because of uncertainty as to water supply has, since the Commission's Order, been proceeded with to the limit of the Canadian allotment.

The impracticability of re-opening the question and of altering the basis of the apportionment of the waters after extensive capital commitments have been made and land settlement proceeded with, is, therefore, evident.

Reverting to the view of the Government of the United States that the measurements of flow on the two rivers and their tributaries show that the Order of the Commission of October 4, 1921, operates unequally to the disadvantage of the United States, I would, in this connection, point out that such a conclusion can be reached only by the application to the flow records of the interpretation of the treaty advanced by the United States before the award of the International

Joint Commission was made. The application of the original Canadian interpretation of the treaty to the flow measurements as apportioned under the Order of the Commission would indicate an inequality of apportionment to the disadvantage of Canada. The Canadian Government has had no reason to alter the views which it has already expressed at the hearings before the International Joint Commission, as to what waters are intended to be included and apportioned in Article 6, and has no reason to believe that the Government of the United States has altered its viewpoint as presented to the Commission. It is apparent, therefore, that if the St. Mary and Milk river matter were to be re-opened it would simply raise again the question of treaty interpretation.

The Commission's Order effected an apportionment not fully meeting the claims of either Government but providing a definite basis upon which development work on either side of the boundary could proceed. Accordingly, the Canadian Government accepted the Commission's Order as a final solution and settlement of a complicated, contentious and long-drawn-out international problem, and, as intimated in my note of March 23rd, 1928, feels that if such a settlement can be regarded as subject to being re-opened at any time at the simple request of either party, there would be no hope of finality or of certainty, and the integrity and usefulness of the whole system provided for by the treaty of 1909, for the settlement of international problems, would be gravely endangered.

In view of the considerations set out in the foregoing, that is to say: the long-drawn-out and controversial nature of the problem prior to the negotiation of the treaty of 1909; the settlement of this controversy which was provided for in Article 6 of the said treaty; the twelve-year interval which elapsed between the signing of the treaty and the issuance of the Order of the Commission of October 4, 1921, after exhaustive hearings extending over a period of seven years during which all interests both private and Governmental had the opportunity of presenting, and did present, their view; the basically different interpretations of Article 6 presented at these hearings by the two Governments; the character of the Commission's award which did not accept the claim of either Government; the acceptance of this award and fully utilizing the water apportioned to Canada;—in view of all these considerations—the Canadian Government feels that the re-opening of this matter in the manner proposed would be unfortunate and, as intimated in my note of the 23rd March, 1928, regrets that it cannot see its way clear to join in a request that the International Joint Commission should reconsider its decision.

It appears, however, that the object sought by reopening the award, namely, the provision of a larger amount of water on the United

States side of the boundary, as well as on the Canadian side, can be secured very effectively by other means. The Canadian Government is prepared to join in the designation of the proposed joint United States-Canadian Board to study the problem involved in the construction of storage reservoirs in the United States and Canada, designed to increase the volume and regularity of the flow of the waters of the St. Mary and Milk rivers, particularly during the irrigation season. It is felt that under present conditions there is a large waste of water and that a study of the reservoir possibilities on both sides of the international boundary would indicate facilities for the conservation of the winter flow and flood waters of the two streams, and, therefore, ensure the greatest beneficial use to both countries.

The Canadian Government, however, considers it essential that such a board should base its investigations into waters to be conserved and distributed, upon the apportionment established by the International Joint Commission in its Order of the 4th of October, 1921, and that the board's investigations should be confined to the study of reservoir facilities designed to utilize the waters of the two river systems, thus apportioned, to the maximum advantage in either country. Without a fixed basis such as that provided by the Commission's Order, the board would be immediately faced with the differing interpretations of the two Governments as to the meaning of Article 6, and would have no common ground upon which to commence its investigations.

The Canadian Government will be glad to proceed with the appointment of a representative or representatives to a joint board. I would venture the suggestion that the purely engineering analysis which is proposed of the flow records in relation to the reservoir possibilities, could most advantageously be carried out by a small two-man board appointed from the respective reclamation services of the two countries.

Accept [etc.]

W. L. MACKENZIE KING

ARRANGEMENT BETWEEN THE UNITED STATES AND CANADA REGARDING ADMISSION OF CIVIL AIRCRAFT, THE ISSUANCE OF PILOTS' LICENSES, AND THE ACCEPTANCE OF CERTIFICATES OF AIRWORTHINESS FOR AIRCRAFT IMPORTED AS MERCHANDISE

711.4227/51

The Secretary of State to the Canadian Chargé (Wrong)

WASHINGTON, August 29, 1929.

SIR: The Department refers to the negotiations which have been conducted between this Department and your Legation for the conclusion of a reciprocal arrangement between the United States and Canada for the admission of civil aircraft, the issuance of pilots'

licenses, and the acceptance of certificates of airworthiness for aircraft imported as merchandise.⁷⁴

It is my understanding that it has been agreed in the course of these negotiations that this arrangement shall be as follows:

(1) All state aircraft other than military, naval, customs and police aircraft, shall be treated as civil aircraft and as such shall be subject to the requirements hereinafter provided for civil aircraft.

(2) Subject to the conditions and limitations hereinafter contained and set forth, Canadian civil aircraft shall be permitted to operate in the United States and, in like manner, civil aircraft of the United States shall be permitted to operate in the Dominion of Canada.

(3) Canadian aircraft, before entering the United States, must be registered and passed as airworthy by the Canadian Department of National Defense and must bear the registration markings allotted to it by that Department. Aircraft of the United States, before entering Canada, must be registered and passed as airworthy by the United States Department of Commerce, and must bear the registration markings allotted to it by that Department, preceded by the letter "N", placed on it in accordance with the Air Commerce Regulations of the Department of Commerce.

(4) Canadian aircraft making flights into the United States must carry aircraft, engine and journey logbooks, and the certificates of registration and airworthiness, issued by the Canadian Department of National Defense. The pilots shall bear licenses issued by said Department of National Defense. Like requirements shall be applicable in Canada with respect to aircraft of the United States and American pilots making flights into Canada. The certificates and licenses in the latter case shall be those issued by the United States Department of Commerce; provided, however, that pilots who are nationals of the one country shall be licensed by the other country under the following conditions:

(a) The Department of National Defense of the Dominion of Canada will issue pilots' licenses to American nationals upon a showing that they are qualified under the regulations of that Department covering the licensing of pilots; and the United States Department of Commerce will issue pilots' licenses to Canadian nationals upon a showing that they are qualified under the regulations of that department covering the licensing of pilots.

(b) Pilots' licenses issued by the United States Department of Commerce to Canadian nationals shall entitle them to the same privileges as are granted by pilots' licenses issued to American nationals, and pilots' licenses issued by the Department of National Defense of the Dominion of Canada to American nationals shall entitle them to the same privileges as are granted by pilots' licenses issued to Canadian nationals.

(c) Pilots' licenses granted to nationals of the one country by the other country shall not be construed to accord to them the right to register aircraft in such other country.

⁷⁴The reciprocal arrangement was to supersede the temporary arrangement between the United States and Canada which was concluded in 1920 and renewed from time to time. Previous correspondence not printed.

(*d*) Pilots' licenses granted to nationals of the one country by the other country shall not be construed to accord to them the right to operate aircraft in air commerce unless the aircraft is registered in such other country in accordance with its registration requirements except as provided for in Paragraphs (*a*) and (*b*) of Clause 6, with respect to discharging and taking on through passengers and/or cargo.

(5) No Canadian aircraft in which photographic apparatus has been installed shall be permitted to operate in the United States, nor shall any photographs be taken from Canadian aircraft while operating in or over United States territory, except in cases where the entrance of such aircraft or the taking of photographs is specifically authorized by the Department of Commerce of the United States. Like restrictions shall be applicable to aircraft of the United States desiring to operate in or over Canadian territory, and in such cases the entrance of aircraft in which photographic apparatus has been installed, and the taking of photographs shall not be permissible without the specific authorization of the Department of National Defense of Canada.

(6) (*a*) If the Canadian aircraft and pilot are licensed to carry passengers and/or cargo in the Dominion of Canada, they may do so between Canada and the United States, but not between points in the United States, except that subject to compliance with customs, quarantine and immigration requirements, such aircraft shall be permitted to discharge through passengers and/or cargo destined to the United States at one airport in the United States, according landing facilities to foreign aircraft, and to proceed with the remaining passengers and/or cargo to any other airports in the United States, according landing facilities to foreign aircraft, for the purpose of discharging the remaining passengers and/or cargo; and they shall in like manner be permitted to take on passengers and/or cargo destined to Canada at different airports in the United States on the return trip to Canada.

(*b*) If the United States aircraft and pilot are licensed to carry passengers and/or cargo in the United States, they may do so between the United States and Canada, but not between points in Canada, except that subject to compliance with customs, quarantine and immigration requirements such aircraft shall be permitted to discharge through passengers and/or cargo destined to Canada at one airport in Canada, according landing facilities to foreign aircraft, and to proceed with the remaining passengers and/or cargo to any other airports in Canada, according landing facilities to foreign aircraft, for the purpose of discharging the remaining passengers and/or cargo; and they shall in like manner be permitted to take on passengers and/or cargo destined to the United States at different airports in Canada on the return trip to the United States.

(7) The right accorded to Canadian pilots and aircraft to make flights over United States territory under the conditions provided for in the present arrangement shall be accorded, subject to compliance with the laws, rules and regulations in effect in the United States governing the operation of civil aircraft. The right accorded to American pilots and aircraft of the United States to make flights over Canadian territory, under the conditions herein provided for, shall be accorded, subject to compliance with the laws, rules and

regulations in effect in Canada governing the operation of civil aircraft.

(8) Certificates of airworthiness for export issued in connection with aircraft built in Canada imported into the United States from Canada as merchandise will be accepted by the Department of Commerce of the United States if issued by the Department of National Defense of the Dominion of Canada in accordance with its requirements as to airworthiness. Certificates of airworthiness for export issued in connection with aircraft built in the United States imported into Canada from the United States as merchandise will, in like manner, be accepted by the Department of National Defense of the United States, if issued by the Department of Commerce of the United States in accordance with its requirements as to airworthiness.

(9) It shall be understood that this arrangement shall be subject to termination by either Government on sixty days' notice given to the other Government, by a further arrangement between the two Governments dealing with the same subject, or by the enactment of legislation in either country inconsistent therewith.

I shall be glad to have you inform me whether it is the understanding of your Government that the arrangement agreed upon is as herein set forth. If so, the arrangement will be considered to be operative from the date of the receipt of your note so advising me.

Accept [etc.]

H. L. STIMSON

711.4227/54

The Canadian Minister (Massey) to the Secretary of State

No. 207

WASHINGTON, October 22, 1929.

SIR: I have the honour to refer to your note of August 29th, 1929, concerning the proposed reciprocal arrangement between the United States and Canada for the admission of civil aircraft, the issuance of pilots' licenses, and the acceptance of certificates of airworthiness for aircraft imported as merchandise. I have been instructed to inform you that His Majesty's Government in Canada concur in the terms of the agreement as set forth in your note, and will, therefore, consider it to be operative from this date.

I have [etc.]

VINCENT MASSEY

ARRANGEMENT BETWEEN THE UNITED STATES AND CANADA GOVERNING RADIO COMMUNICATIONS BETWEEN PRIVATE EXPERIMENTAL STATIONS

811.7442 Amateur/1

The Canadian Minister (Massey) to the Secretary of State

No. 147

WASHINGTON, 2 October, 1928.

SIR: I have the honour to inform you that I have been instructed by the Secretary of State for External Affairs to approach you con-

cerning the negotiation of an Agreement between His Majesty's Government in Canada and the Government of the United States governing radio communications between private experimental stations in the two countries.

The General Regulations annexed to the International Radiotelegraph Convention signed at Washington on November 25th. 1927,⁷⁵ and approved by His Majesty's Government in Canada, define the conditions under which communications shall be exchanged between Private Experimental Stations (termed Amateur Stations in Canada) of different countries. The relevant provisions in this connection set down under Article 6 of the General Regulations, read as follows:—

ARTICLE 6

PRIVATE EXPERIMENTAL STATIONS

1. The exchange of communications between private experimental stations of different countries shall be forbidden if the Administration of one of the interested countries has given notice of its opposition to this exchange.

2. When this exchange is permitted the communications must, unless the interested countries have entered into other agreements among themselves, be carried on in plain language and be limited to messages bearing upon the experiments and to remarks of a private nature for which, by reason of their unimportance, recourse to the public telegraph service might not be warranted.

Canadian Private Experimental Stations (Amateur) have in the past and are, until the 1st. January, 1929, when the new regulations become effective, authorized to exchange certain messages within Canada and with other countries which permit it. Such messages are restricted to those coming within the following general headings, viz:—

1. Messages that would not normally be sent by any existing means of electrical communication and on which no tolls must be charged.

2. Messages from other Radio stations in isolated points not connected by any regular means of electrical communication; such messages to be handed to the local office of the Telegraph Company by the Amateur receiving station for transmission to final destination, e. g. messages from Expeditions in remote points such as the Arctic, etc.

3. Messages handled by Amateur Stations in cases of emergency, e. g. floods, etc., where the regular electrical communication systems become interrupted; such messages to be handed to the nearest point on the established commercial telegraph system remaining in operation.

Formal application has now been made to His Majesty's Government in Canada by Canadian Amateurs requesting that they be

⁷⁵ *Foreign Relations*, 1927, vol. I, p. 288.

permitted to handle messages coming within the classes above outlined with the United States of America and that an Agreement be entered into in this connection, as provided for under Article 6, paragraph 2, of the General Regulations annexed to the Radiotelegraph Convention of Washington, 1927.

It may here be added that the same Agreement is desired with the Philippine Islands, which it is understood will adhere to the Convention through the United States.

I therefore have the honour to request that you may be good enough to inform me whether the competent authorities of the Government of the United States and of the Philippine Islands are prepared to enter into an agreement with His Majesty's Government in Canada as proposed above.

I have [etc.]

VINCENT MASSEY

811.7442 Amateur/24

The Secretary of State to the Canadian Minister (Massey)

WASHINGTON, December 29, 1928.

SIR: I have the honor to refer to your note of October 2, 1928, in which you ask whether this Government is prepared to enter into an arrangement with His Majesty's Government in Canada, in accordance with paragraph 2 of Article 6 of the General Regulations annexed to the International Radio Convention of November 25, 1927, which would permit Canadian private experimental stations in Canada to handle certain classes of radio messages with the United States and the Philippine Islands after January 1, 1929.

I take pleasure in informing you that the Government of the United States accepts the proposal contained in your note of October 2, last, with the understanding that it will be reciprocal and that the messages to be exchanged will be restricted to those coming within the following general headings:

1. "Messages that would not normally be sent by any existing means of electrical communication and on which no tolls must be charged.

2. "Messages from other radio stations in isolated points not connected by any regular means of electrical communication; such messages to be handed to the local office of the Telegraph Company by the amateur receiving station for transmission to final destination, e. g., messages from expeditions in remote points such as the Arctic, etc."

3. "Messages handled by amateur stations in cases of emergency, e. g., floods, etc., where the regular electrical communication systems become interrupted; such messages to be handed to the nearest point on the established commercial telegraph system remaining in operation."

This Government interprets the first stipulation above set forth to mean that tolls shall not be accepted by amateurs for messages handled by them and that they shall not compete with commercial radio stations or telegraph lines.

It is the desire of this Government that the arrangement shall apply to the United States and its territories and possessions, including Alaska, the Hawaiian Islands, Porto Rico, the Virgin Islands, the Panama Canal Zone and the Philippine Islands.

This Government considers also that this arrangement should be subject to termination by either Government on sixty days' notice to the other Government, by a further arrangement between the two Governments dealing with the same subject, or by the enactment of legislation in either country inconsistent therewith.

I shall be glad to have you inform me whether these additional provisions are acceptable to your Government. If so, the arrangement will be considered to be effective as of January 1, 1929.

Accept [etc.]

FRANK B. KELLOGG

811.7442 Amateur/25

The Canadian Minister (Massey) to the Secretary of State

No. 7

WASHINGTON, 12 January, 1929.

SIR: I have the honour to acknowledge the receipt of your note of December 29th. 1928, concerning the proposal of His Majesty's Government in Canada to enter into an agreement with the Government of the United States in accordance with paragraph 2 of Article 6 of the General Regulations annexed to the International Radio Convention of November 25th. 1927, which would permit Canadian private experimental stations in Canada to handle certain classes of radio messages with the United States and the Philippine Islands after January 1st. 1929.

It is noted that the Government of the United States accepts the proposal contained in my note Number 147 of October 2nd. 1928, with the understanding that it will be reciprocal and that the messages to be exchanged will be restricted to those coming within the general headings described in that note.

It is noted also that the Government of the United States interprets the first stipulation set forth in the enumeration of general headings which have just been mentioned to mean that tolls shall not be accepted by amateurs for messages handled by them and that they shall not compete with commercial radio stations or telegraph lines.

His Majesty's Government in Canada observes that it is the desire of the Government of the United States that the arrangement shall apply to the United States and its territories and possessions includ-

ing Alaska, the Hawaiian Islands, Porto Rico, the Virgin Islands, the Panama Canal Zone and the Philippine Islands.

It is observed also that the Government of the United States considers that this arrangement should be subject to termination by either Government on sixty days' notice to the other Government, by a further arrangement between the two Governments dealing with the same subject, or by the enactment of legislation in either country inconsistent therewith.

I have been instructed to inform you that these additional provisions are acceptable to His Majesty's Government in Canada and that, in consequence, the arrangement will be considered to be effective as of January 1st, 1929.

I have [etc.]

VINCENT MASSEY

ARRANGEMENT BETWEEN THE UNITED STATES AND CANADA CONCERNING QUARANTINE INSPECTION OF VESSELS ENTERING PUGET SOUND AND WATERS ADJACENT THERETO OR THE GREAT LAKES VIA THE ST. LAWRENCE RIVER

711.429 Sanitary/21

The Minister in Canada (Phillips) to the Secretary of State

No. 1179

OTTAWA, October 24, 1929.

[Received October 28.]

SIR: Referring to the Department's telegram No. 101 of October 23, 12 midnight [noon],⁷⁶ on the subject of the proposed agreement between Canada and the United States concerning the quarantine inspection of vessels entering Puget Sound and waters adjacent thereto or the Great Lakes by the St. Lawrence River, I have the honor to enclose herewith the original note No. 132 of October 10, 1929, from the Department of External Affairs, together with a signed copy of my note No. 502 of October 23, 1929, to the Canadian Government, on this subject.

I have [etc.]

WILLIAM PHILLIPS

[Enclosure 1]

The Canadian Secretary of State for External Affairs (Mackenzie King) to the American Minister (Phillips)

No. 132

OTTAWA, 10 October, 1929.

SIR: With reference to your note No. 480 of the 30th September,⁷⁶ intimating that the Public Health authorities of your Government

⁷⁶ Not printed.

were agreeable to an exchange of notes for the purpose of establishing an arrangement between our Governments to provide for the acceptance by each Government of the quarantine inspection of the other in respect of vessels from foreign ports entering Puget Sound and adjacent waters or the Great Lakes via the St. Lawrence River, in the terms suggested in my note No. 45 of the 2nd May last,⁷⁷ I have the honour to state that His Majesty's Government in Canada is prepared, in accordance with the provisions of Articles 56 and 57 of the International Sanitary Convention signed at Paris the 21st June, 1926,⁷⁸ to agree with the Government of the United States of America that vessels from foreign ports destined for both Canadian and United States ports located on the Straits of Juan de Fuca, Haro, Rosario, Georgia, Puget Sound, or their tributaries or connected waters, or so destined to ports on the Great Lakes and St. Lawrence River shall undergo quarantine inspection by the quarantine officers of that Government having jurisdiction over the primary port of arrival, and when cleared from quarantine in accordance with the provisions of the said International Sanitary Convention shall receive free pratique, the document granting such pratique to be issued in duplicate, that the original shall be presented upon entry at the primary port of arrival, and that the duplicate shall be presented to the proper quarantine officers upon secondary arrival and entry at the first port under the jurisdiction of the other Government, and shall be accepted by that Government without the formality of quarantine re-inspection, provided that cases of quarantinable disease have not been prevalent in the ports visited and have not occurred on board the vessel since the granting of the original pratique, and provided further that the observance of the provisions of Article 28 of the said Convention shall not be modified by such agreement.

It will be understood that on the receipt of a note from you expressing your Government's concurrence in this agreement, it shall become effective and the necessary administrative steps in connection with its operation shall be taken.

Accept [etc.]

W. H. WALKER

For Secretary of State for External Affairs

[Enclosure 2]

The American Minister (Phillips) to the Canadian Secretary of State for External Affairs (Mackenzie King)

No. 502

OTTAWA, October 23, 1929.

SIR: I have the honor to acknowledge the receipt of your note No. 132 of October 10th, last, in regard to the proposed establishment

⁷⁷ Not printed.

⁷⁸ *Foreign Relations*, 1926, vol. I, p. 177.

of an arrangement between our Governments to provide for the quarantine inspection of the other in respect of vessels from foreign ports entering Puget Sound and adjacent waters or the Great Lakes via the St. Lawrence River.

It gives me pleasure to inform you that my Government accepts the terms of the agreement as set forth in your note No. 132 of October 10, 1929.

I avail myself [etc.]

WILLIAM PHILLIPS

CHILE

RECIPROCAL EXTENSION OF FREE CUSTOMS ENTRY PRIVILEGES TO PROFESSIONAL CONSULS BY THE UNITED STATES AND CHILE

625.11241/25

The Chilean Ambassador (Dávila) to the Secretary of State

No. 81

WASHINGTON, November 18, 1929.

EXCELLENCY: The President of the Republic of Chile was authorized, by Law N°. 4640 of August 19, 1929, to declare free from all import duties articles destined to Professional Consuls accredited near the Government of Chile, when the articles are originally shipped for the account of the aforementioned officials and for their own use and consumption. The Law provides that goods to an amount which would ordinarily bear duties of 30,000 Chilean Pesos will be permitted to enter free of duty the first year of the Consuls stay in the Country and goods ordinarily bearing 6,000 Chilean Pesos in duties each succeeding year. This free entry will be extended only to the Professional Consuls of those Countries granting similar reciprocity, and who do not, outside of their official functions, engage in commerce.—

I have the honor to request that Your Excellency be good enough to advise me if there is any provision of Law here whereby the United States Government might permit its Professional Consuls to take advantage of the above Chilean Law by granting reciprocal privileges to the Professional Consuls of Chile in the United States.

I avail myself [etc.]

CARLOS G. DÁVILA

625.11241/25

The Secretary of State to the Chilean Ambassador (Dávila)

WASHINGTON, December 4, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of November 18, 1929, informing me that under Chilean Law No. 4640 of August 19, 1929, professional consular officers assigned to Chile may be granted free entry on a basis of reciprocity for goods to an amount which would ordinarily bear duties of 30,000 Chilean pesos for the first year of their stay in Chile and goods ordinarily bearing duties of 6,000 Chilean pesos each succeeding year.

I have the honor to inform you in reply that this Government does not limit the amount represented in duty which may be imported by foreign diplomatic or consular officers for their personal or family use during any one year, but as it is believed that the value of articles imported by Chilean consular officers would not exceed the value of importations allowed American consular officers in Chile, the Treasury Department has consented to extend the privilege of free importation to Chilean consular officers in the United States. I have pleasure in advising you, therefore, that in addition to the free entry of baggage and effects upon arrival and return to their posts in this country after visits abroad, which Chilean consular officers assigned to the United States already enjoy, effective at once upon the request of the Chilean Embassy in each instance this Department will arrange for the extension of the free importation privilege to Chilean consular officers assigned to the United States who are Chilean nationals and not engaged in any other business with the understanding that no article, the importation of which is prohibited by the laws of the United States shall be imported by such officers.

Accept [etc.]

For the Secretary of State:

FRANCIS WHITE

**TACNA-ARICA DISPUTE: GOOD OFFICES OF THE UNITED STATES IN
THE FINAL SETTLEMENT OF ISSUES BETWEEN CHILE AND PERU;
REPRESENTATIONS BY BOLIVIA**

(See volume I, pages 720 ff.)

CHINA

CONTINUED CIVIL WAR AND POLITICAL DISUNION IN CHINA, WITH MAINTENANCE OF THE NATIONAL GOVERNMENT AND ALLEGIANCE OF THE MANCHURIAN LEADERS THERETO¹

893.04417/1 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 12, 1929—11 a. m.

[Received January 12—9:15 a. m.]

27. Following from Mukden:

"January 11, 5 p. m. Reliably informed that Yang [Yü-]ting² and Chang Yin-huai³ were arrested and shot last night. Their arrest occurred at commander in chief's office and a search of their residences immediately carried out. At a conference of generals called by commander in chief this morning they were handed the documentary evidence of conspiracy found in search and told that conspirators had already been shot; all agreed that penalty was deserved. Circular telegram sent out this noon stating that these men were guilty of conspiracy against the Government and of plot against unification of country, et cetera; three or four other high officials arrested. News of execution public here. Understand that Japanese Consul General was informed by Chang⁴ early this morning."

MACMURRAY

893.04417/5

*The Consul at Mukden (Myers) to the Minister in China
(MacMurray)*⁵

No. 173

MUKDEN, January 14, 1929.

SIR: Having reference to my telegram of January 11th⁶ reporting the arrest and summary execution of Yang Yu-t'ing and Ch'ang Yin-huai because of their conspiracy against the Government, I have the

¹ For previous correspondence regarding political conditions in China, see *Foreign Relations*, 1928, vol. II, pp. 119 ff.

² Gen. Yang Yü-ting, director of the Mukden arsenal, recently co-commander of the Fengtien 3d and 4th Armies, and chief of staff to the late Marshal Chang Tso-lin, ruler of Manchuria and last head of the Peking Government.

³ Chang Yin-huai, active head of the Manchurian Communications Commission and Civil Governor of the Province of Heilungkiang.

⁴ Gen. Chang Hsüeh-liang, chief commander of the Northeastern Frontier Army, head of the Mukden government, and son of the late Marshal Chang Tso-lin.

⁵ Copy transmitted to the Department without covering letter; received February 14, 1929.

⁶ See telegram *supra*.

honor to enclose herewith a translation of the circular telegram⁷ despatched on January 11th under the names of Chang Hsueh-liang, Chang Tso-hsiang, Wan Fu-ling, Chang Ching-hui, Chai Wen-hsuan, Liu Shang-ch'ing, Liu Che, Mo Te-huai, Wang Shu-ch'ang, Shen Hung-lich, T'ang Yu-ling and Yuan Ching-k'ai to the Nanking Government and others in regard to this incident. The indictment is a lengthy one and probably most of the charges are more or less true. They are charged with having prevented the evacuation of the districts between the Luan River and Shanhaikuan as well as having opposed the raising of the Nationalist flags and the return of the rolling stock. It is also stated that they used the arsenal and the communication facilities as the principal means of extending their private interests and that they expended \$200,000,000 at their own discretion and without the sanction of high authority; that lately they formed parties and enlisted followers in pursuance of a plan that would jeopardize the country.

The circumstances of the arrest and execution of Yang Yu-t'ing and Ch'ang Yin-huai, which were given in my telegram, are generally correct as far as can be learned. As stated therein, General Chang Hsueh-liang invited them to a conference when they were arrested and confronted with the charge of conspiracy against the Government. At the same time their residences were searched by Chang's troops and before morning they were executed. What evidence was discovered in the search has not been disclosed but there is reason to believe that General Chang had, when the arrest was made, sufficient evidence in his possession to warrant, in his opinion, their summary execution. The conference of high officials, held on the following morning, January 11th, approved his action.

Eight other arrests of officials closely associated with the principal conspirators were made early on January 11th, including among others, Wang Chih-ling, Co-Director of the Arsenal, Shih Chih-huang, Chang Hsuan and Ku Chen, Director of the Peking-Mukden Railway. None of these has been executed but it is thought by persons in close touch with the situation that one or two others may later receive the death penalty.

The execution of Chang Hsueh-liang's orders were carried out without a hitch and came as a complete surprise to everyone except possibly the small coterie of high officials who may have been consulted. Besides the search of the residences of Yang and Ch'ang and the disarming of their small bodyguards, troops from the Eastern Tombs disarmed the guards of the Arsenal without apparently any resistance and in the morning of January 11th the workmen returned to duty without realizing that a new regime was in control. Yang had no

⁷ Not printed.

troops except the small Arsenal guard and Ch'ang's small armed force is in Heilungkiang. No trouble from them is expected and in fact no unfavorable reaction to these executions is anticipated.

It is a matter of general knowledge that the relations between Chang Hsueh-liang and Yang Yu-t'ing had never been too cordial, but since the death of Chang Tso-lin they had outwardly been on friendly terms and Yang's advice was frequently sought and given. His position as director of the arsenal, of which he had full control, and freedom from other duties placed him in an advantageous position for carrying out such secret plans as he doubtless had. Too, a large percentage of the officials throughout the province owed their positions to him directly or indirectly. Ch'ang Yin-huai's control of all communication facilities, the Chinese railways, telegraphs, radio and telephone, in the Three Eastern Provinces through his position as directing head of the Communications Commission gave him and his chief much influence and placed a very effective weapon in their hands. Even the sending of the Wu Ching mission to Europe—later it was expected to go to the United States—whose members were composed entirely of Ch'ang's followers is thought to have been part of the plot. Although the suspicious activities of these men and their growing power, referred to in my recent despatches, were probably noted by General Chang, the opinion is held by close observers that the existence of a definite plot to eliminate him and assume full control of the Government was only recently discovered and dictated the summary measures that were adopted. Henceforth, it is thought, General Chang will be credited with more decision than it has been commonly presumed that he possessed and will not be looked upon as a boy as both Yang and Ch'ang are supposed to have regarded him.

The press reports that Chang Hsueh-liang himself shot Yang Yu-t'ing are not given any credence whatever. Likewise, there is no reason to believe that these men were involved in the plot that caused the death of Marshal Chang Tso-lin. This latter report is likely to have had a Japanese origin.

It is reported in *The Manchuria Daily News* of January 12th that General Chang sent a private secretary to the Japanese Consulate General on the 11th to inform it that the execution of Yang and Ch'ang was strictly a domestic matter and had no international bearing. As stated in my telegram, some statement in connection with this matter was conveyed to that office.

Although possibly the circumstances of the case may tend to condone the summary execution of these men, nevertheless attention should be called to the fact that no formal trial of the accused was held. Some sort of an examination is reported to have occurred but it was doubtless not one in which the accused had any chance of putting up a defence, if any existed.

It is felt here by many that Yang and Ch'ang have been disturbing elements and that their elimination should tend to stabilize the internal political situation. General Chang's own position has undoubtedly been greatly strengthened.

It is fully expected that all the principal officials of the Communications Commission, railways, telegraphs, etc., who were the nominees of Yang Yu-t'ing or Ch'ang Yin-huai, will be replaced. Already General Kao Chi-yi, head of the Police of Fengtien Province, has assumed charge of the Peking-Mukden Railway vice C. Ku, who is now under arrest. General Tsang Shih-yi and Chow Lien have been appointed Director and Co-Director of the Arsenal—General Tsang, it now appears, was not arrested as previously reported.

No marked change in the policy of the local Government vis-à-vis the Nanking Government is anticipated. It is expected that in spite of press reports to the contrary there is no intention of handing over control of Chinwangtao at present, although it has been planned for some time to withdraw the greater part of the Fengtien forces from inside the Great Wall. However, the return of the rolling stock now held in Manchuria may be hastened. As previously reported, the Fengtien party's dominance in Jehol has been accepted by the Nanking Government.

I have [etc.]

M. S. MYERS

893.00/10274

The Chargé in Japan (Neville) to the Secretary of State

No. 1071

TOKYO, January 17, 1929.

[Received February 4.]

SIR: I have the honor to inform the Department that Japanese interest in the future of Japan's relations with Manchuria is at the moment intense, due to the recent murder of General Yang Yu-ting and to the belief that the Opposition holds proof of responsibility of the Japanese military in the death of General Chang Tso-lin.

In my telegram No. 1 of January 9, 1929,⁸ I reported that, according to reliable authority, certain members of the Diet hold evidence tending to implicate Japanese army officers in the death of General Chang Tso-lin on June 4th of last year and intend to interpellate the Government regarding it when the Diet reopens on January 21st.

For some days reference to a "certain grave affair", which is said to be perturbing all Government circles, has been the subject of frequent mention in the press. It is now common knowledge, although the ban on publication of the news has not been lifted, that the "affair" is in the main as already reported. Of what the "proof"

⁸ Not printed.

consists and of how far the Government may be implicated, if at all, I am as yet unaware, nor have I felt it advisable to approach Government or Opposition officials with respect to this matter.

There have been, of course, elaborations on that which I have already reported. One report is that General Shirakawa, Minister of War, recently threatened to resign as a protest against the Premier's attitude toward the affair, the implication being that he objected to the intention of the Premier to attach, if the Opposition's proof is formidable, all responsibility to the army officers concerned and none to the Government. In this connection it was interesting to note the coincident departure on January 11th from Tokyo of General I. Matsui, Chief of the Second Division of the General Staff, who is supposed to have had considerable influence in the formation of Premier Tanaka's policy in Manchuria, and of his brother, Major General Matsui, formerly "advisor" to General Chang Tso-lin. It was announced that they departed on a six month trip to Europe and America "to study military conditions".

With the meagre information at hand, it is difficult to distinguish rumor from fact. The Diet will open within a few days, when reference to the "affair" is promised on a large scale.⁹

The murder of General Yang Yu-ting has also excited the nation and taxed the ingenuity of political writers. The receipt of the news was followed by a hasty meeting of officials of the Foreign Office, a meeting of these officials subsequently with representatives of the Army and Navy Departments, a meeting between the Premier and the President of the South Manchuria Railway, and of the Premier with the Chief of the Asiatic Bureau of the Foreign Office.

The conflict of opinion respecting this matter and the lack of knowledge of what may lie behind it have given rise in Japan only to unauthoritative speculation, as revealed in the press and in conversations which I have had with intelligent Japanese. All show deep concern respecting its possible effect upon Japanese interests but feel that the course of future events must be watched for some time yet before its significance, as it relates to this country, can be gauged with any accuracy.

The press has indulged in a number of conjectures as to the causes of the murder. The Tokyo *Jiji* suggested in an editorial that perhaps the atrocity was due to some connection Yang Yu-ting and Chin Yin-huai [*Ch'ang Yin-huai*] may have had with the death of General Chang Tso-lin, pointing out that at the time of Chang's demise there was some suspicion of Yang's complicity and that Chang Yin-huai was then Chief of the Peking-Mukden Railway Bureau. This theory now

⁹The first week of the 56th session of the Japanese Diet brought no further revelations (despatch No. 1087, January 31, 1929, filed under 894.00/282).

seems to have been generally rejected. The most plausible reasoning yet advanced in the local press is that of Mr. Washio, a political writer for the *Japan Advertiser* who is usually sound in his opinions. He sees the murders as possibly the result of the rivalry of General Chiang Kai-shek¹⁰ and Feng Yu-hsiang,¹¹ in which Yang was secretly supporting Feng against the loose coalition of Chiang Kai-shek, Yen Hsi-shan¹² and Chang Hsueh-liang. In this role Yang opposed the raising of the Nationalist flag over Manchuria. He views the Shantung General, Sun Chuan-fang, who now belongs to the Mukden faction, as working for Chiang's interests at the side of young Chang and as the principal influence behind the raising of the flag and the murder of Yang. If his explanation is correct, Dr. Washio feels, it reveals not only internal feud at Mukden but ramifications of the rivalry of Chiang and Feng. The Tokyo *Chugai Shogyo*, on the other hand, views the murders as the result only of a plot of Yang against Chang Hsueh-liang. In this opinion the Osaka *Asahi* and the rest of the vernacular press in general concur.

The effect on Japan's relations with Manchuria and China is viewed by the entire press with pessimism. It foresees unfavorable developments and increasing complications for Japan. The *Chugai Shogyo* fears the murders will be regarded as a manifestation of antagonism against Japan's policy in Manchuria viewing the raising of the flag as the first move and the murders as the second in Manchurian opposition to Japan. The press generally regards Yang Yu-ting as a friend of Japan whose loss will be greatly felt. This consideration makes especially interesting the comment in Consul Price's report, transmitted by Minister MacMurray under cover of his Despatch No. 1805 of December 17, 1928,¹³ in which he writes that Yang Yu-ting was seeking an accord with the Nanking Government and hated Japan. The *Chugai Shogyo* places no confidence in Chang Hsueh-liang's statement to the Japanese Consul General at Mukden, following the murders, that they will in no way affect the relations of Japan and Manchuria. The Tokyo *Hochi* doubts, as does most of the rest of the press, the ability of Chang to control the Three Eastern Provinces and foresees penetration of Nationalist influence into Manchuria with serious jeopardy to Japan's already acquired rights and interests. It fears the Tanaka Government will be unable to meet the situation. The Tokyo *Asahi* believes that Chang will become the puppet of Nanking and that Manchuria's foreign relations will be transferred

¹⁰ Chairman of the State Council of the Chinese National Government and Generalissimo of the Chinese armed forces.

¹¹ Marshal Feng Yü-hsiang, chief of the Kuominchün (National People's Army) in north China.

¹² Marshal Yen Hsi-shan, chief of the Shansi armed forces and head of the provincial government of Shansi.

¹³ Not printed.

to the Nationalists with consequent disadvantage to Japan. The remainder of the press is a lugubrious echo of those opinions which I have mentioned above. A copy of Dr. Washio's article is enclosed.¹⁴

I have [etc.]

EDWIN L. NEVILLE

893.51/5118

*The Consul General at Shanghai (Cunningham) to the Minister in China (MacMurray)*¹⁵

No. 5809

SHANGHAI, January 19, 1929.

SIR: I have the honor to transmit an exceedingly interesting report of Mr. T. V. Soong, Minister of Finance, made to the Military Conference at Nanking and published in the *North China Daily News* (British) of January 14, 1929, under the heading: "Military Costs and the Menace of National Bankruptcy."¹⁴ This memorandum was presented by Mr. Soong to the Conference on the 11th of January and is characteristic of the able and thorough manner in which he deals with the questions that he discusses. In a cruelly frank manner he clearly sets forth the financial condition of the National Government and supports his claim by a convincing array of statistics. It is the third time since last April that Mr. Soong has sounded a warning to his confreres in the Government and called upon the military administration for limited military expenditures under a unified and organized control. (See June political report and my despatch No. 5604 of August 11, 1928, to the Legation.¹⁶)

Mr. Soong presents a brief sketch of the national finances in order that the existing financial conditions may be carefully considered in connection with the pending question of disbandment of troops and limited military control. He calls the attention of the military leaders to some cold facts that disprove the idealists' claim that China is a united nation. This distinguished Minister of Finance says:

"With the nation's finances still disorganized, and, out of the 22 provinces and the special districts, there being only four provinces—Kiangsu, Chekiang, Anhui and Kiangsi—that furnish figures which are fairly complete or reliable, it becomes almost impossible to attempt to arrive at more than a fair estimation. Many of the provinces do not furnish any reports at all, and those that do, supply data which is either incomplete or of little use. Working under these difficulties, it is only possible for the Ministry to give approximations, basing its figures on whatever available information that exists, and forming a conclusion thereon. The estimates, therefore, should not be taken as wholly accurate, although they are to the best of our knowledge fairly reliable."

¹⁴ Not printed.

¹⁵ Copy transmitted to the Department by the Consul General in his despatch No. 5915, January 19; received February 18, 1929.

¹⁶ Neither printed.

Mr. Soong in May expressed the hope that with the completion of the Northern Campaign there would be a rapid readjustment of financial conditions and a foundation for reconstruction throughout the country. However, he truthfully says:

“There is today little if any improvement from conditions existing during the period of warfare.”

Concerning the contributors to the revenues of the Central Government at the present time, Mr. Soong states that:

“At present the Central Government derives its revenues from only four provinces, namely: Kiangsu, Chekiang, Anhui, and Kiangsi. The receipts of Kiangsi are hardly sufficient to meet its military expenditures, while that of Anhui is in a like position. The chief source of revenue of the Central Government is thus practically confined to Kiangsu and Chekiang. And although these two provinces are regarded as very prosperous, owing to military conflicts during the past two years and the establishment of the Central Government with its multifarious organs in their midst, the drain on them has been altogether too great.”

It is certainly a matter of great sadness and disappointment to one who has contributed his efforts with that loyalty and honesty of purpose which Mr. Soong has, to realize that the Northern Expedition did not result in a speedy readjustment or a lightening of the burdens of taxation.

Mr. Soong says that not only have all revenues been exhausted but: “In order to meet the urgent administrative and military expenditures the main sources of revenue, such as the 2½% Surtax, the Tobacco Tax, the Stamp Tax, etc., have been pledged for the service of various loans.”

The limited revenue from the four provinces, in reality two provinces, has taxed his ingenuity very heavily during the last six months, and he states in greater detail that the Ministry of Finance

“has resorted to further loans and bond issues, secured on the Petroleum Tax, Wheat and Flour Tax, and the increased Salt Tax.”

He makes the astounding statement that of the total receipts of the Government for the half year from June to November 1928, 45% comes from such loans and bond flotations, while only 55% was received from revenues. (In regard to the bond issue, see this office's despatch No. 5701 of October 17, 1928.¹⁸) Mr. Soong expresses doubt as to the length of time the Government may be maintained on a hand to mouth policy, exceeding the revenues each month, and warns his conferees that:

“It is time that the finances of the country be centralized and re-organized, otherwise only bankruptcy can result.”

¹⁸ Not printed.

He emphasizes the impossibility of floating foreign loans in the present disorganized state of the Government and also expresses the belief that it is impossible to float many more loans in the country. He insists as the basis for reform that two steps be taken:

- “1st: the military expenditure must be strictly limited, and
- 2nd: the national finance must be centralized and reorganized.”

He also makes it perfectly clear that in order to bring about the unification of the national finances there must be a central control and a complete and honest accounting to that control by the provinces. He emphasizes that after such organization the difficulties will still not be over as the greatest economy can only result in a deficit of fifty million dollars for the current year.

It must have been, considering the conditions set forth above, with great difficulty that Mr. Soong assembled the statement of revenues which is contained in the enclosed tables.¹⁹ However, he admits that these tables are but approximations and with this reservation he estimates that the revenue for 1929 will be \$457,740,000; his budget he places at \$507,870,000; and this creates a deficit for 1929 of \$62,130,000 including the item of \$12,000,000 for the five Yuans which has not been approved by the Budget Committee. The total for military expenditure is \$192,000,000, which is equivalent to 41% of the total estimated revenues or 36% of the gross expenditures. This is a generous bribe to the selfish militarists. It is an exorbitant percentage of the revenues when it is remembered that in the United States the military expenses constitute but 8% of the expenditures for all Government purposes. Mr. Soong thus puts the patriotism of these ambitious, suspicious and selfish warlords to the acid test. It will be very interesting to know the answer that the Military Conference will make to the frank, patriotic and businesslike statement of Mr. Soong. If the budget is endorsed and a patriotic effort is made to limit the expenditures to this, it will be a surprising manifestation on the part of the militarists. It is in the hands of these militarists to bridge the financial chasm and it is hoped, with very little reason to base this hope upon, that they will meet the test. It is possible that they will accept the principle while they proceed to loot the country as in the past for additional sums to meet the greater expenses.

At the conclusion of his able report, Mr. Soong places before the Conference five proposals²⁰ and assures them that if they are accepted and put into effect

“the Ministry of Finance will be ready to meet regularly and without fail at due dates the annual military expenditure of \$192,000,000

¹⁹ Not printed.

²⁰ See despatch No. 1927, February 18, p. 139.

in addition to reasonable disbandment expenses. If not, the future is dark indeed."

Such an undertaking by a financier of less experience and ability would not be regarded seriously in China, but considering Mr. Soong's past and his frankness in admitting that there are faults in the collection and administration of the finances, there will be a ray of hope for the country if his lead is followed. The concentration of the power of the nation in the hands of a civilian financial leader is infinitely preferable to such concentration in the hands of militarists who seek personal aggrandizement in the way of power and wealth. Mr. Soong is a very young man, scarcely thirty-five, but he has an extremely enviable record to his credit. Let us hope that he will be to China what Alexander Hamilton at the same age was recognized as being to the Federation of American States. Mr. Hamilton was a patriot and financial genius, whose services did much to make the United States the sound financial country that it is. It is admitted, however, that Mr. Hamilton, without the backing and support of a large number of patriotic civil and military officials, could not have given to the country that stability which he did, and it is certain that Mr. Soong, able though he may be, cannot have the support of an equally large number of his confreres in the National Government.

I have [etc.]

EDWIN S. CUNNINGHAM

893.00/10293

*The Consul at Mukden (Myers) to the Minister in China
(MacMurray)*²¹

No. 178

MUKDEN, January 22, 1929.

SIR: In compliance with the Legation's telegraphic instruction of January 8, 1929, directing this office to prepare a report regarding general conditions in this consular district, I have the honor to submit a report on the lines as indicated.

GENERAL CONDITIONS

Recent reports from this office have, it is believed, given a fairly accurate picture of existing conditions. The importance of the events of the past four weeks cannot be gauged at present, for no changes worthy of note have resulted therefrom. The adoption of the Nationalist flag and the declaration of allegiance to the Nanking Government although effected by a compromise which is expected to prove advantageous to both parties, the local and Nationalist Governments,

²¹ Copy transmitted to the Department without covering letter; received February 19, 1929.

may have far different consequences. Chang Hsueh-liang's relations with the Nanking Government may probably be more properly described as an alliance with Chiang Chieh-shih.²² Likewise, the elimination of the two most powerful and probably able members of the Fengtien Party, namely Yang Yu-t'ing and Ch'ang Yin-huai, although strengthening the position of the existing head of this territory for the time being, may later result in the breakup of that party through internal or external agencies. The arbitrary and intolerant attitude of the radical elements in the Nationalist Party and their growing influence are an ever present source of danger in spite of the determination of the local Government to prevent their gaining a foothold in this territory. Too, the special position of Manchuria vis-a-vis neighboring countries and the existence therein of extensive foreign interests further complicate the situation.

General conditions in this consular district may be described as satisfactory. Banditry is apparently far less prevalent than during the winter of 1927/28. Last year's crops were good and general prosperity prevails. Outwardly, at least, the Fengtien Party which controls the Three Eastern Provinces and Jehol is closely united under the leadership of Chang Hsueh-liang who is believed to be more interested in the development of the resources of these provinces than in playing politics south of the Great Wall. Whether or not the General can maintain his position as the head of a united party remains to be seen, but his conduct of affairs since the death of his father, Chang Tso-lin, has been a surprise to many persons. As an indication of the growing centralization of authority in these provinces, it may be said that General Chang recently appointed his chief secretary, Cheng Ch'ien, as directing head of the important Communications Commission, vice Ch'ang Yin-huai, and established departments in his headquarters to take charge of Nationalist party affairs, various revenue matters, etc. On the other hand, General Chang Tso-hsiang, military and civil head of the Kirin Government and the most influential member of the conservative or old wing of the party, is now in a very strong position owing to the elimination of Yang Yu-t'ing and does not brook much interference in the affairs of his province. He is without doubt the most influential member of the Government. However, it is said that this branch of the party looks in a way upon the Chang family as the hereditary rulers of the Three Eastern Provinces and consequently regards Chang Hsueh-liang as the rightful successor of Chang Tso-lin.

A number of superficial changes have recently taken place in the Government in compliance with instructions from Nanking. On January 12th Chang Hsueh-liang assumed the title of Chief Com-

²² Also known as Gen. Chiang Kai-shek.

mander of the Northeastern Frontier Army and Chang Tso-hsiang and Wan Fu-ling of Vice Commander. The Fengtien Provincial Government Commission also completed its organization and entered upon its duties on that date. The formal inauguration of the new government is not expected until the return of the Mukden delegation which was recently sent to Nanking. The main purpose of this delegation consisting of more than ten officials is, it is understood, to explain and discuss conditions in the Three Eastern Provinces to the high officials at Nanking and to make personal contacts with the personnel of that Government. The Chinese Eastern Railway question was supposed to be one of the matters to be discussed at Nanking but it has just been learned that at a conference yesterday the decision was reached to continue to recognize the 1924 agreements with the Soviets.²³ Fang Pen-jen, the representative of Nanking, who has just arrived is reported to have participated in that conference.

COURTS

As reported in my review for November, the Northeastern branch of the Supreme Court was formally opened at Mukden on November 21, 1928. Twelve judges were appointed for the Court which has been functioning since its establishment. No change in the status of the Court has been made and it is not known whether the Court will continue to function after the so-called reorganization of the Government is carried out.

It has already been officially announced that the laws promulgated by the Nationalist Government are now in force in this territory.

No other developments regarding the courts under civil control have come to the attention of this office.

Several incidents may be of interest in connection with the administration of justice. It will be remembered that under date of November 24, 1928, this office reported the severe beating of a Chinese servant by the police in connection with his examination. It was also pointed out that this is the common method of extracting evidence, the severity of the beating being in proportion to the length of the examination and the nature of the offence which is supposed to have been committed.

The shooting of Yang Yu-t'ing and Ch'ang Yin-huai without a trial in the reception room of the Commander-in-Chief's residence and by his order shows how lightly regular judicial procedure is held by the highest Chinese officials when their own interests are

²³ See *Foreign Relations*, 1924, vol. I, pp. 495-501, 510-511. For correspondence relating to Sino-Russian dispute regarding the Chinese Eastern Railway, see pp. 186 ff.

at stake or in jeopardy. After the death of these men, it may be added, court martial proceedings under Chang Hsueh-liang as chief judge were held for the purpose of giving an appearance of legality to the executions. These proceedings were probably taken with a view to influencing foreign opinion more than native, as the Chinese generally do not consider General Chang's course of action as unusual in view of the circumstances. Justification is apparently found in the great power wielded by these men and the personal danger to which General Chang himself would have been exposed had they been arrested and held for trial.

The arrest by the Police Department of T'ao Chang-ming and An Hsiang, two Chinese officials, at the behest of Yang Yu-t'ing was mentioned in my political review for December.²⁴ No charges were ever preferred against them during their imprisonment of over 40 days and were Yang alive today they would probably be still in prison.

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SITUATION AND FUTURE PROSPECTS OF NATIONALIST GOVERNMENT

The recent hoisting (on December 29, 1928) of the Nationalist flag in the Three Eastern Provinces betokens a closer relationship with the Nationalist Government than heretofore. However, for the present, at least, this territory is to enjoy a wide degree of autonomy, foreign affairs, according to reliable information, being the only department of Government to come under the direction or influence of Nanking. How much control over this department it will have is not yet clear, but doubtless this Government willingly will hand over all perplexing negotiations of an important nature. Whether or not the Japanese Government will assent to this will perhaps be greatly influenced by the relations between it and the Nanking Government.

A perplexing development is, in my opinion, the apparent intention of the Chief Commander's office to interfere with the administration of the post office and maritime customs in this territory. The issuance of a circular instruction addressed to the various revenue collection offices including post offices and custom houses that they should prepare to hand over to the Chief Commander's office all surplus revenues after December 1st, was reported in my confidential despatch No. 163, of December 28, 1928.²⁴ It has just been learned that a second order has been issued under the signature of General Chang Hsueh-liang to these offices directing them to submit a statement of their surplus funds together with a budget for the year, list of employees, etc. That the Nanking Government will endeavor to oppose the execution of this order is to be expected and must be

²⁴ Not printed.

realized by this Government. As Mukden has just acknowledged, at least, nominal allegiance to the Nanking Government this attempt to interfere with these Central Government organizations is inexplicable and confusing. In my political review for December the opinion was expressed that the original order had probably been issued for local political reasons but it now transpires that that was not the case. Taken at its face value, it appears to be a serious attempt to encompass the disruption of the unified customs and postal administrations at the very commencement of the long sought for customs autonomy.

Owing to the many factors involved, it is impossible to express an opinion as to the growth of the influence of the Nationalist Government in this region. However, it possibly is safe to say that if the conservative wing of the Nationalist Party remains in power and is able to strengthen its control in China proper its influence in these provinces will gradually increase.

DANGER FROM RADICALISM

That the Government intends to keep out of this territory as far as possible communist and radical elements and to suppress any peace disturbing movements seems to be sufficiently indicated by its past attitude and by the recent order that all Nationalist party offices can only be established with the approval of the Chief Commander's headquarters, in which a special department has been created to take charge of such matters. It would seem that the intention is to prevent professional agitators and members of the Kuomintang from other parts of China from forming organizations for subversive purposes and also to keep a record of all party organizations and their membership. Japan's determined stand against radicalism and attitude toward disturbances in this territory are factors which should tend to minimize the danger from radicalism.

RECRUDESCENCE OF CIVIL WAR

As far as this Government is concerned, it is generally believed that no desire exists to be involved in civil wars. Although entertaining no aggressive designs, it will maintain full control over its armies and will itself determine if further reduction of its forces is feasible. The continued large scale operation of the arsenal signifies that it proposes to be prepared for all contingencies. The opinion appears to be very general that a recurrence of civil warfare in China proper is unavoidable in view of the jealousies and ambitions of rival leaders and the weakness of the Nationalist Government.

I have [etc.]

M. S. MYERS

893.00P.R.Mukden/21

The Consul at Mukden (Myers) to the Minister in China
(MacMurray)²⁹

[Extracts]

No. 186

MUKDEN, February 7, 1929.

SIR:

The hoisting of the Nationalist flag on December 29th was the forerunner of various changes in the Government, most of them nominal, which are to be carried out as preparations therefor are made. On January 12th the Political Affairs Committee—the old Peace Preservation Council with another name—was organized with General Chang Hsueh-liang at its head and the high military and civil authorities adopted their new titles in conformity with the Nationalist Government organization. No change in personnel has been made as a result of this change in government and the actual administration of the Government will no doubt follow familiar lines. Two changes of note are the abolishment of the Provincial Assembly and of the office of *Taoyin*. It was also announced that courts will henceforth be guided by the codes of law promulgated by the Nationalist Government.

The only change in the military situation was the withdrawal of a large part of the Fengtien forces from the Shanhaikuan-Luan River section although it is understood that this Government is still desirous of retaining Chinwangtao within its sphere.

Negotiations in regard to the operation of the Peking-Mukden Railway and the return of rolling stock made progress, it was reported, but no final settlement has been reached. Some rolling stock was returned to the railways within the Wall.

The new kerosene oil tax of \$1.00 per case was enforced from January 1st but the companies refused to pay the tax direct or cooperate in its collection as desired by the Special Kerosene Tax Bureau. As a final step the Bureau threatened to seize all oil stocks in Chinese territory at the end of January and has actually carried out the threat in a few cases. According to instructions from Nanking, the oil tax was to be abolished on February 1st but so far no proclamation to this effect has been issued.

Nominal changes in the machinery of government occurred on January 12th in compliance with orders from Nanking. General Chang Hsueh-liang assumed the title of Chief Commander of the

²⁹ Copy transmitted to the Department without covering letter; received March 2, 1929.

Northeastern Frontier Army and Generals Chang Tso-hsiang and Wan Fu-lin of Vice Commander of this force. The organization of the Fengtien Provincial Government Commission, composed of eleven members with Civil Governor Chai Wen-hsuan as Chief Commissioner (the new title), was announced on the same day. The Northeastern Political Affairs Committee—the Peace Preservation Council under another name—also came into existence on January 12th. Its membership comprises the following: Chang Hsueh-liang, chief of the Committee, and Chang Tso-hsiang, Chang Ching-hui, Wan Fu-lin, T'ang Yu-lin, Fang Pen-jen, Chai Wen-hsuan, Wang Shuhan, Liu Shang-ch'ing, Liu Tse, Mo Te-hui, Yuan Chin-k'ai and Shen Hung-lieh. With the exception of Fang Pen-jen, these men are all members of the Fengtien Party. It may be added that according to press reports the Nanking Government desires to abolish this Committee which, however, is opposed by General Chang on the ground that it is needed here in view of the peculiar situation.

The formal inauguration of the new Government, it may be added, took place on February 4th.

It may be mentioned here that Fang Pen-jen, the representative of the Nanking Government, arrived here on January 26th. His visit was primarily in connection with the inauguration of the Nationalist Government system at Mukden.

According to Chinese in close touch with the Government, the present tendency is toward closer cooperation with the Nanking Government. No doubt the elimination of Yang Yu-t'ing and Ch'ang Yin-huai is a contributory factor in this development. The Government, it is reported, has conceded many points to the Nanking representatives. Such outstanding questions as the operation of the Peking-Mukden Railway, the return of the rolling stock and the evacuation of the Shanhaikuan-Luan River section are understood to be near a settlement. Concerning the orders issued to the post offices and other Central Government Administrations to submit statements of their surplus funds, etc., it has been learned on good authority that General Chang sent a secret telegram late in the month stating that interference with these administrations will cease. The Nanking instruction to abolish the kerosene oil tax and native customs offices is under consideration and in the opinion of Chinese compliance is to be expected. The important Communications Commission, as built up by Ch'ang Yin-huai, will probably be reorganized if not eventually abolished. Certainly the Central Postal Administration created by the Commission is an anomaly.

I have [etc.]

M. S. MYERS

893.00P.R./15

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 1927

PEKING, February 18, 1929.

[Received April 1.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,³⁰ I have the honor to submit the following summary, with index, of events and conditions in China during January, 1929:

Ultimate authority remained during the month, as before, in the hands of the military leaders as such rather than as high officials of a central government whose several departments have not yet been fully organized. The events of the period, while not in themselves of unusual moment or direction, indicated continuing unrest in the country and the possibility of further disturbances resulting from the conflicting ambitions of the militarists and from rivalry between the radical elements and those in control of the government. The impression persisted that Marshal Feng Yu-hsiang, a possible future champion of the Left Wing, constituted one of the greatest elements of uncertainty . . .

There was fighting in Szechwan between Generals Yang Sen and Liu Hsiang, during the month, the edicts of Nanking to the contrary notwithstanding.

Sporadic disturbances by groups of irresponsible individuals roughly labelled "Communists," usually involving much bloodshed and destruction of property, were reported during January as in the past.

THE DISBANDMENT CONFERENCE

The following salient facts and observations are gleaned from a frank and able report of January 11th to the National Military Reorganization and Disbandment Conference by Mr. T. V. Soong, Minister of Finance:³¹

Concluding his report, Mr. Soong laid before the Conference the following proposals involving a centralization of control over governmental finances:

"1. That all national taxes shall be collected only by the agents of the Ministry of Finance, and the military and local authorities shall be strictly forbidden to detain any portion, or impose surtaxes on any pretext whatever.

³⁰ Not printed; it instructed the Minister to supplement his political reports by a brief monthly summary of events and conditions in China.

³¹ See despatch No. 5809, January 19, from the Consul General at Shanghai to the Minister in China, p. 129.

2. That the Ministry of Finance shall have undivided control over the appointment of financial officers, and the administrative policy.

3. That provincial and railway subsidies to the different armies shall now be remitted to the National Treasury, which shall be responsible for payment of all military expenses.

4. That all provincial *gendarmerie* or peace preservation soldiery shall be paid out of provincial revenues.

5. That this Conference shall definitely apportion the military allowance among the different military units, and prescribe in detail the procedure of payment to each of the units, which should be followed by the Ministry of Finance. When this plan is fully worked out it shall be submitted to the Government for approval and promulgation as law to be strictly observed by the Military authorities and the Ministry of Finance."

Mr. Soong stated that should these five conditions be accepted and put into effect, the Ministry of Finance would be prepared to meet regularly and without fail at the due dates the annual military expenditure of \$192,000,000 in addition to reasonable disbandment expenses.

The Conference was in session between the first and the twenty-fifth of January. It elected, upon dissolution, a standing committee of eleven members to carry out its decrees, which, as suggested by the Military Attaché's office, are a panacea for the various ills with which China is afflicted, and which it is not believed are capable of execution under present circumstances of effective control on the part of individual militarists of the machinery of government. The general program fixes the authorized strength of the National Army at sixty-five divisions, totalling approximately 800,000 men (half of the present number of those under arms) at an annual expenditure of \$192,000,000, Chinese currency, as suggested by Mr. T. V. Soong. To prevent the continuation of the system of regional military control, the headquarters of the Commander in Chief, the commanders of the various group armies, the various field commanders, as well as the various central military organs, are forthwith to be abolished, supreme military authority being vested in the Central Disbandment Committee, which shall control all military movements throughout the entire country.

CONDITIONS IN THE CHEFOO DISTRICT

As set forth in reports from the Consul at Chefoo, the comparative quiet of that district since last September was disturbed by a mutiny in the latter part of January by the garrison troops at Hwanghsien and Lungkow followed by looting, the mutiny apparently having been caused by the fact that General Liu Chen-nien had removed the generals in command at the two places because they were suspected

of having planned his overthrow. Upon the arrival of Japanese naval forces, which in turn were succeeded by troops of the Third Division loyal to General Liu, the mutinous troops were compelled to proceed southward towards Chaoyuan into an area in which the "Red Spears," organized in Eastern Shantung, as elsewhere, as a protection against brigands and undisciplined troops, were exceptionally strong. The damage done to the Japanese shops looted was estimated at about \$8,000, Chinese currency, no other foreign property being molested.

The cordiality of General Liu's relations with the central government remained open to question during January, although he had accepted the post of Commander of the Third Division of the new Nationalist reorganized forces. Mr. Webber reported that, with the exception of the above-mentioned mutiny and looting, the redeeming factors of the General's administration of Chefoo were that order had been maintained and legitimate trading made possible, taxation being lower than during the preceding Chang Tsung-ch'ang régime. Mr. Webber also reported that, with the object of making the port more sightly, General Liu ordered that the exterior of every place of business be painted blue, resulting, since no particular shade was specified, in a variety of interpretations of that color.

I have [etc.]

J. V. A. MACMURRAY

893.00P.R./17

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 1996

PEKING, March 18, 1929.

[Received April 29.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,³² I have the honor to submit the following summary, with index, of events and conditions in China during February, 1929:

There were few occurrences of importance in Sino-Foreign relations during the month, the period being chiefly characterized by localized disturbances which emphasized the absence of real authority throughout the country on the part of the Nanking Government, and which appeared to indicate the possibility of an impending realignment of political forces involving a swing to the left (perhaps under the leadership of Marshal Feng Yu-hsiang) in connection with the meeting, in March, of the 3rd National Congress of Kuomintang Representatives.

³² Not printed.

China's new import tariff went into effect on February 1st without general legal sanction since most of the treaties with foreign powers conceding tariff autonomy had not yet become operative. Those Powers which did not formally acquiesce in the enforcement of the tariff adopted, *ex gratia*, a passive attitude towards it.

On February 4th, the formal inauguration was held of the new government at Mukden, Marshal Chang Hsueh-liang being ceremoniously installed as Chief Commander of the Northeastern Frontier Army and Generals Chang Tso-hsiang and Wan Fu-lin as vice-commanders. The members of the Fengtien Provincial Government Commission were also installed in office.

There were no developments of particular significance in Sino-Japanese relations during the month: formal negotiations with a view to the settlement of the outstanding differences between the two countries remained suspended, but a number of conversations were held between relatively minor officials on matters of detail. Local negotiations, for example, respecting the resumption of freight traffic over the Tsinan section of the Tientsin-Pukow Railway were brought to a conclusion on February 9th by the signing of a provisional agreement *inter alia* providing for the operation of one freight train each day from Tsinan to Kushan and north to Yencheng, with additional trains as traffic increases.

The Legation was informed that an American Advisory Committee, acting in Peking in behalf of the China Famine Relief Committee in New York, allocated, during the month, \$20,000, Chinese currency, to be used by the Salvation Army in the maintenance of gruel kitchens in Chahar and Suiyuan, and \$110,000, Chinese currency, for relief work in Suiyuan, Shensi, Kansu, and Honan, to be administered by the China International Famine Relief Commission.

DISTURBANCES IN EASTERN SHANTUNG

The revolt, in January, of General Liu Kai-tai's troops at Hwang-hsien and Lungkow against the authority of General Liu Chen-nien, nominally in command of the Nationalist forces in Eastern Shantung, was followed by more serious disturbances during February. The region, as the Consul at Chefoo expressed it, became a cockpit alike for brigands, "red spears," insurgents, and quasi-governmental forces, a situation working the customary hardship on the local populace. General Chang Tsung-chang, the leader of the insurgents, reached Lungkow on February 19th from Dairen, notwithstanding Japanese surveillance, and set up his headquarters a few days later at Tengchow. His arrival, according to his statements, was part of a general movement of Northern leaders dissatisfied with the man-

ner in which the Kuomintang, or "Southern Party," had monopolized control of affairs and ignored all other factions. The first real clash of the campaign occurred on February 21st, when pro-Chang Tsung-chang troops to the number of 24,000 were reported to have been successfully opposed by 7,000 men loyal to General Liu Chen-nien. At the end of the month, General Chang Tsung-chang claimed control of all of Eastern Shantung except Chefoo and its immediate vicinity. Fighting ceased on the 26th and negotiations were entered into with Liu Chen-nien for a peaceful turn-over. General Liu, whose allegiance to the Central Government had never been very firm, received support from the latter only to the extent of a remittance of Yuan \$50,000, and 200,000 rounds of ammunition during February and it was felt, at the end of the month, that he was prepared to turn to either side.

General Chang Tsung-chang, whose venture caused some anxiety in North China, claimed that the movement would include Generals Yen Hsi-shan, Chu Yu-pu, Wu Peifu, Pai Chung-hsi, Chi Hsieh-yuan, as well as certain other leaders in Manchuria, but not including General Chang Hsueh-liang, whom he discounted.

No anti-foreign incidents were reported in relation to these occurrences. A number of foreign men-of-war lay off Chefoo, however, as a precautionary measure.

RELATIONS BETWEEN HANKOW AND NANKING

On February 19th, the Wuhan Branch Political Council, bringing the usual charges of negligence and corruption, ordered the removal from office of General Lu Ti-ping, Chairman of the Hunan Provincial Government, and appointed General Ho Chien in his place, presumably with the consent of General Li Tsung-jen, the head of the Kwangsi faction. Following relatively large troop movements from Hankow by railway, General Lu was driven from Changsha on the 21st, the move being executed by a general who represented the Kwangsi groups in Hankow.

General Lu Ti-ping was an appointee of the Nanking Government and the incident accordingly gave rise to rumors, unsubstantiated during February, of impending hostilities between General Chiang Kai-shek and the Kwangsi group. The Central Political Council concluded that an investigation should be made into the action of the Wuhan Branch Political Council in independently naming a new head to the Hunan Provincial Government and in conniving at his being put into office by force. (The meeting at which the decision in question was reached had been attended only by the Chairman of the Hupeh Provincial Government, the Wuhan Garrison Commander, and the Chief of Staff of General Li Tsung-jen.) The

Council, however, appointed General Li Tsung-jen as one of the two members of a commission to undertake such an investigation. The other member was Dr. Ts'ai Yüan-p'ei, the Director of the Control Yuan. Ex post facto the Central Political Council likewise appointed General Ho Chien as the temporary Chairman of the Hunan Provincial Government.

CONDITIONS IN CANTON

The Consul General at Canton informed the Legation that good order was maintained in his district during February but that rumors of an approaching conflict in the North and of a possible reaction in the South were insistent at the end of the month and so there was some uneasiness amongst upper class Chinese. Marshal Li Chai-sum³³ returned to Canton from a conference of Kwangsi leaders at Wuchow at the end of February, announcing that he would leave again for Nanking shortly.

I have [etc.]

J. V. A. MACMURRAY

893.00/10409

*The Consul at Nanking (Price) to the Minister in China
(MacMurray)*³⁴

[Extracts]

No. L-55

NANKING, March 20, 1929.

SIR: I have the honor to submit an interim report on the political situation in this area at the time of the opening of the Third National Congress in Nanking. . . .

No compromise having been effected, and the Government having so arranged that no Opposition delegates might attend the Congress, we have now to consider what action the Opposition took or is taking to meet the situation. All that is known is that Yü Yu-jen, previously mentioned, refused to attend the inaugural meeting of the Congress and left Nanking for, it is said, Canton, where it is rumored he will attempt to convene a rival Congress; that a fiery Manifesto, bearing the names of Wang Ching-wei, Yü Yu-jen and other Left Wing leaders, appeared in the press (*North China Daily News*, March 14, 1929), denouncing the Government and the Congress; and that the police of Nanking arrested some thirty-five persons, seized several thousand pamphlets,—which, it is said, were intended for use in a large anti-Government demonstration,—and are reported to have

³³ Also known as Li Chi-sen.

³⁴ Copy transmitted to the Department without covering letter; received April 29, 1929.

unearthed a plot against the lives of leading Government officials. It is also a fact that runs on branches at Shanghai and Canton of the Central Bank of China occurred, bearing out the theory of radical instigation to discredit the Government.

On the whole, however, the Opposition has shown itself surprisingly meek in the face of the strong attitude of the Government. Whatever else this may or may not mean, it seems reasonable to take the fact that there has been no disorder as an indication of the strength of the Government.

What the Opposition elements will now attempt to do is difficult to say. It cannot safely be assumed that they are completely cowed, and are yielding to the apparently inevitable. About all that can be said is that indications are that whatever action they take must be instituted outside the nation's capital.

The "strong arm" policy of the Government, which has led to the present situation, has not been without its unfortunate results. It is significant that, except for General Li Chi-sen at Canton, not one of the important military leaders outside the Chiang Kai-shek clique has attended the conference. In the case of Feng Yu-hsiang, he has not only absented himself, but has significantly resigned his post as Minister of Military Affairs.

On the face of things, much that was accomplished by the Disbandment Conference of January of this year has been undone. The split between the Government and all other factions seems wider than ever. The Government has apparently resorted to a show of force, vis-a-vis any and all opposition; has called a Congress virtually of its own choosing, thereby largely scrapping the constitution of the Kuomintang Party; and seems in a fair way to perpetuate itself at and through such Congress. There can be no denying that there has thus been created a new entity, which may be called "the Government", divorced in fact from the Party, though still using the Party name for its authority; and claiming the right of separate existence and of continuity.

This is a most significant development and requires most careful examination, if the present state of China is to be given its correct values. The fundamental question is: Has a new oligarchy been created, built up around the person of Chiang Kai-shek, which will continue to assert its authority, so far as it now has it and so far as it may be made to spread, over surrounding territory; or is the present phenomenon but an expression of the "will to endure" of those who see no other way for China to carry on as a sovereign state under present conditions? No attempt will be made to answer this question dogmatically, but observations will be offered which may throw some light on it.

In the first place, even though every legal and constitutional point was strained, to effect the assembling of a group of delegates to the Congress who could be counted upon to support the existing Government, nothing has yet been changed in that complicated mechanism of Government created by the Kuomintang Party to protect the group from the individual. The present legal machinery cannot easily be used by a single man to set himself up in absolute power. Where such legal machinery for safeguarding the rights of the group exists, danger of individual autocracy is lessened. Hence, even if, for the moment, an oligarchy has been created, it is an oligarchy composed of a very considerable number of individuals, each of whom has rather definite rights and powers.

In the second place, the Congress now in session has openly declared itself in favor of a vigorous carrying out of a nation-wide system of education of the people in the science of government. The slogan of the Congress may well be described as—"Prepare for the Period of Constitutionalism". The principles of popular government have been given an apparent set-back, but there can be no question that the idea of it vigorously persists.

In the third place, if, as seems reasonable, one may judge from the statements of responsible officials, there is genuine regret that the present Congress left no room for an Opposition. The problem of providing for some sort of system, something more than is now provided, which will permit of the organization and effective functioning of an Opposition, is being honestly faced by many able and powerful persons in the present Government.

Finally, there should not be overlooked the circumstance that the present Government cries out for more time, for continuity of effort and aim sufficient to bring programs now launched nearer to effective realization. The claim is made that to have permitted the Opposition—admittedly radical—to have entered the Congress in any numbers would simply have resulted in chaos, and the undoing of much already accomplished.

No matter what may be the explanation, however, the fact remains that the present Government has determined to perpetuate itself, and has taken on the garb of virtual autocracy to do so. Whether the germ of popular government will endure [through] this period, and whether the means employed will have raised up forces which will render impossible the attainment of the end, history alone can say.

In conclusion, the observation is offered that the real test of the Chinese Nationalist Revolution, and of the Government which evolved therefrom, is now at hand. Forces for peace and for war

are both strong. But even should war-fare again break out, it is by no means a foregone conclusion that the Government must fail. It is strong, confident; has access to greater financial resources than any single opponent; and has the inestimable advantage of being "the Government".

I have [etc.]

ERNEST B. PRICE

893.00P.R./18

The Minister in China (MacMurray) to the Secretary of State

No. 2049

PEKING, April 22, 1929.

[Received May 25.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,⁸⁵ I have the honor to submit the following summary, with index, of events and conditions in China during March, 1929:

The disturbances of February, resulting in some cases from a disregard of the specific orders of the Nanking authorities and in others from avowed attempts to disrupt the unity of the country, brought into question the degree of real authority of the Central Government and suggested the possibility of an impending realignment of political forces whereby the group in power in Nanking would be replaced by a rival faction—presumably either by one of more liberal tendencies, under the leadership of Marshal Feng Yu-hsiang, or by the Kwangsi militarists. Realizing the danger confronting him and accepting the necessity of military action to consolidate his position General Chiang Kai-shek decided, during the period under review, to force the issue with the Kwangsi faction as the most immediately aggressive of his actual or potential rivals. "Under the Kuomintang Government there shall be no place for the Kwangsi Government," General Chiang stated in a public announcement. The three Kwangsi leaders, Generals Li Tsung-jen, Li Chai-sum, and Pai Chung-hsi, were expelled from the Kuomintang; and at the end of the month a punitive expedition, the despatch of which was approved by the Third National Congress of the party, was launched against Hankow under the personal direction of General Chiang Kai-shek. Concentrations of troops to the reported number of 100,000 by Nanking and 60,000 by Hankow had taken place by the end of March, but no decisive engagement was fought. Kwangsi's short-lived resistance collapsed early in April, the sudden debacle being caused by the defection of adherents and by poor leadership.

The Third National Congress was in session from March 15th to 28th inclusive. In spite of the fact that it was not truly representative of the country, being packed by delegates of the government's selec-

⁸⁵ Not printed.

tion, it would ordinarily have been the outstanding event of the month. As it was, the Congress was overshadowed in importance by the campaign of the Central Government allegedly for the purpose of coping with the disaffection at Hankow and perpetuating itself as a dominant political entity.

The impression prevailed during the month that the characteristic indeterminateness of Feng Yu-hsiang's reaction to the crisis faced by a government to which he owed nominal allegiance resulted from his realization of the fact that serious fighting between Nanking and the Kwangsi faction would make him the dominant force in China. Marshal Feng Yu-hsiang, General Yen Hsi-shan, and Marshal Chang Hsueh-liang, however, are all reported to have informed Nanking that they would support the central authorities.

On March 20th the influence of the Nanking Government was at least ostensibly strengthened in North China when Kwangsi faction troops in Hopei, to the number of 50,000, formerly under the command of General Pai Chung-hsi, shifted their allegiance to General Tang Sheng-chih who now professes to support Chiang Kai-shek. It will be recalled that General Tang was ousted from the control of Hankow in the fall of 1927 by General Li Tsung-jen, then acting under the orders of General Chiang Kai-shek.

The struggle between Generals Liu Chen-nien and Chang Tsung-chang in eastern Shantung continued intermittently throughout the month, the former as the alleged champion of the authority of the Central Government in that area and the latter in the franker role of independent Northern militarist. Chang Tsung-chang's troops entered Chefoo on March 27th, and it was evident at the end of March that Liu Chen-nien, who was then surrounded at Ninghai, had been defeated.

General Li Chai-sum, perhaps the most influential of the Kwangsi leaders, decided, on receiving guarantees of protection from certain elder statesmen, to attend the Third National Congress, being actuated apparently by a desire to avert the menacing consequences of the February *coup* in Hunan. Following the March 27th session of the Congress, during which the motion was passed dismissing the three Kwangsi leaders, Li Chai-sum was placed under custody and became a prisoner at Tangshan, near Nanking. Considerable interest was aroused by the report that he even had been executed, but this was not confirmed during the period under review.

In Sino-Japanese relations the period was marked by the signature of notes in settlement of the Tsinan incident.⁸⁶ Intelligence

⁸⁶ For documents relating to the Tsinan incident, see *Foreign Relations*, 1928, vol. II, pp. 136-159, *passim*, and 219-221. For text of the settlement of March 28, 1929, see *The China Year Book*, 1929-30, p. 892.

of the adjustment of the matter was very favorably received, editorial opinion in China being in general to the effect that the settlement constituted the most important occurrence in the country's foreign affairs since the conclusion of the Sino-American Tariff Treaty of July 25, 1928.³⁷

As previously reported by the Consul at Nanking, the ceremony for Dr. Sun Yat-sen's interment, which had been scheduled to take place on March 12th, was postponed to June 1st, next, principally because the Chungshan Avenue, which connects the water-front with the tomb on the slope of Purple Mountain, had not yet been completed.

In a telegram of March 30th the Vice Consul in charge at Yunnanfu informed the Legation that a resumption of fighting in southwestern China in sympathy with the disturbances on the Yangtze appeared to be likely. Mr. Chamberlain stated that Yunnan apparently would support the Nanking Government, opposing the provinces of Kwangsi and Kweichow which were affiliated with Hankow.

The period was marked in South China by a number of communist uprisings involving, in Kiangsi, the destruction of mission property. It was reported, in this relation, that two towns in Fukien had been captured and partially burned by a communist force from Kiangsi, said to have had five Russian advisers and to have numbered 6,000. The Consul in charge at Fochow suggested that the occurrence might have been an opportunist adventure based on the hope of disturbances in the Yangtze valley incident to the Nanking-Hankow controversy. The places were later reported to have been retaken by government forces.

RELATIONS BETWEEN NANKING AND HANKOW

The following account of the Nanking-Kwangsi conflict, as far as it had progressed during the period under review, is taken from a report by the Legation's Military Attaché.

" . . . the preparations of General Chiang Kai-shek to effect a military show-down with the Kwangsi leaders began almost immediately after the affair at Changsha on February 21st and were continuous and expeditious. Despite the propaganda from Nanking designed to prove the Wuhan commanders to be the aggressors and despite the pretense of negotiating for a peaceful settlement with Li Tsung-jen and Li Chi-sen, Chiang proceeded rapidly with his mobilization. The Kwangsi faction leaders undoubtedly had been truculent with Nanking in many instances. They withheld all revenues and did not even pretend to carry out Nanking's mandates. They drove out Nanking's appointees because the latter were engaged in intrigues

³⁷ *Foreign Relations*, 1928, vol. II, p. 475.

to undermine Kwangsi influence in Hunan. Technically they were rebels against Nanking. From a practical Chinese political point of view they were a rival faction to Chiang Kai-shek and the Canton clique and were attempting to enlarge their control so as to challenge Chiang's position in the government.

Having mobilized twelve divisions in the zone of operations with an absence of confusion indicating a degree of staff organization unusual in China, Chiang obtained authority from the party congress on March 23rd to handle the situation as the government saw fit. On March 27th, the order for the attack was issued. Six divisions under Liu Hsih made the main effort, advancing on Hankow along the north bank of the Yangtze. Chu Pei-teh with six divisions widely distributed along the western border of Kiangsi, moved into Hupeh and Hunan and guarded the south flank against possible Kwangsi reinforcements from Kwangtung and Kwangsi. As always, Feng Yu-hsiang's attitude was in doubt. Nevertheless, his subordinate, Han Fu-chu, was ordered to advance on Hankow by the Kin-Han railway. Feng mobilized about five (and later seven) divisions in southern Honan under Han Fu-chu's command, and declared his adherence to the Central Government.

The national navy, employing about 18 gunboats, operated in conjunction with the main effort. Chiang Kai-shek personally proceeded to the front on March 29th. The advance was a mere march. The Wuhan forces consisted of about five divisions on the north bank of the Yangtze. Everywhere they withdrew without fighting. A defensive line was constructed extending from Yanglo on the river northwest to the Kin-Han railway near Hwangpei, and for a while it seemed that a fight was expected here. By April 1st this line had been reached at Yanglo and the government forces were conducting a wide enveloping movement from the north."

THE THIRD NATIONAL CONGRESS OF THE KUOMINTANG

The following notes on the Third National Congress of Kuomintang Representatives in the main are based on a detailed report on the Congress by the Consul at Nanking:

The Second National Congress was convened in January, 1926, and according to the terms of the original constitution of the Party the third meeting should have been held in January of the following year. Military activity and political vicissitudes contributed toward making postponement inevitable and the Third National Congress did not meet until March 15, 1929. The closing ceremony took place on March 28th.

No major changes occurred in the high authorities of the Central Kuomintang as a result of the Congress and it was thought probable that there would be but slight modifications in the staffs of the various departments. In so far as could be ascertained, it appeared likely that few changes would be made in the National Government, the chief consequence of the Congress in that respect being a strengthen-

ing and consolidation of the government organization through the recognition accorded it by the Congress.

There is reason to believe that one of the chief causes for the Government's postponing the holding of the Congress was that it was feared that a Left Wing victory would result therefrom. In order to minimize the possibility of such a contingency, the distribution of delegates to the Congress was arranged according to the following methods and in the following percentages:

Elected by Party members	25	per cent.
Selected by the Central Kuomintang after election by Party members	32½	per cent.
Appointed by the Central Kuomintang	42½	per cent.

It thus is apparent that of the total of 356 delegates the Organization Department of the Central Party Headquarters appointed or designated 294.

The following is a translation of an extract from the lengthy Manifesto passed by the Congress:

"The present Congress is coincident with the attainment of national unity and the inauguration of the Period of Political Tutelage. As Party members we must realize from our past painful experiences that it is absolutely necessary to follow the teachings of our late Leader and strive to mitigate the people's sufferings. Otherwise how can we face our late comrades who made the supreme sacrifice? Judging from present circumstances we must admit that unless we carry out the Three Principles of the People in their entirety, we cannot hope to combat the imperialistic foreign powers and the revival of feudalism.

We hope that all Party members will take an optimistic view of the future, take counsels from the people, and obey the teachings of our late Leader. We further hope that our brethren throughout the whole country will give us their loyal and wholehearted support, at the same time impressing upon us the duty of exerting ourselves in the service of the Party and the Nation and courageously proceeding with the program of Revolution."

A foreign critic of the work of the Congress expressed himself as follows in regard to it:

"Since 1927 the people and party members waited for the convening of this Congress to right their wrongs. The Congress met and faded away."

CONDITIONS IN EASTERN SHANTUNG

The following summary of the situation in eastern Shantung during March is based on a despatch of April 3rd from the Consul at Chefoo:

There was no change in the local situation until March 23rd. The negotiations entered into at the end of February between General

Liu Chen-nien, then in control of the Chefoo and Muping (Ning-hai) area, and General Chang Tsung-ch'ang, the head of the attacking forces outside of that area, presumably were satisfactorily concluded on March 14th. The terms of settlement, however, were not carried out. It seemed that a sham battle for "face saving" was first planned, but the scheme evidently miscarried owing to the lack of faith of the opponents in each other. It is known that, the day before Liu Chen-nien retreated, a Chinese vessel which he had commandeered left Chefoo for Tengchowfu with two officers on board empowered to arrange for General Liu's turnover, but that they arrived too late—Chang Tsung-ch'ang and his staff having already departed for the Fushan battle front, leaving no person of authority with whom to deal.

Liu Chen-nien's eventual defeat was apparently due to the defection of a regiment under a Colonel Liang, a subordinate of General Ho I-san. These troops retreated instead of advancing as ordered and opened the front at Fushan for General Chang's forces. On March 27th Chang Tsung-ch'ang's troops captured Chefoo and hoisted the five-barred flag. There was no looting either on the part of the retreating or the victorious forces.

The month ended with Chefoo quiet and with telegraph, telephone and motor road communications once again restored. The only military operations were those involving the surrounding of the remnants of Liu Chen-nien's forces in the walled city of Muping. General Liu was evidently desirous of surrendering, but up to April 3rd Chang Tsung-ch'ang had refused to entertain his overtures. To avoid the destruction of lives and property (Muping having a population of about 100,000), the Chinese Chamber of Commerce there was endeavoring to arrange the terms of surrender.

In a despatch of April 10th dealing with political conditions in his district during March, the Consul at Tsingtao reported that interest there in General Chang Tsung-ch'ang's adventure was on the wane, it being felt that his chance for serious accomplishment and mischief had passed with the settlement of the Tsinan incident and with the success of General Chiang Kai-shek's expedition against Hankow and the failure of Marshal Feng Yu-hsiang to interfere therewith. Mr. Dorsey stated further that it grew increasingly probable that Feng Yu-hsiang would succeed to the control of Shantung, including Tsingtao.

Chang Tsung-ch'ang in the mean time was profiting from his occupation of Chefoo in raising for his own needs all the revenue that the district would yield.

I have [etc.]

J. V. A. MACMURRAY

893.00/10423 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 9, 1929—6 p. m.

[Received May 9—3 p. m.⁸⁸]

369. [From] American Consul at Chefoo:

“May 8, 8 a. m. At the request of American Missionaries, other Christian organization, Fushan gentry and Chefoo Chinese Chamber of Commerce, I interviewed General Liu Chen-nien yesterday regarding permitting women and children to leave besieged city of Fushan. Liu has up to now refused to receive anybody, hence my being brought into the matter, which I did solely on humanitarian grounds. Liu received me most cordially and as a result he is willing to permit all women and children to come out. I got in touch with Chu Yu-pu's representative who has also agreed. Further, in view of the large number of wounded numbering more than 300 within the walled city and number outside walls estimated at 400 but in area from which they cannot be rescued (apparently Red Cross workers are not recognized by either faction), I have brought Liu and Chu's representatives together, and I understand that, as a result of conference, armistice will be agreed whereby both sides will permit volunteer Red Cross workers to look after the wounded and bury dead.”

I am replying as follows:

“May 9, 6 p. m. While not desiring definitely to disapprove of the action which you have taken as reported in your May 8, 8 a. m., I feel that you should exercise great caution not to become involved in a situation which might prove extremely embarrassing should either of the Chinese factions concerned suffer some unequal discomfiture as a result of the mediation which you have undertaken.”

MACMURRAY

893.00P.R./19

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 2108

PEKING, May 17, 1929.

[Received June 21.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,⁸⁹ I have the honor to submit the following summary, with index, of events and conditions in China during April, 1929.

Hostilities between Nanking and the Kwangsi faction came to an abrupt end with the withdrawal of the Wuhan forces from the front on April 4th and the entry of General Chiang Kai-shek into Hankow on the following day. The hold on Eastern Shantung, of the insur-

⁸⁸ Telegram in two sections.⁸⁹ Not printed.

gents under General Chang Tsung-ch'ang, was also broken during the period under review, so that the month ended more brightly for the Central Government than had March. Fundamentally, however, the situation continued unchanged, the ostensible unity of the country remaining a temporary balance of forces as among various military groups whose interests were still unreconciled if not irreconcilable. The Kwangsi faction, defeated at Hankow but not eliminated, apparently was on the verge of hostilities against Canton at the end of April. Furthermore, there appeared to be little hope of harmonious cooperation between the Nanking Government and Marshal Feng Yu-hsiang, whose desire to control an area capable of supporting his large armies, preferably with an outlet to the sea, was incompatible with General Chiang Kai-shek's ambition to govern a united country.

As reported by the Consul General at Shanghai, the China National Aviation Corporation, with an authorized capital of ten million dollars, Chinese currency, entirely owned by the National Government, was organized on April 5th by the State Council at the suggestion of and under the presidency of Mr. Sun Fo, Minister of Railways. It was brought into being for the purpose of entering into contracts with the Aviation Exploration Incorporated. The latter, headed by Mr. C. M. Keys, of New York, is a subsidiary of the Curtiss group of companies. Two contracts, of April 17th, were entered into, the first being for the carrying of air mail by the American company for the Chinese Government, on three important lines, and the second providing for the establishment and operation of flying schools, factories, and aerial transportation. Many persons long resident in China are of the opinion that the scheme is in advance of present conditions in this country.

Mr. Cunningham reported further that on April 17th the rate-payers ratified the sale for Taels 81,000,000 to the American and Foreign Power Company, Incorporated, of the Shanghai Municipal Electricity Department, the most important municipal undertaking of the Shanghai International Settlement. The company which made the purchase is predominately American. The property had cost the Shanghai Municipal Council but Taels 40,000,000, which would indicate that the sale was purely a business matter to the municipality and that it was a demonstration of confidence in the National Government on the part of the investors.

The Chung Shan Highway, at Nanking, which forms a seven and one-half mile approach, from the waterfront on the Yangtze River, to the Sun Yat-sen Mausoleum on the lower slope of Purple Mountain, was opened on April 1st. As indicated in a report from the

Consulate at Nanking, the highway will serve the double purpose of making accessible to anticipated throngs of tourists the tomb of Dr. Sun, as well as of relieving the traffic congestion in the walled city, which has become a serious problem following the establishment of the government in Nanking.

RELATIONS BETWEEN NANKING AND HANKOW

As indicated by the Consul at Nanking, the most significant phase of the general situation during April was the short-lived military campaign against Hankow. The National Government's order for a general offensive against the disaffected Hankow units was issued on March 30th, and the Wuhan area was captured on April 5th. The shattered Hankow contingents retreated thereafter to the western section of Hupeh but numbers of them declared their loyalty to the Central Government and were reorganized by the military leaders of the governmental forces. Following the capture of Hankow it was thought that the Honan troops under Marshal Feng Yu-hsiang might take advantage of the situation to seize Hupeh but no significant military movements with that end in view occurred during the period under review. General Chiang Kai-shek, who proceeded to Hankow early in April to confer on rehabilitation measures in Hupeh and Hunan, did not find it advisable, apparently as a result of the uncertain attitude of the Honan generals, to pursue the defeated Hankow units far into western Hupeh.

After the Wuhan area was captured, the central authorities considered the possibility of an anti-Kwangsi campaign from Hunan and Kiangsi. No important action in the matter was taken during the month, however.

It will be recalled that General Lu Ti-ping was removed from the Chairmanship of the Hunan Provincial Government in February by Wuhan Branch Political Council, an act which precipitated the conflict between Nanking and Hankow. He was restored to a position of authority, in gratifying fashion, during April by being made the Wuhan Garrison Commander.

DEVELOPMENTS IN SHANTUNG FOLLOWING THE TSINAN INCIDENT SETTLEMENT

Reference was made in the March despatch to the settlement of the Tsinan incident on the 28th of that month, Japan undertaking thereby to withdraw her troops from Shantung within two months from the date of the signature of the agreement on the understanding that Japanese lives and property in the province would be protected in accordance with the accepted principles of international law.

With the expectation that the Shantung provincial government would despatch troops to garrison Tsinan and the Railway Zone without delay, Japan proceeded to carry out the terms of the agreement, and, although May 27th was the date set for the completion of the evacuation, the Japanese authorities had planned to have their troops leave Tsinan on April 17th and the province itself by May 4th. It would seem as though such prompt action should have had the support of the Chinese authorities. On the contrary, a political complication, resulting apparently from the desire of General Chiang Kai-shek to prevent Marshal Feng Yu-hsiang from controlling Shantung, caused the Nanking authorities to request that the evacuation not proceed so rapidly. It had been arranged that the troops of General Sun Liang-ch'eng, the Chairman of the Provincial Government, a Feng Yu-hsiang adherent, were to take over on April 16th. An embarrassing delay ensued, however, from which it appeared that it was the intention of General Chiang Kai-shek to divide with Marshal Feng Yu-hsiang the responsibility for the protection of the province and limit his authority. Marshal Feng seems to have felt that it would be wise to withdraw altogether and on April 27th General Sun Liang-ch'eng removed his troops to Honan. It was not definitely known at the end of the month what forces the National Government would send to take over the province and who would be appointed to the Chairmanship of the Provincial Government, but nevertheless there was reason to believe that the evacuation of the Japanese troops would have been completed before the expiration of the two months fixed by the agreement of March 28th.

The following comment on the situation is taken from a despatch of May 6th from the Consul at Tsinan:

"The withdrawal of the Japanese expeditionary force was utilized for a silent but none the less serious trial of political strength between General Chiang Kai-shek and Marshal Feng Yu-hsiang, in which the former appears to have gained the upper hand, at least for the present . . .⁴⁰

"Ever since the spring of last year when the northern march of the Nationalist forces was assured, thanks to the crushing defeat inflicted on General Sun Ch'uan-fang, the only northern general prepared vigorously to contend the Nationalist advance, by the armies of Marshal Feng, it has been recognized that Marshal Feng's adherents were to control the Province of Shantung and they have been doing so for the past nine months with the sanction of the National Government and its President, General Chiang Kai-shek. Furthermore, upon the conclusion of a settlement of the Tsinan 'incident' it was generally understood that General Sun Liang-ch'eng, Chairman of the Shantung Provincial Government and a subordinate of Marshal Feng, would take over Tsinan, Tsingtao, and the Railway Zone,

⁴⁰ Omission indicated in Minister's despatch.

when evacuated by the Japanese. It was not until General Chiang Kai-shek had successfully defeated the Kwangsi insurgents . . . that he felt strong enough to snatch Shantung from the very grasp of Marshal Feng.

"The whole thing was done with consummate skill. Instructions were issued, through the medium of the National Government, ordering Marshal Feng's subordinate to stop despatch of troops to Tsinan and taking all arrangements out of his hands. After some delay, further instructions were issued establishing dual control of the Kiaochow-Tsinan Railway and the most important section of the province. In the meantime, one of General Sun's divisional commanders had been bought out and a formidable force of anti-Feng troops massed in the province. Marshal Feng, realizing that a determined effort was being made to prevent his gaining full control of the province and even to 'squeeze' him out of it altogether, apparently decided that it was wiser to withdraw his forces intact than to risk a trial of strength with General Chiang Kai-shek who would probably be supported by General Yen Hsi-shan. That a serious conflict may ensue as the result of developments in Shantung is entirely possible. There certainly appears to be little doubt that a more or less definite split has occurred between General Chiang Kai-shek and Marshal Feng Yu-hsiang, as evidenced by the withdrawal of all the latter's adherents occupying official posts in the National Government at Nanking."

CONDITIONS IN EASTERN SHANTUNG

The following summary of the situation in Eastern Shantung during April is based on a despatch, of May 1st, from the Consul at Chefoo:

The outstanding event of the month was the alleged capture, on April 22nd, of Muping (Ninghai) by General Chang Tsung-ch'ang's forces, which later turned out to be a rout for the latter and an overwhelming victory for those under General Liu Chen-nien. This marked the end of the Chang Tsung-ch'ang attempt to gain control of Shantung. Only General Chu Yu-pu, in command of about 1,000 men, still held out at Fushan at the end of April.

During the past twelve months there have been, at various intervals, six changes of flag and nine different factions in power at Chefoo. On the morning of April 23rd, the Nationalist flag was hoisted for the third time. The month ended with General Liu Chen-nien, who claims allegiance to the Central Government, again in control of Chefoo and sharing nominal control of Eastern Shantung with other allegedly Nationalist military leaders.

It is noteworthy that these so-called Nationalist forces, other than those of Marshal Feng Yu-hsiang, are all composed of ex-Chang Tsung-ch'ang (Shantung) or Chu Yu-pu (Chihli) men, whose allegiance and flag has changed with the fortunes and inclinations of their leaders. It should also be noted that Liu Chen-nien formerly commanded Chang Tsung-ch'ang's bodyguard. No bona fide Nation-

alist troops have yet made their appearance in Chefoo, nor has the Central Government made any attempt to appoint its own officials to the civil or military posts.

TSINGTAO, A SPECIAL MUNICIPAL AREA

The Consul at Tsingtao reported that the passing of the city to Nationalist authority was the outstanding political event in his district during April. The termination of the old "five barred" regime and the incident transfer of authority, long anticipated but delayed ostensibly by an insufficiency in the credentials with which the Nanking appointee was supplied, was effected without notice in any quarter except the Japanese. It was decided that the port should be given the status of a special municipal area, detached from provincial authority and depending directly from the Central Government. The regulations involved were still in the process of formulation in Nanking during the period under review.

I have [etc.]

J. V. A. MACMURRAY

893.00/10451 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 21, 1929—5 p. m.

[Received May 22—8:30 p. m.]

408. My 394, May 17, 6 p. m.⁴¹ Following from American Consul at Tsingtao:

"May 21, 11 a. m. Japanese evacuation of Shantung completed according to schedule when last troops and General Yasumitsu sailed from Tsingtao yesterday. Five hundred marines from the Chinese warship *Chenhai* landed morning of 20th to cooperate with Government officers of peace and order already here. City tranquil, and no symptom of disorders apparent."

MACMURRAY

893.00/10476

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] May 31, 1929.

The French Ambassador came in this morning and asked me about the status of the question of the raising of our Legation to an Embassy in China⁴² and the question of extraterritoriality. I told the Ambassador that there had been no change in the question of the

⁴¹ Not printed.

⁴² See *Foreign Relations*, 1928, vol. II, pp. 199 ff.

status of the Legation as the matter was just where it had been when he had a conversation with Secretary Kellogg at which time we were sympathetically inclined but no decision had been made. I said similarly at the present time no decision with regard to the question had been reached.

He said that their information was that the Japanese had decided to raise their Legation to an Embassy in connection with the settlement of certain questions with China. He said he could not understand what was moving the Japanese in the matter as he knew of no reason for urgency in the question.

The Ambassador asked me whether we had any late information about conditions in China. He said he understood there was some danger of a new outbreak of war with great loss of life and increased destitution. I told him that we had no information of any immediate hostility except telegrams reported a small outbreak in Yunnan and some trouble at Hankow.

The Ambassador stated that he was very much worried about the situation in China and he wondered whether it would not be possible for someone to do something about it. He reminded me that the position of the middle man in China was a very honorable one and furthermore a very necessary one as the Chinese were always sticklers on the subject of "face" and a middle man could always serve the two parties without loss of face on either side. He felt that China was of great importance to the world as a whole and of great importance to the United States because it furnished a large market to the products of the United States. It was necessary to us to keep our economic situation at a balance and a peaceful China at the present time would offer a convenient market for our surplus wheat. Disorders in China at the present time made such a situation difficult and perhaps caused trouble. He wondered whether it would not be possible for us to step in and offer the Chinese help as a middleman in their difficulty, to urge upon them, perhaps, the making of a Kellogg pact for China whereby the various parties in China would agree to cease their conflicts and to refer their differences to the United States as an arbitrator for their troubles. He said, of course, it might be that such a proposal would amount to merely a gesture but he pointed out that no one had ever pointed out to the Chinese the error of their ways. He felt that this would serve to bring to the attention of the world and to the attention of the Chinese themselves the mistakes that they were making.

I stated that I felt that this was a very important and very interesting suggestion that he made, but that I was somewhat skeptical of the ability of anyone to step into China at the present time and accomplish anything in the interest of peace, because of the lack of any desire or will on the part of the Chinese to have confidence or

trust in one another. I felt that the work of an arbitrator or peacemaker in China would be an extremely difficult one because he would not have the support of the armed parties behind him. The people might support him but would be helpless because they were without arms. Banditry and fighting was the most profitable business in China today.

The Ambassador stated that it was possible, of course, that such a move might amount only to a gesture; on the other hand, it might result in some means of success. It might bring about peaceful conditions for a year or two years, but that whatever happened it would be a gesture you were making and would result in benefit. It could do no harm. He asked me to discuss this with the Secretary and I promised him that I would.

N[ELSON] T. J[OHNSON]

893.00P.R./20

The Minister in China (MacMurray) to the Secretary of State

No. 2161

PEKING, June 21, 1929.

[Received August 2.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,⁴⁸ I have the honor to submit the following summary, with index, of events and conditions in China during May, 1929.

The month was darkened by the apparent prospect of an extensive renewal of civil war, that "continue and inexorable malady" of the young Republic. The central authorities and/or their nominal agents had successfully coped with certain of the lesser militarists, such as the Kwangsi leaders at Hankow and in Kwangtung, and General Chang Tsung-ch'ang in eastern Shantung, but the virtual elimination of these insurgent elements seemed merely to bring into clearer perspective the most important issue of the current year—the fundamental antagonism between General Chiang Kai-shek and Marshal Feng Yu-hsiang, which was officially proclaimed during May. For the seemingly impending struggle between these two military leaders, General Chiang was in the advantageous position of "President" of the Republic while Marshal Feng Yu-hsiang derived moral strength from his role of champion of the Left Wing and of the common people.

In a circular telegram of May 20th addressed to "the Ministers of the various Powers at Peking and the Consuls General of the various Powers at Shanghai", Marshal Feng Yu-hsiang made, in part, the following startling observations:

⁴⁸ Not printed.

“Since Chiang Kai-shek has violated the regulations of the Party and has monopolized the Third National Congress of the Kuomintang Delegates, the Nanking Government in accordance with the principles of the Party already has become an illegal Government and is no longer able to represent the nation as a whole. At the present moment a punitive military campaign against Chiang has already started throughout China. I am appointed the Commander-in-Chief of the Northwestern Route of the Army for the Protection of the Party and the relief of the Nation. Chiang will immediately be defeated and his power will cease to exist.”

This challenge was countered by the Nanking Government with a resolution, of May 23rd, by the Standing Committee of the Central Executive Committee, dismissing Feng Yu-hsiang from all offices and from the Party for life, and authorizing the issuance of a mandate launching a punitive expedition against him.

A number of other pronouncements were made and messages exchanged between the two camps, largely for propaganda purposes. Military operations were not carried out on any significant scale during May, and as a possible alternative thereto it was rumored that Marshal Feng Yu-hsiang, who on May 27th had announced his retirement from public life, was preparing to go abroad in the company of General Yen Hsi-shan for an indefinite time. The rumor was not confirmed during the month, nor was the authenticity established of a report that General Han Fu-chu, one of Feng's principal associates, with several other of Feng's generals, controlling together some 100,000 men, had transferred their allegiance to the Central Government.

The total number of men under arms in China, not including irregulars, was estimated by the Military Attaché of the Legation, in a report dated June 5th, to be 1,852,100, disposed, in part, as follows:

First Group of Armies, under Chiang Kai-shek	564,600 men
Second Group of Armies, under Feng Yu-hsiang	293,000 men
Third Group of Armies, under Yen Hsi-shan	153,000 men
Miscellaneous Units nominally under the control of the National Government	325,500 men
Miscellaneous Units opposed to the National Govern- ment	130,000 men
Northeastern Frontier Defense Forces, under Chang Hsueh-liang, not including the 31st Army (Jehol troops)	329,500 men

Among the more important occurrences of a pacific nature, during May, were the preparations made for the formal interment of the body of Dr. Sun Yat-sen in the mausoleum built for that purpose on the slope of Purple Mountain in Nanking. The time of the interment, originally scheduled to take place on March 12th, had been advanced to June 1st, principally because the avenue from the water-front to

the tomb had not been completed. The historic event took place on the latter date without disturbing incident although uncertainty in the relations between General Chiang Kai-shek and Marshal Feng Yu-hsiang continued, almost until the end of May, to furnish ground for the supposition that it would again have to be postponed. The ceremonies in Peking consisting in the main of public addresses by a group of propagandists who had come up from the South, culminated on May 26th in an orderly and dignified procession which accompanied the remains from Pi Yun Ssu, in the Western Hills, to the special train at the Chien Men Station, destined to bear them to Pukow. There the casket was taken across the Yangtze River to Nanking in a warship during a salute of 101 guns. On May 27th the heads of the Diplomatic Missions in Peking, in the capacity of Special Envoys of their respective Governments, left on another special train, as the guests of the Chinese Government, to attend the ceremonies in Nanking. The period from May 26th to June 1st was observed as a time of mourning.

THE SITUATION IN CANTON AND VICINITY

The following account of the Kwangtung-Kwangsi conflict is based on a report by the Consul General at Canton on political conditions in his district during the month. The impending hostilities between the Canton provincial government and the Kwangsi clique broke out on May 4th when a Kwangsi military expedition started down the West River to attack Canton. The city was in imminent danger of capture on two occasions, but the Kwangsi forces were finally defeated and when the month closed the Cantonese army and navy were nearing Wuchow, which had been evacuated by the Kwangsi commanders. Admiral Chan Chat, commander-in-chief of the Cantonese navy, entered Wuchow harbor on June 2nd.

An outstanding feature of the conflict was the effectiveness of the Cantonese airplanes. The Kwangsi leaders seemed to have underrated the military value of airplanes, or perhaps they relied unduly on the widespread sympathy in Canton for the Kwangsi cause. When the Cantonese fleet revolted on May 9th, the city was practically surrounded by hostile forces. Kwangsi troops had arrived in the vicinity of Samshui and the soldiers of Hsu Ching-t'ang, a Kwangtung general who had thrown in his lot with Kwangsi, were advancing from Swatow by way of Waichow and the Canton-Kowloon Railway. The Cantonese authorities seemed paralyzed and it was generally expected that the city would be captured within forty-eight hours. At this point, however, the airplanes, coming to the rescue, bombed the insubordinate units of the fleet and forced them to surrender. Admiral Chan Chat resumed command and transferred the more effec-

tive elements to the West River, where a bombardment of the Kwangsi positions was begun and the Kwangsi advance was checked.

Mr. Jenkins reported that, at the end of the month, it seemed safe to state that the Kwangsi clique had been decisively defeated and would not be able to recover unless the remnants, which then were marching into the interior of that province, received support from some unexpected source.

CONDITIONS IN EASTERN SHANTUNG

During April the attempt of the insurgents under General Chang Tsung-ch'ang to gain control of eastern Shantung was seen to have failed. At the end of that month the Nationalist flag, hoisted by General Liu Chen-nien, again was flying in Chefoo. Chang Tsung-ch'ang sought refuge in Japan and, of his adherents, only General Chu Yu-pu still held out with a small force in the walled city of Fushan.

A face-saving "capture" of Fushan took place in May after an armistice arranged, in part, through the mediation of the American Consul at Chefoo. At the time of the capitulation, apparently through connivance, General Chu Yu-pu escaped to an unknown destination. Mr. Webber reported that the city was cleared of everything. Neither side respecting private property, every residence and place of business was looted. Estimates based on hospital reports and statements of Chinese army officers and others indicated that there were between 1,500 and 2,000 casualties from the fighting around Fushan. After the restoration of peace there, friction developed between Generals Liu Chen-nien and Jen Ying-chi, both professed supporters of the Central Government. Their dispute, arising over the question of division of authority, occasioned two days of fighting at Hwanghsien during the middle of the month.

May ended with a semblance of peace, conditions in the district, according to Mr. Webber, resembling those of October last, that is to say, a military government under General Liu Chen-nien who was virtually independent of the Nanking authorities and of the Tsinan provincial authorities.

SINO-JAPANESE SETTLEMENT OF THE NANKING AND HANKOW INCIDENTS

On May 2nd the Minister for Foreign Affairs and the Japanese Minister exchanged notes of that date in settlement of the Nanking incident of March 24, 1927⁴⁴ and the Hankow incident of April 3, 1927,⁴⁵ the texts of the notes being made public on May 6th.

⁴⁴ *The China Year Book*, 1929-30, p. 900.

⁴⁵ *Ibid.*, p. 901.

YUNNAN AND KWEICHOW

The following account of relations between the provinces of Yunnan and Kweichow is taken from a report, by the Assistant Military Attaché of the Legation, embracing occurrences of the latter part of May:

“Acting under orders from Chiang Kai-shek, Lung Yun, the Governor of Yunnan, has invaded Kweichow and recent reports state that Kweiyang, the capital, has fallen and that the Yunnanese will cooperate with Ho Chien’s Hunnanese in the subjugation of the province. There has been bad blood between the military leaders of the two provinces for many years and a clash has been imminent for the past six months. If there is actual cooperation between Ho Chien and Lung Yun the pacification of the province will present little difficulty.”

I have [etc.]

J. V. A. MACMURRAY

893.00P.R./22

The Minister in China (MacMurray) to the Secretary of State

No. 2206

PEKING, July 15, 1929.
[Received August 16.]

SIR: In accordance with the Department’s instruction No. 78, of October 9, 1925,⁴⁶ I have the honor to submit the following summary, with index, of events and conditions in China during June, 1929.

Conditions generally were quiet during the month. In May, antagonism between General Chiang Kai-shek and Marshal Feng Yu-hsiang, officially proclaimed and substantiated by troop movements on both sides, seemed to foreshadow an impending settlement of the issue between them by force of arms. Hostilities did not actually break out, however, and during June it became increasingly more probable that a peaceful solution of the matter could be reached. General Yen Hsi-shan is credited with having made possible such an adjustment, which was highly satisfactory to the Chinese people, by the proposal that he and Feng Yu-hsiang withdraw from the political arena and together take an extensive trip of study and investigation abroad. Wide publicity was given the project and, in view of Marshal Feng’s expressed preparedness to leave the country, the Government order for his arrest was cancelled and Nanking-inspired propaganda calculated to bring him into disrepute was discontinued. Yen Hsi-shan’s decision to retire from political life, however, was not as acceptable to the Central authorities or, more specifically, to General Chiang Kai-shek, who desired Yen’s presence at the head of affairs

⁴⁶ Not printed.

in North China for the sake of maintaining order in that area, and who also seemed to have felt that the departure of Feng and Yen together would react unfavorably on himself, as the one among the three leaders prepared to fight for his position and incapable of a similar act of renunciation in the interests of the country as a whole.

General Chiang arrived in Peking on June 25th with a view to entering into negotiations with Yen Hsi-shan and Feng Yu-hsiang (or with the latter's representatives since it was doubtful if the Marshal himself would come to Peking), and with Marshal Chang Hsueh-liang, discussions with whom on Manchurian and cognate questions at such a time incidentally would strengthen Chiang Kai-shek's positions as, at least, the nominal head of the Government. Yen Hsi-shan arrived in Peking on June 30th from Taiyuanfu where he had been conferring with Marshal Feng, and Chang Hsueh-liang was expected to get here early in July. The period under review accordingly came to an end before a definitive conclusion was arrived at in these matters of great national moment.

As indicated in the Legation's report for May, the remains of Dr. Sun Yat-sen, the "Father of the Chinese Revolution", were laid to rest on June 1st in the new Nanking mausoleum, without disturbing incident, in the presence of numerous high Chinese officials and foreign representatives.

The period of examination and registration at Nanking of trade marks, previously registered with the Bureau of Trade Marks, Peking, which was due to expire on June 18th, was extended for another six months, namely, until December 18, 1929.

POLITICAL CONFERENCES

The second plenary conferences of the Central Executive Committee and of the Central Supervisory Committee were held in Nanking during the period under review. Questions concerning the execution of the program of national reconstruction were deliberated, and stress was laid upon the necessity of preserving the peace and unity of the country, of the abolition of unequal treaties, and of the training of citizens to exercise the four political powers of suffrage, recall, initiative, and referendum. A declaration, given out by the Central Executive Committee and translated at the Consulate in Nanking, outlined the general policy of the Kuomintang. The following are extracts from it:

1. *Preservation of Unity.* The realization of the principles of our Party and the preservation of the unity of the entire country are entirely congenial. In order to render our recently attained unity permanent we must abide by the teachings of our late Leader, carry

out a material program of National Reconstruction and improve both the spiritual and material condition of the country. . . .

2. *Abolition of Unequal Treaties.* The attainment for China of a status of equality and complete freedom in the family of nations is rudimental to the realization of the principles of the Party. So long as unequal treaties remain all constructive schemes, however well thought out they may be, will be of no avail, because while our political sovereignty remains impaired, we will be unable to exercise the fullest freedom of action in our National Reconstruction. . . .

3. *District Autonomy.* Training the people to exercise their political powers and enforcing the system of local self-government are the principal activities of the Political Tutelage Period. . . .

4. *Limitation of Period of Political Tutelage.* The present Conference has decided to limit the Period of Political Tutelage to six years, that is, to be completed not later than the 24th Year of the Republic (1935). . . . We hope the whole country will realize that, after all, the sole aim of the present Revolution is to complete the work of Political Tutelage and to establish a constitutional government by delegating the political powers to the people at large. . . .

Among other items of interest dealt with were the following:

1. A resolution was passed to seek peaceful means of settling the North China controversy. General Yen Hsi-shan was appointed officially a Special Commissioner to negotiate with Marshal Feng Yu-hsiang for a peaceful solution.

2. Minister Sun Fo's railway construction proposals were approved, and the manifesto announces that "The Canton-Hankow Railway shall be completed by the end of 1932, the Lunghai Railway by the end of 1934, and the Kansu-Suiyuan Railway (this apparently refers to the extension of the Peking-Suiyuan Railway into Kansu) by the end of 1937".

3. A bill outlining a program for a war against illiteracy and extension of the thousand character classes was passed.

4. The release of General Li Chai-sum, the South China leader who was put under surveillance at the outbreak of the Wuhan trouble in April [*March*], was approved, the question of restoring his status in the party to be considered at a later conference.

SINO-FOREIGN TREATY RELATIONS

The exchange of notifications of ratifications of the Sino-Danish Treaty of Amity and Commerce of December 12, 1928, by the Danish and Chinese Governments, took place on June 8th. In accordance with the terms of Article V, the Treaty went into force on that date. Of the twelve treaties concluded with foreign Powers in 1928 by the Nanking Government only the Sino-Netherlands Treaty of December 19th and the Sino-Spanish Treaty of December 27th have not yet gone into force.

By way of recapitulation it may be stated that the following treaties went into effect on the dates indicated: ⁴⁷

Sino-American Treaty of July 25th	June 20, 1929.
Sino-German Treaty of August 17th	Jan. 21, 1929.
Sino-Norwegian Treaty of November 11th [12th]	Mar. 1, 1929.
Sino-Belgian Treaty of November 22nd	Feb. 28, 1929.
Sino-Italian Treaty of November 27th	May 21, 1929.
Sino-Danish Treaty of December 12th	June 8, 1929.
Sino-Portuguese Treaty of December 19th	Mar. 27, 1929.
Sino-British Treaty of December 20th	Feb. 1, 1929.
Sino-Swedish Treaty of December 20th	Mar. 27, 1929.
Sino-French Treaty of December 22nd	Jan. 28 [Apr. 22], 1929.

CONDITIONS IN EASTERN SHANTUNG

In the Chefoo consular district the month passed quietly for a change. Notwithstanding persistent rumors of friction between General Liu Chen-nien and Sun Tien-ying, a Nationalist division commander, no actual hostilities took place. It is the Legation's understanding that General Sun's readiness to dispute Liu Chen-nien's position in eastern Shantung has its origin in the fact that the Provincial authorities at Tsinan are inclined to support him rather than Liu Chen-nien. The Consul at Chefoo pointed out that the situation was a phase of the old game of playing one faction or leader off against another.

I have [etc.]

J. V. A. MACMURRAY

893.00P.R./23

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 2270

PEKING, August 16, 1929.

[Received September 13.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925, I have the honor to submit the following summary, with index, of events and conditions in China during July, 1929.

In May it was generally felt that the elimination as a factor in Chinese political life of Marshal Feng Yu-hsiang, the most important of the quasi-independent militarists, would not be accomplished by General Chiang Kai-shek without renewed civil warfare. Dur-

⁴⁷For texts of treaties listed, see League of Nations Treaty Series, vol. LXXXVII, pp. 287 (Belgium), 381 (Norway); vol. xc, p. 337 (Great Britain); vol. xci, pp. 93 (Germany), 207 (Denmark); vol. xcii, p. 267 (France); vol. xciii, p. 173 (Italy); and vol. cvii, pp. 81 (Sweden), 93 (Portugal), 121 (United States). The text of the Sino-American treaty is also printed in *Foreign Relations*, 1928, vol. II, p. 475.

ing June, General Yen Hsi-shan's allegedly altruistic project to go abroad with Marshal Feng, as an alternative to hostilities, took definite shape; and the trend in the negotiations entered into among the three leaders, and/or their representatives, was such as to foreshadow a peaceful solution of the problem of their rivalries along those lines. The negotiations reached a successful conclusion early in July in the form of a compromise involving on the one hand the cancellation of all punitive measures against Feng Yu-hsiang and on the other the postponement for three months of Yen's and Feng's trip abroad. During this period, General Yen, in theory replacing Marshal Feng as the commander of the Kuominchun, was to occupy himself with the reorganization of Shansi and Kuominchun forces under the control of the Central Government. The joint trip may be destined not to take place. The thought of it has never appealed to Chiang Kai-shek, as Yen's departure in Feng's company would place Chiang in the unfortunate position of seeming, alone among the three important militarists, to have clung to his position of power and authority at the risk of a civil war from which only Yen's exertions as a peace-maker would have saved the country.

Before the happy outcome of this domestic matter could bear fruit in increased national tranquillity, another problem of even greater potentiality for trouble arose in the seizure of the Chinese Eastern Railway by the Manchurian authorities;⁴⁸ so that by the end of the month familiar clouds of uncertainty had again formed on the political horizon.

CONDITIONS IN EASTERN SHANTUNG

Due to the strained relations existing between General Chen Tiao-yuan, Chairman of the Shantung Provincial Government at Tsinan, representing the Provincial and Central Government, and General Liu Chen-nien, in control of eastern Shantung, July was for that area a period of uncertainty in which factional fighting, however, was avoided.

After negotiations with General Chiang Kai-shek, General Liu, on July 26th, took oath of allegiance as a member of the Shantung Provincial Government at Tsinan and from there telegraphed instructions to Chefoo that from August first all the Nanking and Tsinan Nationalist appointees to civil posts were to be permitted to assume charge and that all revenues were to be remitted to the Central and Provincial capitals, respectively, from that date. In spite of this

⁴⁸ See pp. 186 ff.

adjustment, the Consul at Chefoo indicated that it was not possible to entertain hope for definitive peace as long as the military regime of Liu Chen-nien persisted since no holder of a civil post would risk defying his orders or those of his followers.

I have [etc.]

J. V. A. MACMURRAY

893.20/122

*The Consul at Nanking (Adams) to the Minister in China
(MacMurray)*⁴⁹

[Extracts]

No. L-37

NANKING, August 17, 1929.

SIR: Because of the vital relation which the success or failure of the Chinese army disbandment program bears to the ultimate fate of the present National Government, I have the honor to report upon the National Military Reorganization and Disbandment Enforcement Conference which occurred in Nanking from August 1 to 6, inclusive.

In conclusion it may be stated that there seems an evident sincerity in the endeavor of the central authorities of the National Government to bring down to reasonable proportions the huge military forces of the country. But any remote chance of success which the plan may have is largely dependent in the first instance upon the good faith, energy and administrative ability of quite a number of widely distributed military officers in the past given [*giving*] only a nominal allegiance to the National Government. Even granting that these officers may faithfully carry out a plan which, if successfully executed, must destroy their independence and definitely subordinate them to the National Government, there remains the question of the absorption of more than a million men in the civil life of a country already bandit ridden principally because of destitution and famine. To all present appearances there has been an utter failure on the part of Chiang Kai-shek to realize the necessity of emphasizing above all else in his disbandment plan an adequate and workable provision for the employment of the huge numbers of men whose disbandment is contemplated.

I have [etc.]

WALTER A. ADAMS

⁴⁹ Copy transmitted to the Department by the Consul in his despatch No. D-19, August 19; received September 14, 1929.

893.77/2714

*The Consul General at Shanghai (Cunningham) to the Minister in China (MacMurray)*⁵⁰

No. 6100

SHANGHAI, August 26, 1929.

SIR: I have the honor to enclose one of the most amazing statements that it has been my privilege to note as being made by a responsible minister of any government, as contained in the news item issued by Reuter's, dated Nanking, August 22, 1929, appearing in the *North China Daily News* of August 24, 1929, under the heading "China's Railway Schemes"⁵¹ and purporting to be a statement to newspaper representatives by Mr. Sun Fo, Minister of Railways, of the National Government. The revelations contained in that statement indicate more strongly than any financial statement which has been noted previously, that all government undertakings have been undermined by the military authorities without any consideration for the capital invested or for the creditors. Mr. Sun Fo is quoted as stating that

"on account of interference by military authorities it has been most difficult to reorganize the various railways of the country."

The following is a summary of the monthly payments which Mr. Sun Fo states have been made by the various railways of the North to military groups, aggregating nearly \$2,000,000:

Peking-Hankow Line	\$850,000	monthly
Peking-Suiyuan Line	200,000	"
Peking Mukden Line	300,000	"
Lunghai Railway	400,000	"
Total	\$1,750,000	"

Furthermore, on account of the heavy subsidies to the military, freight rates on the Peking-Suiyuan Line had to be increased, so that the income from this line, formerly averaging \$800,000 a month, in recent years was reduced to \$300,000 a month.

Mr. Sun Fo states that at the Second Plenary Session of the Central Executive Committee of the Kuomintang it was decided that two-thirds of the Boxer Indemnity Fund should be used for railway construction; two-thirds of the British Boxer Indemnity Fund for the completion of the Canton-Hankow line, and two-thirds of the Russian Boxer Indemnity Fund for the completion of the Lunghai line, with a total failure to take into consideration the conditions under which certain Boxer Indemnity Funds have been remitted.

⁵⁰ Copy transmitted to the Department by the Consul General in his despatch No. 6398, August 26; received September 27, 1929.

⁵¹ Not printed.

In the statement concerning the manner in which funds of the railway have been looted, Mr. Sun Fo informs us that the country's total railways aggregate 7000 miles and their debts amount to something like \$650,000. He then intimates that the loan of \$60,000,000 required for the reorganization of the country's railways will be a revelation to the public. It scarcely seems conceivable that financiers in China, or elsewhere, could be induced to invest in bonds for the reorganization of railways after such an indictment of the railway administration and military action as contained in Mr. Sun Fo's statement. . . . The patriotism of the military has again been given the acid test by the revelations and the surprisingly frank admissions of the Minister of Railways.

I have [etc.]

EDWIN S. CUNNINGHAM

893.00P.R./24

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 2335

PEIPING, September 14, 1929.

[Received October 25.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,⁵² I have the honor to submit the following summary, with index, of events and conditions in China during August, 1929:

SECOND DISBANDMENT CONFERENCE

The following account of the Second National Reorganization and Disbandment Conference is taken from a report by the Assistant Military Attaché of the Legation:

"With the bald statements of Chiang Kai-shek that 'troops may be compared with water, which may float or sink the ship of state', that 'an army not under control is like fire which destroys lives and property', and that 'to persist in keeping a big army is tantamount to digging our own graves', the second Disbandment Conference opened in Nanking on August 1st and closed on August 6th. It was convened in fact to carry out the provisions which were promulgated by the first Disbandment Conference, which opened in Nanking on January 1st of this year.

"In the former conference it was decided to reduce the armies (Manchuria was not included) of China to sixty-five divisions of 11,000 men each, or to a total of 715,000 men, and about fifty million dollars was appropriated to bring this reduction into effect. At that time it was announced that China's swollen armies numbered approximately 1,500,000 men.

"Now, seven months later, there are at least 2,225,000 men in China's armies, and the fifty millions are all gone. Little wonder that some of us get pessimistic over China's future! The fifty million

⁵² Not printed.

was spent in part against the Wuhan Party, but the expenditure of the remnant remains a military scandal which is not spoken of outside military circles. Each soldier who was disbanded, and there really were many disbanded and many also recruited, was, according to the provisions of the first conference, to receive three months' pay. In many cases they received no pay and only in a very few organizations as much as two months' pay. Commanders of various armies were ordered, and at the conference agreed, to disband certain whole units. The order was in many cases disregarded and in some carried out, but new units were organized to make the total the same or even greater. Little wonder that T. V. Soong says, 'It is not impossible to raise enough funds for disbandment, but the difficulty lies in possible misappropriation of the funds by the various commanders when they get the money'.

"It is not thought that the second Disbandment Conference . . . will be so ineffectual as the first, since Nanking's authority is more widely recognized now. Neither is it thought that China's army will be reduced to the limit announced,—that of 800,000 men.

"Though this mass of men is spoken of above as 'China's Army', really it is no such thing. In the first place it is no army at all, since only in rare instances does it warrant being called more than a military mob, and neither is it China's. It is loyal not to China, but each group to its own commander. What this commander orders, in case it is paid and fed, this group will probably execute. But the various groups do not submit to the overlordship of the National Government except as by so doing they are furthering their own ends, or as they are driven by fear. As Charlemagne was able to unite the robber barons during his reign, so they are occasionally united in China, and as the army disintegrated after Charlemagne's demise, so breakdowns often occur here.

"That is why disbandment is so difficult here in China—that and the economic condition of the country. If there was an occupation open to every disbanded soldier, soldiers would look forward to disbandment, but in the army they at least are fed and that is no mean consideration in China."

CONDITIONS IN YUNNAN

The following account of conditions in Yunnan during June and July is taken from a report of August 7th by the Vice Consul in charge at Yunnanfu which reached the Legation at the end of the month:

"The civil war involving Yunnan and Kweichow provinces spread throughout eastern, northern, central and western Yunnan during the period under review overshadowing all other events in the district. As a result of these operations the policy of aggrandizement of the Yunnan provincial authorities with regard to Kweichow has signally failed. The authority of the Yunnan provincial government is again restricted to this province. Military factions opposed to the existing regime have taken advantage of the embarrassment of the Yunnan authorities to push the civil war to the gates of Yunnanfu and to occupy large sections of the province.

"Incident to military operations, a disastrous powder explosion in Yunnanfu destroyed a considerable portion of the city, causing much loss of life and heavy damage to property.

"The political situation in the district is less stable than at any time during the past year and a half. It appears improbable that the situation will be materially improved in the near future. Under the foregoing circumstances economic conditions in Yunnan have of course failed to register any improvement. The unsecured paper currency remains most unstable. Continued efforts of the provincial officials to secure external financial assistance have been unsuccessful".

RENDITION OF THE BELGIAN CONCESSION IN TIENTSIN

An agreement was signed on August 31st between Belgium and China for the rendition of the Belgian Concession in Tientsin,⁵³ to come into force on mutual notification of ratification. Thereafter the former Belgian Concession is to be administered under Chinese laws and regulations although the land tax is to be maintained until the promulgation by the National Government of the "new general law governing land taxation."

Within a month of the coming into force of the Agreement title deeds and certificates of private property are to be handed over to the Chinese authorities concerned who are to issue in exchange certificates of perpetual lease. The debts of the Municipality of the former Concession, amounting to some 90,000 Tientsin Taels, are to be reimbursed by the Chinese Government to the Belgian Government within six months from the day of the coming into force of the Agreement.

I have [etc.]

J. V. A. MACMURRAY

893.00P.R./25

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 2392

PEIPING, October 22, 1929.

[Received November 22.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,⁵⁴ I have the honor to submit the following summary, with index, of events and conditions in China during September, 1929:

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In regard to internal affairs, September witnessed a further strengthening of the conviction that a number of influential factions and individuals of Left Wing or radical affiliations were planning if

⁵³ League of Nations Treaty Series, vol. cxxiii, p. 105.

⁵⁴ Not printed.

possible to overthrow General Chiang Kai-shek, whose "dictatorial" methods were engendering increasing bitterness among less successful rival militarists. General Chang Fa-kuei, a leader closely associated with the radical "outs" and in command of some thirty thousand troops garrisoning Ichang, revolted against the Nanking Government during the month and incident thereto is reported to have sent the following message to the Commissioner of Foreign Affairs at Hankow:

"Down with Chiang Kai-shek, up with Wang Ching-wei, long live Feng Yu-hsiang, cooperation with Soviet Russia."

At the end of September, General Chang was moving his troops through Hunan apparently with the intention of joining forces with General Yu Tso-pah, Chairman of the Kwangsi Provincial Government, who had likewise declared against Nanking. A union between these two elements, should it occur, would be opportunist and less than usually warranted by principle, however, since Kwangsi has been identified with the extreme Right Wing of the Kuomintang.

Nothing further was heard of Marshal Feng Yu-hsiang's and General Yen Hsi-shan's projected trip abroad together; nor was it clear, during September, whether these leaders of the Northwest would support the central authorities or those in opposition to Nanking. Their influence (were their association to remain intact) if thrown to one side or the other, doubtless would determine the result of any controversy between the central government and its opponents.

The following pronouncement was made by "President" General Chiang Kai-shek in relation to the situation:

"It appears to me that to the circulation of rumors there is no end. I have come in especially for denunciation by the rumor-mongers. To clarify my position I wish to make this statement:

"I, Chiang Chung-cheng, do not hesitate to die for the party and the nation since I have placed my life at the service of both. I will never lose heart, either. I will not waver in my determination whatever the imperialists and reactionaries may do to oust me. I firmly believe that if I offer my life on the altar of the national revolution many of my comrades will follow my example. In a word, the success or failure of the revolution depends on the question whether we can put up a fight.'"

THE REORGANIZATION FACTION

The following comment is taken from a report by the Consul at Nanking on the growing influence of the opposition movement to the central government:

"Of late, there has occurred a regrouping of opposition forces. The reorganization faction, which consists largely of elements of

the former Left Wing of the Kuomintang, is the center of the opposition. The term 'reorganization' indicates in no small degree the attitude and plan of this group of opponents to the present National Government. Their opposition is principally directed against the 'illegal manner' in which the Government or Center leaders packed the Third National Congress of the Kuomintang, in March last, with seats of 'appointed', instead of 'elected', delegates. In addition, the Reorganizationists entertain a hostility to the present régime based on the supposition and belief that the Government is not carrying out the political and social theories of the Revolution and that it has relapsed into an acceptance of a capitalistic or even militaristic state, wherein the masses remain inarticulate, impotent, and oppressed as before."

RED CROSS REPORT

A commission under Colonel E. P. Bicknell sent out by the American Red Cross to investigate famine conditions in China made public in September a report in which the conclusion was reached that the existing situation did not warrant an appeal to the generosity of the American people. Famine conditions in China were reported to be largely due to the absence of a strong central government and the consequent exactions of war lords, depredations of bandits, and confiscatory taxation.

The local English language press characterized the report as a severe blow to Nanking in its campaign for the abolition of extra-territoriality and as a striking indication of the need for improvement in internal administration. In general, the vernacular press, while inclined to suggest that the report misrepresented conditions in China and was misleading as to the cause of famine, nevertheless urged upon the Chinese Government a consideration of the administrative shortcomings indicated to the end that "the burden of the people of China" might be lightened. The *Ta Kung Pao*, in an unusually frank editorial, made the comment that were the report to quicken the consciences of Chinese statesmen its effect would be greater than if a contribution of a large sum of money had been made.

TRADE IN CHINA

Unsettled conditions, due to the activities of irresponsible militarists, have prevailed in eastern Shantung for some time. The following comment on these conditions from the point of view of trade, by the Consul at Chefoo, is quoted as being generally characteristic of China as a whole:

"Economically, the district has been bled white by the various factions in control and things have at last come to the state where the people, for self-preservation, have to protest against the acts of

their government. It is a strange thing about the Chinese of this district that the longer you live among them and see them fighting adversity, the more you wonder how their trade runs as smoothly as it does. In the midst of anarchy, the commercial instinct seems to prevail. They seem to be oblivious to a fact recognized in most places that law or order is a necessary basis of commerce. Tyranny and exactions from an unarmed population seem to them to be less cause for concern than the buying and selling of merchandise."

The protest referred to was concerted action of the merchants of the city involving a temporary cessation of the movement of commodities and a procession, on September 20th, in open demonstration against the Government.

CONDITIONS IN YUNNAN DURING AUGUST

In a despatch which reached the Legation at the end of September, the Vice Consul in charge at Yunnanfu reported that in general the situation in August had materially improved over conditions during July (when civil war was rife throughout the northern part of Yunnan) and that the forces which had attacked the provincial Government had been driven from the province. Mr. Chamberlain stated also that a definite improvement could be reported from an economic and business standpoint. According to Chinese customs officials, there was a brisk import trade in August, probably stimulated by an improved exchange rate and by the greater security of internal communications resulting from the trend toward political normalcy.

I have [etc.]

J. V. A. MACMURRAY

893.00P.R./26

The Chargé in China (Perkins) to the Secretary of State

[Extracts]

No. 2448

PEIPING, November 26, 1929.

[Received January 3, 1930.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,⁵⁵ I have the honor to submit the following summary, with index, of events and conditions in China during October, 1929:

The dispute with Soviet Russia over the seizure of the Chinese Eastern Railway which (in everything but in name) had developed into a state of desultory warfare between the two countries, and a domestic politico-military crisis constituted the two most important problems of the month. It was a disturbed period which in another country probably would have been a highly critical one for the central authorities. Here, however, with the ever present possibility

⁵⁵ Not printed.

of settlement by compromise, conditions did not seem very much more desperate than those of other recent months more or less successfully weathered by the Nanking Government.

In regard to internal military affairs, the continuing Chang Fa-kwei uprising, with related disturbances in Kwangsi, suffered in importance by comparison with the more serious matter of a revolt, early in October, of some twenty Kuominchun generals. The Chang Fa-kwei-Kwangsi uprising, were it successful, presumably would result in a reorganization of the Kuomintang under the radical leadership of Mr. Wang Ching-wei. A successful Kuominchun revolt, on the other hand, would entail a victory of a group of Northern leaders opposed not merely to General Chiang Kai-shek on account of his alleged policy of "private ownership of state" but to the Nanking Government as such. It would jeopardize the very existence of the Kuomintang and revive such fundamental issues, in a possible cleavage between North and South China, as regionalism and decentralization.

There seemed to be little doubt that Marshal Feng Yu-hsiang, from his headquarters near Taiyuanfu where he was in close communion with Marshal Yen Hsi-shan, was directing the Kuominchun revolt. It was not clear, however, on which side Marshal Yen had allied or would ally himself, notwithstanding the fact that on the day that General Chiang Kai-shek, as Commander-in-Chief, issued the order for the general offensive against the Kuominchun, the State Council appointed Yen Hsi-shan Deputy Commander-in-Chief of the Nanking Government's land, sea, and air forces.

The indecisive fighting of October in connection with the Kuominchun revolt was confined largely to Honan. The total of the forces under arms in China during the period under review, in spite of the disbandment projects launched during the last month, was some two million men, grouped roughly as follows:

First group of armies	684, 000
(Central Government troops)	
Under the command of Chiang Kai-shek.	
Second in command: Ho Ying-chin.	
Second group of armies	249, 000
Under the command of Feng Yü-hsiang.	
Second in command: Sun Liang-cheng.	
Third group of armies	211, 000
Under the command of Yen Hsi-shan.	
Second in command: Shang Chen.	
Miscellaneous units nominally under the National Govern- ment's control	370, 500
(Mainly in Yunnan, Kweichow, Sinkiang, Chekiang, Szechuan.)	

Northeastern Frontier Defense Forces	360, 600
Commander-in-Chief: Chang Hsueh-liang.	
Deputy Commanders: Wan Fu-lin, Chang Tso-hsiang.	

THE KUOMINCHUN REVOLT

During the first half of October it became known that the commanders of the Kuominchun, having declared against Nanking, had telegraphed Marshals Feng Yu-hsiang and Yen Hsi-shan setting forth the shortcomings of the Central Government and requesting that they assume the posts of Commander and Vice Commander respectively of the People's Armies, to which they were stated to have been publicly elected. Feng and Yen assumed a noncommittal attitude at the time but seemed to incline to the proposal. Marshal Chang Hsueh-liang also was generally believed to be awaiting a favorable opportunity to join in operations against the Government, the position of the three northern leaders apparently being that the Nanking Government was no better than the much denounced militarists and that it would eventually eliminate them one by one unless they joined in the opposition.

Accepting the challenge of the Kuominchun commanders, General Chiang Kai-shek issued a manifesto on October 14th containing the following observation:

“. . . Always jealous of the welfare of the people and the cause of unification, the Government should long ago have declared a punitive expedition against them (the Kuominchun) so that the nation might be rid of its traitors and the people of their enemies. But in view of the fact that their misdeeds had not become so notorious, the Government hesitated to act in the expectation that they would mend their ways and make a new start. It was for this reason that the Government sent them funds and supplies as usual.

“But now these rebel commanders have openly defied the Government. In a circular wire they deliberately misrepresented the truth and slandered the Government. What is worse, they have moved their troops ready for a revival of civil war. . . .”

The manifesto went on to say that there could be no compromise between the rebels and the Central Government, that the latter had the support of the people, and that the Government would ultimately triumph.

KWANGSI DISTURBANCES

The following are extracts from an account of conditions in the Canton consular district, during the month, by the Consul General at Canton:

“ . . . Much anxiety prevailed in Canton throughout October because of the threatened invasion of the Liang Kwang provinces by Chang Fa-kuei's army. Good order was maintained in the city itself, but communists and bandits were active in northeastern Kwangtung and other areas. Extensive troop movements occurred during the early part of the month in connection with the suppression of rebellious Kwangsi units, and again toward the close when the indications were that the 'Ironsides' were on the point of attacking both Kweilin, in Kwangsi province, and Linchow, in northern Kwangtung.

“Wuchow was occupied by Cantonese forces on October 4th. Kwangsi province was speedily cleared of opposing factions, and General Chen Chi-t'ang, the Commander-in-Chief, returned to Canton with his staff on October 15th. At the same time it was announced that Chang Fa-kuei had turned and was marching northward to cooperate with Feng Yu-hsiang and Yen Hsi-shan in their attack on Nanking. The Third and Eighth Divisions, which had been sent down by Chiang Kai-shih to aid in the defense of Canton, prepared to return to the North and finally embarked on October 23-24, leaving the Fiftieth Division on the Kwangtung-Kiangsi border, allegedly for the purpose of following up the 'Ironsides'. Three Cantonese aeroplanes left for Hankow on October 24th to assist the Central Government in its struggle with the Kuominchun. . . .

“The announcement during the middle of October that the 'Ironsides' were going back up North caused a lull in the situation in Canton. This was short-lived, however, for it soon became evident that the 'Ironsides' were still hovering on the borders of Kwangsi. Toward the end of the month the situation again became very tense, and it was evident that the local government was doing its utmost to be prepared against a possible 'Ironside' advance. Large bodies of troops were rushed to Shiuchow, on the Canton-Hankow railway, and other strategic points. At the same time General Chen Chi-t'ang, Commander-in-Chief of the Kwangtung forces, began to strengthen the defenses of Wuchow and points along the Fu river to Kweilin. Several thousand Cantonese soldiers were moved up the West river to aid in the protection of Kwangsi and improve the morale of the rather disorganized Kwangsi forces. . . .

“Local military authorities are willing to concede that Chang Fa-kuei probably has ten thousand men under his command, but assert that these troops have suffered repeatedly at the hands of the Hunanese and are much disorganized. On the other hand many well-informed Chinese, including some leading officials, declare that Chang Fa-kuei now has about thirty-five thousand well-equipped soldiers and that there is every possibility of his capturing Canton, or at least Wuchow. The Cantonese are supposed to control fifty thousand troops, most of whom are fairly well equipped, including machine guns, some light artillery, and a number of aeroplanes. The Cantonese also should be able to count on the support of the local navy if the fighting gets near this city, or even near Wuchow which is accessible to fairly large gunboats. . . .”

I have [etc.]

MAHLON F. PERKINS

893.00P.R./27

The Chargé in China (Perkins) to the Secretary of State

[Extracts]

No. 2503

PEIPING, December 30, 1929.

[Received February 13, 1930.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,⁵⁶ I have the honor to submit the following summary, with index, of events and conditions in China during November, 1929:

The meager and conflicting evidences of progress made during the month toward an adjustment of the problems confronting an harassed central Government revealed that, as a whole, conditions in November were as unsatisfactory as they were during the critical month of October.

On November 1st, Marshal Feng Yü-hsiang, in an interview with foreign newspaper correspondents at his headquarters near Tai-yuanfu, assumed sixty per cent of the responsibility for the October Kuominchun revolt, allocating the remaining forty per cent of the responsibility to Marshal Yen Hsi-shan who characteristically gave no evidence either of accepting or refusing the burden. The Kuominchun revolt loomed ominously at that time but by November 20th the military situation in Honan seemed to have turned definitely in favor of the Government troops, and a settlement, generally accepted to be based largely on financial considerations, was in sight. This victory for Nanking was offset, however, by an intensification of the disturbances in Kwangsi and Kwangtung, incident to the uprising of the "Ironsides" under General Chang Fa-kwei who threatened Canton at the end of November and who, in cooperation with the old Kwangsi clique, seemed to envisage the establishment of an independent government in South China under the leadership of Mr. Wang Ching-wei.

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THE KUOMINCHUN REVOLT

During the latter half of October and the first half of November, the Kuominchun stubbornly resisted the National Government forces massed in Honan and north Hupeh and at one time threatened to take Hankow. The following comment on the rather abrupt cessation of military operations in connection with the revolt is based on a report by the Consul General at Hankow:

The heartening presence of Chiang Kai-shek in the fighting zone near Hsuchong (Honan) on November 1st was most opportune, as it is very doubtful whether the military strength of the National forces

⁵⁶ Not printed.

otherwise would have been sufficient to withstand Feng Yü-hsiang's attacks. General Chiang Kai-shek was at the front for about three weeks, the line being held substantially intact from his arrival until the time of the negotiations which brought the conflict to an end, at least temporarily. The collapse of the Kuominchun fighting front coincided with the arrival at Hsuehchung of Mr. T. V. Soong, Minister of Finance, for a conference with General Chiang, and it was generally felt in Hankow and in other ports along the Yangtze River that an arrangement had been made whereby, on the payment of a substantial sum of money, Feng Yü-hsiang's troops would be withdrawn from Hupeh and Honan. A few days after the conference, the Kuominchun troops began to evacuate the territory which they had been occupying in the two provinces, and within ten days practically all the Northwest army had been withdrawn.

KWANGSI DISTURBANCES

The month opened with a continuing heavy movement of Cantonese troops to the northern borders of Kwangtung and Kwangsi to repel the invasion of the "Ironsides", under General Chang Fa-kwei. Canton was uneasy, with the Government taking every precaution against communist and other disorders. On November 20th the Consul General at Canton informed the Legation that the Cantonese authorities were feverishly preparing to defend the city against attack, that only military trains were running on the Samshui and the Canton-Hankow railways, and that rumors were rife that several of the larger ships in the Cantonese navy were doubtful in their allegiance and might turn against the local Government should opportunity occur. In the official notice of the closing of the West River, issued at the time, the Cantonese authorities announced that the Kwangsi leaders Li Tsung-jen and Huang Shao-hung had returned to Kwangsi to operate with Chang Fa-kwei against Canton. The month closed with a general engagement expected within a few days. The Kwangsi-Ironside forces were reported to outnumber the Cantonese two to one, but the Cantonese authorities appeared to be confident that they could defend the city with the assistance of incoming northern troops and airplanes.

RENDITION OF BRITISH CONCESSION AT CHINKIANG

In notes of October 31st, exchanged between the British and Chinese Governments,⁵⁷ was embodied an agreement "to return to the National Government of the Republic of China as from November 15th the area of land known as the British Concession at Chin-

⁵⁷ League of Nations Treaty Series, vol. xcix, p. 441.

kiang". The agreement provides (1) that documents of title to the lots of land in the concession are to be exchanged for Chinese deeds of perpetual lease; (2) that pending the promulgation by the National Government of a new law governing land taxation throughout China, and pending the actual application of that law throughout the Chinkiang district, the annual land tax to be paid by former holders of British Crown leases in the district is to remain at the old rate; and (3) that British firms at Chinkiang are to continue to enjoy the right of conveying goods, merchandise, and material across the Bund from godowns to pontoons or ships on the Yangtze and vice versa. A provision similar to point (2) was embodied in Annex 1 of the Agreement between Belgium and China for the Rendition of the Belgian Concession in Tientsin, signed on August 31st.⁵⁸

In further notes, of November 9th, exchanged between the two countries,⁵⁹ it is arranged to place the sum of \$68,000, Chinese currency, at the disposal of two commissioners who are to scrutinize and settle claims for losses sustained by British subjects at Chinkiang in 1927.

As indicated in press comment at the time, Chinkiang, which is characterized as having "practically no prospects", has been diminishing in importance, as the silting up of the south bank of the Yangtze causes the port to recede from navigable waters, so that the gain to China involved in its return is one of prestige rather than of "cold cash".

I have [etc.]

MAHLON F. PERKINS

893.00P.R./28

The Chargé in China (Perkins) to the Secretary of State

No. 2551

PEIPING, January 24, 1930.

[Received February 25.]

SIR: In accordance with the Department's instruction No. 78, of October 9, 1925,⁶⁰ I have the honor to submit the following summary, with index, of events and conditions in China during December, 1929:

The first fortnight of the period was a time of extreme tension for the central Government during which its reorganization, together with a diminution of the accepted sphere of its control, seemed to be imminent. After the middle of the month the turn of events was making for increased stability, at least for the time being. In the South, the threat of the establishment of an autonomous government

⁵⁸ League of Nations Treaty Series, vol. cxxiii, pp. 105, 110.

⁵⁹ *Ibid.*, vol. xcix, p. 453.

⁶⁰ Not printed.

faded with a decisive victory by the Cantonese forces over the Kwangsi faction and General Chang Fa-kwei's Ironsides. In the North, the settlement of the dispute between China and Soviet Russia resulting from the seizure of the Chinese Eastern Railway brought about the withdrawal of Soviet troops from Manchuria. In Central China, the Shih Yu-san uprising as well as the subsequent and more serious revolt of General T'ang Sheng-chih, whose declaration of independence was thought at first to have the endorsement of as many as seventy lesser generals, was successfully held in check. The center of the latter disturbance was the province of Honan where central Government, Yen Hsi-shan, Kuominchun, and miscellaneous forces were gathered in large numbers. December ended with the pretension if not the actuality of the Nanking Government's control over the whole country intact and with General Chiang Kai-shek still at its head.

An important element in the situation which remained enigmatic was the relationship in which General Chiang Kai-shek, Marshal Feng Yu-hsiang, and Marshal Yen Hsi-shan stood to one another. Yen Hsi-shan, Vice-Commander of the land, sea, and air forces of the National Government, reaffirmed, in December, his allegiance to the central Government, at the same time consolidating a position of control over all provinces north of the Yellow River, in which region he exercised the power to appoint and dismiss civil officials at his discretion. General Chiang Kai-shek was reported to be prepared to counter General Yen's growing influence in North China by (temporarily) overlooking past and/or current differences and combining with Feng Yu-hsiang, the foremost of his avowed antagonists. Since his assumption of responsibility for the unsuccessful Kuominchun revolt of November, Feng Yu-hsiang remained at his headquarters in Shansi close to those of Yen Hsi-shan.

Announcement was made by the Chinese Government at the end of December of its decision in principle to abolish extraterritoriality in China as of January 1, 1930, a development which ranked in importance with the acquisition of tariff autonomy early in 1929. It may be noted, in this relation, that, while advance reports indicated a great increase in the customs revenue for the year, largely the result of the increased tariff, the sums collected were very largely spent in connection with incessant military activity.

The Kemmerer Commission of Financial Experts concluded its labors in December and submitted to the Minister of Finance a report of its activities and recommendations, in respect to the financial measures of the Government, which it was hoped would be made public in the near future. In a farewell address to the members of the Commission, Mr. T. V. Soong frankly declared that the Government had

been too occupied during the year in defending its mere existence to embark upon any general scheme of reconstruction.

Discussion of the question of the future status of the Shanghai Provisional Court, between delegates of the interested foreign Powers and delegates appointed by the National Government, not concluded during the period under review, began at Nanking on December 9th.⁶¹

KWANGSI DISTURBANCES

The month opened with a general engagement expected in a few days between the combined Chang Fa-kwei-Kwangsi forces and the Government troops defending Canton, and with nervousness increasing in the city. By December 6th the attacking forces were almost in contact with the main Cantonese defense line, some thirty miles from the city. Serious fighting along the North River front was reported by the 10th and the nervous tension was becoming acute in Canton. On the 12th the rebels, totaling about 36,000 men, were reported to be in retreat after severe fighting, and the Government felt assured that the danger to the city was past. Later reports indicated a complete victory for the Government troops, and a return to normal conditions in Canton under way. Wuchow was retaken on the 19th. The success of the Cantonese arms was generally attributed to the effective use of airplanes, largely of American manufacture. A victory for the anti-Government elements might have resulted in the establishment of an independent régime in Canton under Mr. Wang Ching-wei. Mr. Wang was expelled from the Kuomintang on December 12th and his arrest ordered.

THE SHIH YU-SAN AND T'ANG SHENG-CHIH REVOLTS

1. The Shih Yu-san revolt and its effects on the central authorities are described in part as follows by the Consul at Nanking:

"On the night of December 2 a portion of the 24th Division of the First Group Armies, stationed at Pukow, Kiangsu, revolted, looted the town, set fire to a number of buildings, seized all available rolling stock of the Tientsin-Pukow Railway and entrained for the north. The rebels, who were under the leadership of General Shih Yu-san, newly appointed Chairman of the Anhwei Provincial Government, proceeded up the railway only about thirty miles and entrenched themselves against a possible attack from Nanking. It is understood that at the time of the revolt between ten and fifteen thousand of the troops of the 24th Division were in Pukow and that another ten or twelve thousand of the same division were stationed at points along the Tsin-pu Railway not far distant. The troops in Pukow were scheduled to sail from that place for Kwangtung to take part in the military operations there against Chang Fa-kwei's troops and rebellious Kwangsi troops.

⁶¹ See pp. 682 ff.

"The revolt took Nanking utterly by surprise and caused a panic amongst the central government officials. At the time the Capital was without troops other than the small personal bodyguards of the military leaders and, as the Minister of Foreign Affairs expressed the situation on December 6, 1929, in a conversation with an American journalist: 'I might myself be a prisoner now if the Pukow mutineers had shown a little more initiative. When they revolted there was nothing in Nanking to stop them from crossing the river and taking possession of the city.'

"The revolt at Pukow, occurring in the face of a serious crisis at Canton, was followed by a revolt of part of the 5th Division on the Shanghai-Nanking Railway and by a military disturbance at Hangchow concerning which details are not available. These latter two incidents, while not serious in themselves, showed clearly the disaffection existing amongst troops supposedly loyal to the central Government.

"On December 6th a small military force in Nanking belonging to Tang Sen-chi was disarmed under orders from Chiang Kai-shek and shortly thereafter it became generally known that Tang Sen-chi had revolted against the central Government."

The month ended with Shih Yu-san balked but still astride the Tientsin-Pukow Railway, near Pengpu, thereby cutting Nanking's communications with the North.

2. The following account of the T'ang Sheng-chih revolt is taken from a report by the Consul General at Hankow:

". . . The serious problem of suppressing the rebellion of Tang Sen-chi (T'ang Sheng-chih) in Honan became the uppermost task of the National Government about the middle of the month. From that time to the end of the month practically all political and military activity was centered on devising ways and means either of completely suppressing Tang or else so crippling his authority that he would no longer be a menace to the peace of the country. This problem was all the more difficult because Tang only a few weeks ago had rendered valuable assistance to the central Government in its campaign against Feng Yu-hsiang. The real cause of Tang's revolt has not been revealed, but so far as I have been able to discover it hinges largely on his request that General Liu Chi give up Hupeh Province and withdraw to Kiangsi thus permitting Tang to again occupy Hankow. This request was peremptorily refused by General Liu and the loss of prestige and the thwarted ambition to again occupy this profitable and strategic center made Tang resolve to take it by force. His army was formidable both in numbers and equipment and in the early stages of his move to capture Hupeh substantial headway was made in the direction of occupying Hankow. A series of circumstances intervened, however, to make the task more difficult than was first expected.

"Among these may be noted (1) an unexpected rally in support of Chiang Kai-shek in lukewarm quarters; (2) the presence of a formidable army under General Liu Chi in northern Hupeh and southern Honan which had not been withdrawn after the campaign against Feng Yu-hsiang; and (3) the deepest snows and coldest weather experienced in Honan and Hupeh in thirty years. While both sides

may have suffered because of weather conditions, it is most likely that this was a greater handicap to Tang Sen-chih than to General Liu Chi inasmuch as Tang's position was more isolated. Reports at Hankow were that many soldiers in the field were frozen to death; certain it is that there was great suffering among the troops. In any event, Tang Sen-chih was not able to drive his way to Hankow, and as this despatch is being written (January 6th) indications are that he is being gradually driven back up the Ping-Han Railway and to the east of the railway as well."

At the end of the month T'ang Sheng-chih, with a reward of \$50,000, Chinese currency, offered by the Government for his capture alive and \$30,000 offered to those who might kill him, seemed about to disappear from the political scene. His divisions were held in check but, as is the custom in these politico-military disturbances, they were not definitely routed.

I have [etc.]

For the Chargé d'Affaires ad interim:

CLARENCE B. HEWES

First Secretary of Legation

**SINO-SOVIET CONFLICT OVER THE CHINESE EASTERN RAILWAY AND
APPEAL BY THE UNITED STATES FOR OBSERVANCE OF THE PACT
OF PARIS⁶²**

861.77 Chinese Eastern/6

*The Consul at Harbin (Hanson) to the Minister in China
(MacMurray)⁶³*

No. 1869

HARBIN, December 31, 1928.

SIR: I have the honor to report that on December 29th the Chinese Nationalist flag was hoisted at Harbin, along the Chinese Eastern Railway and at other places in North Manchuria. No particular enthusiasm over the event was expressed by the local Chinese residents, but it is reasonable to conclude that they are relieved by this outward sign that North and South China are united. This union will have little effect on the administration of Harbin and the Special Area of the Eastern Provinces, whose officials have been appointed by Mukden. As far as foreign affairs are concerned, China proper and Manchuria will present a united front to the outside world. As far as internal affairs are concerned, Nanking will have little voice in Manchuria matters.

⁶² For correspondence relating to the negotiation of the treaty for the renunciation of war, signed at Paris August 27, 1928, see *Foreign Relations*, 1928, vol. I, pp. 1 ff; for text of treaty, see *ibid.*, p. 153.

⁶³ Copy transmitted to the Department by the Consul in his despatch No. 4715, of the same date; received January 30, 1929.

As the Legation is aware, the flag of the Chinese Eastern Railway was a combination of the Chinese five colored flag and the Soviet flag, the former being above and the latter below. Orders were issued not to permit the raising of this flag after December 28th. The Management and Board of Directors of the Railway are now discussing the design of a new flag for the line, but a decision of this sort taken by them would have to be approved by the Nanking Government and Soviet Regime. As the Chinese officials appear determined to strip the Railway of all functions except those which they consider to be of a simple transportation nature and have been greatly encouraged in this respect by the lack of opposition they encountered when they took over the Railway's telephone system, it will probably be sometime before they will permit the Soviet flag, even in conjunction with the Nationalist flag to wave over the property of the Railway.

In an interview given to representatives of the local Russian press, Mr. Chang Ko-chen, who is a secretary of Marshal Chang Hsueh-liang,⁶⁴ is Chief of the local Chinese Educational Administration and has made himself spokesman for the newly installed Chinese authorities, probably because he was educated at Harbin and speaks excellent Russian, stated that unless the local citizens of the U. S. S. R. would not [*sic*] be completely loyal to China, in which they lived, and would not [*sic*] submit to its laws, and, unless the Soviet Administration of the Railway would not [*sic*] introduce full parity of employment and otherwise live up to agreements, the local authorities would have to take measures against them similar to those which were taken at one time by the southern government. As local Russians know what vindictive measures the nationalist officials in the south took against Soviet consular officers and citizens, this outburst of Mr. Chang's caused considerable uneasiness among the Russian community.

The Soviet officials, outwardly do not appear to be worried over the newly created situation. Mr. V. G. Chilkin, Soviet Vice-President of the Board of Directors of the Railway, remarked to a member of the staff of the Consulate that he believed all local foreigners had their troubles with the Chinese authorities and that these were to be expected. There is much talk regarding the taking over of the entire railway by the Chinese authorities. It is believed that the Japanese officials of the South Manchuria Railway would take active measures to forestall a movement of this sort, which could be used as a precedent against the Japanese line. Perhaps, there exists some sort of an understanding between the Soviet and Japanese officials in this respect or, at least, the Soviet side might have some

⁶⁴ Chief commander of the Northeastern Frontier Army, head of the Mukden Government, and son of the late Marshal Chang Tso-lin.

knowledge of the attitude of the Japanese railway officials toward this question.

There exists an agreement dated May 31, 1924 between Soviet Russia and the Peking Government⁶⁵ and an agreement dated September 20, 1924 between Soviet Russia and the Mukden Government of General Chang Tso-lin,⁶⁶ who was considered by the Peking Government to be a rebel when the agreements were signed, regarding the Chinese Eastern Railway and other questions. These agreements differ, although not radically. The Mukden agreement cuts down the concession period of the Railway by 20 years, while the Peking agreement does not. It would appear, therefore, that the Soviet Regime must now come to an understanding with the Nanking Government, as representing China as a whole in foreign affairs. It is presumed that the Mukden agreement will remain in force until such an understanding is reached. However, it can be expected that the local Chinese authorities will interpret this agreement in ways that suit their own interests and that the Soviet side will be too powerless to resist the Chinese officials in this respect.

I have [etc.]

G. C. HANSON

893.00P.R.Harbin/15

*The Consul at Harbin (Hanson) to the Minister in China
(MacMurray)*⁶⁷

[Extract]

No. 1876

HARBIN, January 9, 1929.

SIR:

The Soviet officials received a shock when the local Chinese authorities, acting on instructions from Mukden, took over by force and without compensation the city's telephone system which had been installed at an expense of over local \$1,000,000 and managed by the Chinese Eastern Railway. The Soviet officials fear that this drastic move will be followed by the taking over by the Chinese of the whole railway, which is really the property of the Russian people and which is now administered by a Soviet General Manager and a Board of Directors, consisting of five Chinese and five Soviet Russians. There is danger of radicalism on the part of the Chinese authorities, but it will be directed more against Soviet Russians and their property than against

⁶⁵ *Foreign Relations*, 1924, vol. I, p. 499.

⁶⁶ See telegram No. 368, September 27, 1924, and No. 377, October 4, 1924, from the Chargé in China, *ibid.*, pp. 509, 510.

⁶⁷ Copy transmitted to the Department by the Consul in his despatch No. 4724, of the same date; received February 11, 1929.

other foreigners. Soviet Russia cannot take strong action against Manchuria because of fear of complications on the Polish border and of Japan, and the Chinese authorities know this and are acting accordingly.

Some press reports have stated that Soviet Russia is attempting to sell its rights to the Railway to either France or Japan, but it is doubtful if the governments of these last named two countries desire to become mixed up in an already complicated situation.

I have [etc.]

G. C. HANSON

893.00P.R.Mukden/21

*The Consul at Mukden (Myers) to the Minister in China
(MacMurray)*⁶⁸

[Extract]

No. 186

MUKDEN, February 7, 1929.

SIR:

Under instructions from Moscow the local Soviet Consul General filed a protest with the Mukden Government against the seizure of the Harbin telephone service operated by the Chinese Eastern Railway. The protest was made to the Commissioner of Foreign Affairs and after its delivery the Consul General accompanied by the Commissioner called on General Chang Hsueh-liang. To the representations made, General Chang is reported to have replied that the Government's action was in accord with China's sovereign rights and was entirely proper.

As far as can be learned, there have been no negotiations between the local Soviet Consulate General and the Chinese Eastern Railway. It was reliably reported that at a conference held at Mukden on January 21st the decision was reached to continue to recognize the 1924 Mukden Agreement with the Soviets but later information clearly indicates that the Chinese Eastern Railway question is by no means settled. That the Chinese are considering ways and means of bringing to fruition their pet scheme of taking over the Chinese Eastern Railway there seems to be little doubt. (Reference—my confidential despatch No. 168 of January 4, 1929, entitled "Chinese Eastern Railway Telephone Service").

I have [etc.]

M. S. MYERS

⁶⁸ Copy transmitted to the Department without covering letter; received March 2, 1929.

761.93/647

*The Consul at Mukden (Myers) to the Minister in China
(MacMurray)*⁶⁹

No. 201

MUKDEN, March 27, 1929.

SIR: As of possible interest to the Legation, I have the honor to report that Mr. Melnikoff, Soviet Consul General, Harbin, arrived at Mukden a few days ago and had an interview with Chief Commander Chang Hsueh-liang yesterday noon. His coming was apparently a surprise and prior to the interview the nature of his mission was unknown to the Chinese Authorities. According to reliable information the general purport of this interview is as follows:

After the introduction by the local Soviet Consul and the usual preliminaries, Mr. Melnikoff stated that he was a prominent figure in Soviet Russia and that he was invested with much broader powers than usually pertain to the office of Consul. He stated further that for the improvement of Soviet-Chinese relations a new treaty is necessary and that he was ready to start negotiations at once. General Chang replied that he did not see the need of a new treaty and furthermore he was not in a position to negotiate a treaty as his father had done in 1924; that he was a member of a "Party" too, whose authorization was a prerequisite to undertaking such an important matter.

Mr. Melnikoff then referred to the taking over of the telephone service at Harbin of the Chinese Eastern Railway which was characterized as a violation of the Chinese-Soviet agreements. In General Chang's response it was pointed out that the agreements only related to the railway and not to telephones; that the Chinese only resorted to this action to prevent impairment of its sovereignty; that the Chinese Authorities who had addressed the Chinese Eastern Railway three times in regard to this matter without receiving a reply were obliged to take over the service for the protection of China's rights. He also stated that he might be forced to take still further measures for the same reason.

Mr. Melnikoff then mentioned that Chang Ko-chen, Chief of the Educational Administration, Harbin, was carrying things too far, to which the General replied that any complaints he had to make should be submitted to the local authorities (Harbin). General Chang added that he personally knew Chang Ko-chen and was ready to support him in everything he has done.

⁶⁹ Copy transmitted to the Department without covering letter; received April 25, 1929.

Reference was made by Mr. Melnikoff to the poor treatment accorded by the Chinese Authorities to Soviet citizens in North Manchuria. General Chang objected to this charge stating that Soviet citizens were being treated fairly in his territory in marked contrast to the treatment which Chinese citizens are receiving in Soviet territory.

The matter of the employment of "White" Russians by the Mukden Government was brought up by Mr. Melnikoff and described as a breach of treaty. General Chang took exception to his statement and replied that no agreements were violated by the employment of these Russians. He added that while the Chinese for humanitarian reasons are giving these Russians a chance to earn a livelihood the Soviet Government prevents them from returning to their homes and only desires to persecute them; and also that the Chinese are the masters, the "White" Russians being merely employees.

During the brief conversation that followed, General Chang stated that he was glad to know that Mr. Melnikoff intended to remain in Mukden for a week or more in order to meet Chinese officials and others and that he was sure that the opinions he had expressed were shared by all members of his Government.

General Chang, it has been reliably learned, did not once refer to any Chinese present for information in regard to any of the matters raised. The clear-cut and bold responses which the General had ready for each statement of Mr. Melnikoff and the grasp of the situation which they exhibited must have caused no little surprise to the Soviet representatives present—the local Consul and interpreter besides Mr. Melnikoff. His own subordinates were not a little astonished. It is surmised that the General's attitude as exhibited at this interview will forestall further advances for the present at least.

Regarding the employment of "White" Russians, it is reliably stated that there are secret stipulations attached to the Mukden Agreement providing that no "White" Russians shall be employed as advisers or in other capacities by the Mukden Government. This, it is said, was unknown to General Chang at the time of the interview. It is understood that General Chang proposes to publish this secret part of the agreement if the Soviet Government presses this point. A case which Melnikoff had, no doubt, in mind is the recent appointment of Ostroumoff,⁷⁰ of Harbin, as adviser to the Communications Commission at Mukden.

This office will report any additional information on this subject that may come to its notice.

I have [etc.]

M. S. MYERS

⁷⁰ Boris V. Ostroumoff, "White" Russian general manager of the Chinese Eastern Railway in 1924.

893.00B/587 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 29, 1929—noon.
[Received May 29—10:05 a.m.]

428. Following from American Consul at Harbin:

“May 28, noon. Chinese police on May 27th raided communistic meeting attended by Soviet Consuls General, Harbin and Mukden, and held at local Soviet Consulate General. About forty arrests made and consular premises thoroughly searched.”

For the Minister
PERKINS

125.4612/168 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 8, 1929—5 p. m.
[Received June 8—10:55 a. m.]

457. Following from American Consul at Harbin:

“June 7, 4 p. m. Chief of Police, Harbin, showed me today two metal wax seals which are excellently made cuts of Harbin American Consulate metal wax seal and which were seized in the recent raid on the local Soviet Consulate General. Pictures of the same will be mailed and sent to the Legation and to the Department.”

MACMURRAY

893.00B/602

The Minister in Latvia (Coleman) to the Secretary of State

No. 6200

RIGA, June 10, 1929.
[Received June 24.]

SIR: I have the honor to report that the Soviet press has taken no notice of the unpleasantnesses between the Chinese authorities and the Bolshevik representatives in China except to publish on June 1 a note of the People's Commissariat of Foreign Affairs, protesting against the search of the Soviet Consulate General at Harbin, and the accompanying circumstances and indignities, and to support this note with firm editorials. That of the official newspaper has been translated in part. The *Pravda's* is quite similar. The prolonged silence of the Soviet press may, perhaps, be taken as an indication that these incidents will have further consequences. There is no effort to conceal the fact that the real issue is the control of the Chinese Eastern Railway. Silence may, perhaps, be due to uncertainty as to the attitude of Japan.

I have [etc.]

F. W. B. COLEMAN

[Enclosure—Translation]

*The Soviet Acting Commissar for Foreign Affairs (Karakhan) to the Chinese Chargé in the Soviet Union (Hsia)*⁷¹

[Moscow, May 31, 1929.]

MR. CHARGÉ D'AFFAIRES: On May 27, at 2 o'clock p. m. the premises of the Consulate General of the Union of Soviet Socialist Republics at Harbin were suddenly invaded by a detail of police. A search was made which lasted about six hours. During all this time the Consul General of the Union of Soviet Socialist Republics, Mr. Melnikov, and his assistants were detained and were deprived of the possibility of communicating with the outside world. With respect of the Vice Consul Mr. Znamensky, physical force was employed. Regardless of the decisive protest of the Consul, the police took away a part of the Consular correspondence, and arrested all the visitors, to the number of 39, there were in the various rooms of the Consulate. All of those arrested were Soviet citizens living in Manchuria. Among them were many employees of Soviet state economic institutions and of the administration at Harbin of the Chinese Eastern Railway, who had come there on the affairs of their institutions or had called on passport and visa business, and, lastly, three temporary extra workers at the Consulate. Chinese policemen and Russian white-guardsmen serving in the Chinese police openly carried off money and things, belonging to the Consulate and its employees.

On the next day after the search the police for its part published a statement, exceptional for shamelessness and stupidity, about a "session of the III International", alleged to have been going on in the "basement["] of the Consulate and to have been discovered by them. At the same time, with the manifest inspiration of the self-same police, the Chinese and white-guard press is printing further provocative inventions, designed to justify the illegalities of the police authorities.

The police raid and search in the premises of the Consulate General of the Union of Soviet Socialist Republics, which is under the protection of international law, was a flagrant violation of the very bases of international law. The detention of the Consul and his assistants for six hours; the arrest of visitors, including those found in the office of the Consul General himself; the seizure of Consular correspondence, inviolable under international law, accentuate still more the violent and lawless character of all this affair, emphasizing the complete contempt of the police authorities for the elementary principles of international law and international intercourse.

⁷¹ Translation from text printed in the Moscow *Izvestia*, No. 123, June 1, 1929.

The outright outrages on the part of the policemen which accompanied the search—the pilferage of property and money, the physical violence offered to Consular assistants, are the natural concomitants of such arbitrary conduct, and fully correspond to the character of the whole conduct of the police authorities toward a Consulate General of the Union of Soviet Socialist Republics.

The actions of the Harbin police authorities do not at all acquire legality from the wholly unfounded and provocative explanations and charges against the Consulate that these authorities are publishing in the press. The statements about a “session of the III International” going on in the Consulate is a manifest, stupid invention, without rhyme or reason, moreover, as is plain to be seen, and is merely an awkward attempt on the part of these same local authorities to evade merited responsibility for their flagrant actions, apt to create new complications in the mutual relationships between the two neighboring countries.

The Union government is obliged to bring to the attention of the Government of the Chinese Republic that the unlawful police raid on the Consulate General of the U. S. S. R. at Harbin occurred after prolonged preparation in the form of a provocative campaign begun against the Soviet Union and against its Consular offices, which found expression not only in irresponsible observations in the press but also in slanderous utterances on the part of official and unofficial persons and institutions of the National Government. The Union government finds that a regular police raid on the premises of the Consulate General of the Union of Soviet Socialist Republics at Harbin, together with the above mentioned campaign, creates a situation in which the normal work of the Consular offices of the Union of Soviet Socialist Republics on Chinese territory becomes exceedingly difficult, if not wholly impossible. The resulting position is the more serious in that the recent events were preceded by the raid on the Embassy of the Union of Soviet Socialist Republics at Peking on August [*April*] 6, 1927, the white-guard raid on the Soviet Consulate at Shanghai on October 25, 1927, the devastation of the Soviet Consulate at Canton in December, 1927, accompanied by the killing of 5 of its employees, and a number of violent actions inflicted by the Chinese side upon the Chinese Eastern Railway. All these acts, responsibility for which lies at the doors of various Chinese authorities, as is known, still remain unatoned, and are hindering the reestablishment of normal Chinese-Soviet relationships.

The Union government, for its part, in spite of a series of acts of exceptionally provocative character on the part of Chinese authorities

with respect of the Embassy and the Consulates of the Union of Soviet Socialist Republics in China, has with inexhaustible patience refrained from answering with any repressive measures, justified as they would be by the circumstances. The Union government in particular has continued to render to the Mission and Consulates of the Chinese Republic on the territory of the Union of Soviet Socialist Republics all the protection that is assured to them by international law and that is essential to their normal functioning. The Union government has been guided in this matter by the desire to assure to the Chinese citizens, living on the territory of the Union of Soviet Socialist Republics, the same degree of protection and care, on the part of their Consular institutions, that are enjoyed by the foreign citizens of other Powers, which maintain with the Soviet Union diplomatic relations. The Union government is obliged, however, to affirm that this calm and friendly position of its is, obviously, being distorted by influences hostile to the Union of Soviet Socialist Republics into proof of its readiness to leave unanswered all future provocations of its Consular offices in China.

Confronted with a new provocative and violent act with respect of its Consular service, the Union government is obliged to make the most decided protest against said police outrages, and to demand an immediate order for the liberation of the Soviet citizens arrested in the premises of the Consulate, and the return of all the correspondence that was carried off and all the things and money that were stolen.

At the same time the Union government is obliged to declare that, as the Chinese authorities with all their actions plainly show that they neither can nor will give due weight to the universally accepted norms of international law and usage, it for its part no longer regards itself as bound by these norms with respect of the Chinese Representation at Moscow and the Chinese Consulates on the Soviet territory, and that in future this Representation and the Consulates will not be conceded the right of extraterritoriality, with which international law clothes them.

The Union government declares that the Soviet Union in all circumstances inalterably strives to maintain and sustain friendly relations with the Chinese people. The Union government is obliged, however, most decisively to warn the Nanking Government and its organs from further trying the longsuffering of the government of the Union of Soviet Socialist Republics with provocative acts and with the violation of treaties and agreements.

Accept [etc.]

KARAKHAN

893.00B/597 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 14, 1929—3 p. m.

195. Newspaper reports state that Soviets have been mobilizing forces on Chinese-Siberian border. Can you confirm?

CLARK

125.4612/169 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, June 17, 1929—7 p. m.

[Received June 17—1:10 p. m.]

485. My 457, June 8, 5 p. m.

(1) Consul Hanson's despatch from Harbin along the same lines enclosed a photograph of the counterfeited seal of the Harbin Consulate which is an imitation of small metal seal for sealing envelopes.

(2) During the raid on the Soviet Consulate General at Harbin, an attempt was made to burn papers, documents, etc., but the police extracted from a kitchen stove a Soviet code book, which was burned at the edges. Two counterfeited American seals were found in it, and they were copied so well that Consul Hanson does not believe they could have been executed in Harbin. He was shown the code book and also indirectly received word that the Soviet authorities would, officially or unofficially, approach him in an effort to convince him that "White" Russians had planted the seals because they desired to cause trouble between the Soviet and the United States. Hanson has wired me that, while the Harbin Russian press did mention the seizure, so far no Soviet official has mentioned, either directly or indirectly, the matter of the seals to anyone belonging to the American Consulate. In the same book which contained the imitation consular seals there were found also counterfeited Japanese seals.

(3) Although there is no evidence concerning the use to which these seals were put, Hanson says they were probably employed in resealing mail which had been opened and in dispatching Soviet and/or communistic mail matter sent under the guise of United States or Japanese consular correspondence.

(4) Having possession of these seals for illegal purposes is a crime under Chinese law, to which Soviet consular employees are subject. The Harbin Chinese authorities are aware of this, but it is a question whether they would prosecute the case without being pressed by the Consul to do so. Hanson requests the Department's telegraphic instruction as to what action, if any, he should take in the matter.

MACMURRAY

893.00B/598 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 21, 1929—1 p. m.
[Received 1:10 p. m.]

498. Your 195, June 14, 3 p. m., was repeated to the American Consul at Harbin who has replied as follows:

"June 18, 4 p. m. Recent arrivals and reports from Hailar and Manchuria Station indicate that conditions normal on the border and that no trouble even in Barga will occur this summer. Inclined to believe these false rumors by Soviet agents in order to intimidate Chinese."

MACMURRAY

125.4612/170 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, June 25, 1929—7 p. m.

216. Reference your 485, June 17, 7 p. m. Inform Consul at Harbin that the Department wishes to make no formal request for the seals and to conduct no correspondence with the Chinese authorities regarding police action through which they were obtained. The Department would be pleased to have the Consul get possession of the seals or to convince himself of their destruction, provided he could accomplish either end without written request or formalities and without indication that he was acting under instructions.⁷²

STIMSON

893.00/10508 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase—Extract]

PEKING, July 9, 1929—6 p. m.
[Received July 9—10:15 a. m.]

552.

The Chinese Minister for Foreign Affairs, C. T. Wang, is expected here tomorrow, presumably to discuss the Manchurian situation with Chiang Kai-shek⁷³ and Marshal Chang Hsüeh-liang.

MACMURRAY

⁷² In reply, the Consul at Harbin reported that the seals and other materials seized by the Chinese had been forwarded to Mukden headquarters (125.4612/171).

⁷³ Chairman of the State Council of the National Government of the Republic of China.

861.77 Chinese Eastern/176

*The Consul at Harbin (Hanson) to the Minister in China
(MacMurray)*⁷⁴

No. 1969

HARBIN, July 10, 1929.

SIR: I have the honor to confirm below two telegrams sent to the Legation in regard to to-day's actions of the local Chinese authorities against Soviet interests:⁷⁵

"July 10, 11 a. m. Local Chinese authorities took over Chinese Eastern Railway telegraph system early this morning and arrested a dozen communists connected with the line whom they threaten to deport into Siberia. Department not informed"

"July 10, 3 p. m. Chinese authorities have closed Soviet trade organizations in North Manchuria. Arrests now sixty. It would appear that there will be little Soviet opposition and no strike of railway employees. Department not informed."

Harbin was startled early in the morning of July 10th by the news that the Chinese authorities had taken over the public telegraph and line telephone systems of the Chinese Eastern Railway. At 7 A. M. these systems were placed under the control of General Chiang Pin, Chief of the Telegraph and Telephone Administration of the Three Eastern Provinces, who notified the Railway officers concerned that he was acting under orders of the Northeastern Committee of Ways of Communications in taking over the systems. No reasons were given, but the telegraph and telephone apparatus necessary for purely railway operations was left under the control of the railway officials. Chinese agents simultaneously appeared at the Railway's central telegraph office at the Harbin station and Pristan, the business town, and at stations along the line and took concerted action, which had evidently been carefully planned before. However, the taking over of these systems had been anticipated ever since the taking over from the Railway of the Harbin city telephone system as reported in my despatch No. 1864, dated December 24, 1928,^{75a} on the subject of the forcible seizure by Chinese of Chinese Eastern Railway's telephone system.

Of more serious import to the Soviet side were the arrests to-day of about 60 Soviet employees of the Railway, including such prominent active leaders as Knaisseff [*Knazieff?*], Chief of General

⁷⁴ Copy transmitted to the Department by the Consul in his despatch No. 4849, of the same date; received August 5, 1929.

⁷⁵ Telegrams were also transmitted to the Department by the Minister in China in his telegram No. 557, July 11 (861.77 Chinese Eastern/25).

^{75a} Not printed.

Affairs in the offices of the Administration, Markoff, assistant Chief of the Traffic Department and the head of the professional union of railway employees. It has been reported that these leaders will be deported into Siberia to-day. No public announcement of these arrests has yet been made.

Later in the day, by order of the Office of the Civil Administrator of the Special Area, the police closed up the local offices of the Gostorg (Government Trading Trust), Neftsyndicate (Government Oil Trust), Sovtorgflot (Soviet Trading Fleet) and other Soviet Government trade organizations on the grounds that representatives of these organizations had been caught in the recent raid made on the local Soviet Consulate General, where evidence had been discovered that they and their organizations had been engaged in communistic propaganda dangerous to the Chinese Government.

Yesterday, it was announced that Mr. Fan Chi-kuan, a member of the Board of Directors of the Chinese Eastern Railway, had been additionally appointed Chinese Assistant Manager of the Railway, in place of Mr. Kuo Chung-hsi, who had been granted three months sick leave. Another English speaking Chinese, Mr. Tu Wei-ching, who was educated in the United States and who was Chief of the Ways Department of the Railway, was also granted sick leave. Mr. Fan was educated in Russia and speaks excellent Russian, which Mr. Kuo does not. It is now rumored that Mr. Fan will be made General Manager, to replace the Soviet General Manager, Mr. A. I. Emshantoff, by order of the Nanking Government, which appears to have ordered the moves mentioned above. This would be in direct violation of the Soviet-Mukden Agreement.

The Soviet authorities are angry, but helpless, and it is not believed that they will make more than verbal objections, although it is reported that about 100 more Soviet agents will soon be deported. There were evidently some feeble attempts made to persuade the railway workers to strike, but, aside from the workers' unwillingness to sacrifice the only chance they have of making a living in North Manchuria, it was found difficult to put this scheme into practice because the union leaders were placed under arrest. It is also reported that a Chinese gunboat has anchored in the Sungari River near the main workshops of the Railway with its guns trained on them, evidently in readiness to fire if violence breaks out in that direction.

I have [etc.]

G. C. HANSON

861.77 Chinese Eastern/27 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 11, 1929—7 p. m.

[Received 11:45 p. m.]

560. My 557, July 11, 3 p. m.⁷⁶ Following from American Consul at Harbin:

"July 11, 11 a. m. Chinese authorities have discharged Soviet general manager of railway, Soviet assistant manager and all Russian heads of departments. Fan Chi-kuan, member of board and also Chinese assistant manager, has taken over charge as general manager."

MACMURRAY

893.00/10510 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 11, 1929—8 p. m.

[Received 11:45 p. m.]

561. My 552, July 9, 6 p. m.

1. Chiang Kai-shek, Chang Hsueh-liang and Yen Hsi-shan⁷⁷ left Peking last night for Nanking, Mukden and Taiyuanfu, respectively.

2. The Japanese Minister is creditably informed that one of the results of the visit of the Minister for Foreign Affairs, who is still in Peking, was an arrangement with Chang whereby Manchuria's foreign relations would be handled through central authorities at Nanking rather than at Mukden.

MACMURRAY

861.77 Chinese Eastern/28 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 13, 1929—1 p. m.

231. 1. An Associated Press telegram, dated Tokyo, July 12, stated that information from Harbin is to the effect that, in view of the probability of a tie-up on the Chinese Eastern Railway, the Harbin consular body is considering mediation to seek a peaceable settlement.

2. Whatever precedent may exist for participation by the American Consul at Harbin in representations designed to keep the Chinese Eastern Railway open to traffic, the Department does not deem it expedient that the Consul should participate, unless instructed by the Department, in any attempt to adjust the dispute between Soviet Russia and China in connection with the Chinese Eastern Railway.

STIMSON

⁷⁶ See footnote 75, p. 198.

⁷⁷ Yen Hsi-shan, chief commander of the Peking and Tientsin Garrisons and former Governor of Shansi Province.

861.77 Chinese Eastern/166

The Soviet Acting Commissar for Foreign Affairs (Karakhan) to the Chinese Chargé in the Soviet Union (Hsia) ⁷⁸

[Translation]

Moscow, July 13, 1929.

MR. CHARGÉ D'AFFAIRES: By instruction of the government of Union of Soviet Socialist Republics, I beg you to communicate the following to the Mukden government and the National Government of the Chinese Republic at Nanking:

According to information received by the Government of the U. S. S. R., at 10 o'clock in the morning of July 10th, the Chinese authorities made a raid upon the Chinese Eastern Railway and seized the telegraph of the Chinese Eastern Railway along the whole line, interrupting telegraphic communication with the U. S. S. R.; closed and sealed, without giving the reasons, the Commercial Agency of the U. S. S. R. and also the branches of the State Trading Company, the Textiles Syndicate, the Coal Oil Syndicate and the Soviet Mercantile Marine. Thereupon the Duban [*Tupan*] of the road (the President of the Administration of the Chinese Eastern Railway), Mr. Liu Czhun-khuan ⁷⁹ presented to the General Manager of the Chinese Eastern Railway, Mr. Emshanov, a demand to hand over the management of the road to a person, designated by the Duban. When the General Manager of the road, Mr. Emshanov, refused to comply with this unlawful demand, which is in flagrant violation of the agreement on the provisional administration of the Chinese Eastern Railway, concluded at Peking on May 31, 1924, and also of the agreement between the government of the U. S. S. R. and the government of the autonomous Three Eastern Provinces of the Chinese Republic, concluded at Mukden on September 20, 1924, he was removed from his post, as was the Assistant General Manager of the road, Mr. Eismont. Both were replaced by persons designated by the Duban. The Chiefs of the Traffic and Traction Services and other persons were removed, by order also of the Duban, and replaced by Russian whiteguardists. The trade union and cooperative organizations of the railway hands and employees all along the line of the Chinese Eastern Railway were smashed and closed and searches and arrests were made, more than 200 citizens of the U. S. S. R., railway hands and employees, being arrested. About 60 Soviet citizens, including Messrs. Emshanov and Eismont, have been expelled already beyond the bounds of China.

⁷⁸ Translation from text printed in the *Moscow Izvestia*, No. 159, July 14, 1929; copy transmitted to the Department by the Minister in Latvia in his despatch No. 6291, July 18; received August 2, 1929.

⁷⁹ Other more common transliterations of name are "Lu Jung-huan" and "Liu Yung-huan."

News has been received at the same time of the concentration along the Soviet borders of Manchurian troops, which have been brought into combat readiness and have been moved up to the very frontier. According to information, along with the Manchurian troops on the borders of the U. S. S. R. are disposed Russian whiteguard units, which the Manchurian Command is intending to throw over into the Soviet territory.

The above-named acts are a most manifest and a most flagrant violation of the direct and incontestable provisions of the treaties existing between the U. S. S. R. and China, and these infringements are made rather more arrant, and not less, by the fact that the Duban of the road, in his statement, himself cites the obligation of the representatives of the two parties concerned in the Chinese Eastern Railway to observe the treaty, he with this reference endeavoring to mask his own plainly illegal acts.

As appears from article 1 of the agreement of May 31, 1924, on the provisional administration of the Chinese Eastern Railway, and from the analogous article 1, point 6, of the Mukden agreement, all questions relating to the Chinese Eastern Railway are examined and decided by the Board of ten persons, and the "decisions of the Board enter into effect if they are approved by not less than six members of the Board"; moreover, the Chairman of the Board, a Chinese citizen, and the Vice Chairman, a Soviet citizen, "together conduct the business of the Board and both sign all documents of the Board".⁸⁰

Thus, the very fact of the issue by the Duban of a unilateral order over his sole signature and without securing the assent of either the Board or of the Vice Duban, a Soviet citizen, gives to this act of his a manifestly illegal character, to say nothing of the fact that this act cuts away the very roots of the principle of parity, established by the treaties.

According to article 3 of the same Peking agreement and article 1, point 8, of the Mukden agreement, "the management of the road resides with the General Manager, a citizen of the U. S. S. R., and two Assistant General Managers, of whom the one must be a citizen of the U. S. S. R., and the other a citizen of the Chinese Republic. Said officers are nominated by the Board and are confirmed by their respective Governments". Their rights and duties are determined by the Board, which likewise appoints the Chiefs and Assistant Chiefs of the various Services of the road.

Thus, the removal of the General Manager of the road by order of the Duban, and his replacement, if only provisional, by a Chinese citizen, and also the unilateral removal of the Assistant General Man-

⁸⁰ cf. *Foreign Relations*, 1924, vol. I, pp. 499, 500.

ager and of a number of officers of the road, violate the fundamental provisions of the agreement of 1924 and from the ground up change the regime of management of the road that was established by agreement between the Governments of China and the U. S. S. R. and was fixed in the treaties in effect between them. This infraction, which is altogether without justification, bears a still more shocking character in that, as plainly appears from the above cited articles of the treaties, the appointment, and consequently also the removal, of said officers is the prerogative of the Board as a whole, and cannot be exercised otherwise, in particular not through unilateral personal orders of the Duban on his sole authority. The Duban in his statement refers to an order, given by him to the General Manager, Mr. Emshanov, concerning compliance with a whole series of demands of the Chinese side, touching the system of management of the road. The General Manager, however, is the executive organ of all the Board as a whole, and may not carry out the orders of the Duban or of the Vice Duban, if they do not come from the Board itself with the signatures of the Chairman and the Vice Chairman, as is required by article 1, point 6, of the Mukden agreement of 1924. The very reference to the non-execution by the General Manager of some sort of personal orders of the Duban on his sole authority merely confirms the illegal character of the acts of the latter.

According to the spirit and letter of the Peking and Mukden agreements of 1924, the Chinese Eastern Railway is the object of management in common by the U. S. S. R. and China, and furthermore, the Chinese Eastern Railway may become the property of China either upon the expiration of the term fixed in the treaties, or, prior to this term, by way of the purchase of the road by China by agreement of the parties. Meanwhile, the unlawful acts of the Duban of the Chinese Eastern Railway, as above set forth, which have been sanctioned by the Chinese Government, mean in substance the seizure of the Chinese Eastern Railway and an attempt at unilateral abolition of existing treaties.

The agreements of 1924 establish a quite definite manner of settling all disputable questions concerning the road. According to article 6 of the agreement of May 31, 1924, and article 1, point 11, of the Mukden agreement, "all questions upon which the Board cannot reach an agreement must be referred to the Governments of the contracting parties for just and friendly settlement".⁸¹ Each of the parties, thus, has the fullest possibility of putting any question before the other side in a quite lawful and normal way and of striving for the satisfaction of its demands. The Chinese side, however, in this case, as in certain cases preceding it, as, for example, the seizure of the telephone station,

⁸¹ cf. *ibid.*, p. 501.

preferred the way of unilateral and unlawful acts, not merely violating, but overthrowing, the treaties in effect between the U. S. S. R. and China.

Observing that the above noted acts of the Duban of the Chinese Eastern Railway is a glaring violation of the treaties existing between the U. S. S. R. and China, the government of the U. S. S. R. makes the most decisive protest on the occasion of these acts, and directs the attention of the Mukden government and the National Government of the Chinese Republic to the extraordinary seriousness of the position which has been created by these acts.

The Union government has given repeated proofs of its peaceableness and friendly attitude to China and toward the struggle that the Chinese people has been making for the abolition of the unequal treaties and for the restoration of the sovereignty of China. The government of the U. S. S. R. was the first government that concluded a treaty with China on the principles of equality and of respecting the sovereignty of China. The government of the U. S. S. R. itself, upon its own initiative, as early as 1919 addressed to the Chinese people a declaration⁸² in which it proclaimed its readiness to abolish all the unequal treaties, concluded between China and Tsarist Russia. In the treaty of 1924 these declarations of the government of the U. S. S. R. were made good.⁸³ The government of the U. S. S. R. voluntarily relinquished in favor of China the concessions in Tientsin and Hankow. It voluntarily relinquished Consular jurisdiction and extraterritorial rights for its citizens in China. It, likewise upon its own initiative, relinquished the Boxer contribution, handing it over to the cause of the enlightenment of the Chinese people. Finally, it also voluntarily relinquished all the privileges which were given to Russia on the Chinese Eastern Railway, namely, the right of having in China its own troops, police, court[s], and other military-administrative functions which previously had been the prerogative of the Russian authorities on the Chinese Eastern Railway and the whole strip alienated to this railway. The relinquishment of all the privileges that are still enjoyed by foreign states with which China is in normal relationships was a manifestation of the socialistic character of the foreign policy of the Soviet state. The conclusion of the treaty of 1924 between the U. S. S. R. and China met with the greatest sympathy in all parts of China, for this treaty for the first time realizes the principle of equality of parties and of the full sovereignty of China.

From the foregoing exposition it clearly appears that, if the Chinese authorities had any complaints or demands to make about the

⁸² See *Foreign Relations, 1922*, vol. I, p. 931.

⁸³ *Ibid.*, 1924, vol. I, p. 495.

regime established on the road, the acts of individual representatives of the U. S. S. R. on the road, or even the rights to the Chinese Eastern Railway fixed by treaties, up to shortening the term of the treaty and buying the Chinese Eastern Railway before the lapse of the term, these authorities had the full possibility, provided by the treaties, to present any complaint or demand of it to the government of the U. S. S. R. in a lawful manner.

The Union government finds that in questions touching the Chinese Eastern Railway it has invariably shown willingness to settle any disputable matter in a friendly spirit. Not longer ago than February 2, in a note, handed by the Consul General of the U. S. S. R. at Mukden to the Central Diplomatic Office of the Three Eastern Provinces of China, the government of the U. S. S. R. declared that it "deems it very desirable that all disputable questions, and in particular the questions touching the régime of the road, which have remained unsettled during the past years, have caused misunderstandings and have interfered with the normal work of the road, should be submitted to discussion and settlement with the object of the removal of possible misunderstandings and conflicts". This proposal, which shows how ready the government of the U. S. S. R. is to meet the reasonable wishes of the Chinese side, gave the Chinese Government the possibility of putting for discussion any of the questions of interest to it. The Chinese side, however, did not wish to avail itself of the possibility that was opened by the offer of the Union government of February 2, a. c., and this proposal remained unanswered. Neither was there an answer to the telegram, despatched on the 11th of this month over the signature of the People's Commissar of Ways of Communication of the U. S. S. R. to the address of the Chairman of the Board of the Chinese Eastern Railway, announcing willingness at once to discuss all disputable questions and stating that the negotiations upon these questions were entrusted by the People's Commissariat of Ways of Communication of the U. S. S. R. to the Member of its Collegium, Mr. Serebriakov.

All these facts exhaustively attest the utter baselessness of the references, in the declaration of the Duban which has been mentioned, to alleged fruitless attempts having been made by China to regulate disputable questions.

The present Chinese authorities are disposed, obviously, to view the above exposed policy of seeking a peaceful and friendly solution of all disputable questions and the policy of respecting the sovereign rights of China—which radically negatives the bases of the imperialistic policy of the bourgeois states—not as a policy following from the very nature of the Soviet authority, but as a manifestation of its weakness. This, obviously, is just why the Chinese authorities

permit themselves a series of glaringly violent and provocative acts with respect of the U. S. S. R., thus abusing its peaceableness. The Union government is obliged therefore to remind the Chinese authorities that it has at its disposal sufficient means, requisite for guarding the lawful rights of the peoples of the U. S. S. R. from any and all violent encroachments.

Remaining true to its peace policy, the Union government, regardless of the violent and provocative acts of the Chinese authorities, once more proclaims willingness to enter into negotiations with China on the whole complex of questions connected with the Chinese Eastern Railway. Such negotiations are possible, however, only in the condition of the liberation at once of the citizens of the U. S. S. R. who have been arrested and the undoing of all the unlawful acts of the Chinese authorities.

In correspondence with this position the Union government proposes:

- 1) to call at once a conference for the settlement of all questions connected with the Chinese Eastern Railway;
- 2) the Chinese authorities at once [to] undo all unilateral acts in respect of the Chinese Eastern Railway;
- 3) All Soviet citizens that have been arrested are [to be] set free at once, and the Chinese authorities [to] put an end at once to all persecutions of Soviet citizens and all encroachments upon their rights and upon the rights of Soviet institutions.

The Union government invites the Mukden government and the National Government of the Chinese Republic to weigh well the serious consequences that rejection of this proposal of the U. S. S. R. will have.

The Union government states that it will await the answer of the Chinese Government to the above exposed proposal for three days, and gives warning that, in the event of non-receipt of a satisfactory answer, it will be obliged to resort to other means of defense of the lawful rights of the U. S. S. R.

Accept [etc.]

L. KARAKHAN

861.77 Chinese Eastern/29 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 16, 1929—4 p. m.

[Received July 17—9:40 a. m.]

575. My 557, July 11, 3 p. m.⁸⁴ Following from American Consul at Harbin:

"July 15, 4 p. m. Chinese authorities today incorporated railway's land department into Chinese land administration and continued

⁸⁴ See footnote 75, p. 198.

discharges Soviet employees. Local Japanese press states Soviet regime has delivered to Chinese Chargé d'Affaires Moscow 15-day ultimatum to restore *status quo ante*. Am trying confirm this doubtful report."

MACMURRAY

861.77 Chinese Eastern/31 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 17, 1929—11 p. m.

[Received July 17—5:43 p. m.]

583. (1) Perkins⁸⁵ has been informed in strict confidence that Karakhan stated, in an interview with . . . at Moscow, that the Soviet Government was determined to force the issue with China. From the impression which . . . received, the Soviet Government suspects a third power (Japan, no doubt) as having been behind the Chinese in the action they took. The Japanese Legation learns from its Nanking reports of the Chinese Government's serious perturbation due to the sort of comments published in foreign newspapers, in both China and abroad, particularly comment such as has appeared in the *Manchester Guardian*, and of the feeling that China's attitude must be moderated. A similar feeling exists also at Mukden. There some of the Chinese leaders consider the Russians to be powerless, but despite this others do not feel so optimistic and are apprehensive lest the Soviet Government should occupy Sinkiang or sever all communications with the railway in Manchuria. It seems that the various chairmen of the Three Eastern Provincial Governments held a meeting at Mukden on June 3, anniversary of the attack on Marshal Chang Tso-lin, at which meeting they decided to take action respecting the railroad. Telegrams were subsequently exchanged with the Foreign Office at Nanking, and thereupon Marshal Chang Hsüeh-liang visited Peking to confer with General Chiang Kai-shek and Dr. C. T. Wang. Several divisions of troops under Generals Chang Tso-hsiang and Wan Fu-lin, of Kirin and Heilungkiang, respectively, were sent on July 8 and 10 toward the Russian frontier. Since then, travelers who have arrived in Harbin report the movement also of Soviet troops toward the Manchurian border.

(2) The Department has presumably received the Russian Tass Agency's English version of what professes to be the Soviet Government's note handed on July 15 to the Chinese Chargé at Moscow.⁸⁶ It is reported that Chiang Kai-shek, in the absence of Dr. Wang from Nanking, has called the State Council to meet to consider the

⁸⁵ Mahlon F. Perkins, Counselor of Legation.

⁸⁶ Presumably note date July 13, printed in *Izvestia*, July 14; see *ante*, p. 201.

Soviet note. Dr. Wang is now on his way back to Nanking via Tsingtao from Peking. Despite the serious situation, Marshal Chang Hsüeh-liang is understood still to be at Peitaiho, whither he went from Peking on receiving news of his son's death.

(3) The above has been mailed to the Embassy at Tokyo.

MACMURRAY

861.77 Chinese Eastern/32 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 17, 1929—12 p. m.

[Received July 18—9:30 a. m.]

583 bis. My 575, July 16, 4 p. m. Following from the American Consul at Harbin :

"July 16, 8 p. m. Chinese authorities continued today wholesale discharges railway employees and apparently intend to ignore ultimatum. Harbin merchants depressed, apprehensive. Families summer resorts western line railway being withdrawn to Harbin. Telegraphic communication beyond Manchuria Station [and] Suifenho reported interrupted."

MACMURRAY

861.77 Chinese Eastern/34 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 18, 1929—2 p. m.

[Received July 18—10:45 a. m.]

584. My 583[bis], July 17, midnight. Following from American Consul at Harbin :

"July 16, noon. Soviet ultimatum published here by Japanese news agency last evening. Yesterday afternoon Chinese authorities closed and took over railway's four libraries here. Arriving passengers report mobilization Soviet troops at Irkutsk and Chita."

MACMURRAY

861.77 Chinese Eastern/33 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 18, 1929—3 p. m.

[Received July 18—2:10 p. m.⁸⁷]

585. Local press publishes the following from Kuo Wen News Agency under date of July 16 from Nanking :

⁸⁷ Telegram in five sections.

"The Ministry of Foreign Affairs wired the text of the Chinese reply to the Soviet ultimatum of July 14th [13th] to the Chinese Chargé in Moscow tonight. It is expected that the reply will be handed to the Moscow Government before the time limit of the Russian ultimatum expires tomorrow.

The note first says that since the conclusion of the Sino-Russian agreement of 1924 the Chinese Government and people have always been actuated by the desire to deal with the Soviet Government and people in a spirit of mutual sincerity. But during recent years many cases have come to light in Chinese territory where the Soviet Government was found behind organized movements to instigate the Chinese people against their Government or calculated to undermine the Chinese social order and the Government. For the purpose of maintaining social stability, the Government was obliged to take action in those cases.

Referring to the raid on the Soviet Consulate in Harbin about six weeks ago, the note says that it was carried out for the purpose of forestalling serious consequences to the peace and order of Harbin and that when the Chinese authorities had decided on the raid it took every precaution to limit its scope.

Coming down to more recent events in Harbin the communication says that, according to recent reports received by the Chinese Government, the Soviet manager of the Chinese Eastern Railway and important Russian officials of the Chinese Eastern Railway have never fulfilled the terms of the Sino-Russian agreement of 1924 and the provisions regulating government operation of the line and that during recent years the Russian officials have committed so many violations of the agreement that the Chinese officials were unable to carry out their duty under the pact. What is worse, the Russians have time after time used the organs of the railway to carry out propaganda forbidden by the agreement of 1924. For these reasons the authorities of that Province were obliged to act. This shows that the responsibility for the violations [of] the agreement and the provisional regulations rests on the shoulders of Moscow.

After declaring that according to the reports of Chinese Consulate in Russia more than one thousand Chinese have been arrested and imprisoned by the Soviet authorities, while many are subject to all sorts of restrictions, the note goes on to say that the Chinese Government has always been generous in its treatment of Russians and Russian commercial organizations in China and that the recent action of the Manchurian authorities was done purely for the purpose of putting a stop to reactionary propaganda and maintaining the peace and order of the Three Eastern Provinces.

Demands: (1) That all the Chinese arrived in Russia should be returned with the exception of those whom the Chinese Legation [*Embassy?*] or Chinese Consulates want to remain on account of pending case against them; (2) that the Soviet Government should accord all the necessary guarantees and facilities to Chinese merchants and merchandise originating in Russia and should not prosecute them. If the Soviet Government can do these things, the Chinese Government will set free all the Russians recently arrested in Harbin.

In short, it has always been the hope of the Chinese Government and people that the Soviet Government will awaken to its mistake and rectify its previous improper actions. They particularly hope in the present instance that the Soviet Government will respect the law and sovereignty of China and refrain from making any proposals contrary to the facts of the case. The Government has ordered Mr. Chu Shao-yang, Chinese [Minister to Finland], who is now in Shanghai, to stop over in Moscow on his way to his post and talk over all the outstanding Sino-Russian questions, particularly the Chinese Eastern Railway, with the Soviet Ministry of Foreign Affairs for the purpose of reaching an amicable settlement. It is hoped that you [*he?*] will embody the contents of this in a note to the Soviet Foreign Ministry and also ascertain the views of the Russian side."

MACMURRAY

123M221/286 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, July 18, 1929—5 p. m.

236. Reference your 588, July 18, 8 p. m.⁸⁸ In view of the present crisis in Chinese-Russian relations, I regret exceedingly having to ask you to continue at your post. Today I had conversations with the British, Japanese, and French Ambassadors and particularly with the Chinese Minister, C. C. Wu. To them I pointed out the grave responsibility imposed by the present situation upon all the powers signatory or adherent to the multilateral peace pact. Agreeing with me, they are all telegraphing their Governments. I stated additionally to Minister Wu that with his Government there rests a still graver responsibility. From all available information, especially from the press, in Washington, I pointed out that the actions of the Chinese Government lent themselves to the implication that the Chinese-Russian agreement of 1924 had been violated by Chinese actions which might well be interpreted as an attack on Russia. Minister Wu undertook to obtain a report for me of what actually happened.

It is very necessary under the circumstances, I think you will agree with me, for you to remain until this crisis has, at least, developed. Tomorrow a telegram with further details of my conversations will be communicated to you.

STIMSON

⁸⁸ Not printed; it reported the Minister's plans to sail for the United States.

861.77 Chinese Eastern/36 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 19, 1929—1 a. m.

[Received 9:40 a. m.⁸⁹]

589. Legation's 585, July 18, 3 p. m.

1. Text of Soviet declaration severing relations with China has been received in Peking.

2. Official in charge of the Soviet Embassy has informed one of the foreign press correspondents that he interprets this declaration as the equivalent of instructions to be prepared to withdraw from Peking and is in turn instructing Soviet consular officials in North China to prepare for departure.

(There are two or three Attachés of Soviet Embassy here who have remained since raid on Russian premises in the Legation Quarter in 1927 performing passport and other consular functions.)

Soviet Embassy estimates that there are about 150,000 Soviet nationals in China of which number some 125,000 are in Manchuria.

3. Reports received in Peking indicate that the international train proceeding from Siberia due Manchouli on July 16th had not arrived; that large stocks of goods held by Russian nationals in Harbin and by Soviet official organizations are being disposed of, largely to Japanese at very low prices in the fear of confiscation by Chinese; also that troop movement[s] by both Soviet and Chinese forces are taking place.

4. There is great speculation concerning the precipitation of the present crisis by China in the absence of the Chang Hsüeh-liang from Mukden and of C. T. Wang from Nanking; one theory is that Chang Tso-hsiang and Wan Fu-lin took advantage of the absence of Marshal Chang from Mukden to act without his concurrence with a view to eliminating him from leadership in Manchurian affairs. It is suggested that if the Nanking Government had initiated or given its consent to the action taken, it would be difficult to account for the absence of both Wang and Marshal Chang from their posts at such a time.

5. Such foreign press comment in China as has come to the attention of the Legation is condemnatory of the Chinese position and apparently regards the present issue as a test whether China may or may not be held to any of her contractual obligations.

6. Mailing code text to Tokyo.

MACMURRAY

⁸⁹ Telegram in two sections.

861.77 Chinese Eastern/46 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 19, 1929—11 a. m.

[Received 12:25 p. m.]

590. Department's 231, July 13, 3 [1] p. m., repeated to American Consul at Harbin who has replied as follows:

"July 17, 11 a. m. Local consular body has not held [and does not ?] contemplate at present holding meeting regarding present Soviet-Chinese railway dispute. Japanese Consul General suggested to me yesterday meeting to exchange views perhaps should be held if international through traffic interrupted. Press advices from Harbin should be read with caution."

MACMURRAY

861.77 Chinese Eastern/35 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, July 19, 1929—noon.

[Received July 19—7:48 a. m.]

75. Embassy's telegram 73, July 12, 3 p. m.⁹⁰ Vice Minister of Foreign Affairs told me today that the Japanese Government had no intention of commenting on or interfering in the dispute between the Soviets and the Chinese in regard to the Chinese Eastern Railway. He said that the Soviet Ambassador had told him that relations were broken off and added that the Japanese did not think for the moment that it would lead to war. He said that communications were very slow and unsatisfactory between Tokyo and Moscow via Harbin and that the Japanese Government for the moment did not have accurate information beyond that appearing in the press. The Minister for Foreign Affairs said he did not expect the question to be discussed at the Cabinet meeting today and that no Japanese action was contemplated for the present.

Repeated to Peking.

NEVILLE

861.77 Chinese Eastern/41 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 19, 1929—noon.

[Received 7:30 p. m.⁹¹]

591. My 585, July 18, 3 p. m. Local press published the following from Tass News Agency, dated Moscow, July 18:

⁹⁰ Not printed.

⁹¹ Telegram in seven sections.

"The People's Commissariat for Foreign Affairs of the U. S. S. R. has handed to the Chinese Chargé d' Affaires at Moscow, Mr. Hsia Wei-sung, the following reply to the note of the Nanking Government of July 17:

'Confirming the receipt of your note of July 17th, [containing] the answer of the Chinese Government at Nanking to the note of the U. S. S. R. Government of July 13th, I have the honor to advise you on behalf of the Government of the U. S. S. R. of the following:

The Government of the U. S. S. R. considers the reply of the Chinese Government as unsatisfactory in content and hypocritic in tone.

Desirous of reestablishing the legal basis of the relation[s] between the U. S. S. R. and China, which have been disturbed by the Chinese authorities, the Government of the U. S. S. R. has advanced in its note of July 13 three absolutely necessary and perfectly moderate proposals:

1. The cancellation of one-sided and entirely unlawful actions of the Chinese authorities on the Chinese Eastern Railway, which are violating the existing relations between the U. S. S. R. and China;
2. The cessation of repressions against Soviet citizens and Soviet institutions;
3. The convocation of conference by both sides to regulate all questions connected with Chinese Eastern Railway.

The Chinese Government, in its reply to the proposal of the U. S. S. R., has essentially rejected these proposals.

Instead of the restoration of the Peking and Mukden agreements, which has [*have*] been abolished by one-sided action of the Chinese authorities, and retaining the basis for neighborly relations, the note of the Chinese Government sanctions the one-sided abolishing of this agreement and thereby destroys the possibility of normal relations between two states.

Instead of reversing the unlawful actions of the *Tupan* of the Chinese Eastern Railway, who has violently removed from office official persons appointed by the administration and by request [*nomination?*] of the U. S. S. R., the note of the Chinese Government sanctions these unlawful actions, justifying thereby the seizure of the Chinese Eastern Railway.

Instead of the discontinuation of the unlawful repressions against Soviet citizens and Soviet institutions, the note of the Chinese Government sanctions these repressions and hypocritically attempts to justify them by the false reference to some mass repressions against Chinese citizens in the U. S. S. R., being well aware that repressions in the U. S. S. R. are being applied only against an insignificant group of spies, opium traders, den keepers, smugglers, and other criminal elements among the Chinese citizens.

Instead of a direct agreement for an immediate convocation of a conference by two sides to regulate all controversial questions, the note of the Chinese Government evades this question, rejecting thereby the proposal of the U. S. S. R. for a conference and destroying the possibility of regulating the dispute by agreement of two sides.

The reference of the note of the Chinese Government to propaganda as the cause of the unlawful actions of the Chinese authorities is false and hypocritical, for the Chinese authorities possess on their territory sufficient means to prevent and to stop such activity, had it actually taken place, without seizing the Chinese Eastern Railway and severing the treaty relations existing between China and U. S. S. R.

The real reason for the violent actions of the Chinese authorities on the Chinese Eastern Railway and the sanctioning of the violence by the Chinese note of July 17th becomes particularly clear from the official declaration of the head of the Chinese State, Chiang Kai-shek, published in the press. In this declaration, Mr. Chiang Kai-shek, speaking of the unlawful actions of the Chinese authorities on the Chinese Eastern Railway and justifying these actions, plainly declared: "Our steps are designed to take the Chinese Eastern Railway. Our hands contain nothing unusual—we want first to take hold of the Chinese Eastern Railway, then to take up the discussion of all the questions." This statement of Mr. Chiang Kai-shek leaves no doubt as to the real meaning of the note of the Chinese Government of July 17th.

In view of the above, the Government of the U. S. S. R. notes that the means necessary to regulate amicably the controversies and disputes on the Chinese Eastern Railway, caused by the Chinese authorities and aggravated by the note of the China [*Chinese*] Government of July 17th, have been exhausted.

On the basis of the above facts, the Government of the U. S. S. R. is compelled to take the following measures, placing the entire responsibility for the consequences upon the Chinese Government:

1. To recall all Soviet diplomatic, consulate [*consular*] and commercial representatives from the territory of China.
2. To recall all persons appointed by the Government of the U. S. S. R. on the Chinese Eastern Railway from the territory of China.
3. To suspend all railway communications between China and the U. S. S. R.
4. To order [*invite?*] the diplomatic and consular representatives of the Chinese Republic in the U. S. S. R. to leave immediately the territory of the U. S. S. R.

At the same time, the Government of the U. S. S. R. declares that it reserves all rights arising from the Peking and Mukden agreements of 1924. Karakhan."

MACMURRAY

706.6162/2: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 19, 1929—3 p. m.
[Received July 20—9:30 a. m.]

594. Legation's 585 [589], July 19, 1 a. m. Secretary of the German Legation states that the Soviet Government has requested the

Legation to take over the protection of Soviet interests in the Peking, Mukden, and Harbin areas, Germany having already had charge of Russian interests in Shanghai, Canton and elsewhere in South China for some time. The Secretary has telegraphed to the German Minister, who is now at Peitaiho, for instructions and he expects to be authorized sometime today to accede to the Soviet request.

MACMURRAY

861.77 Chinese Eastern/58 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 19, 1929—5 p. m.

237. My 236, July 18, 5 p. m. Following is the account of my conversation with the Chinese Minister on July 18: I told Dr. Wu that I had sent for him because I was troubled by the press reports regarding the trouble in Manchuria between China and Russia. After explaining that my information from diplomatic sources was extremely meager I remarked that the news reports indicated the possibility of an armed clash. I pointed out that we were on the point of celebrating on July 24 the coming into effect of the Kellogg-Briand Peace Pact, and alluded to its terms. I said that if we took the statements of China and Russia as reported in the press, they indicated that the dispute was of an eminently justiciable nature and one which was peculiarly fitted for arbitration. According to the press reports China claimed that the origin of the trouble was the violation by Russia of her treaty obligation not to use propaganda and Russia claimed that it was unwarranted seizure of Russia's railroad property by China. Both these reasons clearly were of a nature which should be settled by justiciable means and I said I should like to know how his Government felt about it. I referred to a press despatch quoting C. T. Wang to the effect that the reason for the Chinese action was the propaganda of Russian officials and pointed out to Dr. Wu that this was a question of a breach of a treaty which was clearly of a justiciable nature. Dr. Wu told me that he could well understand our interest in this matter as a sponsor of the Kellogg-Briand Pact. He said in substance that the matter arose out of the discovery among the papers taken at Harbin about two weeks ago, when the Chinese Government seized the Soviet Consulate, showing that the Russians were using the railway as a focus for Soviet propaganda against China. He recalled what had happened at Canton in December 1927 when the communists under the leadership of the Russians had seized the city and instituted a condition of terror. I told him I was familiar with that but there was a great difference between a country attempting to protect itself against actions of

individuals within its borders by appropriate measures and taking action which seemed to be aimed at another country, Russia. I told Dr. Wu that one of the great difficulties was that China had acted so hurriedly; that the seizure of the railway whether rightly or wrongly was not interpreted by public opinion as an attempt to protect China against attacks of individual propagandists but as an attempt to seize property belonging to Russia and in which she had a joint right of management under the agreement of 1924. I stated that if neutral opinion took this view, probably Russia took the same view and believed that China's action was an attack on her as a nation. Dr. Wu replied that he had not taken the matter seriously until Russia had severed diplomatic relations, withdrawn her people remaining in China and dismissed the Chinese representative in Russia. He asked me what steps I thought should be taken. I told him I was handicapped by a lack of information but I thought that in general the first thing to be done was to make clear the pacific character of China's intention. He had previously said that China certainly did not intend war although it had taken steps, meaning evidently military movements, to protect itself against the reported Russian movements. I said that I believed China should make it clear from the beginning not only that she was only protecting herself against the acts of propagandists but that she had no intention of seizing Russian property. He said that China had offered to negotiate but that this was now blocked by the dismissal of the Chinese representatives. I replied that that being the case the offer to leave the matter to the arbitrament of outside neutral nations would be evidence of the truth of their disclaimer of any attempt to attack Russian property and said they must make clear that they had no such intention. I said, however, that I had no intention as yet of offering to mediate in a formal or technical way for I did not know enough about the situation. I said that as a friend I thought China should make clear its pacific intentions and readiness to do justice and that China's haste had been one of the causes of the original misunderstanding and must now be offset or remedied in some such way.

The Chinese Minister telephoned me later in the day and gave me the substance of the Chinese note to Russia. I said that this note seemed to correspond to the public statement made by C. T. Wang through the press, a copy of which I had received from you. I said that China's offer to give protection to Russians in return for Russia's release of all Chinese would not seem adequately to cover their proposed attitude toward the railway; that the impression had been given to the world that they were seizing the railroad and that this offer did not cover that point. In reply to his inquiry whether we

were in a position to offer our good offices, I said that we could never offer good offices except at the request of both parties and that I did not believe Russia would make such a request. I said again that China should make its position absolutely clear as not intending to go to war and as the first step make clear what was really done with the railway. Dr. Wu said that he would communicate this to his Government.

In my conversation with the Japanese Ambassador I went over such information as we have regarding the Russian-Chinese trouble and told him that I sent for him to ascertain how his Government felt about the matter for I knew not only was the Japanese Government interested in the Kellogg Pact but Japan was one of the four Powers (Japan, France, Great Britain and the United States) particularly interested in the situation in the Far East. The Ambassador said that information received from his Government was that probably there would be no fighting; that neither China nor the Soviet Government was in a position to make war. I pointed out that it was always important to put an end to a situation like this before actual fighting took place and he agreed with me. He said that his Government was keenly interested both on account of the Peace Pact and on account of their natural interests in Manchuria.

On the same day I made substantially the same introductory remarks to the British Ambassador. He asked me what steps we proposed to take. I told him I wished first to find out the facts and had sent for the Chinese Minister. I pointed out that my Government was not in diplomatic communication with Russia and I knew that the British Government was not but I thought the British Government would be interested in this situation and probably the Soviet Government would be interested in British good opinion. I told the British Ambassador that in view of the terms of the Kellogg Pact it seemed to me that no nation which was a party to it could resent being reminded of the importance of seeking a solution by arbitration. The Ambassador agreed and said he would cable his Government.

After similar introductory remarks to the French Ambassador he agreed with me that the questions apparently involved in the Russian-Chinese trouble were of a character to be solved by arbitration and that we must use every means to bring that about. He observed that while it is true that neither China nor Russia can afford to make war this fact might not prevent war and we could not afford to risk proceeding on the assumption that war would not occur.

My conversation with the Italian Ambassador was along the same lines as with the others.

861.77 Chinese Eastern/927

Memorandum by the Assistant to the Secretary of State (Beck)

[WASHINGTON,] July 19, 1929.

MR. SECRETARY: The French Ambassador, through his secretary, Mr. Henry, telephoned the following:

The Ambassador has received a cable from M. Briand this morning telling him to express his thanks to the Secretary of State for the steps he has taken in the Russian-Chinese conflict and that M. Briand is entirely of the view of Mr. Stimson; that he has told the Russian Ambassador and the Chinese Minister in Paris to come and talk with him this morning; that he will keep the Ambassador informed of the information if he has any and that he (M. Briand) is going to talk to them along the same lines as Secretary Stimson talked to the Chinese Minister on Thursday.⁹²

The French Ambassador will therefore not come to the Department, as this will save the Secretary's time.

W. H. B[ECK]

Henry L. Stimson Private Papers

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] July 19, 1929.

Mr. Vitetti of the Italian Embassy called and referred to the conversation between the Italian Ambassador and the Secretary yesterday and stated that they wondered what my opinion was with regard to China and whether China intended to make war against Russia.

I told Mr. Vitetti that my own opinion, for what worth it might be, was that China would not precipitate a war, but I thought that China would carry the matter to the point where she would be in a good position for negotiation and then negotiate; that I had no feeling that China would go beyond that.

Mr. Vitetti stated that reports which they had received from their Ambassador at Moscow up to this point did not cover the present incident. He was persuaded that Russia was in no condition to carry on any war either from the point of view of organization or the materials used in war. He stated that while it was true that there was a wheat reserve in Siberia at the present time, their reports indicated that this reserve was not sufficient to take care of the shortage of food generally in Russia. He felt certain in these circumstances the Russians could not mobilize and supply sufficient forces to go very far beyond perhaps some border raids. He stated that he felt all of factors in the situation were against war.

⁹² July 18, 1929.

Mr. Vitetti asked whether it was our intention to mediate in the matter. I told him that mediation could only be possible in case both sides to the quarrel were to ask for mediation; that in any case there was the Kellogg Pact against war to which both China and Russia had adhered, thereby placing upon both parties to this discussion a heavy obligation to consider their steps very carefully before precipitating war over a matter that, after all, was arbitrable.

861.77 Chinese Eastern/54 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 19, 1929—11 p. m.

[Received July 19—1:45 p. m.]

599. Legation's 589, July 19, 1 p. m. [*a. m.*] Following from American Consul at Mukden:

"July 19, 4 p. m. Japanese Consul General reports Russian Consulate officials leaving Mukden for Dairen today. Local authorities adopting fairly firm attitude.

Following from our Military Attaché: Russian Consulate informs Consul, me as follows: Moscow has ordered railway communication with China discontinued, departure from Mukden of all consular and other officials and Soviet citizens. As yet no unusual military activity in Mukden area. Kirin troops reported moving to Chinese Eastern Railway area."

MACMURRAY

861.77 Chinese Eastern/59 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 20, 1929—1 p. m.

[Received 8 p. m.]

601. My 584, July 18, 2 p. m. Following from American Consul Harbin:

"July 17, 3 p. m. Maritime Customs White Russian staff has left Suifenho where Soviet airplanes seen flying. Maritime Customs Russian staff has evacuated Lahasusu where four Soviet gunboats have guns trained on the customhouse and vicinity and flying Soviet airplanes much in evidence. Reliably informed Soviet Consul General has been instructed leave Harbin immediately. Dalbank transferring funds to New York. Arrangements are being made for the German Consul General to take charge Soviet interests here."

MACMURRAY

861.77 Chinese Eastern/55 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 20, 1929—7 p. m.

[Received 8 p. m.]

604. Legation's 602, July 20, 2 p. m.⁹³

1. From a report made by the Naval Attaché concerning a trip made by him to Manchuria last month, it would appear that the question of some action being taken by the Manchurian authorities with regard to the Chinese Eastern Railway had been under consideration for some time, certain advisers advocating confiscation of the railway and another set of advisers suggesting assumption of control with all of the liabilities and assets. Among the arguments advanced for the assumption of control by China are the obligations which China is said to have under article V of the nine-power treaty relating to principles and policies concerning China⁹⁴ and under resolution 12 of the Washington Conference regarding the Chinese Eastern Railway⁹⁵ and the obligation "in the nature of a trust" which China may be deemed to have in view of the terms of resolution 13 of the Washington Conference regarding the Chinese Eastern Railway.⁹⁶ Although the foregoing provisions were drawn up with a view to holding China responsible for "discrimination", the view is now maintained by the advisers of the Mukden Government that China cannot carry out her engagements in these particulars without assumption of full control of the railway.

2. It is further argued that since the Peking agreement of May 31, 1924, provides (article 2) that "the railway is a purely commercial enterprise" and (article 6) that "the Governments of the two contracting parties further pledge themselves not to engage in propaganda against the political and social systems of either contracting party", the Chinese are justified in taking over the railway inasmuch as the provisions of these articles have been repeatedly broken by the Soviet Government, the railway, its funds and employees being used for political purposes in undermining the Government of China.

Code text by mail to Tokyo.

MACMURRAY

⁹³ Not printed.⁹⁴ *Foreign Relations*, 1922, vol. I, pp. 276, 280.⁹⁵ *Ibid.*, p. 297.⁹⁶ *Ibid.*, p. 298.

861.77 Chinese Eastern/53 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 21, 1929—4 p. m.
[Received July 21—1:16 p. m.⁹⁷]

607. Legation's 593, July 19, 2: p. m.⁹⁸ Following from American Consul, Nanking:

"July 19, 3 p. m. Am unofficially informed by reliable source in Ministry of Foreign Affairs that the Chinese Government have decided, subject to conference with Wang tomorrow, to publish documents seized in Soviet Consulate at Harbin⁹⁹ in substantiation of statements made in Chinese note, dated July 16, to the Russian Government with respect to Soviet propaganda in China. Wang expected to arrive Nanking this afternoon.

Information has reached me indirectly from Kuomintang headquarters that decision to seize Chinese Eastern Railway was made in Peking at conference attended by Chiang Kai-shih, Chang Hsueh-liang and C. T. Wang and that telegrams were immediately thereafter despatched to General Chang Ching-hui and Lu Yung-huan ordering execution of such decision. Same source states that in reaching decision those responsible envisaged possible failure of efforts to settle resulting controversy by negotiations.

The apparently firm attitude of the Chinese Government in Chinese Eastern Railway controversy seems to gratify local Chinese. Leaders of Nanking Chamber of Commerce state that they will wholeheartedly support Government in maintaining China's 'rights' against Soviet Russia. My impression is, however, that these Chinese do not fully realize gravity of the situation."

MACMURRAY

861.77 Chinese Eastern/60 : Telegram

The Consul at Harbin (Hanson) to the Secretary of State

HARBIN, July 21, 1929—8 p. m.
[Received July 22—12:32 a. m.]

Report received to the effect that two Chinese merchant ships *Ilan* [and] *Haicheng* seized by Soviet Russians on Amur River who have assured Roy Talbot, American Commissioner of Customs, Taheiho, that they will treat kindly his wife and child who are on *Ilan*. No new developments except all Soviet Russian employees of the railway have been requested to resign their positions by order of the Soviet Government. Legation informed.

HANSON

⁹⁷ Telegram in two sections.

⁹⁸ Not printed.

⁹⁹ Publication in the Shanghai press began on July 22, 1929, under date of July 19 and later from Nanking.

For pamphlet collection, see *Documents With Reference to the Sino-Russian Dispute, 1929*, published by the Far Eastern Information Bureau, Nanking, 1929 (861.77 Chinese Eastern/356).

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON,] July 22, 1929.

The French Ambassador called to see me Saturday¹ afternoon at three-thirty at my apartment, bringing some translations of cables which he had received, stating that the news was not so good today and showed me the cables. They were not from official sources but indicated that some Russian reservists had been called to the colors and also that Russia was making military preparations near the boundary of Manchuria. We talked over the situation and he told me of Minister Wu's having come to see him, evidently to try to pump him as to the real attitude of France and to get a sidelight on what I had told him. Claudel . . . told me that Wu evinced great anxiety when he first came and when Claudel told him that Russia had announced that she would not violate the Kellogg-Briand Treaty his face lightened and he seemed greatly relieved. Claudel thought it was a mistake that he should have been thus relieved and rather sorry that he had spoken so encouragingly. He told me that he had not received word that Briand had actually seen the Russian Ambassador. He expressed the hope that I would see Wu again and would counteract the undue encouragement that may have been caused from his interview with Claudel.

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON,] July 22, 1929.

I sent for the Chinese Minister and he came at seven o'clock Saturday evening. I asked him whether he had received any word from his Government in reply to what I had told him on Friday² and he said no, not yet. I told him that I had seen the French Ambassador and that the word from Russia was not so very encouraging. I told him in substance of what the news had been. He appeared very anxious to get details. He told me that he had gotten the impression from Claudel that Briand had communicated with Karakhan. I told him I thought that must be an error because Claudel had told me that Briand had not yet succeeded in seeing the Russian Ambassador. I then talked to him very seriously but in a friendly way as to the position in which China was putting herself. He must have noticed that the reaction of the press was friendly to Russia and her announcement and unfriendly to China; that in my opinion this came from

¹ July 20, 1929.

² Presumably Thursday, July 18, 1929.

this approval [*disapproval?*] of the situation that China had seized the Chinese Eastern Railway. I read to him a cable which had come from MacMurray, dated the 19th,³ giving a statement from the Kau [*Kuo*] Wen News Agency of Nanking. He admitted that this was a semi-official agency. I told him that the interview, which was truculent in character, was sure to do harm in alienating world sentiment from China. I told him that instead of issuing truculent statements I hoped that the Chinese Government would come out with a statement showing it was willing to lay its case before the public opinion of the world and submit to impartial arbitration or mediation. We discussed at some length who could act in such capacity and mediate. We talked over the possibility of the League of Nations doing it and I asked him whether it was not possible for the League to mediate between a member and a non-member, and he said he believed it was. He told me that China was a member and Russia a non-member. I told him that this Government, as a sincere friend of China, was anxious not to see her alienating public opinion on this question and thought that he could see for himself that public opinion had now been alienated both by the appearance which had been given that she had deliberately sought to seize this railroad and by the truculent statements which were being given out by her public officials which indicated both a non-peaceful attitude and that the seizure had been deliberate, was justifiable and was a step toward other seizures.

861.77 Chinese Eastern/84 : Telegram

The Secretary of State to the Minister in China (MacMurray) ⁴

WASHINGTON, July 22, 1929—7 p. m.

241. My No. 240, July 22, 2 p. m.⁵

1. On July 20 the French Ambassador informed the Department orally that on the same day the Chinese Minister had called upon him and asked whether he represented Soviet Russia in Washington. The French Ambassador replied that he did not represent Soviet Russia but that of course Mr. Briand and he, having contacts with the Soviet Government, were ready to communicate any information which the American Government might desire to send to the Soviet Government. The Chinese Minister asked what statements the Soviet Government had made. The Ambassador replied that he did not

³ Presumably telegram No. 593, July 19; not printed (861.77 Chinese Eastern/48).

⁴ See last paragraph for instructions to repeat to Tokyo. The same, *mutatis mutandis*, on the same date to Paris as No. 237, for repetition to Rome as No. 51 and to London as No. 184.

⁵ Not printed; it instructed the Minister to repeat telegram No. 237, July 19, to the Embassy in Japan.

know; but that Mr. Briand had called in the Russian Ambassador in Paris. The French Ambassador referred to the published statement attributed to the Russian Government and said he personally thought the Russians had made a favorable impression upon world opinion. The Ambassador observed that he knew that the Chinese had stated that the Russians had engaged in propaganda in China but that this was hardly a reason for seizing the property of the Soviet Government. The Chinese Minister replied that China had not seized the railway, all she had done was to replace Russian with Chinese employees. The Chinese Minister asked the Ambassador what would be the next step and whether the Russians would be willing to arbitrate. The Ambassador replied that if there were no war there must be some sort of arbitration. The Minister referred to the readiness of the Chinese Government to send a representative to discuss matters with the Soviet Government and stated that this was impossible because the Soviet Government had severed relations with China and had broken off railway communications. The Ambassador stated to the Chinese Minister that the latter well knew it was always possible under such circumstances to use a middleman and he said he was certain that Mr. Briand or Mr. Stimson would consent to facilitate the transmission of any moderating message or suggestions which the Chinese Government might care to send. The Ambassador said that he told the Chinese Minister that he felt the Soviet Government had made a soft reply to the Chinese and that he felt that the Chinese should endeavor to reply in kind. He felt sure Mr. Briand would be happy to transmit anything the Chinese might care to send. The Ambassador informed the Department that the Chinese Minister seemed pleased with the interview. The last words of the Ambassador to the Minister were that from the international point of view China was in a bad position since it would appear that China had seized property belonging to Soviet Russia.

2. In my interview with the French Ambassador on July 18 I asked that after his Government, as I hoped, had made representations to the Soviet Government he would report them to me. I have not been informed precisely what representations were made but on July 20 the Ambassador handed to the Department a translation of a telegram received from his Government the same day.⁶ The telegram stated, in effect, that while the French Minister for Foreign Affairs was without detailed information concerning the claims made by China to justify the seizure of the Chinese Eastern Railway he thought that the real desire of the Chinese was to seize the receipts and administration of the railway and that the communist propa-

⁶ Not found in Department files.

ganda issue was a pretext. Apparently the Nationalists are of the opinion that this incident will allow China to break her other international obligations. Through the Washington Conference Resolutions 12 and 13 the question of the administration of the Chinese Eastern Railway acquired an international character. In May 1924, when China by a bilateral act with Russia modified the status of the railway, representations were made to the Chinese Government by the interested governments⁷ calling attention to the necessity that no change should be made unless full protection were accorded to the rights of all creditors and all other interested parties. Today China is assuming to change the status of the railway not only through a bilateral act but by pure seizure. It would seem, under the circumstances, that recourse might be had again to the steps taken in 1924. The telegram to the French Ambassador ended with the observation that the motives which justified the action taken in 1924 supported the argument advanced by the Secretary of State that both parties to the present dispute be reminded of their obligations under the General Pact for the Renunciation of War to adopt conciliatory means for the solution of a question in which international interests are involved.

3. The French Ambassador said that he had received information from his Government to the effect that on July 18 Mr. Karakhan informed the French Ambassador in Moscow that the Soviet authorities had been obliged to take military measures along the Manchurian frontier because of the presence there of armed Russian *émigrés* but Mr. Karakhan stated positively that his Government was counting upon the economic and political effects of the rupture and it did not intend to resort to force. The order of the Soviet Government to stop traffic at the Manchurian frontier was given during the night of July 17. The opinion of the French Ambassador at Moscow was that the possibility of armed conflict in Manchuria might not be excluded if the Soviet Government were assured of military superiority in that region.

4. The French Ambassador stated that in an interview between the French Ambassador at Tokyo and the Japanese Minister for Foreign Affairs the latter said he did not feel there was any danger of war between China and Russia. When asked whether Japan would continue the policy of the Tanaka Government if trouble broke out in Manchuria, the Japanese Minister for Foreign Affairs is said to have answered that the Japanese Government would look upon such trouble as a purely Chinese-Russian matter and would remain neutral. The Minister for Foreign Affairs said that, provided, of course, the Chinese authorities guaranteed protection for Japanese rights,

⁷ See *Foreign Relations*, 1924, vol. 1, pp. 487 ff.

the Japanese Government would have no objection to the transfer of the Chinese Eastern Railway from Russian to Chinese control. The French Ambassador at Tokyo is reported to have stated that he did not find members of the Japanese Foreign Office and of the Privy Council perturbed over the situation. They recognized that in Manchuria and in China generally Russian influence had degenerated considerably during the past few years. The Japanese Government was said to have received information from the Japanese Ambassador at Moscow that the Soviet Government had informed him on July 12 that the Soviet Government had no intention of taking forceful measures in Manchuria. The French Ambassador at Tokyo received the impression that the Japanese Government would follow a "watchful waiting" policy in regard to the present dispute.

5. On July 21 the British Ambassador wrote me⁸ referring to our conversation on July 18 and stating that he had received a telegram from the British Minister for Foreign Affairs asking the Ambassador to inform me that the British Government warmly sympathized with the motives which have inspired the American Government in the action which it is taking with the object of averting untoward developments in the Far East and that the British Government associates itself entirely with the representations which Mr. Briand has made to both parties to the present dispute. He added that the British Government is informing the French Government to this effect.

Repeat to Tokyo No. 69.

STIMSON

861.77 Chinese Eastern/70: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 22, 1929—8 p. m.

[Received 8:12 p. m.]

611. (1) May I comment as follows regarding the present crisis between China and Russia: It seems to me, in the first place, that neither side wishes or counts on hostilities. Following the act of aggression by the Chinese against Russian rights in the Chinese Eastern Railway—this step having for a considerable time been under discussion at Mukden and with a view to which troops apparently have been distributed at least three weeks ago to frontier posts—the Chinese have now assumed, in rather spectacular fashion, an air of unconcern regarding the accomplished fact. The Chinese feel the greater assurance in carrying out their bluff, which is of the passive type, because of the complaisance shown by the world at large in tolerating previous

⁸ Communication not found in Department files.

violations of Chinese obligations and because of Russia's difficulty in retaliating with any forceful means without the general antiwar sentiment of the world being antagonized and also without arousing the specific Japanese apprehensions regarding Russian influence being extended in Manchuria. On the other hand, the Russians have found themselves obliged to adopt a positive type of bluff by arraying their military forces on the Chinese border as a threat. Both sides, I believe, are hoping that, following preliminary moves which are calculated to determine the price at which a bargain finally will be struck, the result will be the sort of compromise at which both Chinese and Russians are adept and which, at any rate, will lead to a temporary solution, deciding nothing in principle but saving the face of both sides.

(2) The obvious danger is, however, that in the last resort Russia could not afford being ousted entirely from the Chinese Eastern Railway, the primary and single dependable link connecting with Vladivostok and the Pacific maritime region. (I am confidentially informed by one of my colleagues that, according to secret service information, the Soviet Government has resolved as a last resort upon the necessity of war, the Soviet War Minister having reported the Soviet Army to be ready for such contingency.) On the other hand, the Chinese, although apparently entirely unprepared for conflict, entertain in general a belief so overweening of their great military power, enjoying prestige as such, and are carried away so by their diplomatic triumphs from whittling away the existing treaty system that in the valor of their ignorance, it is to be feared, they may overplay their hand to create a situation which will prevent either side from withdrawing without hostilities.

(3) Whatever may be the Soviet's responsibility in originally having inculcated into the political thought of China the doctrine of repudiating obligations, and whatever may have been the Russian fault or provocation respecting subversive propaganda here, the fact remains that the Chinese did force the present issue by what unquestionably is intended as an act of confiscation of the Chinese Eastern Railway. General Chiang Kai-shek and other Nationalist Government officials, furthermore, have linked this Russian phase of "rights recovery" with the general problem of getting rid altogether of the unequal treaties.

(4) It seems, to those of us in touch with conditions in China and especially with political tendencies today of Chinese thought, that in order to prevent the Chinese from rushing to destruction they must be impressed with the seriousness of disregarding the rights of others as shown by them, not only in respect of Russia but of other countries also. My present impression is that the Chinese are beginning to feel taken aback somewhat by the lack of sympathy, if not indeed by the reproach, with which neutral countries have greeted their present

action. It appears to me, therefore, that the surest means of averting a possible actual clash is to follow up your conversation on July 18 with the Chinese Minister to the point of making plain that in this matter Chinese intractability would alienate the sympathy they have enjoyed thus far and involves essentially the same question, namely, responsibility for the observance of international undertakings. May I urge the collateral helpfulness at this time of making it clear in advance that we are unwilling for them to deprive us of our treaty rights respecting extraterritoriality.⁹ It would be most opportune, therefore, for us now to submit our reply on the lines hitherto recommended by me to the Chinese note on this subject. Extraterritoriality and the Chinese Eastern Railway being inter-related, the delay by the United States and other governments in replying as to the former tends to encourage the Chinese authorities in a dangerously truculent attitude toward Russia in the latter, while any tactical success the Chinese might have in dealing with Russia would encourage their forcing upon us the extraterritoriality issue.

MACMURRAY

861.77 Chinese Eastern/76

*The Chinese Minister (C. C. Wu) to the Secretary of State*¹⁰

[Translation]

MANIFESTO OF CHINESE GOVERNMENT

During 1919 and 1920 the new Russian Government repeatedly published to the Chinese people and Government declarations of friendship which the latter, in accordance with their long cherished principle of universal brotherhood and peace, readily accepted with an open heart.

Hence the Sino-Russian Agreement of 1924 was signed definitely establishing the relations of the two countries. Since then, the Chinese Government and people have never failed to deal with the Russian Government and people in a spirit of frankness and mutual assistance.

However in the course of 1927 there was repeatedly discovered both in the north and south of China the fact that the Soviet Government was utilizing its Embassy, consulates, and state commercial agencies to carry on communist propaganda and to harbor communists with the object of overthrowing the Chinese Government and disrupting Chinese national unity.

⁹ See pp. 543 ff.

¹⁰ This undated document was received in the Department July 23, 1929. In telegram No. 606, July 21, 3 p. m., the Minister in China conveyed the information that the manifesto had been issued by the Nanking Government the evening of July 19, 1929 (861.77 Chinese Eastern/56).

For this reason the Chinese Government was constrained to withdraw recognition from the diplomatic and consular representatives of Soviet Russia in China and to suspend the Soviet state commercial agencies in order to prevent sudden uprisings and disturbances. The Chinese Government however still entertained the hope that the Soviet Government would realize its mistakes and that normal relations between the two countries might be gradually restored. This was the reason that during the past few years the Chinese Government has tolerated and permitted those Soviet diplomatic, consular, and trading representatives and other state commercial agencies that have remained in northern China, to carry on their functions.

On May 27, 1929, the Soviet communist leaders in northern Manchuria held a communist propaganda meeting of the Third International at the Soviet Consulate in Harbin. They were surprised and caught by the Chinese authorities of the Special Area of the Eastern Provinces. During the search at the consulate, documents were found disclosing Soviet plots for the destruction of the political unity of China, for the organization of a corps of assassins to be active in Nanking, Mukden and other important centres, and for the organization of a secret army to destroy the Chinese Eastern Railway. Other evidence was also discovered proving conclusively an attempt to carry on communist propaganda and to aggravate the internal strife in China. Most of the culprits arrested were important officials of the Chinese Eastern Railway and the managers and members of committees of the Railway Labor Union, the Soviet Central Trading Association, the Soviet Shipping Bureau, the Soviet Far Eastern Petroleum Syndicate and the Far Eastern State Trading Bureau. To remove the source of trouble and to maintain peace and order, the local authorities asked the Government that appropriate measures be adopted in regard to the Railway and to close the above-mentioned Soviet organizations. Such remedial methods of dealing with the situation were entirely within the realm of necessity, as the Chinese Government and people with their tradition of peace, would never overreach themselves even though under compelling circumstances.

Unfortunately, the Government of Soviet Russia failed to realize its mistakes and suddenly on July 13 presented a note to China embodying conditions contrary to the facts of the case, and demanding a reply within a specified time.

The Chinese Government in accordance with its traditional and consistent policy of forbearance, sent an appropriate reply based on the facts of the case hoping that the Soviet Government would come to a self-realization and that the pending questions between China and Russia might find a reasonable and legitimate solution through negotiation.

A second note from the Soviet Government again ignores the facts of the case and raises further complications. It announces (1) the recall of the Soviet diplomatic, consular and commercial representatives in China, (2) the recall of all Soviet officials of the Chinese Eastern Railway, (3) the suspension of railway communication between China and Russia, and (4) the demand that all Chinese diplomatic and consular representatives in Russia at once leave Russian territory. The entire text of the communication contains nothing but empty phrases designed to mislead the world. No reference whatever was made to China's proposal in the reply dated July 17 suggesting the dispatch of a representative for negotiation. This is sufficient proof of the customary evasion of Soviet Russia in its international dealings as well as of its aggressive aspirations towards China and its determination to violate the Agreement.

In sum, the precipitation of the present incident of the Chinese Eastern Railway represents the culmination of the violation by the Soviet Government of the Agreement of 1924, the instructions to the Soviet consular authorities in Harbin and the utilization of the organization and staff of the Chinese Eastern Railway for the purpose of communist propaganda, and the attempts to overthrow the Chinese Government and to disturb the peace in Manchuria without stopping at the falsification of the seals of diplomatic and consular authorities of various other countries. It is not merely a question of the rights over the Chinese Eastern Railway.

Furthermore the Agreement of 1924 was concluded in the spirit that the Chinese Eastern Railway should be a purely commercial organization. It is clearly provided therein that the contracting parties pledge themselves not to engage in propaganda directed against the political and social systems of either contracting party. Soviet Russia, however, has not only utilized the Railway, its staff and its revenues for communist propaganda and to assist various counter-revolutionary elements in China, but is engaged in plotting for the overthrow of the Chinese Government. This at once constitutes a total violation of the spirit of the Agreement and an illegal action in breach of international good faith. Having discovered that the Soviet Government's illegal utilization of the Railway and its consulates for the purpose of carrying out assassinations, instigating internal strife in China and organizing secret corps for destructive purposes, the Chinese Government, in its action in regard to the Railway has but acted in self-defense. It was a justifiable measure for prevention of crime.

Various documentary evidence discovered at the Soviet consulate in Harbin is therefore published for the information of the friendly Powers of the world in order to reveal the true facts upon which

correct judgment may be based and to emphasize the seriousness of the Soviet responsibility in cutting off international communication, in disregarding the principles of justice and the agreement, and in attempting to create internal disturbance in China.

China however will devote itself to the maintenance of peace, as it is the cherished wish of the Government and people that world peace be preserved. She will, to the utmost of her ability and consonant with the right of self-protection, abide by the spirit of the Treaty for the Renunciation of War. The right of self-defense is an undeniable right, and should the Soviet Government flagrantly violate it, the responsibility for the breach of peace must rest entirely upon the Soviet Union and not upon China.

The Chinese Government and people earnestly hope that the Governments and peoples of the various Powers will take note of the Chinese Government's exposure of the Soviet plots for internal uprisings and communist propaganda in China as well as the documentary evidence of schemes to destroy China's unity, to resort to assassination, and to organize secret corps to damage the Chinese Eastern Railway.

The Chinese Government also declares that the railway communication between Russia and China is not a matter in which only China and Russia have interest; and that in cutting off the Chinese Eastern Railway, the Soviet Government must assume the full responsibility for the disruption of international communications.

861.77 Chinese Eastern/191

*Statement by the Soviet Commissariat for Foreign Affairs*¹¹

[Translation]

In connection with the position, brought about as a result of the rupture of Chinese-Soviet relations, the French Government has addressed to the government of the U. S. S. R. an offer to take upon itself the mediation for the peaceful settlement of the Chinese-Soviet conflict.

This proposal was made in Paris on July 19 by Mr. Briand to the Political Representative of the U. S. S. R. in France, Comrade Dovgalevsky, direct, and in Moscow, by instruction of Mr. Briand, was communicated by the French Ambassador, Mr. Herbertte, to the Vice People's Commissar of Foreign Affairs, Comrade L. M. Karakhan, on Sunday, July 21.

Yesterday, July 22, the Vice People's Commissar of Foreign Affairs, Comrade Karakhan, in the name of the government of the U. S. S. R.

¹¹ Translation from text printed in the Moscow *Izvestia*, No. 166, July 23, 1929; copy transmitted to the Department by the Chargé in Latvia in his despatch No. 6315, July 30; received August 9, 1929.

gave the answer to this proposal of France, declaring to the French Ambassador in Moscow, Mr. Herbette, that "the proposal of the Minister of Foreign Affairs of France cannot but be duly appreciated. The government of the U. S. S. R. must, however, observe that this proposal becomes without point in view of the refusal of the Chinese authorities to restore the legal basis, by them violated, which is the necessary prerequisite for an agreement, pursuant to the note of the Soviet government of July 13. As regards the question of possible further complications, the government of the U. S. S. R. must declare that no one takes so much pains for the preservation of the peace as the Union government, so far as this depends upon it. There is no ground for doubting that the U. S. S. R. has been and remains the mainstay of the peace of the world." (Tass.)

861.77 Chinese Eastern/64 : Telegram

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

GENEVA, July 23, 1929—11 a. m.

[Received July 23—9:40 a. m.]

From conversations with responsible members of Secretariat, I believe the League will take no official action in regard to Sino-Russian crisis unless forced to by imminence of war. Feeling is that Russian hostility to the League would render ineffective the interventions [*intervention of?*] the latter and perhaps make matters worse. Such an outcome would injure prestige of League. They place their hope at present in the efforts of individual members of the Council to settle conflict. Situation now regarded encouraging. Developments will be [apparent omission]. Drummond¹² and other important members of Secretariat absent now, rendering it more difficult to obtain conclusive information.

RAND

861.77 Chinese Eastern/73 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 23, 1929—4 p. m.

[Received July 23—3:28 p. m.]

612. Following from Military Attaché now at Mukden :

"July 21, 3 p. m. Sensational reports of military clashes at terminals Chinese Eastern Railway categorically denied by Chinese officials. They admit minor incident afternoon July 20th at Pogranichnaya in which Russian troops temporarily crossed frontier. Local

¹² Sir Eric Drummond, Secretary General of the League of Nations.

authorities calm, manifesting no warlike intentions on their part and discounting reports of Russian bellicose intentions. Still no evidence unusual military preparations locally. Young Marshal¹³ arrived today. I shall remain in Mukden for the present."

MACMURRAY

861.77 Chinese Eastern/75 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 24, 1929—11 a. m.

[Received July 24—1:49 a. m.]

618. Following from American Consul at Nanking:

"July 23, 9 p. m. Wang informed me today that he is endeavoring through Chinese and Russian diplomatic representatives in Berlin to reach some basis for solution of Chinese Eastern Railway situation. He said that due to tense feeling and demonstrations in Russia he has ordered all Chinese diplomatic and consular representatives to leave Russia."

MACMURRAY

861.77 Chinese Eastern/97 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 24, 1929—1 p. m.

[Received 1:45 p. m.]

620. Following from American Consul at Nanking:

"July 23, 3 p. m. Ministry of Foreign Affairs today informed me that China's reply to Soviet Government's second note is now being prepared, that the date of its despatch is uncertain as yet, and that its tone will be 'peaceful'. I am reliably informed that a council of the Ministry of Foreign Affairs in discussing the note yesterday characterized it as 'conciliatory'.

So far as I can judge, the officials of the Ministry of Foreign Affairs now appear to be less anxious over the Chinese Eastern Railway situation than they were before Wang's arrival in Nanking."

MACMURRAY

861.77 Chinese Eastern/100 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 24, 1929—2 p. m.

[Received July 24—1:45 p. m.]

621. My 601, July 20, 1 p. m. Following from American Consul at Harbin:

¹³ Chang Hstieh-liang.

"July 22, 3 p. m. Forty Soviet consular and trade representatives left the city for Siberia July 20th, sixty on the 21st, sixty expect to leave today, and Consul and members of the board of directors of the railway expect to leave tomorrow. Chinese merchants closed shops Manchuria Station against the wishes authorities. Conditions Hailar and surrounding country of Barga quiet, no clashes along the border reported, no immediate danger of Chinese or Russian outbreaks at Harbin which is being patrolled by additional police."

MACMURRAY

861.77 Chinese Eastern/110 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, July 24, 1929—2 p. m.

245. Department's 241, July 22, 7 p. m. The substance of my conversations with foreign diplomatic representatives here follows:

(1) On July 22 the Chinese Minister, Dr. C. C. Wu, called on me and I asked him if he had had any reply from the Chinese Government regarding what I had said to him. He said two cables had been received, by which he had been informed that his Government had no intention, in removing the Chinese Eastern Railway's Soviet officials, to "seize" the railroad and that China had taken no hostile action against Russia. Should Russia take hostile action, upon Russia would rest responsibility for the consequences. I pointed out that an unfavorable public opinion had been produced in this country by China's actions; and that the Chinese Government should be willing to offer leaving the propriety of the action it had taken to impartial mediation. The Chinese Minister replied that there was lacking an international organization, such as the Pan American Union, to act in this case. Any neutral country, I observed, could serve to bring together China and Russia.

(2) On July 22 the French Ambassador, M. Claudel, likewise called and said that M. Briand, the French Minister for Foreign Affairs, had reminded the Chinese Minister at Paris on July 20, in the course of a conversation, of China's obligations resulting from signing the Pact of Geneva and the Paris Pact. M. Briand had invited the Chinese Government's attention to the necessity of observing a most cautious attitude during the present conflict, which, he hoped, would not lead to an armed one, and suggested it would be well for China publicly to proclaim its intention of having recourse to a pacific, arbitral settlement. The Chinese Minister in France promised he would telegraph in this sense to his Government. M. Briand also saw the Soviet Ambassador at Paris, and the latter assured him that the Soviet Government did not wish war but was obliged to adopt

measures for its protection following China's intolerable activities which constituted a violation of engagements made by China. M. Briand observed that the application of the General Pact for the Renunciation of War had been impatiently desired by the Soviet Government, which would find itself to be in a most difficult position should it have recourse to a policy of force. He asked the Soviet Ambassador whether his Government was giving consideration to a settlement through legal means and was told in reply that the Soviet Government has proposed settling the various Sino-Russian difficulties at a conference and that, if China were willing, the dispute would be on the way to a settlement. The French Government's special interest in a peaceful solution of the dispute was emphasized by M. Briand, who added he was ready to use every means possible to this end. I was told also by M. Claudel that the French Ambassador in Moscow in a telegram had reported that Soviet press articles indicated the preparation of public opinion for an eventual conflict. The danger which might result from the Soviet Government suddenly demonstrating strength in Manchuria, which, if successful, would powerfully influence communist propaganda elsewhere, was pointed out by the French Ambassador in Moscow.

(3) On July 22 the Japanese Ambassador, Mr. Debuchi, called and said that the Japanese Minister for Foreign Affairs, Baron Shidehara, on July 19 had sent for the Soviet Ambassador in Tokyo, conveying to him a similar message to the one sent by me. The Ambassador emphatically stated that Russia did not wish war, but was preparing merely for self-defense. Russia desired to see a restoration of the Chinese Eastern Railway to the *status quo ante*. Baron Shidehara called attention to Russia's promises in the Pact for the Renunciation of War, and the Soviet Ambassador said he understood the pact's spirit but added that self-defense, necessarily, was excepted from the pact's obligations. It was suggested to the Russian Ambassador that the dispute with China be settled by friendly means, and he was informed of Japan's sincere wish for the two countries to meet in the spirit of friendly accommodation. Baron Shidehara on July 19 was informed, during a conversation with the Chinese Minister in Tokyo, of his Government's discovery of evidence that Russia was directing propaganda against the Government of China and was not carrying out the 1924 agreement. The Chinese Minister stated that China does not wish to make war and is preparing merely for self-defense. He was informed by Baron Shidehara of Japan's deep concern, and the Japanese Minister for Foreign Affairs urged consideration by both China and Russia of friendly measures. I was informed by Mr. Debuchi that both the Chinese Minister and the Russian Ambassador in Tokyo had made tentative inquiries of Baron

Shidehara as to whether Japan would act as a "bridge" between Russia and China.

(4) On July 23 I sent for the Secretary of the German Embassy, as the German Ambassador was away, and informed him that on July 18 I had taken advantage of its being the diplomatic reception day to speak about the crisis between China and Russia to the representatives of Great Britain, France, Japan, and Italy who had called on me. I said that I pointed out to them the tragedy it would be for two powers signatory to the Pact for the Renunciation of War to go to war when the pact was going into final effect; that, finding my views heartily supported, I had talked with Dr. C. C. Wu and had asked M. Claudel to suggest that M. Briand speak to the Russian Ambassador in France; that now I had received assurances from China and Russia that neither would fight except in self-defense, nor would they attack each other. I informed the German Secretary that nevertheless the situation remained dangerous so long as it was possible for irresponsible people to provoke a clash and that I was anxious for all possible moral support, including especially that of Germany, to be brought to bear. I said I hoped the German Government would be informed by him of what I had said and be told that I should be very glad to have Germany's moral support and approval of what had been done and would welcome receiving any views the German Government might care to express or any measure Germany might care to take in the present situation to promote peace. I explained to him that the only American interest was to prevent war, and I said I had suggested to the Chinese (and I quoted the words used in the Pact of Paris) that many ways are provided for solution by pacific means of the difficulty. I said I had, for example, suggested the procedure which Paraguay and Bolivia followed in a somewhat similar situation¹⁴ or, again, that jurisdiction of dispute could be taken by the League of Nations between a member and a non-member thereof, the chief thing being that any fighting be stopped. I asked the German Secretary to convey my message to the German Government and to inform me of their sentiments respecting it.

(5) Repeat the above as No. 70 to the Embassy in Japan.

STIMSON

861.77 Chinese Eastern/101 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 24, 1929—3 p. m.

[Received July 24—1:45 p. m.]

622. My 612, July 24 [23], 4 p. m. Following from Military Attaché now at Mukden:

¹⁴ See vol. I, pp. 818 ff.

"July 23, 9 a. m. Absence of military preparations together with official assertions of determined passive attitude here convince me local government has no intention of accepting possible Russian challenge. Responsible Japanese believe that Russia contemplates nothing more than demonstration on frontier. Officials declare that all negotiations now in hands of Nanking. Tendency to admit that final steps in Harbin were precipitate and to place responsibility for unauthorized action on President Lu Jung-huan."

MACMURRAY

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON] July 24, 1929.

The Italian Ambassador came in to read me a telegram which he had received from Premier Mussolini in which Mussolini expressed the satisfaction and approval of the Italian Government in the steps which we had taken in regard to China and Russia and was in full accord with what we were doing.

The Ambassador also promised to let us know of anything new which he might hear from Moscow.

I took occasion to explain to him the mistake which had been made in the press about the four-power treaty¹⁵ and that there was no misunderstanding with Japan but that the Japanese Government had received notice at the same time as all the others and had acted at once on the following day in communicating with the representatives of Russia and China in Tokyo.

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON,] July 24, 1929.

After the ceremonies at the depositing of the ratification of Japan to the Kellogg Pact, the Japanese Ambassador said that he wanted to see me for a few minutes and asked me whether I had received a personal message from Baron Shidehara which had been sent directly to me instead of through the Embassy. I said that I had and showed to him the telegram of congratulations in regard to the Pact which I had received.

I then showed him a memorandum that I had received from Mr. McDermott¹⁶ through the Associated Press Bureau at Tokyo saying:

¹⁵ Treaty between the United States of America, the British Empire, France, and Japan, signed at Washington, December 13, 1921; *Foreign Relations*, 1922, vol. 1, p. 33.

¹⁶ Michael J. McDermott, Chief of the Division of Current Information, Department of State.

"Here the Foreign Office categorically denied Japan had been asked to associate herself with the American *demarche*, and it again emphasized that Japan knew nothing officially regarding the formal diplomatic action on the part of the Washington Government.

"At the same time it was admitted the United States had requested Japan, through Ambassador Debuchi, at Washington, to contribute an expression of opinion as to the best solution of the Chinese Soviet trouble. It was said that the Japanese Government might comply with this request after the return of the Premier from Kyoto."

- I said I hoped that did not mean there was any misunderstanding between his Government and mine. He at once protested that of course there was nothing of that sort and he said that he had at once telegraphed to his Government what I had said to him on Thursday, July 18th, and he said something about the Prime Minister leaving town that day so that he did not receive the message as promptly as he otherwise
- would, but he said that the whole difficulty arose from the newspaper reporters in Japan who had misrepresented what had been said and also possibly he said from the "slowness of my Government", i. e., the slowness of his Government in making public its action. He said "you know my Government is very slow". He added that there was no misunderstanding whatever between them, as his report to me on
- Monday¹⁷ conclusively showed. He said whatever had been intimated as to any disagreement between the two Governments was solely a matter of newspaper report and had no foundation in fact in any attitude of his Government. I repeated to him that of course he knew that I had spoken to him as soon as I had spoken to any of the other representatives of the nations that same day, and he at once acquiesced and said he knew it— "the very same time", to use his expression; and I said I should be very sorry if any unintentional action on my part had given offense to his Government and he said "not the slightest."
- Throughout the interview he was most friendly and assured me that he had understood me perfectly from the beginning and that his Government understood the whole situation.

In the course of the conversation I referred to the report I had received that "Wang" had seen Shidehara and asked who that Wang was and he said that he is the Chinese Minister at Tokyo. He said that Wang had said to Shidehara that China was on the point of sending two envoys to Russia. I asked whether they had been sent. He said that was left a little doubtful from the Chinese message but he understood they were contemplating sending two and that they had not been sent. I discussed a little with him the question of whether any further steps were in contemplation or could be taken by anybody and he said that he thought the Chinese and Russians were by nature inclined to settle this by themselves. He referred again to the policy

¹⁷ See par. (3) of telegram No. 245, July 24, 1929, to the Minister in China, p. 234.

of watchful waiting. I spoke of the possible danger of a clash of subordinates on the border and told him that I would feel easier when the parties were sitting down at a table in consultation, mentioning the Paraguayan-Bolivian matter. He agreed. I said I saw difficulties about any nation going in on account of the mutual jealousies. He said he saw that and he agreed with that, but I said that was the advantage of having a commission, like the Bolivian-Paraguayan Commission, which acted as individuals and he said he understood this perfectly.

800.51W89 France/608 : Telegram

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

[Extract]

PARIS, July 24, 1929—5 p. m.

[Received July 24—4:05 p. m.¹⁸]

351. . . . This morning I received a call from Briand asking me to come and see him . . .

.

I asked him whether he had any recent information regarding the Sino-Russian dispute and he said that both the Chinese and Soviet representatives had been to see him; in fact, the Soviet Ambassador had just left and that the Chinese Minister had expressed his country's willingness to arbitrate and to abide by its obligations under the peace pact, but that the Soviet Ambassador, who, however, did not seem very well informed with regard to his Government's views, had expressed the opinion that the Soviet Government could not consider arbitration until the Chinese had restored matters to the *status quo ante*. M. Briand had replied that this would virtually mean having the Chinese give in to the Soviet demands before arbitration was initiated, which will seem to leave nothing to arbitrate. He added that he had impressed upon the Soviet Ambassador the ever-present danger of an explosion unless something were done immediately to relinquish the present tension.

M. Briand said that he was keeping you informed of all negotiations here (presumably through the French Ambassador at Washington).

ARMOUR

¹⁸ Telegram in two sections.

861.77 Chinese Eastern/102 : Telegram

*The Minister in Latvia (Coleman) to the Secretary of State*¹⁹

[Paraphrase]

RIGA, July 25, 1929—noon.

[Received July 26—9:05 a. m.]

53. On July 17, at a session of the Russian Communist Party's central committee, Rudzutak said that the Chinese, with British and Japanese support, had been preparing for war; that the Political Bureau had given the Soviet Government instructions to send China an ultimatum; and that, if a satisfactory reply was not received, an attempt should be made to recover the Chinese Eastern Railway by force and to have a final settlement with Chinese reaction. The War Commissar stated that Soviet tactics would be defensive and the Chinese proletariat would rise up against Chinese reaction. Kalinin suggested the possibility of a peaceful issue through external pressure on China.

Smirnov expressed a hope for peace, because the grain-stocking campaign would be upset and the internal situation complicated by war. Smidovitch and Brukhanov also spoke similarly, and these three speeches did not get a good reception. Mikoyan thought the Soviet Government would be able to arrange for grain supplies to the army and to industrial centers despite the war.

Piatnitski declared the Chinese military clique to be digging its own grave, South China to be preparing a revolutionary rising, and an eastern war to be an excellent instrument for revolution, particularly because the U. S. S. R. was not the attacker.

Resolutions were passed by the committee to require the Soviet Government's taking the most needful measures to combat Chinese rapacity, summoning organizations of the party to arrange huge protest demonstrations, and mobilizing all organs in Siberia.

Stalin is reported to be extremely annoyed by the speeches made by Smirnov, Smidovitch and Brukhanov, and the latter may be dismissed from the Political Bureau.

COLEMAN

861.77 Chinese Eastern/127

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] July 25, 1929.

The Japanese Ambassador came in to see me this morning. During his conversation the Secretary of the Embassy came in with some

¹⁹This telegram was a repetition of No. 53, July 23, 1929, noon, which was received July 24, 7:27 a. m., badly garbled.

telegrams just arrived. The Ambassador read to me the substance of these telegrams, which was to the effect that the Russian Ambassador called upon Baron Shidehara on the 24th and stated that Soviet Russia had declined Briand's proposal for mediation, stating that Soviet Russia could not accept mediation unless the *status quo ante* of the Chinese Eastern Railway was restored. He said that the French proposal had said nothing about restoration of *status quo ante*. Baron Shidehara asked the Russian Ambassador what he meant by the term "status quo ante", whereupon the Ambassador explained that it meant (1) cancellation of dismissal of Emshannoff and Russian employes; (2) release of Russian employes arrested or detained; (3) restoration of property belonging to Chinese Eastern Railway arbitrarily taken by the Chinese.

The Russian Ambassador emphasized to Baron Shidehara the fact that there would be no fighting unless Russia was challenged by the Chinese.

N[ELSON] T. J[OHNSON]

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON,] July 25, 1929.

The French Ambassador handed me the following *aide memoire* of information received today:

"The French Ambassador in Moscow is of the opinion that the answer of the Soviet Government to the French requests may be explained by increasing difficulties of internal policy.

"The leaders of the Soviet Government having hopes in the development of the revolutionary movement, are preparing a big manifestation for August 1st under the pretext of defending working classes against a war by imperialistic powers. Consequently, these leaders could hardly admit that the Powers are guided by peaceful intentions.

"The Chinese Minister of Foreign Affairs made a new declaration on July 23d, stating that the Chinese Government had not seized the railway, had no intention to do so, and that the rights of the Russians were still intact.

"The French Minister in China thinks that the Government of Nanking would probably accept the return to the *Statu Quo* prior to a general discussion of the question."

He pointed out that the present attitude of China in probably accepting the return of the *statu quo* mentioned in the foregoing dispatch from their minister in China was undoubtedly due to the effect of my talk with Minister Wu. He added, "It is impossible for you to appreciate the extent of the influence which your country wields in these matters."

He then spoke to me about the importance of taking up immediately the notes on extra-territoriality,²⁰ saying that his government was anxious to have that taken up at once. I told him that I was planning to do so at once and read him the paragraph marked "four" of MacMurray's dispatch 611 of July 22d. He said that MacMurray's position was exactly the position of their minister and that he hoped that we would follow it.

861.77 Chinese Eastern/160

*The Secretary of State to the French Ambassador (Claudel)*²¹

AIDE MEMOIRE

A week ago when the issues which had arisen in Manchuria between China and Russia were causing anxiety throughout the world, I took the liberty of pointing out, through you to your governments, the immeasurable harm which would be done to the cause of world peace should a clash between those great nations occur at the very moment when the nations of the world were assembling to celebrate a solemn covenant between themselves never to resort to war but to settle all disputes by pacific means. I suggested that, inasmuch as both Russia and China had signed this covenant, it could not be inappropriate to bring to their attention the seriousness of this situation and to urge upon them that they find some way of settling their disputes by pacific means.

The response of your governments has been most cordial and unanimous. Friendly representations have been made to both China and Russia and each of these nations has averred that it did not intend to resort to war.

Unfortunately, the situation between them still remains difficult and gives rise to much apprehension in respect to an ultimate peaceful solution of their controversy. Diplomatic relations having been severed, the normal bridge by which they might approach each other for that purpose no longer exists. Popular feelings of intensity upon each side have been excited and an ill-considered act of even a subordinate commander upon either side of the boundary might easily precipitate a situation fraught with serious consequences to the entire world.

Under these circumstances, if a road with honor out of their difficulties can be suggested to these sister nations, who have joined with us in this solemn compact of Peace and who have just signified their

²⁰ For negotiations, see pp. 543 ff.

²¹ At 11:30 a. m., July 25, 1929, the Secretary of State read this *aide-mémoire* to the British, French, Italian, and Japanese Ambassadors and the German Chargé, and handed them each a copy.

desire to maintain it, even in the perplexities which confront them at the present time, it seems that it should be done.

I do not suggest mediation by any nation or group of nations. Such a course would have its difficulties and might excite unfounded suspicion. I suggest a way by which Russia and China themselves in the exercise of their own sovereign action may create the machinery for conciliation and thus bring about an ultimate settlement of their present dispute, based upon the only foundation upon which such a lasting settlement can be constructed, namely, a full and impartial investigation of the facts. It is not a new suggestion. Even today two of our sister nations of South America²² are in that way working out their own solution of a serious controversy into which they drifted nearly two years ago. In their case this method of solution was suggested to them by a conference of American nations meeting under the auspices of the Pan American Union.

I have, therefore, taken the liberty of putting into writing a suggestion of such a step for Russia and China. I should be glad if you would refer it to your governments. If, after carefully considering it and suggesting any criticisms, they will join my Government in suggesting it to China and Russia as a possible way in which they may start on the road to a settlement by themselves of their own difficulties, I should be most happy.

The press despatches this morning have reported a meeting between consular representatives of China and Russia which it is hoped may possibly lead to a resumption of diplomatic relations between them. I hope sincerely that these reports may prove to be correct. But until such a solution is more definitely hopeful, I venture to present these suggestions for your consideration, since I am sure that the nations which you represent, all earnestly desirous of peace, will wish to be prepared to take any helpful initiative should this prove necessary in the maintenance of peace between China and Russia.

WASHINGTON, July 25, 1929.

[Enclosure]

SUGGESTIONS FOR A COMMISSION OF CONCILIATION

Pending the investigation mentioned below both countries agree to commit no act of hostility against the other country or its nationals and to prevent their armed forces from crossing the boundaries of their respective countries.

Pending such investigation the regular operation of the Chinese Eastern Railway will be restored and carried on, the interests of

²² Bolivia and Paraguay ; see vol. 1, pp. 818 ff.

both Russia and China in said Railway being guarded by the appointment as President and General Manager with full powers, of a prominent national of some neutral country approved by both China and Russia, and by the recognition and continuance in their respective positions as directors under the agreement of May 31, 1924 of the five Russian and the five Chinese appointees.

Pending such investigation the obligations upon both China and Russia of the treaty of 1924, including particularly the obligation of the mutual covenants contained in said treaty—"not to permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the governments of either contracting party" and "not to engage in propaganda directed against the political and social systems of either contracting party" will continue in full force and effect.

The grievances and claims of both countries shall be investigated by an impartial commission of conciliation the membership of which shall be agreed upon by Russia and China and which shall have full power to investigate all the facts concerning such grievances and claims and to render to both countries and make public its conclusions both as to the facts and as to any suggested remedies for the future.

861.77 Chinese Eastern/112 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 25, 1929—6 p. m.

[Received July 25—1:40 p. m.]

630. 1. Sun Fo, Minister of Railways, now in Peking, this morning confirmed to me the reports that discussions with a view to arranging for direct negotiations are already in progress between the diplomatic representatives of China and of Russia at Berlin; that the Chinese Chargé d'Affaires in Moscow [is?] still remaining at his post; and that the Chinese Minister Designate to Finland and Russia, Chu Shao-yang, is about to proceed in order to take up such negotiations. He said that on the 20th or 21st the Foreign Office had received from General Chiang Tso-pin, Minister at Berlin, a telegram reporting that he had been informed by "a member of the Soviet Embassy" that Russia was opposed to having any third party concerned in the dispute and would welcome the opportunity for direct discussions. He asked what conclusion I drew from Russia's unwillingness to consider the good offices of any third power. I said I could not attempt to explain it but queried whether China had not indicated

the same preference for direct discussions, which he acknowledged to be the fact.

2. He said that the action against railway had been prompted by the fact that the Russian authorities had placed in highly paid positions in the railway administration propagandists who actually received considerably less than their nominal salaries, the balance being allotted to propaganda funds and that these propagandists had actually been forming secret subversive organizations among the Chinese. On my inquiry whether this situation might not have been met by action against responsible individuals rather than by the wholesale ousting of the Russians, he said that such had been intention and understanding of Nanking but that Manchurian authorities had in their zeal taken unexpectedly drastic action. He said that of course there was no intention to deprive Soviet Russia of its legal rights. I then inquired whether I was right in understanding, from what he said and from the recent announcement of the Minister for Foreign Affairs, that the Chinese Government is prepared to recognize without prejudice joint interest of Russia in the Chinese Eastern Railway as a commercial enterprise in accordance with the treaties of 1924 and would therefore be prepared to restore Russia to the *status quo ante* with respect to the railway if assured of Russia's observance on its part of the provisions of those treaties against propaganda. He said that that was the case, subject, however, to the condition that some more effectual safeguard against the recurrence of Soviet propaganda would have to be arranged.

3. He asked my views upon the question. Basing myself upon your conversation with the Chinese Minister, as set forth in your number 237, July 19, 5 p. m., I said that it was most unfortunate that the action taken professedly for the purpose of suppressing Soviet propaganda had been so precipitate and so drastic as to create upon American public opinion unfortunate impression that China was confiscating Russian joint interest in the railway property and that China owed it to her own good name to say and to do whatever might be necessary to dispel what he gave me to understand was a false impression of the intentions of the Chinese authorities.

4. He did not confirm current reports that he is himself planning to proceed shortly to Harbin to discuss railway question with a representative of the Soviet but he indicated that his immediate plans were quite indefinite.

MACMURRAY

861.77 Chinese Eastern/113 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 25, 1929—9 p. m.

[Received July 25—12:40 p. m.]

633. (1) As supplementary to the conversation I had with Sun Fo, reported in my 630, July 25, 6 p. m., I offer the comment which follows.

(2) It appears to be amply evident, from all the Chinese official and press references at the time to the matter, that in ousting the Russian staff it was the intention of the Chinese authorities to obtain possession and control of property and revenues of the Chinese Eastern Railway. The subsequent statements made by the Minister for Foreign Affairs and by the Minister of Railways that dismissing Soviet nationals was a means merely to suppress hostile propaganda, with no intention of prejudicing Russian legal rights in said railway, appear clearly to be a result of the realization that maintaining publicly the position taken is not possible without discrediting the Chinese Government in the world's general opinion. Nevertheless, it remains to be seen if the Chinese Government, in direct negotiations with Russia, will yield any substantial part of its actual possession and control at present.

MACMURRAY

861.77 Chinese Eastern/120 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

Tokyo, July 26, 1929—2 p. m.

[Received July 26—8:45 a. m.]

79. Minister for Foreign Affairs told me last night that the Soviet Ambassador had informed him that Russia would treat with the Chinese only on the basis of a restoration of the *status quo ante* so far as the Chinese Eastern Railway is concerned; that the French had been so informed. The Minister then said that both the Russians and Chinese had told him that there was no intention of resorting to arms. He said that he did not regard the situation as serious but that it is annoying; that neither side appears to be willing to talk and that matters are deadlocked.

I asked him if he was in close touch with the French; he replied that Briand and he were acting quite independently but to the same end. He said he could not understand the Russian refusal to discuss things with the French because the Soviet and Chinese Govern-

ments have broken off relations and have no means of communication with each other. He did not say that he had made any offer to mediate or to be a channel of communication but he said that both sides talked to him a great deal.

From the Minister's manner and conversation I had no reason to infer that he felt that Japan had been slighted in any way, as reported in the press.

Copy to Peking.

NEVILLE

861.77 Chinese Eastern/140 : Telegram

*The Secretary of State to the Minister in China (MacMurray)*²³

[Paraphrase]

WASHINGTON, July 26, 1929—2 p. m.

248. On July 25 I called in the Japanese, French, British, and Italian Ambassadors and the German Chargé d'Affaires and handed them the following *aide-mémoire*, with accompanying suggestions concerning a commission of conciliation, which have been communicated by them to their Governments. Since premature publicity would imperil the proposal's being carried out successfully, it was agreed to keep the matter strictly secret for the present.

[Here follows in full the *aide-mémoire* and enclosure, printed on page 242.]

Repeat as No. 71 to the Embassy in Japan.

STIMSON

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON,] July 26, 1929.

The Chinese Minister called me up on the telephone to say that he had been notified that the Soviet Ambassador at Berlin had sounded out the Chinese Legation there as to whether they would meet in negotiation and the Chinese Government has instructed its Legation to say that it is quite willing. No answer to this last has yet been received from the Soviet.

I told Dr. Wu that I was very glad to hear this and that I was also very glad to see in the papers this morning Dr. C. T. Wang's statement

²³ See last paragraph for instructions to repeat to the Embassy in Japan. The same telegram, except for the last sentence, sent to the Ambassador in France (No. 249), with instructions to repeat to the Ambassadors in Germany (No. 53), Great Britain (No. 191), and Italy (No. 54).

in respect to the attitude of China towards the Chinese Eastern Railway and other investments in China. I said that I thought this notification that China intended to respect these investments of private property would have a very good effect in this country and thanked him for calling me up.

Henry L. Stimson Private Papers

Memorandum by the Secretary of State of a Conversation With the German Chargé (Leitner)

[WASHINGTON,] July 26, 1929.

Dr. Leitner came in to tell me that he had received an answer to my first message to the German Government, conveyed through Mr. Lohmann.²⁴ In general he said that the Government was thoroughly pleased and satisfied with everything that had been done.

He then said, however, that there had evidently been some difficulty in understanding some conflicting reports that had come in and asked my permission to ask me two or three questions. I agreed. He asked me:

(1) Whether I had asked France to act as my agent in conveying the message to Russia or whether she would do it herself. I told him that I did not ask France to act as my agent but to act cooperatively with us and that I had called the matter to Mr. Claudel's attention.

(2) Whether it was true that the United States had only spoken directly to China. I said yes.

(3) He said that Russia had conveyed to them the impression that France had not conveyed any message to Russia and he asked if I knew how it had been conveyed,—whether in Paris or Russia. I said I had to speak from recollection because I did not have with me the *Aide Memoire* but my recollection was that M. Briand had conveyed it to the Russian Ambassador in Paris and had called in the Russian Ambassador.

I then told him that I had heard through our Ambassador in Berlin reports of attempts on the part of the Soviet Embassy to indicate to American newspaper men that there was trouble between France and America. I wished most emphatically to deny that and to say that M. Briand and I were acting in perfect cooperation.

I told him also that I had received official word from Dr. Wu today that the Russians had approached the Chinese Minister in Berlin to know whether they would deal directly and that the Chinese Government had answered them in the affirmative but had had no reply to that.

²⁴ Johann G. Lohmann, Secretary of the German Embassy.

861.77 Chinese Eastern/131 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 26, 1929—5 p. m.

[Received 9:40 p. m.]

636. Following from Naval Attaché now at Harbin:

"July 25, 4 p.m. Called on Chang Ching-hui. States that Chinese will not fight; even if Russians advance, Chinese will withdraw. Claims railway not seized. Expect Russia to appoint general manager acceptable to China. Same statement made by Young Marshal. Believe Chinese at Nanking, Mukden, Harbin, now keeping each other informed and telling same story. Chang Ching-hui also reports partisan trouble and Red mutiny of troops few stations from Pogranichnaya five days ago, not confirmed.

Japanese military intelligence states Chinese troops Chinese Eastern Railway as follows: Manchuria Station, Kirin. Best estimates all sources of information agree as to Russian army Irkutsk [and] east 50,000, composed four infantry divisions, two brigades of cavalry, miscellaneous unit, including active aviation [at] Spassk. Division of infantry rumored leaving Vladivostok toward Pogranichnaya, with a brigade of mounted troops plus battery on the Suifenho border. Chinese Army poorly equipped with ammunition averaging fifty rounds per man. Russian modern organization, equipment not modern but much better than Chinese; largest field gun three inch, some heavy artillery [at] Vladivostok. From a Japanese source, 7 o'clock this morning five airships appeared over Manchuli, fired upon by Chinese."

MACMURRAY

861.77 Chinese Eastern/136 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

WASHINGTON, July 26, 1929—6 p. m.

54. Your 134, July 24, 6 p. m.²⁵

1. I am somewhat surprised at the belief of the correspondents that what has been done by me in consonance with the spirit of the General Pact for the Renunciation of War is not fully known. In my daily conferences with the Press I have indicated the course of events. There follows a brief résumé of what has transpired, which you may use as you think best.

2. On July 18, a diplomatic reception day, in conversation with the Chinese Minister, I invited his attention to the fact that China was signatory to the General Pact for the Renunciation of War and I said that, while I was without authentic information regarding what underlay the dispute between Russia and China, it would appear from Press statements that the claims on both sides were distinctly of a nature that would permit settlement by peaceful means, one or two of which I sug-

²⁵ Not printed.

gested as examples. I made remarks of the same tenor to the diplomatic representatives of France, Great Britain, Japan and Italy. In talking with the Chinese Minister, I urged, as a friend of China, that the Chinese Government should clearly state its pacific intentions and he said that he would communicate my remarks to his Government. To the French Ambassador I expressed the hope that his Government would make representations to Russia. The German Ambassador was not in Washington at that time but on July 23 I sent for the Secretary of the German Embassy and told him of the conversations I had had. I suggested that there were several pacific methods of settling the dispute between Russia and China and I said I would welcome any measure his Government might care to take to promote peace. I was informed by the Chinese Minister that China disclaimed any intention of taking hostile action except in case of self-defense. I was informed by the French Ambassador that the French Government had approached the Russian Government and had received assurances of its pacific intentions. In this matter I have enjoyed the hearty cooperation of France and the other Governments whose diplomatic representatives I consulted. Entire harmony has characterized the efforts of the different nations to encourage a pacific settlement by Russia and China of their present dispute. It is especially gratifying to the other friendly Powers participating in the General Pact for the Renunciation of War that Russia and China have thus decided upon a course of action consistent with the principles underlying the Pact.

STIMSON

861.77 Chinese Eastern/125 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 26, 1929—6 p. m.

[Received 9:40 p. m.]

637. Legation's 620, July 24, 1 p. m. Following from Reuter, Shanghai, July 25:

"C. T. Wang today stated that China was willing and prepared to launch immediately negotiations with the Soviet Government to bring about a settlement of the Chinese Eastern Railway issue, following receipt of word from Moscow.

China was quite willing to accede to the Soviet's reported wish to settle issues by direct negotiations instead of through mediation by a third party.

The Foreign Minister indicated that he thought it likely that negotiations would take place in Moscow rather than Harbin.

He was optimistic that these negotiations would solve the dispute and said in conclusion, we are now waiting for Moscow's indication of their attitude towards the suggested procedure and also an indication of a possible date for opening negotiations."

MACMURRAY

861.77 Chinese Eastern/325

*The Military Attaché in China (Magruder) to the Legation in China*²⁶

[Extract]

Report No. 7565

[PEKING,] July 26, 1929.

5. Conclusions. From my investigations, I cannot avoid the conclusion, despite present official announcements, that the Chinese objective in their abrupt actions of July 10 and 11, was the complete recovery of the Chinese Eastern Railway and that only an unfavorable expression of world opinion and a menacing Soviet attitude forced an official renunciation of this objective and its replacement by demands for strict adherence to the Agreements of 1924. Official statements from Nanking have defended the final action taken at Harbin but, in order to retain a loop-hole, officials personally are encouraging the dissemination of the idea that the action was hasty, unforeseen and unauthorized. They suggest the mild propitiation of a scapegoat in the person of the President of the Board of Directors upon whom they show willingness to heap the load of responsibility for the affair.

While conceding that the officials concerned with handling the Chinese side of the Chinese Eastern are incompetent to deal with the important questions involved and to appreciate their international significance, it is inconceivable that the drastic steps at Harbin were taken by any Chinese official upon his own initiative. For some time Manchurian officials generally have favored seizure of the railway, the difference in opinion being only as to the method of procedure. Foreign advisers, it has been seen, advocated seizure. Russia's various attempts this year to negotiate over the outstanding difficulties were met with rebuff. Nanking was made current with Chinese Eastern matters at least as early as June through the medium of Kao Chi-yi, and this important official was still in Nanking at the time of the coup. A significant meeting was held in Peking on the afternoon of July 10, by Chiang Kai-shek, Chang Hsueh-liang and C. T. Wang, immediately after which these leaders hastily dispersed, and the action in Harbin reached its climax the next day. The dilatory absence of Chang Hsueh-liang and C. T. Wang from their posts following the crisis is explicable only as an attempt to establish an alibi for some specific purpose. The official declaration of the Mukden Government of July 22, 1929, was submitted to Nanking for approval prior to its release. The first official statements contained no censure of the Harbin officials.

²⁶ Copy transmitted to the Department without covering letter; received September 14, 1929.

The foregoing facts create a strong suspicion that Nanking and Mukden were working in agreement, were aware of what was to take place in Harbin, and if the highest authorities did not order the Harbin action, they took no measures to forestall or check its execution.

Messrs. Donald,²⁷ Ostroumoff and Lo Wen-kan, in so far as they exert influence in Mukden, have been directing their efforts toward urging China to recover full rights in the railway by steps which can be legally defended before world opinion. It is probable that the final, abrupt action was taken without the knowledge of the two foreigners, but it is difficult to believe that it was taken without the knowledge of higher authorities, including Nanking. Whereas I feel certain Mr. Donald advised against the methods employed, he tends to propagate the Mukden version that the Harbin authorities acted on their own initiative.

This crisis which has threatened to menace peace in the Far East was rendered inevitable by the insistence of Russia upon hitching a scheme for the propagation of her political ideas onto a joint commercial enterprise which had become the expression of Russia's neo-imperialism; and China's determination, with her blundering or devious governmental mechanism, to gain complete control of a joint enterprise with scant regard for agreements, international practices and the responsibilities involved.

Strangely, in this discussion of a vital issue in Manchuria, Japan has not once been mentioned—nor does she warrant her usual unpleasant inclusion except very indirectly.

JOHN MAGRUDER
Major, General Staff

861.77 Chinese Eastern/285

*The Naval Attaché in China (Powell) to the Minister in China
(MacMurray)*²⁸

HARBIN, July 27, 1929.

Subject: Notes on the Chinese Eastern Railway Situation obtained in Mukden and Harbin.

1. The following resume of pertinent items is forwarded for the information of the American Minister, having been obtained through observation, contacts and sources herein mentioned.

Perhaps the most outstanding impression received in Mukden and Harbin from all sources is that the present situation is not an overnight development but has been expected by the Russians and planned for by the Chinese for some months. Since January of the

²⁷ W. H. Donald, a British adviser to the Mukden government.

²⁸ Copy transmitted to the Department by the Minister in his despatch No. 2243, August 2; received August 31, 1929.

present year W. H. Donald and Boris Oustroumoff have advised the Mukden Government to demand a committee of investigation to look into the affairs of the Chinese Eastern Railway.

The following notes and information obtained from W. H. Donald. For seven months past there has been much excitement amongst the Russians in Harbin regarding the taking over of the Chinese Eastern Railway. During January and on till April this, though at that time unwarranted, was intensified, and rumors were rife that immediate action was contemplated.

The Soviet citizens were obviously frightened and in fact made no effort to conceal their fear. From April onward their fear subsided somewhat but always there was great expectancy of action on the part of the Chinese.

On their part the official Chinese were making no move to take over the railway, though they were approached from time to time by groups of Chinese with the argument that the railway should be taken over. One group agitating for confiscation of the line was particularly active in the early part of the year. They based their assurance of success and nonresistance by the Soviet on the acceptance by the Russians of previous assumption of control by China of the land department, the telephones, the Navigation service, etc.

Seeing the extent of the agitation and realizing the dangers into which the Mukden government might be forced, Donald wrote a memo in January urging care in any steps taken and argued that if conditions compelled some kind of action that the idea of confiscating the line be discarded, and that an investigation be made to ascertain if bad management and maladministration on the part of the Russians justified action. If so, then action should be confined to taking control of the line as trustees both for the Chinese and Russian interests. Oustroumoff joined in this recommendation.

After the raid on the Soviet Consulate in May the agitation was intensified.

Oustroumoff worked very hard with the head of the railway commission to have an investigation by a body comprising neutral experts before any action was taken. Memoranda were prepared showing where bad management and maladministration could be shown by analysis of the accounts issued by the railway, and also where the agreements signed at Peking and Mukden had been violated. Strenuous efforts were made by Donald and Oustroumoff to prevent any idea of confiscation taking root in the official mind. Eventually Dr. Lo Wenkan joined with them to this end.

On June second, General Kao Chi-yi, Chief of the Railway Commission of the Northeastern Provinces, Lo Wenkan, and Boris Oustroumoff lunched at Donald's and there the dangers of confiscation were

impressed upon Kao, who accepted the advice that an investigation should be made, and that if any steps were taken they should be in accordance with agreements and facts, and that control alone should be assumed providing facts justified such action. Kao asked that a memorandum be prepared, and all that night Donald and Oustroumoff worked on one providing for assumption of control as Trustees in the event of investigation disclosing that such a step was justified. Prior to this Kao had agreed to try and institute inquiries but he found that his overtures to the *Tupan* (Lu Yung-huan) were not received with any enthusiasm—in fact were resented.

On June third General Kao was at Donald's house and read through the memorandum, said he was leaving for Nanking the next day and would take the material with him. On June sixth Donald further discussed the matter with Kao, who left that evening for Nanking.

Kao said he had discussed the memorandum with Marshal Chang.

After the raid on the Soviet Consulate in May Marshal Chang declared to Donald that no drastic action would be taken, and no extremes would be gone to either with regard to the Soviets or the railway.

During the first week in June, *Tupan* Lu of the railway came to Mukden solely to insist that the CER be kept apart from the railway commission, this action being taken as a result of the inquiries that had gone to him from the Commission for information. The interviews with the Marshal were, it is reported, not as *Tupan* Lu wished, but he closed them by giving an ultimatum that if the CER was not allowed to continue its status outside the Railway Commission he would resign. It is reported that the Marshal then discontinued discussions, apparently acquiescing in Lu's demands.

Lu returned to Harbin, Kao was on his way to Nanking, and shortly after, the Marshal left for Peking.

Soon after his return to Harbin *Tupan* Lu apparently decided that the way to retain his position on the CER and prevent any investigation was to take action to remove the Soviet plotters and endeavor to take control into his own hands. No doubt he believed this would accord with the ideas of the authorities and effect a *fait accompli* for which he would gain merit, though it was known that sometime before he was against taking any action of this kind.

While Marshal Chang was at Peking Lu suddenly acted and produced the situation now existing. It is certain that neither the Marshal nor Nanking knew what was contemplated, but were compelled by circumstances to accept the conditions and do their best to shoulder the responsibility.

It is known that the Marshal did not contemplate any seizure without justification, and even now he does not contemplate any action leading to hostilities. In fact, he returned to Mukden reluctantly

from Peitaiho, not realizing the war talk that was agitating every other part of the globe but this region, but determined to have the matter settled in accordance with the Peking and Mukden agreements. Nanking, however, has the task of dealing with the Soviet[s] on the matter, and the Marshal is content to leave it to Nanking. Faced with a difficult situation [it?] is justifying the action taken on the determination to eliminate Bolshevist propaganda.

In Mukden there was a distinct and general feeling that there would be no war, that neither side wanted war. Various reasons were given why neither side could afford a war and by those few who thought conflict possible just as strong reasons were advanced why it could not be avoided. The Chinese said they would not fight and the Young Marshal made an official statement to that effect. The Japanese Consul General said he felt there could surely be no fighting and Lo Wenkan said the same thing. When I called on him on July 23 he showed me the translation of the Young Marshal's announcement in which he stated "The Chinese Government expected the Board of Directors to select suitable men as their successors". I asked Lo if Moscow or anyone else were informed of this at the time China seized control or had been informed since. His reply was that this announcement would serve this purpose. In Harbin I asked Chang Ching-hui the same question. He evaded, and I think, somewhat resented the question.

It seems to me that Russia must feel that she is gaining a very strong point for later negotiations by avoiding war, otherwise she would take the two railheads, Manchouli and Pograditchnaya, and have these to negotiate with. She would have no trouble in taking possession of them.

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Reference my telegram concerning the firing at Manchouli it is now said that this report originated from Russian airplanes bombing on their own territory (presumably practice) and that there had been no firing.

HALSEY POWELL

861.77 Chinese Eastern/285

*The Naval Attaché in China (Powell) to the Minister in
China (MacMurray)*²⁹

HARBIN, July 29, 1929.

Notes on Interview with *Tupan* Lu Jung-huan, Chinese Eastern Railway.

Tupan Lu stated that while Chinese official and public opinion of the CER incident were well known to all, and therefore not necessary

²⁹ Copy transmitted to the Department by the Minister in his despatch No. 2243, August 2; received August 31, 1929.

for him to discuss, he would, however, be pleased to tell something of just what had compelled action on the part of the Chinese. These reasons were contained in his own official report to the Government.

It would first be well to clear any misunderstanding concerning Chinese "seizure" of the Chinese Eastern Railway, as steps had merely been taken to protect Chinese interests and to take back their own rights as defined in original and succeeding agreements. It was never intended to seize the railway. The *Tupan* stated that he had been connected with the CER for a period of five years and had been instrumental in concluding the Peking-Mukden agreement of 1924, which distinctly stated that the railway was to be a purely commercial enterprise. It was since clear to all that politics and propaganda had been introduced by the Soviets.

Lu further mentioned that the Manager of the Railway had held great powers on account of the peculiar constitution of the Board of Directors, a majority of the Board being required to check any illegal activities on the part of the Manager. In this way the Soviets were able to control finances, appropriations, and employees. Reference was made at this point to the documents found in the Soviet Consulate raid, Harbin, which clearly showed that the railway was being used for the purpose of carrying on Bolshevist propaganda in China.

Endless negotiations were carried on to obtain parity and equal rights of employees but all attempts were met with passive resistance on the part of the Soviet railway officials. Directors failed to attend meetings preventing a quorum necessary for a Board of Directors' decision. There was flat refusal on the part of the Soviet vice-president concerning the question of employees. Many efforts were made to adjust disputes, none of which succeeded. When peaceful means failed it was necessary to use other means to protect the safety of the state. Therefore, based on protection and the carrying out of the Peking-Mukden agreement, it was necessary to act. Since the assistant manager had merely been appointed Acting Manager, the Chinese were within legal rights in their temporary appointment. He, Lu, hoped that when negotiations were held that the Soviets will appoint a new General Manager.

Although attempts had been made to interrupt traffic on the CER since the "incident" it was the Chinese desire to maintain normal conditions on the railroad. Proper precautions had been taken and the Soviet employees would not be molested so long as they do keep within their rights. Few arrests had been made although instructions had been given to accept no resignations unless reasons were sufficient to justify resignation under ordinary circumstances. Continuing, the *Tupan* stated that yesterday at Chalanor³⁰ station, 39 kilometers from

³⁰ Other more common transliterations are "Chalainor" and "Chalainoerh."

Manchouli, a Soviet [agent?] had been caught trying to "open" a switch, one of the few acts of sabotage reported. Some 400 cars belonging to the CER have been seized and held over the border by the Soviet authorities (eastern end).

Questioned concerning other matters, Mr. Lu said that there were approximately 12,000 Soviet employees on the railway, 11,000 Chinese and a few Whites. Under the provision of Order #94, issued four years ago, Ivanoff, under the pretext of carrying out the terms of the agreement, ordered all people employed without Russian or Chinese passports to resign. This has resulted in the Whites having to obtain Chinese passports and therefore the number employed on the railway is small.

Concerning the exportation from the Northeastern provinces, the *Tupan* admitted that the Japanese port of Dairen would benefit by the diversion of shipping over the South Manchurian Railway. Formerly the freight was divided equally between Dairen and Vladivostok, the shorter haul being adjusted by charging equal rates over the two routes. That is, the rate per mile over the route to Dairen would be higher than the per mile rate to Vladivostok, but the total charges would be equal. So long as the present interruption of traffic continues, the Japanese, through their port of Dairen, would naturally benefit.

HALSEY POWELL
Captain, U. S. Navy

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON,] July 29, 1929.

The French Ambassador handed me today the following report as to the Russian-Chinese issue which he said was the latest news he had on that subject:

"The refusal opposed to Japan by the Soviet Government to accept the Japanese's good offices, is causing some deception in Tokio. It seems now that the conflict should be settled without the intervention of a third party.

"The Chinese Minister in Japan confirmed on July 27th to the French Chargé d'Affaires that direct and officious conversations between Russians and Chinese have already started. However, the Soviet Ambassador is less optimistic and says he does not know anything about the opening of negotiations. He continues to say that there will be no military action, adding however, that this will be on condition that the Chinese do not molest any more Soviet citizens. He insists not only upon the reestablishment of the *status quo* but upon the granting of guarantees for the future.

"The Press Bureau of the Foreign Office in Moscow states that the Soviets are in no communication with the Chinese in any capital, and sticks to the rupture until fulfilment of conditions of the Soviet note of July 13th.

"Washington, July 29th, 1929."

861.77 Chinese Eastern/249

Marshal Chang Hsüeh-liang to the Soviet Acting Commissar for Foreign Affairs (Karakhan) ³¹

[Translation]

SIR: After an exchange of opinions between the Consul General, Mr. Melnikov, and the Commissioner of Foreign Affairs, Mr. Tsai, the latter went to Mukden, and made a report. The Chinese Eastern Railway is a joint commercial enterprise, arranged by the two states between them, and regulated by the Peking agreement and the Mukden agreement. In order to settle the prevailing misunderstanding, the following three proposals are made: first, that the Chinese Government and the government of the U. S. S. R. should appoint each its representative for the calling of a conference concerning the questions connected with the Chinese Eastern Railway; secondly, that the prevailing situation on the Chinese Eastern Railway should be regarded as provisional, subject to regulation after the conference, on the basis of the Peking agreement and the Mukden agreement; thirdly, that the arrested citizens of the U. S. S. R. should be officially released, and deported to the U. S. S. R. The Chinese arrested in the U. S. S. R. should also be released. Please, let me have a reply by telephone [*telegraph?*] in regard to these three points.

Yours truly,

CHANG HSÜEH-LIANG

[MUKDEN,] July 29 [, 1929].

711.0012 Anti-War/868 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING [undated].

[Received July 30, 1929—12: 51 p. m.³²]

651. Department's circulars July 25 [24], 5 p. m., and July 25, 7 p. m.³³ The following reply has been received by telephone from the Minister for Foreign Affairs:³⁴

³¹ Translation from text printed in the Moscow *Izvestia*, No. 175, August 2, 1929; copy transmitted to the Department by the Chargé in Latvia in his despatch No. 6339, August 10; received August 24, 1929.

³² Telegram in four sections.

³³ Neither printed.

³⁴ Dated July 29, 1929.

"Excellency: Please accept my sincerest thanks for your telegram of July 27th informing the National Government that the treaty for the renunciation of war, signed at Paris on August 27, 1928, became effective on July 24, 1929.

The people and Government of China have always stood for peace and the outlawry of war and they unite with me in voicing their confident hope that through the coming into effect of the aforesaid treaty the peace of the world will be preserved and safeguarded.

The good tidings contained in Your Excellency's telegram under reply is all the more welcome to the people and Government of China and is a happy vindication of their stand in the present temporary deadlock between the Republic of China and the Union of Soviet Socialist Republic[s]. In pursuance of their traditional love of peace and their belief in the efficiency [*efficacy?*] of reason as against the delusive persuasions of war, the people and Government of China have continued to maintain an unswerving attitude of peace in the spirit of the aforesaid treaty and declared their willingness to arrive at a settlement with the Government of the Union of Soviet Socialist Republics by pacific means.

The coming into force of the aforesaid treaty therefore strikes a very sympathetic chord in the heart of the people of China, and in the name of the National Government I have very lively pleasure in extending our heartiest congratulations upon the consummation of an epoch-making treaty that was so auspiciously sponsored by Your Excellency's Government.

I shall be grateful if you will be good enough to transmit the above to Your Excellency's Government, and I am happy to renew to Your Excellency the assurance of my highest consideration. (Signed) Chengting T. Wang, Minister for Foreign Affairs."

MACMURRAY

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON,] July 30, 1929.

The Japanese Ambassador came today and told me that he wished to offer the views of his Government verbally and that they should be considered verbal although for the sake of easier mutual communication he had written them out himself and he asked that they be treated as verbal and confidential. He then handed me a paper which reads as follows:

"The Japanese Government deeply appreciate the suggestion made by the Secretary of State with a view to bringing about an amicable solution of the pending controversy between China and the Soviet Union. They are sincerely willing to cooperate with the United States and other interested Powers in any move that may lead to the desired end. It only remains for them to consider whether the suggested plan of a Commission of Conciliation may be reasonably expected to secure acceptance by the two parties in dispute.

"All official reports which have been reaching Tokio from various sources tend to strengthen the impression that both China and the Soviet Union are anxious to compose their differences relating to the Chinese Eastern Railway by direct negotiations between themselves.

"If the Japanese Government are correctly informed, neither side is likely to welcome any initiative of a third Power or a group of third Powers,—still less any participation by the Governments or nationals,—in the settlement of the present difficulty. It is particularly apprehended that the plan under which a national of a third Power is to be appointed, however temporarily, as President and general manager of the Chinese Eastern Railway, or to take part in the machinery for conciliation, will be resented both in China and in the Soviet Union.

"Should the plan in question be rejected by either or both of the two contending parties, the Powers will find themselves in a peculiarly embarrassing position. It is presumed that none of the Powers have any intention of exercising material and effective pressure upon the unwilling parties to force acceptance of the plan. The Japanese Government, while deeply impressed with the fair and disinterested motives of the suggestion made by the Secretary of State, are unable to dismiss from their mind the possibility of unfavourable reaction which the proposed measure of the Powers may produce in China and in the Soviet Union.

"In this situation, they desire to be informed whether the reports in the possession of the American Government are of such a nature as to put at rest the apprehension now entertained by the Japanese Government, and what further action the Secretary of State has in contemplation, in the event of the plan under review being rejected by either or both of the two parties.

"The Japanese Government, most directly interested in the preservation of peace in the Far East, have been watching with profound anxiety the development of the issues between China and the Soviet Union. Fortunately recent reports at hand are more reassuring, and the actual situation does not seem to call for any immediate action on the part of the Powers."

I told him after I had read the statement that I appreciated it and was grateful for the friendliness and the frankness of Japan in this situation. I recalled to him that last Thursday when I presented my views to the four ambassadors and the German Chargé that I had made it very clear that this suggestion was not in the nature of a mediation by any power or group of powers, but was intended as a suggestion of what was to be voluntary action by China and Russia; that the neutral national whose appointment was suggested in the *aide memoire*, to be chosen not by the neutral countries but by Russia and China themselves. He said he understood that perfectly. I told him my Government had decided to make this suggestion only in case China and Russia seemed to be unable to get together through negotiation by their own efforts and that on the morning of last Thursday after

I had called the ambassadors when the press despatches indicated the first rumors that Russia and China might get together I had seriously thought of cancelling the call, but I decided to go on with it in view of the fact that these were mere rumors and might prove false. I felt that in such circumstances it was important to have the preliminary consultation so that all of the powers who had been so friendly in the previous consultations over the crisis might be informed of the views of my own Government and we might be informed of theirs, and we thus might be ready in case the need for such a suggestion arose afterwards; that I had made it clear in my *aide memoire* that if Russia and China should be able to get together we would be most happy. He said he understood this fully.

I told him that if the negotiations between Russia and China continued to go on I should take no further steps, but should reserve such action for any emergency which might occur on their failure to go on. He said he understood that. We then had a little talk on the recent news. I asked him what his information was and he told me that they had heard that the Russian Consul General at Harbin, Mr. Melnikoff, who had left his post for Russia and had gone across the boundary, had since returned towards Manchuli and that the Chinese diplomatic representative of Foreign Affairs in Manchuria was starting to meet him. His Government thought that this was the beginning of the negotiations and that there was nothing to the report of the proposed Berlin conference. He asked me what my news was from Dr. Wu and I told him of Dr. Wu's telephone call. As we parted he asked me what our plans were for the future and I told him my plan was to do nothing unless some change in the situation occurred which would make it seem advisable, but that so long as Russia and China seemed to be making progress towards direct negotiation I did not intend to make any suggestion.

861.77 Chinese Eastern/149 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 30, 1929—9 p. m.
[Received July 31—9:40 a. m.]

654. Legation's 648, July 29, 7 p. m.³⁵ Following from American Consul at Harbin:

"July 30, noon. Commissioner for Foreign Affairs, Harbin, and Li Shao-keng, member of Board of Directors, Chinese Eastern Railway, left the city yesterday afternoon probably to receive Soviet reply

³⁵ Not printed.

to Chinese proposals made at Chang Tso-hsiang-Melnikoff meeting at Changchun. Situation Suifenho quiet although Chinese population complaining to Harbin regarding bad business conditions. Situation Harbin, Hailar quiet, unchanged.

Reported that Chinese authorities have published secret note to Soviet authorities yielding much and that Soviet and Chinese troops have drawn back a considerable distance into their respective territories."

MACMURRAY

861.77 Chinese Eastern/148 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, July 31, 1929—11 a. m.

[Received July 31—9:40 a. m.]

139. Embassy's telegram 137, July 30, 11 a. m.³⁶ By an official communiqué published in the newspapers of this morning, local Soviet Embassy reiterates earlier denials of direct negotiations with the Chinese Minister here and denies in particular latest reports stated to come from Washington that the Soviet Embassy has "sounded" Chinese Legation in Berlin in connection with the railway conflict.

SCHURMAN

861.77 Chinese Eastern/153

Memorandum by the Secretary of State

[WASHINGTON,] July 31, 1929.

The French Ambassador when he called today handed me the following statement of information which had been received by his Government:

"Mr. Karakhan confirmed on July 29th., to the French Ambassador in Moscow his previous denial to direct or indirect conversations between Chinese and Russians.

"Mr. Karakhan maintains that no conversation will be possible before the return to the *status quo*, that is to say before the restoration of the state of things existing prior to the seizure of the telegraphic communications by the Chinese Government, this including the re-installment of the personnel.

"According to the French Minister in Peking, the Chinese Minister of Communications has prepared regulations for the working of the railroad. It is believed in Peking that if the Russian pressure is accentuated the Chinese Government would modify those regulations in a way favorable to the Russian demands.

"Washington, July 31st., 1929."

³⁶ Not printed.

861.77 Chinese Eastern/161 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 1, 1929—6 p. m.
[Received August 1—10:55 a.m.⁸⁷]

659. Legation's 630, July 25, 6 p. m.

1. Following from *North China Standard*, Peking, August 1:

"China's irreducible minimum in her forthcoming negotiations with Russia over the Chinese Eastern Railway was indicated by Mr. Sun Fo, Minister of Railways, in the course of an interview with Chinese pressmen in the Peking Hotel, Wednesday afternoon.⁸⁸ After declaring that Russia would not risk a war with China on account of her international isolation and also because of her internal difficulties and that indications point toward early opening of direct negotiations, Mr. Sun went on to say: 'What form the negotiations will eventually take has not yet been settled, but we can anticipate three possible outcomes: First, the ownership and control of the railway will be completely restored to China; secondly, the ownership of the line will remain jointly vested in China and Russia but the right of administration will be restored to China; thirdly and lastly, there will be no change in the status of the railway which prevailed before China took over the line recently.'

Continuing, the Railway Minister said that, while complete recovery of the railway should be the ultimate goal of the National Government, the greatest possible concession which China would make, if that could not be attained in the immediate future, would be to admit the joint ownership of the line, but insist on China's sole control and administration. 'The experience of the past few years has convinced us that joint control of the Chinese Eastern Railway is unsatisfactory and cannot satisfy the hopes of the Chinese people; moreover, the question is an international issue and I sincerely hope that the people will stand solidly behind the Government in the present difficulty.'

Mr. Sun further said that the Chinese Government was opposed to the joint methods of the United States, Japan, France and Great Britain, because that might result in the international control of the Chinese Eastern Railway."

2. Foregoing has not been confirmed. Sun Fo left Peking this morning.

MACMURRAY

⁸⁷ Telegram in three sections.

⁸⁸ July 31, 1929.

861.77 Chinese Eastern/164: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 1, 1929—7 p. m.
 [Received August 1—10: 58 a. m.]

660. Legation's 654, July 30, 9 p. m.

1. Following from Reuter, Nanking, July 31st:

"The first Sino-Russian preliminary conference met yesterday afternoon at Manchuli, the Harbin Consul General, Melnikov, representing Russia and Mr. Tsai Yun-sheng, Commissioner for Foreign Affairs in Harbin, representing China. It is understood that they discussed questions of time and place for a formal conference."

2. Legation has been able thus far to confirm only the fact that Soviet Consul General requested Chinese Commissioner of Foreign Affairs to meet with him at Manchuli, July 31st.

3. Captain Powell, Naval Attaché, has proceeded from Harbin to Manchuli.

MACMURRAY

861.77 Chinese Eastern/174

The First Secretary of the French Embassy (Henry) to the Assistant Secretary of State (Castle)

WASHINGTON, August 1, 1929.

DEAR MR. CASTLE: Last week the Secretary of State gave to the Ambassador the text of a proposed note to China and Russia for the settlement of their dispute.

The Ambassador transmitted the text of that document to Paris. We are just in receipt of a telegram from Mr. Briand saying that in his opinion Mr. Stimson's suggestion is in every respect in accordance with the Kellogg Pact and that its legal basis is strong. Mr. Briand thinks that in case Russia and China could not reach a settlement by direct communication between themselves the Secretary's note could be forwarded, in accordance with the Kellogg Pact, it being understood that such transmission should be made with the approval of the principal Powers interested in the maintenance of the Peace in the Far East.

In the absence of the Ambassador who is in the country for about a week I should be obliged if you were kind enough to communicate Mr. Briand's answer to the Secretary of State./.

Believe me [etc.]

JULES HENRY

861.77 Chinese Eastern/165 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 1, 1929—10 p. m.

[Received August 1—1:33 p. m.]

663. Legation's 660, August 1, 7 p. m. Following from American Consul at Harbin:

"August 1, 8 p. m. American press correspondents now at Manchuria Station report that Messrs. Li and Tsai met Soviet representatives at frontier, July 31st. It was agreed to appoint delegates negotiate Chinese Eastern Railway question. Tsai quoted as stating that Soviet ultimatum would be automatically withdrawn, that delegates probably would be named within week and probably would meet at Harbin, and that Moscow had ordered Soviet demonstrations along the border cease. In my opinion there will be no Communist agitation here or along the railway today."

MACMURRAY

861.77 Chinese Eastern/249

*The Soviet Acting Commissar for Foreign Affairs (Karakhan) to Marshal Chang Hsüeh-liang*³⁹

[Translation]

SIR: On July 22, 1929, the Commissioner of Foreign Affairs, Mr. Tsai, was at his request received by the Consul General of the U. S. S. R. in Harbin, Mr. Melnikov, to whom he made the statement that he had just arrived from Mukden, and that he had been authorized by the Mukden Government to make the following proposals with a view to regulating the Soviet-Chinese conflict on the Chinese Eastern Railway:

- 1) The arrested Soviet laborers and employees are to be released.
- 2) The government of the U. S. S. R. is to appoint the director of the Chinese Eastern Railway, and his assistant.
- 3) A conference of representatives of both governments is to be called, which is to settle the conflict on the Chinese Eastern Railway as speedily as possible.
- 4) The Soviet government may make the statement that it does not recognize the order of things prevailing after the conflict, and that it does not prejudice the impending negotiations,* and
- 5) If the Soviet government agrees to these proposals, Mr. Chang Hsüeh-liang will apply for the consent of the Nanking Government to these proposals.

³⁹ Translation from text printed in the Moscow *Izvestia*, No. 175, August 2, 1929; copy transmitted to the Department by the Chargé in Latvia in his despatch No. 6339, August 10; received August 24, 1929.

* literally: that it imposes no obligations at the impending negotiations. Note of translator. [Footnote on the original translation.]

Mr. Melnikov declined to discuss these proposals of Mr. Tsai's, pointing out that he had no authority to do so, and that the point of view of the Union government was laid down in its note of July 13th. However, in view of Mr. Tsai's request to communicate this proposal to the Union government, Mr. Melnikov communicated the proposal of the Mukden Government to the People's Commissariat of Foreign Affairs.

Guided by its pacific policy, and not wishing to leave unused even this possibility of settling the conflict by means of an agreement, the Union government yielded, and instructed Mr. Melnikov in Harbin to give to Mr. Tsai, for communication to you as the head of the Mukden Government, the following reply:

"a) After the high-handed actions on the part of the Chinese authorities on the Chinese Eastern Railway, the Union government is unable to treat with confidence the proposals emanating from the Mukden Government through the medium of the Commissioner of Foreign Affairs, Mr. Tsai.

"b) In the event, however, that the Nanking Government or the Mukden Government should officially make to the government of the U. S. S. R. the proposals submitted as emanating from* Mr. Chang Hsiieh-liang, to wit:

1. Release of the arrested Soviet laborers and employees;
2. Appointment, by the government of the U. S. S. R. of the director of the Chinese Eastern Railway, and of his assistant;
3. Calling a conference with a view to settling the conflict on the Chinese Eastern Railway with the least delay;

and if, in addition to this, item 4 of the proposal of the Mukden Government will be altered in the following way:

Both sides agree that the situation which has formed itself on the Chinese Eastern Railway after the conflict is bound to be altered in conformity with the Peking and Mukden agreements of 1924,

— "the Union government will adopt a favorable attitude to these proposals".

This answer was communicated by Mr. Melnikov to Mr. Tsai in Harbin on July 25, at 4 p. m.

On July 30 of the current year, Mr. Tsai arrived at the station Manchuli, and informed Mr. Melnikov who was then already on the territory of the Soviet Union, of his desire to meet him for the purpose of handing him the proposal of the Mukden Government.

On August 1, Mr. Tsai handed to Mr. Melnikov your letter addressed to myself, dated July 29 of the current year, the contents of which were communicated to me by telegraph.

*literally: submitted on behalf of. [Translator's note in the original.]

I feel constrained to state that the proposal laid down in your letter of July 29 differs essentially from the proposal which at your instance Mr. Tsai made to Mr. Melnikov on July 22.

And first of all in the following:

First, in your letter is altogether omitted the proposal made on your behalf by Mr. Tsai on July 22 concerning the immediate appointment, by the government of the U. S. S. R., of the director of the Chinese Eastern Railway, and his assistant;

Secondly, instead of the formula suggested by the Union government to the effect that the situation created on the Chinese Eastern Railway after the conflict should be changed in conformity with the Peking agreement and the Mukden agreement, your letter contains the proposal of the legalization of the prevailing situation on the Chinese Eastern Railway, brought about by the forcible seizure of the railway, which is an obvious violation of the Peking agreement and the Mukden agreement.

Thus, I am bound to establish the fact that, contrary to its own proposal of July 22, the Mukden Government by its subsequent proposal frustrates the possibility of settling the conflict by an agreement which would be possible only by accepting the proposals of the Federal government of July 25. This creates a situation pregnant with new and serious complications, the whole responsibility for which wholly and fully rests with the Mukden and Nanking Government[s].

Accept [etc.]

L. KARAKHAN

[Moscow,] August 1, 1929.

861.77 Chinese Eastern/330

*The Naval Attaché in China (Powell) to the Minister in China (MacMurray)*⁴⁰

[HARBIN,] August 2, 1929.

1. The following notes on the Naval Attaché's visit to Manchouli are submitted as of possible interest to the American Minister.

2. On 30 July, 1929, accompanied by Lt. Brown,⁴¹ and together with six American newspaper correspondents, left Harbin at 6.35 PM in a specially reserved car for Manchouli through the courtesy of *Tupan Lu*, CER, and Li Shao-keng, Director of the Railway. Accompanying the car were Tsai Yuan, Secretary to the Young Marshal; Vincent Shen, Commercial Department CER and secretary to Li Shao-keng; and Mr. Wang Foo-chen, representing Chang Tso-hsiang.

⁴⁰ Copy transmitted to the Director of Naval Intelligence; forwarded to the Department September 14, 1929.

⁴¹ First Lt. C. C. Brown, U. S. Marine Corps.

3. Arriving at Manchouli at 7.00 PM, on the 31st, an interview was immediately arranged with Tao Yin Tsai in his private car at Manchouli station. (Li Shao-keng although in the car was not present during the interview). Tsai spoke of negotiations proceeding with Melnikoff, Soviet ex-Consul General at Harbin, the preceding day at Station 86, the frontier. Further meetings were expected on the 1st or 2nd of August. The discussions were in the nature of preparation for the appointment of Sino-Russian delegates for peaceful negotiations likely to be held at Harbin. The Tao Yin further stated that the meetings were mutually satisfactory and that the delegates would be shortly appointed by the respective governments. The appointment of delegates would, of course, nullify the Soviet ultimatum to China. It was mentioned by Mr. Tsai that during the previous day's meeting Soviet airplanes had flown over Chinese territory but that Melnikoff had telegraphed Moscow urging that strict orders be given the Russian troops to prevent further demonstrations. The Tao Yin also spoke of the well known desire of China for peace and that in the event of trouble her troops would fall back rather than oppose the invading force, strict orders having been received from the Government that not a single shot was to be fired. Though the Soviets had made hostile demonstrations no untoward incident had taken place due to the peaceful and restrained attitude of the Chinese troops. The Tao Yin closed the interview by friendly expressions concerning the traditional American-Chinese friendship and was sure that America would know China was simply out to secure her rights through peaceful means.

4. I also called that evening on Mr. Flanigan, British head of the local Customs. He stated that the unrest in the vicinity was practically over but that on the 24th and 25th of July, the populace had been extremely agitated. The station authorities at Manchouli said that they sold over 8000 tickets within a period of two days. Chinese troops commandeered Chinese and Russians alike to dig trenches on the border and around the outskirts of the town of Manchouli. Food and water had been scarce for a number of days but that side of the situation was now much improved. Stores had closed but were gradually reopening, although the majority of the residences were still empty and business was at a complete standstill. The Chinese troops, according to Mr. Flanigan, seemed to be confident that in case the Russians attacked them they would be able to hold their own. He said that he had heard no rumors or reports of internal trouble among the Soviet forces. That morning (31st) 20 Soviet planes had flown over the border and a few days before the Russian artillery had fired over a hundred shells across the frontier. The Chinese had fired on the aeroplanes on the 25th.

5. On the morning of August 1st, through the kindness of Mr. Ganin, an American at Manchouli, we were permitted to drive towards the border for several miles on both sides of the railway. Here the

Soviet encampments and entrenchments were plainly visible, as well as the extent of the Chinese entrenchments.

6. At 10.00 AM, 1 August, I called on General Liang, the Commander of the Manchouli garrison at his headquarters. The General stressed the idea of pacific opposition to the Russian demonstrations—wherein the Soviets had shelled Chinese territory and had brought tanks to the border firing machine guns, as well as sending airplanes over the Chinese lines daily. Although the forces of the two countries were at some points separated by only a few meters he was confident that his soldiers would not reply to these acts as they had very severe orders from the government that not a shot was to be fired. He stated that he had under his command two regiments, the normal garrison for Manchouli, or about 5000 men. General Liang further stated that there were some 30,000 Chinese troops between Harbin and Manchouli while the Soviets had 8 regiments, (about 20,000) between the frontier and Chita. His information concerning the Russian forces east of Lake Baikal was that they comprised 3 Army Corps, or nearly 100,000.

7. I also called on the Japanese Consul, Mr. Tanaka, who has been stationed at Manchouli for several years. He seemed to be of the opinion that there would be no serious development and that the negotiations would succeed. Although confirming the reports of demonstrations by the Soviet military Mr. Tanaka seemed to be of the opinion that they had not operated over the border since that was somewhat ill-defined and a matter of contention as to just where the proper division line lies.

8. Calling upon Li Shao-keng he expressed much the same idea as that advanced by the Tao Yin the previous night. Meeting has occurred with Melnikoff and a further one was expected wherein the arrangements would be made for the appointment of delegates for a peaceful settlement of the CER question.

9. General Liang entertained the Tao Yin, Mr. Li, Mr. Shen, Mr. Tsai Yuan and others at tiffin on the 1st where I was an honor guest. The General in a brief after dinner speech again mentioned China's pacific attitude in the fact [*face?*] of Soviet demonstrations and her determination to preserve peace at all costs. Reference was again made to China's friendship with America and the hope that America would realize China was merely striving to secure her rights. To this I replied thanking the General for his pleasant hospitality explaining that while Sino-American friendship was traditional I was certain that China did not expect America to show partiality since it was always known and understood that the U. S. was an impartial judge of the true facts of any situation.

10. Returned to Harbin at 7.00 PM, 2 August, 1929.

11. Along the railway from Pokotu to Manchouli the Chinese have outposts and entrenchments at every station, with their main concen-

tration in the Hailar-Chalainoerh region. No withdrawal of troops from the frontier has been made by either side as no order has been received, at least by the Chinese, to do so. While the idea of peaceful settlement through negotiation is paramount it is evident that the Chinese representatives Tsai and Li went to the border to see Melnikoff after the Soviet representative excused his inability to come to Manchouli on the grounds of illness, a cold. They claimed, however, that Melnikoff was coming to Manchouli on the 1st or 2nd to return their visit to the frontier and to give them Moscow's reply to the question of naming delegates and place for negotiations.

12. While the general impression gained by the trip was that the situation is very much eased there is no assurance that the present conversations will not drag or that the ultimate negotiations will take place in the near future. Moscow's orders to the frontier troops to cease their demonstrations (if the report is true) will help to avoid an incident which might be difficult to head off and is significant of Soviet desire for negotiations.

13. Tsai, Li and General Liang came to the platform from their private car (and the General from his headquarters) to make their goodbyes when we left Manchouli.

HALSEY POWELL

861.77 Chinese Eastern/170 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 3, 1929—1 p. m.

[Received 6:50 p. m.]

668. My 663, August 1, 10 p. m. Following from American Consul at Harbin:

"August 2, 4 p. m. Yesterday passed off quiet[ly] throughout North Manchuria. Soviet forces continue daily excellent military drill and demonstrations very near Chinese line at Suifenho. Conditions at Harbin quiet but there is a certain uneasiness that negotiations Manchuria Station not going so smoothly as expected."

MACMURRAY

861.77 Chinese Eastern/171 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 4, 1929—noon.

[Received August 4—10:41 a. m.]

669. Legation's 659, August 1, 6 p. m. Following from Kuo Wen News Agency, Nanking, August 22 [2]:

"In an interview with the local Chinese press this morning, Doctor C. T. Wang, Minister of Foreign Affairs, said that preliminary and

unofficial negotiations were going on between Mr. Tsai Yun-sheng and M. Melnikov at Manchouli. 'We are in favor of direct negotiations but we cannot accept any condition[s] before negotiations are opened,' added Doctor Wang. 'Personally I believe that there are more possibilities of direct negotiations materializing than mediator [*of mediation?*].'

The view in local official circles is understood to be that restoration of the Chinese Eastern Railway to its former status is impossible and that, while China accepts the principle of joint ownership of the railway with Soviet Russia, the Nanking Government insists that the right of administration should be restoration [*restored to?*] China. It is pointed out that so long as China has no control over the railway there is no hope of preventing its being exploited as an instrument of Soviet propaganda."

MACMURRAY

861.77 Chinese Eastern/175 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, August 5, 1929—4 p. m.

[Received August 5—3:48 p. m.]

141. It is privately stated at the German Foreign Office that it is German policy to keep out of the conflict over the Chinese Eastern Railway and to encourage a direct settlement. It is the conviction of the Foreign Office that interference by other powers is not desired and would not be accepted by either Russia or China. This underlies the German reply to your proposal, as telegraphed from here on August 1 to the German Embassy.⁴²

On August 4 the German Legation in China telegraphed that the Mukden Chinese were "demonstratively hopeful" regarding an early adjustment by means of direct negotiations. In the opinion of the [] Minister, the Chinese have been given pause by the general condemnation of the aggression by the Chinese and the corresponding support by world opinion of the Russians.

The Soviet Foreign Office did not inform the German Ambassador that direct negotiations had begun, and when he heard of it through the press announcement he made a complaint at the Foreign Office regarding this "seeming lack of confidence."

SCHURMAN

⁴² Record of German reply missing from the Department files.

861.77 Chinese Eastern/173 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 5, 1929—6 p. m.
[Received August 5—10:45 a. m.]

673. 1. Legation's 668, August 3, 1 p. m. Negotiations at Manchouli are continuing but authentic information with regard thereto is not available. Japanese Chargé d'Affaires has been informed that an agreement has been reached to withdraw troops from frontier and to resume operation of the international train at an early date.

2. He was also informed that Karakhan in an interview with the Japanese Ambassador on July 30 stated that the Chinese Minister in Berlin had approached the Soviet representative with an offer to negotiate. This has been rejected. Karakhan remarked to the Japanese Ambassador that if the Chinese were sincere they could telegraph Moscow direct setting forth their views and that there was no need for intervention or mediation by a third power.

MACMURRAY

861.77 Chinese Eastern/180 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 6, 1929—6 p. m.
[Received 10:13 p. m.⁴³]

676. Legation's 627, July 25, 3 p. m.⁴⁴ Military Attaché has received the following report, dated July 31, from Lieutenant White⁴⁵ of his office, now in Mukden :

"Mr. Donald just let me have a memorandum of the Chinese interpretation of the *status quo* with regard to the C.E.R. The memorandum has just been approved by the Young Marshal. This is an exact copy of the official memorandum :

'China's interpretation of the *status quo* with regard to the Chinese Eastern Railway must be based upon the following :

1. The railway is a commercial enterprise (Peking agreement, article 9, seconds [section?] 1; Mukden agreement, article 1, seconds [section?] 1).

2. Complete elimination of Bolshevik propaganda and influence (Peking agreement, article 6; Mukden agreement article 5).

3. Soviet general manager and Soviet members of Board of Directors and staff must be *persona grata* to China (Mukden agreement, article 1, section 8).

4. Powers of general manager and his assistants must be delegated in detail (Mukden agreement, article 1, section 8).

5. Parity in the appointment of staff and employees (Mukden agreement, article 1, section[s] 9 and 10).

6. Use of Chinese language as well as Russian in official documents, etc. (This clause blue penciled and crossed out.)

7. Control of and disposition of revenues by Board of Directors (Mukden agreement, article 1, section 1).

⁴³ Telegram in three sections.

⁴⁴ Not printed.

⁴⁵ Thomas D. White, first lieutenant, language officer.

8. China's rights shall be those of full partner with the prerogative of investigation of management. (This clause blue penciled and crossed out.) Investigation must be conducted at once by China into the administration and affairs of railway during the past four years with special reference to: (1) Commercial operation; (2) technical operation; (3) financial operation; (4) administration.⁷

A commission to make a complete investigation of the affairs of the C.E.R. will shortly be appointed and will work from Harbin. I gather that Ostroumoff will be a technical adviser though Donald would not commit himself."

MACMURRAY

861.77 Chinese Eastern/181 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 7, 1929—noon.
[Received August 7—4:04 a. m.]

677. Legation's 673, August 5, 6 p. m. Following from Reuter, Nanking, August 6th:

"The Waichiao Pu officially announced today that the Sino-Soviet conference at Manchuli has reached a deadlock. The Chinese are unable to accept the Russian demand for reinstatement of the Russian associate managers of the Chinese Eastern Railway before the opening of formal negotiations.

The Waichiao Pu has instructed its Minister in Washington, Dr. C. C. Wu, to notify the representatives of the signatories to the Kellogg Pact of details of what has occurred."

The Legation has not yet been able to confirm the foregoing.

MACMURRAY

861.77 Chinese Eastern/185 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 8, 1929—7 p. m.
[Received August 8—6:23 p. m.]

688. 1. Department's No. 81, April 26, 6 p. m., 1924.⁴⁶ The French Minister inquired of me yesterday under instructions from his Government whether we would be willing at this time to send to the Chinese Government a note of a tenor similar to the one addressed to the Peking Government by the Legation on May 3, 1924, with regard to the responsibility of the Chinese Government for the protection of all interests in the Chinese Eastern Railway. A copy of this note was transmitted to the Department with the Legation's mail despatch No. 2242, May 5, 1924.⁴⁷ I informed the French Minister that I would refer his inquiry to my Government but that I could

⁴⁶ *Foreign Relations*, 1924, vol. I, p. 486.

⁴⁷ *Ibid.*, p. 487.

not in the meantime venture to express any opinion as to what position we might take.

2. Japanese Chargé d'Affaires today informs me that having referred the matter to his Government he has now received its instructions that Japanese Chargé d'Affaires considers it premature for any third powers to make such a *démarche* which might have the effect of deflecting the progress now being made towards a solution of the Chinese Eastern Railway question by direct negotiations between China and Russia.

MACMURRAY

861.77 Chinese Eastern/193 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 9, 1929—7 p. m.

263. Your 688, August 8, 7 p. m. The Department feels that the sending of such a note at this time would only further cloud the situation.

COTTON

861.77 Chinese Eastern/192 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 10, 1929—noon.
[Received August 10—9:35 a. m.]

695. My 689, August 8, 8 p. m.⁴⁸ Following from American Consul at Harbin:

"August 9, 4 p. m. This morning fourteen cars of a freight train wrecked by explosives few miles from Harbin; arson attempted at Chalantun; and six lengths of rails removed, presumably by mounted invaders, between Hailar and Mietuhe [*Mientuho*]. Large number of Soviet employees are quitting the railway. Reported that General Boldyreff appointed commander so-called Soviet army of occupation⁴⁹ and Beykker, former member of board of directors [of] railway, chief of staff. Chinese authorities have suspended travel by foreigners in extreme northwestern part Fengtien Province."

MACMURRAY

⁴⁸ Not printed.

⁴⁹ Gen. Vassili Blücher, known as "Galen" while a military adviser to the Chinese Nationalists in 1926-27; on August 6, 1929, he was appointed by the Soviet War Commissar Voroshilov to be commander of "The Special Far Eastern Army."

861.77 Chinese Eastern/199 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State
[Paraphrase]

BERLIN, August 13, 1929—2 p. m.
[Received August 13—12: 30 p. m.]

146. Contrary to custom, the Chinese Minister yesterday asked the German Foreign Office official charged with Far Eastern affairs to give him "advice in finding face-saving formula" to solve the conflict over the Chinese Eastern Railway, saying he was acting under his Government's instructions. In keeping with the Foreign Office conviction that no Western power can usefully intervene, the response will be given the Chinese Minister this afternoon that, inasmuch as Germany represents the interests of each power in the other's territory and therefore desires to be kept informed fully, it is unable to give the advice requested; but the Foreign Office would be ready to acquaint the Soviet Government with the fact that such an inquiry had been made by the Chinese.

At the Foreign Office it is also said that recently the Russians have been very quiet in regard to the railway. For more than a week no important word has been received from Moscow.

On August 5 the German Ambassador there was told by Stomaniakov that the Russian Government had learned of the American proposal, which was "fairly accurately" repeated; and Dirksen was violently reproached for keeping the matter secret.

SCHURMAN

861.77 Chinese Eastern/197 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 13, 1929—4 p. m.
[Received August 13—8: 50 a. m.]

700. Legation's 695, August 10, noon. Following from American Consul at Harbin:

"August 12, 4 p. m. Letters August 8-9 from Suifenho indicate Soviet forces have recommenced airplane and firing demonstrations which are causing panic among inhabitants. Chinese military there have advised Chinese Customs staff to withdraw but have ordered railway and telegraph employees stay. Large quantities explosives placed on Chinese Eastern Railway rails near that place which has caused Chinese military fear that their retreat might any time be cut off. Reliably reported from Manchuria Station that Soviet side refuses to negotiate with Chu because he is representative Nanking with whom Soviet has had no diplomatic relations. About thousand Chinese troops have been moved up from Chalainor to Manchuria Station causing apprehension there. Situation Hailar quiet. American eyewitness recently returned from Vladivostock states that re-

ports of mutiny among Soviet troops untrue. They are well equipped and well disciplined, more being called up and Russian islands being heavily fortified. Civilian inhabitants poorly fed and steamers idle in harbor."

MACMURRAY

861.77 Chinese Eastern/198 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 13, 1929—5 p. m.

[Received August 13—9:18 a. m.]

701. Legation's 700, August 13, 4 p. m. French Legation has been informed by Consul at Harbin that he has learned from semi-official sources that the Soviet Government is declining to negotiate with representatives of the Nanking Government on the ground that it no longer has relations with that Government but will negotiate only locally with the Manchurian authorities. The Soviet Government takes the position that if the *status quo ante* under the 1924 agreements is not restored, it will claim all rights accruing to Russia under the Portsmouth Treaty of 1905.⁵⁰

2. Captain Powell who has just returned from Manchuria reports that there is considerable jealousy and difference of view between the Nanking and Manchurian authorities. It is in fact stated that the Manchurian authorities are as much concerned over their relations with Nanking in the matter of the Chinese Eastern Railway as they are over their actual difficulties with Moscow. If the foregoing report from French sources is correct it would appear that Karakhan is quite aware of the differences between Nanking and Manchuria and plans to take full advantage thereof.

MACMURRAY

Henry L. Stimson Private Papers

Memorandum by the Secretary of State

[WASHINGTON,] August 15, 1929.

In regard to Manchuria, I asked the Chinese Minister when he called on me, if his country had yet made public the note which they had presented to us in my absence.⁵¹ He told me they had not and that he was waiting for instructions from his Government. I told him that I hoped he understood that our refusal to circulate the note arose solely from friendliness for China and pointed out the difficulty arising out of the fact that we had no diplomatic connections

⁵⁰ Treaty of peace between Japan and Russia, signed at Portsmouth, N. H., September 5, 1905; *Foreign Relations*, 1905, p. 824.

⁵¹ For text, see note of August 19 from the Chinese Minister, p. 288.

with Russia and that this made it much more likely of a misunderstanding. He said he understood perfectly. I then took occasion to say that if China could offer to put the railroad "in escrow" it would put her friends in a better position to defend her and he then told me that he had had a suggestion from an unnamed friend that the railroad be put in charge of a neutral manager. I then told him briefly of my *aide memoire* and its contents, pointing out particularly that the suggestion was merely of action to be taken by the two powers themselves, and instead of being a proposal to mediate or intervene by outside parties it contained an express disclaimer of any such intervention and was in fact intended to oppose any such intervention. I gave him a brief outline of the terms of the suggestion which it contained based upon the Paraguay-Bolivia Conciliation Commission and the steps to be taken to preserve the *status quo* in the meanwhile, pointing out that the suggestion of neutral management was made necessary to really preserve the *status quo* against the abuses which China had claimed to have taken place in the past.

861.77 Chinese Eastern/295

*Statement by the Soviet Vice Commissar for Foreign Affairs
(Karakhan) on August 15, 1929*⁵²

[Translation]

As a result of the violent actions committed by the Chinese authorities with respect of the Chinese Eastern Railway and its Soviet personnel, the road has got into a most serious state, a state close to complete ruin. The mass dismissal of employees and hands; the filling of responsible posts with accidental, incompetent, persons; the control and use of the road by the military authorities, who *de facto* dispose of the locomotives and the other rolling stock and also of the property and receipts of the road; have led to the complete disruption of all the business of the Chinese Eastern Railway.

We have repeatedly warned both the Nanking and the Mukden Governments of the grave consequences of the unparalleled violations, which they have committed, of the agreements of 1924 between the U. S. S. R. and China, which determined the status of the road. Naturally we consider the Nanking and Mukden Governments wholly and entirely responsible for all the material damage which is the result of the seizure of the road and the arbitrary course of the Chinese authorities and the Russian whiteguardists, with all the consequences ensuing from this position.

⁵² Translation from text printed in the Moscow *Izvestia*, No. 187, August 16, 1929; copy transmitted to the Department by the Chargé in Latvia in his despatch No. 6349, August 20; received September 3, 1929.

At the same time, we must warn all foreign Governments, as well as all persons and institutions who might have some sort of business or other with the Chinese Eastern Railway that the government of the U. S. S. R. will not acknowledge a single deal consummated with respect of the road by the Chinese authorities or the personnel appointed by them, nor a single obligation assumed by them in the name of this road, after the seizure of the Chinese Eastern Railway by the Chinese authorities.

893.00P.R. Harbin/27

*The Consul at Harbin (Hanson) to the Minister in China
(MacMurray)*⁵³

No. 1991

HARBIN, August 16, 1929.

SIR:

July, 1929, proved eventful in the history of North Manchuria and of the Chinese Eastern Railway. In last month's review it was stated that the return of the high administrative officials would soon reveal whether or not they would take decisive steps against Soviet influence in this district.

After the return of the officials, a series of meetings was held by them in regard to putting into effect the decisions reached at conferences held at Mukden during June. It evidently had been decided by both Nanking and Mukden that, basing their action on alleged evidence secured in the raid on the local Soviet Consulate General on May 27, 1929, the local Chinese authorities should take some measures to decrease Soviet and to increase Chinese influence on the Chinese Eastern Railway, principally by curtailing the powers of the Soviet General Manager, Mr. A. I. Emshanoff, and increasing the authority of the Chinese Assistant Manager, who had been merely a figurehead. (Details regarding documents and other material discovered during the raid were made public by Nanking and published in the *Peking and Tientsin Times*, Tientsin, under dates of July 25th, 27th, 30th and 31st, and August 1st and 2nd.)

Early in the month, the local Chinese official inspired Chinese and Russian press devoted much space in setting forth the Chinese desires in regard to increasing the powers of the Chinese Assistant Manager, realizing parity of employment, placing Chinese in control of the principal departments, curtailing the activities of Soviet trade and labor organizations and stamping out communism and warning the Soviet authorities that, if they did not take immediate steps to

⁵³ Copy transmitted to the Department by the Consul in his despatch No. 4879, of same date; received September 12, 1929.

meet the Chinese wishes in these respects, the local authorities would act independently to secure the attainment of their desires.

On July 4th, Mr. I. O. Chuhmanenko, a Soviet member of the Board of Directors of the Railway, committed suicide, evidently because he realized matters were coming to a crisis, in which the Soviet side would suffer, and because he did not dare return to Moscow, to which place he had been recalled, to report failure and possibly to receive punishment there for this failure. According to a pre-arranged plan, the President of the Board of Directors of the Railway, Mr. Lü Jung Huan, on July 9th, appointed Mr. Fan Chi Kuan, a member of the Board of Directors, Assistant General Manager in place of Mr. Kuo Chung Hsi, who resigned, allegedly on account of sickness, but really because he was not considered able to handle the coming situation on account of his weakness and his lack of knowledge of the Russian language and of the Russians with whom he had to deal. Mr. Fan was educated in a technical school in Russia, where later he spent considerable time as a Chinese consular officer. At the same time Mr. Tu Wei Ching, Chief of the Traffic Department, an engineer educated in the United States but with little knowledge of Russian, was replaced by Mr. Kao Wei, who speaks the Russian language. These moves were made to pave the way for future action.

The next morning the Chinese authorities seized the Railway's public telegraph and line telephone systems, a move which had been expected for some time, and closed the offices of the local Soviet trade and labor organizations. Later in the day Mr. A. V. Chirkin, the Soviet Vice President of the Board, had a meeting with Mr. Lü and protested against these actions. Mr. Lü urged Mr. Chirkin to accept the Chinese propositions in regard to the powers of the Soviet General Manager and of the Chinese Assistant Manager, to parity of employment and to the heads of the principal Departments. On account of the morning's events, Mr. Chirkin flatly refused to accede to these demands, evidently basing his refusal on the fact that they were contrary to the Soviet-Mukden Agreement of 1924. In the evening, several minor Railway employees, including a prominent young communist, Mr. B. P. Kniazieff, who was chief secretary of the Administration in charge of personnel, i. e. who had much power in engaging and dismissing employees, were sent to Manchuria under arrest for deportation into Siberia.

It might be stated here that when reports in regard to the actions taken by the Chinese authorities on the 10th reached Moscow, the latter announced that it would send Mr. L. E. Serebriakoff, who had served as Soviet Vice President of the Board of Directors of the Railway several years ago, to Harbin to arrange a satisfactory settle-

ment of these matters. For some unknown reason the Chinese Legation in Moscow refused to give him a visa to enter China.

There is no doubt but that Mr. Lü had been instructed by Mukden, with the approval of Nanking, to secure an increase of Chinese influence at Soviet expense on the Railway. Just how detailed his instructions were and how far he was authorized to proceed in utilizing forceful measures are unknown to this office. It is known that a certain group of extremists in Mukden was impatient of his apparent failure to secure Soviet consent to the Chinese proposals and that there was a movement on foot to replace him. He was aware of this and . . . he evidently decided to act strongly. The feebleness of the Soviet Regime's action, limited to protests, when its Embassy compound was raided and its Consulates throughout China were either attacked, closed or searched (including the Harbin Consulate General), and its Consular officers were abused and sent out of China, when the Chinese authorities seized the Railway's valuable fleet of steamers and barges and the Harbin Telephone System, and when they took from the Railway control of the schools for which the Railway appropriated large sums each year, had made the Chinese believe that any move, no matter how drastic, they made would also be met with only protests on the part of Moscow. To a certain extent they were correct, as Mr. M. K. Gordeieff, former head of the Land Department of the Railway, who had been in Moscow a week before the storm burst here, informed me that he had urged the officials there to take a more active interest in the Railway's affairs and was met with the reply that they were so busy with European and internal affairs that they could not pay much attention to railway matters in far off Manchuria.

On July 11th, early in the morning, Mr. Lü sent a note to Mr. Emshanoff, directing him to sign as General Manager an order bringing the Chinese propositions into life. This Mr. Emshanoff refused to do and was discharged by Mr. Lü. A similar demand was made upon Mr. A. A. Eismont, the Soviet Assistant Manager, who had charge of the Administration of the Railway in the absence of Mr. Emshanoff, and he also refused to sign the order. Upon his dismissal, Mr. Fan Chi Kuan automatically became the Acting General Manager, in the post of which he was confirmed by Mr. Lü. Mr. Fan's first action as Acting General Manager was to replace the Soviet heads of the principal departments, such as motive power, accounting, commercial, telegraph and exploitation, by Chinese and Russians of Chinese citizenship, an action which was followed by wholesale discharges of those employees suspected of being Soviet sympathizers.

These bold steps were followed by still more drastic action . . . It seems their next move should have been to inform Moscow that

they had found it impossible to work with and had suspended the General Manager, Mr. Emshanoff, from his position and to suggest to Moscow that it send a new General Manager, satisfactory to the Chinese, to replace him. After they realized that the foreign press in general was outspoken in condemning their drastic actions, which was characterized as the seizing of the Railway, they naively publicly announced that they had believed that the Board of Directors would appoint immediately a new Soviet General Manager (it should be here noted that Messrs. Lü and Fan are members of this Board) and that they would welcome a new Soviet General Manager from Moscow at any time. Instead of taking conciliatory steps, the Chinese authorities deported from China Messrs. Emshanoff and Eismont, who departed on July 12th from Harbin. A copy, in translation, of a proclamation issued by Mr. Lü, explaining his action, was enclosed with my despatch No. 1972 to the Legation.

Unexpectedly to the Chinese authorities, Moscow became incensed over the action toward the General Manager and the Soviet Foreign Office handed the Chinese Chargé d'Affaires at Moscow for delivery to Mukden and Nanking an ultimatum in the form of a note demanding the restoration of the former Soviet position on the Railway and an answer within three days. The text of this note was released at Moscow for publication in the press under date of July 14th.⁵⁴ At the same time Mr. Serebriakoff's instructions to proceed to Harbin were cancelled.

Strange to relate, this note had little effect on the local Chinese authorities, who had hypnotized themselves into the belief that the Soviet authorities would never go beyond verbal action. On July 15th, General Chang Ching Hui, the Civil Administrator of the Special Area, ordered that the Railway's many libraries, containing hundreds of thousands of valuable books, be turned over to the Chinese Educational Administration, that the Railway's land office be incorporated into the Chinese Land Administration, concerning which much has been reported to the Legation, and that twelve slaughterhouses and two disinfection stations operated by the Railway, be taken over by the local Chinese authorities. On the same date, Mr. Fan closed the Railway's departments of labor rationalization and steamship affairs, the latter having been kept open by the Railway Administration with the hope that some day it would recover its floating equipment. Wholesale discharges and deportations of Soviet railway employees continued. Up until the present writing 3,000 Soviet employees have terminated their connection with the Railway.

In the meantime Soviet troops were moved towards the frontier near Manchuria Station and Suifenho, and Chinese forces likewise.

⁵⁴ *Ante*, p. 201.

Mukden did not reply to the Soviet note, but Nanking did and its reply was not considered satisfactory to Moscow, which ordered the withdrawal of its Consular, trade and Railway representatives from China and closed the frontiers, thus preventing through passenger traffic and through mail service to and from Europe via Manchuria Station. An exodus of Soviet citizens, including deportees, commenced. The local Soviet Consul General, Mr. A. A. Melnikoff, and Mr. Chirkin and Mr. Izmailoff of the Board of Directors of the Railway were the last to leave, due to difficulties in securing Chinese visas, and they took with them thirty-four foreign through passengers who had been held up at Harbin. Before leaving on July 25th, Mr. Melnikoff made a hurried visit, which he and his Soviet friends tried to keep a secret, to Changchun in company with Mr. Tsai Yun Sheng, Commissioner for Foreign Affairs and former *Taoyin* at Harbin. At this place he had a conference with General Chang Tso Hsiang, the Governor of Kirin Province, which borders on Siberia and which is exposed to a Soviet attack. It has been difficult to ascertain what happened at this conference, but it is presumed that General Chang, independently of Nanking and, perhaps, Mukden as a whole, made certain propositions, among them one that the General Manager of the Railway would be a Soviet citizen in accordance with the terms of the Soviet-Mukden Agreement of 1924. This is in accordance with a statement made by General Chang Ching Hui in an interview given by him on July 24th (*Vide* despatch No. 1982, dated July 27th, to the Legation). On the day of his departure, Mr. Melnikoff visited the 39 prisoners arrested during the raid on his Consulate General, gave them Local \$2,500 and some supplies, and promised them their speedy release. At the railway station, he told some of his acquaintances that he would see them again soon. Local Soviet affairs were turned over to Doctor G. Stobbe, the German Consul General.

On July 22nd, Mr. Li Shao Keng, who was educated in Harbin Russian schools and who is a member of the Board of Directors of the Railway, was appointed by Mr. Lü to assist Mr. Fan in the Administration of the Railway. He and Mr. Tsai left Harbin for Manchuria Station, a day's journey, on July 29th to meet Mr. Melnikoff and to continue informal discussions with him. The first meeting was held on July 31st at a small station No. 86, a few miles from Manchuria Station, on the Chita Railway. Soviet troops and airplanes maneuvered near the delegates in order to impress the Chinese visitors. Subsequent meetings were held at Manchuria Station on August 1st and 2nd. As far as can be learned at present, these meetings were devoted to informal discussions about the arranging of a conference, the mutual withdrawing of troops from the frontier and the restoring of through traffic.

On August 1st, the Soviet Foreign Office received a note from Marshal Chang Hsueh-liang containing a proposal that the present situation on the Railway be legalized, but omitting the proposal, previously made, that the General Manager be a Soviet citizen, appointed by Moscow. The next day, Mr. Karehan⁵⁵ gave out for publication his reply, which stated that the new proposals of the Mukden Government were contrary to the Soviet-Mukden Agreement and to its former proposals, and were unacceptable. This would indicate that either Nanking or General Chang on his own initiative had decided that Mr. Tsai had offered too favorable terms to the Soviet side.

Mr. Ch'u Shao Yang, appointed Minister to Finland and, ostensibly, Nanking's delegate to confer with the Soviet representatives at the border or in Moscow, arrived at Harbin in the morning of August 5th and left in the evening of the same day for Manchuria Station, after spending a few hours here calling on the leading local officials. Upon his arrival at Manchuria Station the next day, he immediately had a conference with Messrs. Tsai and Li.

It is believed that during his stay at that place, he did not succeed in arranging an interview with any Soviet representative, owing, according to one version, to the fact that the Soviet side desired to talk to a delegate of the Mukden Government and not of the Nanking Government, with which Soviet Russia never had any diplomatic relations, and, according to another version, to the fact that Mr. Ch'u wished to talk with a fully empowered Soviet delegate, which he claimed Mr. Melnikoff was not. Messrs. Ch'u, Tsai and Li returned to Harbin on August 15th, but were silent upon their arrival.

The situation at present is deadlocked. General Chang Tso Hsiang of Kirin, the outstanding leader in Manchuria, does not want war. Neither, really, does the Soviet side, but its intimidating actions on the frontier might precipitate graver troubles at any time. A breach appears to be widening between Mukden and Nanking over the manner in which to handle the situation which has arisen. If Chang Tso Hsiang should negotiate directly with the Soviet side, as he probably would like to do, yielding much, the Japanese could also claim the right to negotiate direct with Mukden and not with Nanking in regard to questions in which they are interested. Mukden is in a quandary. A stiff front on the part of Nanking against the Soviet Regime would place Manchuria in grave dangers from the Siberian side. For Mukden to negotiate over the head of Nanking, would subject the former to direct Japanese pressure and further

⁵⁵ L. M. Karakhan.

explode the theory that Manchuria is linked to China proper in unity. Mukden is therefore torn between the fears of National aggression from the south and Soviet pressure from the north. How its leaders will extricate Manchuria from the present complicated situation, leaving their predominant position intact, is a problem, which will be hard to solve.

I have [etc.]

G. C. HANSON

861.77 Chinese Eastern/213 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 16, 1929—6 p. m.

273. Press here during last few days has been printing reports from Reuters, London, Rengo, Japan, and Nanking indicating occurrence of border clashes of more or less serious nature at Manchuli, Blagoveschensk and Pogradichnaia. Please ask Harbin to investigate and report as to facts. Among these reports has been one which apparently has received wide credence to the effect that Chinese have been marching Russian prisoners up and down streets of Harbin with bleeding faces. Department would like to have information regarding this last report.

STIMSON

861.77 Chinese Eastern/214 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 18, 1929—noon.
[Received August 18—6:52 a. m.]

727. Legation's 710, August 10 [14], 6 p. m.⁵⁶ Department's [273,] August 16, 6 p. m. Following from the American Consul in Harbin:

"August 15, noon. Chu, Tsai and Li, Chinese delegates, have left Manchuria Station evidently because they could no longer get in touch with Soviet representatives and are due at Harbin this evening. Reliably reported that some Soviet cavalry spent one day near Chalainor mines and that airships flew over Chinese territory. However, [from?] investigation I know boundary there very indefinite. Also reported Soviet raids on several small Chinese villages across Argun and Amur Rivers for the purpose of securing food supplies. Most Chinese steamers now limit their sailing to Kiamusze for fear of being captured by Soviet troops. Chinese merchants sending their goods from Manchuria Station and Suifenho where situation otherwise quiet."

MACMURRAY

⁵⁶ Not printed.

861.77 Chinese Eastern/215 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 18, 1929—2 p. m.

[Received 7:15 p. m.]

[729.] Legation's 727, August 18, noon. Following from the American Consul at Mukden:

"August 17, noon. Have learned confidentially that a telegram has been received by the Government this morning that Soviet troops started bombarding Manchuria Station 3 o'clock this morning. Matter being investigated; will report any further particulars obtained."

"August 17, 10 p. m. Referring to my despatch of August 17, noon. Official telegram from Tsitsihar received by Government this afternoon states that 10,000 Soviet troops with 30 field pieces and machine guns crossed border and attacked between Manchuli and Chalainor. Fifty Chinese soldiers killed. Semiofficial source states Mukden sending 40,000 troops north, half to western and half to eastern front."

MACMURRAY

861.77 Chinese Eastern/216 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 18, 1929—4 p. m.

[Received August 19—1:25 a. m.]

730. Legation's 729, August 18, 2 p. m. Following from American Consul at Harbin:

"August 17, 2 p. m. Reliable reports received to the effect that clashes have occurred with few casualties both sides between small detachments Chinese-Soviet troops near Manchuria Station and Suifenho. Heavy aircraft, Soviet artillery shooting taking place near both places evidently to intimidate Chinese."

MACMURRAY

861.77 Chinese Eastern/219 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 19, 1929—noon.

[Received 12:37 p. m.]

732. Legation's 731, August 19, 11 a. m.⁵⁷ Following in part from Reuter, Nanking, August 16th:

"Referring to reports of Russian incursions into China border districts, Dr. Wang said that the Ministry so far had received no official reports but added 'We are determined to resist to the limit of our ability

⁵⁷ Not printed.

if these raids continue for unless we are in the grip of the Communists or are conquered by them we must fight our invaders and' he said 'China remains firm. The Russian associate managers of the Chinese Eastern Railway cannot be reinstated before the opening of negotiations. China's only course is for the entire nation to unite and resist Red imperialism or perish in the grip of communism.' "

MACMURRAY

861.77 Chinese Eastern/217 : Telegram

The Consul at Harbin (Hanson) to the Secretary of State

HARBIN, August 19, 1929—1 p. m.
[Received August 19—8:10 a. m.]

Your [273,] August 16, 6 p. m., to the Legation. Small Soviet raiding parties have clashed with Chinese troops on Chinese territory near Manchuria Station, Lahasusu, Pogranichnaya, Chinese casualties 200 so far. Report regarding Russian prisoners bleeding faces streets Harbin not true. However, individual Chinese soldiers acting badly toward Russian men, women. Reliably reported that Chinese military treating imprisoned and interned Russians cruelly. German Consul General attempting have this stopped.

HANSON

861.77 Chinese Eastern/245

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] August 19, 1929.

In the course of conversation today the Chinese Minister stated that he called on me not under instructions from his Government but merely because he thought he ought to keep us informed in the matter. He said that he had been informed by his Government that the reason for the rupture in the conversations which had been going on between Chinese and Russian representatives at Manchuli was due to the fact that the Russians had demanded the appointment of a Russian manager and a Russian assistant manager before negotiations could be commenced. The Chinese Minister stated that such a demand was hardly reasonable, that the Chinese were perfectly willing to agree that such a point was a proper point for negotiation, but to demand it as a condition preceding negotiations was unthinkable from the Chinese point of view.

I remarked that in reading the press accounts of this matter I observed a conflict between the statement which he had made to the Associated Press and one which the Associated Press quoted C. T.

Wang as making. I read the statement appearing in the *Washington Post* of August 19, which stated that Minister Wu said that the cause of the disruption had been due to the Soviets' demands for the reinstatement of the Soviet manager of the railway and his assistant, while the Associated Press report from Nanking of August 18, appearing in the *New York Times* of August 19, quoted C. T. Wang as saying that "the Soviets tried to induce Chang Hsueh-liang, Manchurian war lord, to agree to the appointment of new Russian railway officials while the Sino-Russian preliminary conversations were under way. Chang refused, properly referring the question to Nanking. This Soviet proposal was unacceptable because it is the Nationalist Government's decision to reject all Soviet proposals brought forth before the formal parley is convened. The Nationalist Government wants guarantees regarding future Soviet actions before the Soviet presents any conditions concerning the settlement of the present issue." I pointed out that in C. T. Wang's statement it was indicated that the Soviets were prepared to send new appointees to take the place of those dismissed by the Chinese. The Chinese Minister stated that he had no reason to doubt this, that his information could be interpreted either way. I stated that it seemed to me that if the Soviets were prepared to accept this situation and appoint new personnel in the place of that dismissed by the Chinese, the Chinese had won quite a point and I could not see why this should be unacceptable to them as it would put the railway back into running order and lay the way to negotiation. The Minister stated that he could not agree with me, that such a condition was entirely unacceptable to his Government; that to accept it would be to admit that they were in the wrong which they were not prepared to admit. I stated once more that I thought this was rather overstating the case and could not see how this would be an admission of wrong on their part, as, on the contrary, it was an admission on the part of Russia that the Chinese had been right in firing the men.

The Chinese Minister stated that the other matter he wanted to inform me about was that his Government had informed him that they had ordered 60,000 troops to the Chinese Eastern Railway for the purpose of policing the line; that this did not mean they wanted war. He said there were still over 9,000 Russians employed on the line and many of these people were causing trouble by acts of sabotage and it was necessary for China to order the military to the line in order to protect it from those activities. I asked the Minister where things were leading in Manchuria and he said that the outlook was gloomy.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/247

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] August 19, 1929.

The Chinese Minister in the course of a conversation today told me that Lu Chung-lin, a very close friend and supporter of Feng Yuhsiang, had been appointed and had accepted the position of Minister of Military Affairs. He reminded me that Lu Chung-lin had held this appointment just prior to the difficulties between the Central Government and Feng. Obviously he intended me to infer from this statement that Feng and the Central Government were acting in harmony.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/228

The Chinese Minister (C. C. Wu) to the Secretary of State

WASHINGTON, August 19, 1929.

SIR: I have the honor to enclose herewith for the information of your Government a communication from my Government relating to the present controversy between China and the Union of Soviet Socialist Republics.

Accept [etc.]

CHAO-CHU WU

[Enclosure]

A COMMUNICATION OF THE NATIONAL GOVERNMENT OF THE REPUBLIC OF CHINA TO THE SIGNATORIES OF THE TREATY FOR THE RENUNCIATION OF WAR

On the 27th of May, 1929, the police headquarters of the Harbin special area, having received reliable reports that a propaganda conference of the Third International (Comintern) was to be held at the local Soviet consulate between 12 noon and 3 P. M. on that day, detailed a special force to conduct a search of the consulate premises. Over eighty persons attended the conference, and all were placed under arrest. Forty-two are members of the Soviet consulate—such as Melnikoff, the Soviet Consul General; Znaminsky, the Soviet Vice Consul; and Kuznetzoff, the Soviet Consul General at Liaoning (Mukden). Thirty-nine are important officials of the Chinese Eastern Railway, members of the Chinese Eastern Railway Labor Union, the Soviet Central Commercial Federation, the Soviet Mercantile Shipping Bureau, the Soviet Far Eastern Petroleum Bureau, and the Soviet Far Eastern National Trading Bureau, and communist leaders of the Harbin special area, Chita, Habarovsk and other centers along the same railway. Of these the most important leaders are: Zimbarevitch, Manager of the Far Eastern National

Trading Bureau; Taranoff, Inspector of the Mercantile Shipping Bureau; and Stankevitch, member of the Commercial Department of the Chinese Eastern Railway. All three are members of the North Manchuria Executive Committee under the direct control of Harbarovsk. This Committee supervises the Chinese Eastern Railway Labor Union, the Young Men's Communist Group, the Boys' and Women's Communist Groups and other organizations.

Various documents and evidence of plots and conspiracy as well as propaganda material were discovered. Thirty-nine were taken to the police headquarters for detention and cross examination. Melnikoff and the other members of his staff were permitted to remain in the consulate while Kuznetzoff was escorted back to Liaoning.

A thorough examination of the arrested persons and the documents discovered in the premises revealed the fact that the Union of Soviet Socialist Republics was not only conducting communist propaganda in China but was actually pushing forward its secret plans to nullify China's unification, to overthrow the Chinese Government, to organize secret forces for destroying the Chinese Eastern Railway, and to carry out a policy of wholesale assassinations and thereby bring about a world-wide revolution. What is more, the Chinese Eastern Railway and the Soviet State enterprises and organizations were being utilized as bases for carrying out the nefarious schemes of the Union of Soviet Socialist Republics.

In order to preserve peace and order and to nip the menace in the bud the local authorities felt compelled to adopt precautionary measures. On July 10, 1929, they dissolved the Labor Union of the Chinese Eastern Railway, the Young Men's Communist Group and the Boys' and Women's Communist Groups, and sealed up the offices of the Soviet Far Eastern National Trading Bureau, the Soviet Far Eastern Petroleum Bureau, the Soviet Mercantile Shipping Bureau, and the Soviet Central Commercial Federation. At the same time Emshanoff and Ezomentov [*Eismont?*], Soviet Manager and Assistant Manager respectively of the Chinese Eastern Railway, as well as sixty important communist leaders of the Labor Union were dismissed and taken to the frontier owing to their abuse of the special position in the railway and their participation in the plots and conspiracy against the safety of the railway.

Article VI of the Sino-Soviet Agreement of 1924 provides as follows:

"The Governments of the two contracting parties mutually pledge themselves not to permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Governments of either contracting party."

“The Governments of the two contracting parties further pledge themselves not to engage in propaganda directed against the political and social systems of either contracting party.”

The facts being as above stated, it is clear that the Union of Soviet Socialist Republics has violated the entire treaty stipulation. Since the Soviet manager and assistant manager and other important officials of the Chinese Eastern Railway as well as the Labor Union and other unions of the railway and other Soviet State enterprises and organizations have not only carried on propaganda directed against the political and social system of China but also conspired to overthrow the Chinese Government, to destroy the Chinese Eastern Railway, and to perpetrate other outrages, the Chinese Government was constrained by the urgency of the situation to maintain the integrity of the agreement and adopt precautionary measures in pursuance of the treaty undertaking of the two Governments that they would not “permit within their respective territories the existence and/or activities of any organizations or groups whose aim is to struggle by acts of violence against the Government of either contracting party”. And since these precautions are justified by the above-cited agreement, the Chinese Government was under no obligation to consult the Soviet Government beforehand nor was it able so to do. The action taken against the Soviet manager and assistant manager of the Chinese Eastern Railway in consequence of their participation in the above-mentioned plots is amply warranted by the same treaty provisions and has no connection whatsoever with the question of the right of administrative control over the railway.

Moreover ever since 1927 repeated Soviet attempts have been unearthed in northern and southern China to conduct communist propaganda from the vantage points of the Soviet embassy, consulates, and state enterprises and organizations, to use the revenue of the Chinese Eastern Railway for supplying funds to the counter revolutionary elements in China, to overthrow the Chinese Government, and to destroy China's political and social system. The documents and evidence found recently in the Soviet consulate at Harbin establishes the further fact that important Soviet officials of the Chinese Eastern Railway are important communist leaders for conducting such propaganda. Under the cover of their special status as railway employees and relying upon the support of the Labor Union to tighten their hold upon the railway, they have conspired to obstruct the smooth working of the Chinese Eastern Railway, sacrificed its true interests and endangered the safety of China.

Confronted by these accumulated facts and evidence the Chinese Government cannot but feel the gravest concern for the future of the

railway. It can only wait for the Soviet Government to awake to a full realization of that Government's responsibility and together with it to devise a fundamental solution in accordance with the provisions of their agreement so that a recurrence of the attempt by Soviet nationals to abuse their employment in the railway and reenact the same incidents as those recently discovered may be obviated and the safety of the railway preserved. In that way communications between Europe and Asia may be maintained uninterruptedly.

The precautionary measures adopted by the Chinese Government had been called forth by the conspiracy of the Soviet manager and assistant manager and other important employees of the Chinese Eastern Railway and other Soviet state groups acting in direct violation of Article VI of the Agreement of 1924. Yet in the note dated July 13th received from the Soviet Government the measures adopted by the Chinese Government in pursuance of the above mentioned agreement were characterized as calculated to abrogate the existing agreement and to seize the Chinese Eastern Railway. In addition the precautions adopted by China to combat the plots of the employees of the railway acting in violation of the agreement were purposely lumped together with the question of the administrative control over the railway so as to whitewash the illegal acts of officials of the Soviet Government, the railway, and other state groups and organizations and thereby disclaim the responsibility of treaty violation. Furthermore in utter disregard of the actual facts a reply was demanded to be given within a stated number of days.

The Soviet Government was well aware that the Soviet employees had been removed from their posts because of their acts in contravention of the agreement and yet it demanded that China restore the *status quo*. The Soviet Government was well aware that the thirty-nine communists had been arrested because of their conspiring in the Harbin Soviet consulate to conduct Soviet propaganda against China's own safety and yet it demanded their release. Finally the Soviet Government insisted on satisfaction being given to its proposals although unjustified by the facts as a condition for holding a conference to settle the various outstanding questions in connection with the Chinese Eastern Railway and thus compelled the Chinese Government into adopting a defensive position.

In conformity with its traditional, peaceful and liberal policy, however, the Chinese Government replied on the 17th of the same month according to the actual facts of the case. The language of China's reply was couched in all sincerity and it was hoped that the Soviet Government would realize its mistakes and make amends for its improper acts. Moreover in response to the Soviet suggestion

that the Chinese Chargé d'Affaires in Moscow be authorized to settle the outstanding questions in connection with the Chinese Eastern Railway the Chinese Government stated that it would instruct its Chargé d'Affaires to return to Moscow and discuss with the Soviet Foreign Office a reasonable and legal solution of such questions.

Unfortunately the Soviet Government chose to persist in its arrogant attitude and employ misrepresentation for whitewashing the actual facts. On the 18th of July it declared, first, that it would recall its embassy and consular staffs, second, that it would recall its nationals who were serving in the Chinese Eastern Railway, third, that it would sever railway communication between China and Soviet Russia, and fourth, that China should immediately withdraw her embassy and consular staffs from Soviet territory. Such action on the part of the Soviet Government constitutes a gross violation of the Sino-Soviet Agreement, a contemptuous disregard for international good faith, a wilful juggling of the actual facts, a misrepresentation of the true intent contained in China's reply, and a calculated design to bring about the present situation which has resulted in a severance of international communication. The responsibility for such a situation should be shouldered entirely by the Soviet Government.

According to the reports of the frontier officials the Soviet Government has been despatching and preparing active troops to be distributed along the Chinese border and indulged in rifle shooting by way of threat and also sent aeroplanes to reconnoitre over China's territory. Should such acts of provocation on the part of the Soviet Government result in unavoidable clashes arising out of China's determination to defend her own rights the responsibility for disturbing the peace of the world must entirely rest with the Soviet Government. In a manifesto issued to the public on the 19th of July the Chinese Government declared that it would employ its entire strength within the scope of self-defence to act up to the spirit of the treaty for the renunciation of war and would persevere in the maintenance of that attitude.

In the renunciation of war, it will, apart from preserving its territorial sovereignty and adopting precautionary measures of self-defence against external invasions, strictly abide by article II of the Treaty for the Pacific Settlement of International Disputes. Consequently the Chinese Government whether now or in the future is ready at any time within the limits of possibility to discuss and settle with the Soviet Government the disputes induced by a misrepresentation of facts on the part of the Soviet Government.

861.77 Chinese Eastern/230

Memorandum by the Secretary of State

[WASHINGTON,] August 20, 1929.

The Chinese Minister asked for an interview at twelve o'clock.

1. He told me that he had brought to me the note⁵⁸ which he had discussed with Mr. Cotton⁵⁹ during my absence ten days ago; that his government had decided to make it public as we had suggested, by communicating it to the various signatories of the Kellogg Pact; that he was finding some difficulty in doing this because China did not have diplomatic relations with many of those signatories, but that his note was being given out, as I recall it, to certain capitals like London, Paris and others, and that he, Dr. Wu, was distributing it among his colleagues here from other countries. He said that his country would welcome any assistance in making it public. I asked him if he wished to have us give it to the press. He told me that he did.

2. He told me that he wished to repeat to me what he had told Mr. Johnson, namely, that his country was mobilizing 60,000 troops to protect their frontier. I asked him what the purpose of mobilizing was, as to whether it was to protect the frontier or the railway and he told me that the report which he had from his government did not say which. He afterwards told me that these troops were Manchurian troops, local troops, and not from the South of the Wall.

3. He told me that his government had directed him to bring to the notice of this Government a direct violation of Chinese territory resulting in casualties to Chinese troops which was contained in the report from Chang Hsueh Liang, who is in command of the Army of Manchuria. This report from Chang Hsueh Liang was dated August 19 and was to the effect that the Russians having designs on Dalainor⁶⁰ in order to cut the Chinese [Eastern] Railway between Manchuli and Hailar had made an attack on the afternoon of August 16 at 3:30 upon Dalainor. The attack had begun at 3:30 and lasted until 7:30. The Chinese lost one platoon commander and twenty-five men killed, and one company commander, one platoon commander and between twenty and thirty men wounded. That same night at 3:30 a. m., on the morning of the 17th at the Dalainor Mines Russian forces opened artillery attack which was still going on on the date of the report. The Nanking Government had replied to Chang Hsueh Liang to go no further than self defense actually required.

4. Minister Wu said that he himself had communicated directly with Chang Hsueh Liang and that the latter had stated that there were repeated incursions of Russians across the line, but that he was keeping his troops in control pursuant to instructions from Nanking.

⁵⁸ *Supra.*

⁵⁹ Joseph P. Cotton, Undersecretary of State.

⁶⁰ Presumably Chalainor.

5. Minister Wu had received word from a Chinese news agency that 1,000 Chinese were being forcibly compelled to dig trenches and do other military work in the maritime provinces which includes Vladivostok.

I asked Minister Wu how about the White Russians and he admitted that Chang Hsueh Liang had White Russians enlisted in his forces much as the French had the Foreign Legion. There were also many White Russians in that entire country who, being without means of support had become little better than bandits, but this was a situation which had lasted for several years and he did not think that any of the despatches to the press had reported that any organized Chinese forces had transgressed the Siberian border. This was said in response to a statement of mine that it was very difficult for neutral observers to distinguish between the rights and wrongs of border skirmishes and that in case the situation came down to a conflict brought on in that way it was very difficult for neutral observers to form a clear opinion as to which country was in the right. I took occasion again to point out the importance in this respect of governmental action by China in clearing her skirts for the original impression she had given of being wrong in regard to the Chinese Eastern Railway. He admitted that public impression had been given and asked me again what could be done. I told him that there must be many ways of making clear the difference between China protecting herself against propaganda on the one hand and infringing the Russian rights in the railroad management on the other, and that it seemed to me she ought to be able to make some public disclaimer of anything like the latter intention and to make an offer which would make this clear.

861.77 Chinese Eastern/221:Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 20, 1929—10 a. m.

[Received August 20—7:04 a. m.]

737. My 730, August 18, 6 [4] p. m. Following from American Consul at Harbin:

“August 19, 4 p. m. Customs reports from Taheiho state Chinese military are about to evacuate from that place and that raiding parties, presumably Soviet, are crossing the Amur and pillaging on Chinese side.”

MACMURRAY

861.77 Chinese Eastern/222 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 20, 1929—11 a. m.
[Received August 20—7:10 a. m.]

738. My 729, August 18, 2 p. m. Following from American Consul at Mukden:

“August 19, 11 p. m. According to official information, fighting occurred night of 17th Tungning, south of Suifenho, which was evacuated next morning upon arrival 1,400 Russian cavalry and infantry with artillery and machine guns. Russians withdrew this morning upon appearance Chinese reinforcements. Telegraphic and radio communication with Suifenho interrupted since last night. Russian troops reported to have withdrawn from Chalainor. Reports indicate that Russian troops are raiding rather than occupying Chinese territory. Reported that they seize foodstuffs.”

MACMURRAY

861.77 Chinese Eastern/229 : Telegram

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

[Paraphrase]

GENEVA, August 20, 1929—1 p. m.
[Received 1:35 p. m.]

A responsible member of the League of Nations Secretariat who is always closely in touch with the Far East states that the Chinese-Russian situation is growing more acute and that consideration is being given some action by the League. No individual European state, in his opinion, is in a position, owing to the unsatisfactory state of relations with Russia, to offer effective intervention. He advocates the League's acting prudently but firmly on a basis exclusively of the supple provisions in paragraph 1, article 11, and not articles 10 or 17.⁶¹ Should a crisis arise within the next few days, a special session of the League Council might be convened, with the support of the government representatives now at The Hague, rather than at the request of a single member. Should the crisis be delayed, the Council could consider the matter at its next regular session.

Some doubt is felt regarding Washington's attitude in case of intervention by the League. The Secretariat member mentioned personally believes a frank appeal for cooperation in the interest of peace should be made to the United States by four or five members of the Council.

BLAKE

⁶¹ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3329, 3339, 3341.

861.77 Chinese Eastern/234 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 21, 1929—11 a. m.

[Received August 21—10:31 a. m.]

742. My 739, August 20, noon.⁶² Following from American Consul at Harbin:

"August 20, 1 p. m. Customs reports from Pogranichnaya states Tungning occupied by regular Soviet troops; other reports state it is occupied by irregular troops consisting of Koreans, Buriats and Magyars who form front-line Soviet troops. Locomotive mail train near Pogranichnaya, August 20th, blown up by bomb but train not damaged. Chinese Commissioner of Foreign Affairs [at] Taheiho has telegraphed all consuls complaining against raids into Chinese territory by alleged forces of Soviet side whom he accuses of violating international law."

MACMURRAY

861. 77 Chinese Eastern/238 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 22, 1929—5 p. m.

[Received August 22—10:42 a. m.⁶³]

747. Legation's 742, August 21, 7 p. m. [11 a. m.] Following from Tass Agency, Moscow, August 20th:

"Owing to the frequent attacks on Soviet territory by Russian White Guard detachments organized on Chinese territory and owing to the information of the Chinese press alleging that Soviet troops are attacking Chinese troops, the Foreign Commissariat of the U. S. S. R. gave to the German Embassy yesterday the following statement for submission to the Nanking and Mukden Governments:

In the note of July 13 regarding the seizure of the Chinese Eastern Railway the Soviet Government mentioned the fact of the mobilization and despatch of Manchurian forces and the concentration of White Guard detachment[s] at the U. S. S. R. border. The note energetically and timely warned the Chinese Government against the further advance [omission?] of the Soviet Government's pacific character. The Chinese authorities however failed to heed this warning. The formation and arming of White Guard detachments for raids and attacks on the border troops and the Soviet civil population continued with greater intensity and immediately after the rupture of the U. S. S. R. relations with China the said detachments developed its activities, shooting on and raiding Soviet territory. The Soviet border troops have for a long time refrained from taking counter

⁶² Not printed; it repeated telegram of August 19, from the Consul at Harbin, p. 286.

⁶³ Telegram in four sections.

measures and as a result the raids and attacks on Soviet territory have gained in frequency, causing many killed and wounded on the Soviet side."

The statement here enumerates seven alleged instances of attacks and raids upon Soviet territory between July 18th and August 10th and concludes as follows:

"The various crossings of the border by the Red army were the results of raids on Soviet territory made by Russian White Guards and Chinese detachments and especially the estimation of the White Guards organizations having ulterior motives by the Chinese authorities creates the menace at the border and indicates the dangerous situation caused by the deeds of the Chinese authorities.

Doing the utmost to prevent the crossing of the border by Soviet troops the Soviet Government holds that the Chinese authorities must disarm the White Guard detachments and prevent all possible raids on Soviet territory by Chinese forces.

Otherwise the guilt of further complications caused by new raids will be entirely of the Nanking and Mukden Governments."

MACMURRAY

861.77 Chinese Eastern/242: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 22, 1929—7 p. m.

[Received 10:29 p. m.]

749. Legation's 742, August 21, 11 a. m. Following from American Consul at Harbin:

"August 21, 4 p. m. Nothing special to report from frontier. Fan Chi-kuan informed me today he is worried regarding danger of terrorist acts on railway line which may cause employees refuse to operate trains. Moving locomotives, not trains, appear to be objects [of] attacks [by] terrorists. Fan also said movement about 50,000 Fengtien troops via Taonanfu will commence tomorrow. Concentration camps established suburbs near and across Sungari River from Harbin.

German Consul General states that condition of prisoners was bad but that as a result of his representations Chinese authorities now allow food and comforts to be brought to prisoners by their relations and today moved 500 men and women to more roomy quarters across the river. According to the German Consul General, 39 prisoners arrested in raid on Soviet Consulate General on May 27th for some time went on hunger strike, as a result of which all are weak and two quite ill. He has requested prison doctor to care for them. Procurator assured him these prisoners will learn by end of this week whether they will be held longer for trial or freed. No formal trial held nor other legal action has been taken. It appears that the Chinese defend their callous attitude toward Russian prisoners by retorting that Chinese in Siberia, especially at Vladivostok, are being cruelly treated by Russians."

MACMURRAY

861.77 Chinese Eastern/244 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 23, 1929—3 p. m.

[Received 9:25 p. m.⁶⁵]

751. My 749, August 22, 7 p. m. Following from American Consul at Harbin :

"August 22, 4 p. m. Customs reports state so-called Soviet detachments approached Chalainor and removed their dead. Most Chinese merchants have left Manchuria Station, remainder have been requested by military to make contribution to Chinese soldiers who are uncomfortable sitting in wet trenches. Tungning now in possession of Chinese. Officials state regular Soviet troops, other reports state brigands who burned half of the town. Chinese people very panic stricken and Chinese military fear an immediate attack there and difficulty civilian evacuation in the event of destruction of Chinese Eastern Railway's roadbed. Small bands Russian [apparent omission] terrorists or brigands operating north and south of Pogranichnaya. Some together with the Soviet aircraft have appeared near the Muling coal mines which have requested military protection. Chinese gunboats have retired to Fuchin. Management of mines at Koshan reports armed band approaching that place overland from Chinese village Lopeh on right bank Amur River. The Chinese side of Amur is unprotected from Lahasusu to Moho a distance of 1,000 miles except at Taheihou where there are 3,000 Chinese soldiers in precarious condition as no reinforcements nor supplies can reach them by river or by road from Tsitsihar which is practically impassable on account of floods. In my opinion no actual warfare has begun and Soviet object at present appears to be to force coal mines at Chalainor, Koshan, Muling stop supplying coal to railway and to intimidate railway employees by acts of terrorism in order to paralyze work of line. Chaos on the railway and raids and threats of war would result in further losses to Chinese merchants who have already lost about ten million dollars.

Only other source of coal is Japanese Fushun mines. Wood could be used but train service would have to be curtailed. Japanese Consul General for unexpressed reasons extremely curious to know whether I considered a state of war existed. I informed him I did not."

MACMURRAY

861.77 Chinese Eastern/250 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 23, 1929—4 p. m.

[Received 11:35 p. m.⁶⁵]

752. In conversation with the Japanese Chargé d'Affaires yesterday, Horinouchi informed me as follows :

⁶⁵ Telegram in three sections.

1. On August 16th Karakhan informed the Japanese Ambassador at Moscow that the Soviet Government had no intention of invading Chinese territory and that it was for the present simply watching developments. The Japanese Ambassador received the impression that Karakhan was at a loss as to what measures he should take; it was also a fact that the Chinese Minister at Berlin had a consultation and sought on this occasion, through the medium of the German Government, to arrange for preliminary informal negotiations but that these overtures had been rejected because of the apprehension of the Soviet Government that its consent to hold such informal discussions might be misinterpreted as evidence of a willingness on its part to hold unconditional negotiations without a return to the *status quo ante*. See Legation's 673, August 5, 6 p. m.

2. On August 20th the Chinese Minister at Tokio in an interview with Baron Shidehara stated that the Soviet troops had, from their own territory, bombarded Chalainor, apparently with the purpose of cutting railway communications between Manchouli and Hailar. The Chinese had suffered about fifty casualties. Nanking had, however, instructed that a calm attitude should be maintained and that defensive measures only should be taken. (See Legation's 729, August 18, 2 p. m.) The Chinese Minister also remarked that his Government was determined that a Russian should not be appointed as general manager of the Chinese Eastern Railway. Shidehara thereupon inquired whether this meant that the Chinese Government considered the 1924 agreement null and void; but he did not receive a satisfactory answer from the Minister who stated that he would have to refer the question to his Government.

3. Japanese Chargé d'Affaires also stated that Minister Yoshizawa (who left Peiping August 21st, for home) would be replaced as Minister by Sadao Saburi, formerly technical adviser on the Customs Conference⁶⁶ and recently Counselor of Embassy at London. Yoshizawa would in the near future be appointed Ambassador to France. The above appointments although decided upon have not yet been officially announced.

MACMURRAY

861.77 Chinese Eastern/306

The Ambassador in Germany (Schurman) to the Secretary of State

No. 4823

BERLIN, August 23, 1929.

[Received September 9.]

SIR: Supplementing telegram No. 146 of August 13, 2 p. m. on developments in the Chinese Eastern Railway conflict as known in

⁶⁶At Peking, 1925-26.

Berlin, I have the honor to report that the Soviets were duly acquainted by the Germans with the fact that the Chinese Minister in Berlin had asked their advice respecting a "face-saving formula" which would settle the conflict. The Chinese Minister was aware that the Russians would be so informed.

The Foreign Office understands that the Chinese have made direct approaches to the Russians from various quarters with a view to opening negotiations and that the Russians have returned first negative answers and then none at all.

During an informal conversation yesterday with a member of this Embassy, the principal official at the Foreign Office in charge of Russian and Far Eastern affairs said that the conflict appeared to have entered upon what would probably prove to be a tedious period of oriental jockeying and bargaining. The Russians wished their demands fulfilled before formal negotiations began. The Chinese wished to begin negotiations, after which they might be ready to concede a great deal since it would not then be so apparent to their people that they had had to surrender.

It was the opinion of this official that one way or another a peaceful solution would in the end be found. Neither side was ready to fight. As was known, the German Government had delivered a Chinese note of protest to the Soviets and a Soviet note of protest to the Chinese. No doubt there would be more mutual recrimination but not a war.

Conditions on the Chinese-Russian frontier were undoubtedly disturbed and to some extent dangerous but the reports of troop concentrations and armed conflicts had to be accepted with the greatest reserve. A telegram had just come from the German Legation in China saying that there were no such numbers of Chinese troops on the frontier as some recent press reports would indicate.

Over against this view of the German Foreign Office it may be well to add that in a personal letter received this morning by a member of the Embassy, Mr. Walter Duranty, the *New York Times* correspondent at Moscow, speaks very definitely of a still continuing danger of war.

I have [etc.]

JACOB GOULD SCHURMAN

861.77 Chinese Eastern/255 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 25, 1929—noon.

[Received 11:28 p. m.]

757. Following from American Consul at Nanking:

1. "August 22, 7 p. m. With reference to Sino-Russian military skirmishes now occurring, Wang has told me that 'Russia is only

bluffing, but we mean business'. Since Wang's attitude must naturally be governed by military opinion [,it?] may indicate belief on the part of Chiang Kai-shih that Russia does not contemplate serious military action.

There is now a surprising slackness of public interest at Nanking concerning Manchurian crisis. Chinese officials here appear undisturbed."

2. "Aug. 21 [, noon?]. Wang informed me this morning that in response to inquiry through Berlin the Russian Government had denied issuance of orders leading to disturbances on the Sino-Russian frontier; that Russia had offered through Berlin to open negotiations for the settlement of Chinese Eastern Railway dispute upon the basis of gradual redemption by China of Russia's share in railway covered by bond issue, provided Chinese would agree to immediate appointment of Russian railway manager. Wang said he had replied that Chinese would willingly negotiate for redemption of Russia's share in Chinese Railway as well as agree to appointment of Russian railway manager.

Wang said that, while there were possibilities of coming in military conflict with Russia, he did not consider the danger of such chance to be imminent, that the Government had ordered 60,000 troops from Mukden to the proximity of the border as reserve for use in defense in the event of emergency, and that the troops which had been moved north for use against Feng Yu-hsiang were in readiness for action."

MACMURRAY

861.77 Chinese Eastern/256 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 26, 1929—3 p. m.
[Received August 26—11:14 a. m.]

759. Legation's 758, August 25, 5 p. m.⁶⁷ Following from Kuo Wen News Agency, Nanking, August 23:

"Last night's meeting of the Government Foreign Relations Committee was changed to an informal conference. Among those present were Mr. Hu Han-min, Sun Fo and Dr. C. T. Wang. After a lengthy discussion it was decided that the Government should continue its present policy of seeking a settlement of the Chinese Eastern Railway dispute by peaceful means but that precautionary methods [*measures?*] should be taken, in view of the daily incursions of Red troops into Chinese territory.

After the meeting closed, a long telegram was sent to Marshal Chang Hsueh-liang and General Ho Cheng-chun, ordering them to cooperate in the discussion of measures against Russia."

MACMURRAY

⁶⁷ Not printed.

861.77 Chinese Eastern/261

Memorandum by the Secretary of State

[WASHINGTON,] August 26, 1929.

The Japanese Ambassador came in at my request in regard to the Manchurian situation. He told me that he had just received from the Japanese Foreign Office a message from Mukden to the effect that on August 24, Mr. Ho,⁶⁸ the personal representative of Chiang Kai Shek, had told the members of the staff of the Japanese Consul General in Mukden that China had decided to accept in principle the restoration of the *status quo ante* in respect to the position of the general manager and assistant general manager of the Chinese Eastern Railway property provided that this did not mean the restoration of the same Russian general manager and assistant general manager who were formerly in charge. They said that Mr. Emshanov, the former manager, was not acceptable to them. Mr. Ho, the authority for this information, was the representative of Chiang Kai Shek at the Tsinanfu negotiations, so the Ambassador said.

In the second place, the Ambassador had a cable from Tokyo to the effect that on August 25 the Chinese Foreign Minister, Mr. C. T. Wang, had informed the Japanese Consul General at Shanghai that conversations between China and Russia are steadily progressing and that according to the opinion of C. T. Wang formal negotiations might be held in the course of one or two weeks. Debuchi himself guesses that the conversations are now going on at Berlin.

Third. From these despatches, as well as from general information, Debuchi is optimistic. So far as the territorial situation is concerned he believes that no territory of either nation has been invaded by the forces of the other. He believes that there has been no clash between their forces except at Dalainor (Jalainor, Thalainor). He bases this in part upon the fact that when the Chinese Minister in Tokyo came to announce to Baron Shidehara, the Japanese Foreign Minister, the clash at Dalainor he admitted to Shidehara that no Chinese territory had been invaded.

Debuchi commented on the despatches to the effect that 60,000 Chinese troops were being sent in to Manchuria to reinforce the frontier. He does not believe that this is true. Among other reasons he does not think that the present Governor of Manchuria⁶⁹ wants to have southern troops in Manchuria.

I told him I was very glad to have this information and that I regarded the news about the restoration of the *status quo ante* as particularly important and that it followed the line of the representations which I had made to Dr. Wu.

⁶⁸ Presumably Gen. Ho Cheng-chun.

⁶⁹ Presumably Marshal Chang Hsiieh-liang.

I told him that his report about Dalainor rather followed my own conclusions because that was the only clash which had been reported to me by the Chinese.

861.77 Chinese Eastern/259

Memorandum by the Secretary of State

[WASHINGTON,] August 26, 1929.

The British Ambassador called at my request and I had a long talk with him on the subject of the Chinese-Russian situation. I asked him if he could tell me what he had heard from his Government in regard to our former discussion on July 25.⁷⁰ He told me that he had only had a telegram to the effect that they thought that no answer to my *aide memoire*⁷¹ was necessary because the conferences between China and Russia immediately commenced and also because they feared that the two nations, particularly Russia, would resent any suggestion of a neutral manager of the railroad. He said that Russia felt so alone and separated from every one else that his Government felt she would resent any outside mediation.

We then discussed the historical situation, working it out in the course of a long conversation. I told him I had sent for him not with the idea of having any message sent to his Government but to get such views and information as he could give me in working out my own opinion as to a difficult situation. I told him that it looked now as if Russia was making up her mind toward the eventuality of war; that this course might be wrong but that it was the sum total of the news which we could gather from both ends of the line, not only from our representatives in Manchuria but from the reports of observations picked up in regard to the attitude of Moscow both from the press and from statements of our representatives in surrounding countries, particularly Germany and France. In summing up the actions of the two parties, we agreed (1) that China had been guilty of an initial wrong in her action toward the railroad; (2) she had been also wrong in afterwards refusing to make amends and restoring the *status quo*, but (3) that neither of these actions would justify an act of war upon China, particularly after she had solemnly sworn in the Kellogg Pact to settle such controversies only by pacific means. I told him of my efforts through Wu to persuade China to make amends. Sir Esme suggested that if Russia should go to war and invade Manchuria, particularly if China could be persuaded to offer to restore the *status quo*, Russia would be so clearly in the wrong that it would probably be easy to eventually rally public

⁷⁰ See telegram No. 248, July 26, to the Minister in China, p. 247.

⁷¹ See footnote 21, p. 242.

opinion of the other nations of the world to put an embargo on trade with her and thus check her military operations. I asked him if there was any way by which, without formality but in the manner which he and I had discussed here, we could find out whether his Government felt as we did on the three propositions above and if they had any suggestions as to what we could do in the situation, particularly in regard to getting China to take any step which would clarify the situation. He finally said that he would try to draft a message for his Government and bring it around to me this evening about 3:30 to see whether I had any suggestions or corrections to make in it.

861.77 Chinese Eastern/257 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 26, 1929—4 p. m.
[Received August 26—1:30 p. m.]

760. Legation's 757, August 25, noon, paragraph 2. Japanese Chargé d'Affaires informs me that Wang told Japanese Consul General at Shanghai yesterday that he expected negotiations with Soviet Government to take place within a week or two but that he had no definite plan whether at Berlin or some other place. Wang would not commit himself with regard to the appointment of a Russian general manager of the railway, but an important member of the Chinese Government at Nanking intimated to the Japanese Consul in that city that the Chinese would agree to a Russian manager. Japanese Chargé d'Affaires said that within the last few days Nanking had sent instructions to Mukden of a more conciliatory character and that it was his impression that the Nanking Government was prepared to take a less unyielding attitude than hitherto, in view of the Government feeling that it could not count with certainty upon the allegiance of Feng and other military leaders nominally subordinate to it.

MACMURRAY

861.77 Chinese Eastern/273

The British Ambassador (Howard) to the Secretary of State

WASHINGTON, August 26, 1929.

MY DEAR MR. SECRETARY: In accordance with your wish I enclose herewith copy of the telegram which I have despatched to the Foreign Office today regarding our conversations of this morning and this afternoon.

Yours very truly,

ESME HOWARD

[Enclosure]

Copy of Telegram From the British Ambassador (Howard) to the British Foreign Office on August 26, 1929

Secretary of State told me this morning that reports of military preparations by Russia against China were causing him and the President the most serious concern. The President felt that something should be done to maintain the sanctity of the Kellogg Pact which, if Russia, one of the signatories thereto, were now to violate it, would clearly lose much of its weight and importance in the opinion of the world on which it really rested. The question was what should be done? He understood that when he originally proposed suggesting to both parties a procedure similar to that adopted in the Bolivia Paraguay dispute, other governments felt that the moment was not ripe as Russia and China seemed to be getting together. Now, however, the situation was very threatening and he would like to know whether His Majesty's Government did not agree that some action was not required in order to avert if possible a great disaster for which, if they remained passive, original signatories of the Kellogg Pact might be blamed. The situation as he saw it was this. The Chinese Government by expelling Russian Officials of the Eastern Railway had committed a first offence and by refusing the Russian preliminary conditions for negotiations that Russian officials should be reinstated according to Treaty, they had committed a second, but neither of these would justify Russia, who had declared herself determined under the Kellogg Pact to renounce war and settle all disputes by peaceful means, in resorting to arms. It seemed therefore to the Secretary of State that if China were to offer not indeed to reinstate the late Russian Manager and other officials who were under the imputation of having abused their position, but to permit other Russians, who are not under suspicion, to take up these appointments, Russia would be certainly condemned by world opinion if she resorted to war and it would then be open for the signatories of the Pact to discuss what further measures should be taken. In any case, however, world opinion on which the Kellogg Pact rested would have been definitely mobilized against the country which first committed an act of war. Secretary of State was very anxious to have your views.

Since writing the above the Secretary of State has informed me that he had just received encouraging reports tending to show that China seemed inclined to be less *intransigent* and to offer to reinstate Russian officials though not the same ones. He had also heard that negotiations had been begun in Berlin. Nevertheless he would be very glad to have your views on points above referred to in case these reports do not turn out to be correct.

861.77 Chinese Eastern/316

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] August 28, 1929.

The Chinese Chargé d'Affaires, Mr. Yung Kwai, called today and stated that he wanted to give me such information as he had and he handed to me the attached copy of telegraphic reports⁷² concerning Russian military activities received from Mukden on August 20, through the Foreign Office at Nanking. I stated that these reports seemed to be old and that our information now was that conditions along the border were very quiet. Mr. Yung Kwai stated that this was the latest information he had received.

Mr. Yung Kwai then asked me whether we had any late information and I outlined to him the information we had received in recent telegrams, stating that I understood efforts were now being made to arrange for negotiations between the Chinese and Russians regarding this matter; that I understood the Russians desired to appoint a new Russian manager and assistant manager to the railway. I said that if this was correct, that it seemed the Chinese very well could accept such a proposal as they would have won their point with the Russians, namely, the right to get rid of employees for whom they had no liking. Mr. Yung Kwai agreed with me.

Mr. Yung Kwai hazarded a guess that it was the intention of the Chinese Government to take up this question of the Chinese Eastern Railway at Geneva at the League of Nations. I told him that I had asked the Minister about this but the Minister had told me he had no instructions. Mr. Yung Kwai stated that this was true, that the Minister had no instructions when he left, that it was merely his own surmise; that he himself would hear nothing further from his own government about the situation or about the question as they had probably decided to put the matter before the League.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/269 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 28, 1929—6 p. m.

[Received 10:53 p. m.]

768. Legation's 760, August 26, 4 p. m. Following from Reuter, Shanghai, August 27:

"Kuo Min, official news agency, states it learns that the Chinese Minister in Berlin has reported that Karakhan has indicated that in the event of the National Government allowing the Soviet to ap-

⁷² Not printed.

point a new Russian general manager of the C.E.R., the Soviet would be willing to enter into formal negotiations for an early solution of the Sino-Soviet crisis.”

MACMURRAY

861.77 Chinese Eastern/280 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, August 30, 1929—3 p. m.

[Received 3:19 p. m.]

159. The German Ambassador at Moscow on August 28 delivered to the Soviet Foreign Office the Chinese Government's *note verbale*^{72a} embodying an essential surrender, in the German Foreign Office's view, in the conflict over the Chinese Eastern Railway. The German Foreign Office, while feeling not at liberty to communicate the details, informs this Embassy in confidence that the Chinese have accepted in the main the Russian conditions, including the appointment of Russians as manager and assistant manager. On their side the Chinese make some conditions, but these the Germans associate primarily with face-saving and will probably be acceptable to the Russians. The Chinese *note verbale* proposes a joint declaration by the Chinese and Russian Governments that negotiations are to be begun in order to put into effect the 1924 agreements.

The foregoing has been communicated by the German Foreign Office also to the Japanese Embassy, but to no other Embassy; and the Chinese and Russians do not know that these communications have been made.

SCHURMAN

861.77 Chinese Eastern/281 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, August 30, 1929—4 p. m.

[Received August 30—3:22 p. m.]

160. Reference Embassy's 159, August 30, 3 p. m. The Russian Embassy here has just delivered the answer to the Chinese proposal. It is a general acquiescence, but subject to conditions. Among them the chief one is that the Russians have the right to appoint again the former manager, rather than be limited to appoint a new manager, which is stipulated in the Chinese note. However, the Russian representative orally explained that, if the Chinese insisted upon a new

^{72a} For text of the *note verbale*, see statement by the Soviet Commissariat for Foreign Affairs, p. 309.

manager being appointed and would themselves appoint a new president of the railway board, the Russian Government might consent.

The Russians propose that the negotiations begin not later than September 15 at Moscow.

SCHURMAN

861.77 Chinese Eastern/414

The British Ambassador (Howard) to the Secretary of State

WASHINGTON, August 30, 1929.

MY DEAR MR. SECRETARY OF STATE: I have just had a reply from our Secretary of State for Foreign Affairs to the telegram I sent him on the 28th [26th] instant recording a conversation I had with you that morning on the subject of the Russo-Chinese dispute.

He asks me to inform you that while His Majesty's Government would be most glad to join in any action by the interested Powers which might be expected to further effectively the cause of peace, they consider it a matter of the first importance that only such action should be contemplated as both parties to the dispute would agree to and which would be incapable of interpretation as in any sense prejudging the issue.

His Majesty's Government have recently received from Peking information as to the attitude of the Chinese Government which is to the effect that the latter will in no circumstances consider any return to the *status quo ante* on the Chinese Eastern Railway and that they still insist that the offices of General Manager, Assistant Manager and all the principal executive posts shall be held by Chinese who must have undisputed control of the management of the Railway.

In view of the above, the restoration of effective management of the railway to Soviet officials appears, for the present at least, to be out of the question, and consequently His Majesty's Government fear that any action by the Powers tending to achieve such a result would not only be fruitless and meet with a blank refusal from the Chinese Government, but might also be used by the Soviet Government as excusing or palliating a resort to arms on the grounds that China was condemned in advance as the guilty party in the dispute.

His Majesty's Government have received repeated assurances from the Chinese Government that they will in no circumstances take the offensive and they have also received information that German military authorities are of opinion that Russia is not in any position to undertake serious military operations in Manchuria.

They do not therefore despair of a pacific settlement of the dispute and would prefer for the present to await the result of the negotiations, direct or indirect, between the two parties thereto, which are believed to be proceeding with that end in view.

Please believe me [etc.]

ESME HOWARD

861.77 Chinese Eastern/350

*Statement by the Soviet Commissariat for Foreign Affairs*⁷³

[Translation]

On August 28th of the current year, at 4 o'clock p. m., the German Envoy in Moscow, Mr. von Dirksen, was at his own request received by the Acting Commissar of Foreign Affairs, Comrade M. M. Litvinov, and, acting upon instructions from the German Government, handed to the latter the following two documents which the Chinese Government had requested to have brought to the knowledge of the government of the U. S. S. R.

I. NOTE VERBALE, HANDED BY THE CHINESE MISSION IN BERLIN TO THE GERMAN MINISTRY OF FOREIGN AFFAIRS, ON AUGUST 27TH

(Translation from the German)

The Chinese Mission has the honor to state that the National Government, always guided by the desire to maintain peace, and to consolidate the relations with * states, is prepared to appoint plenipotentiary representatives for the signing of the declaration herewith enclosed.

The Chinese Mission will be greatly obliged to the Government of the Reich, if the latter will kindly bring the text of the declaration to the knowledge of the Soviet Government.

II. TEXT OF THE JOINT DECLARATION

(Translation from the English)

1) Both sides declare that all disputes between the two sides they will settle in conformity with the agreement of 1924, and more particularly they will settle the conditions of buying out the Chinese Eastern Railway in conformity with article 9 of the Peking agreement.

Both sides will immediately and duly appoint plenipotentiary representatives to attend a conference which is to settle all the questions under dispute, mentioned in the previous paragraph.

2) Both sides hold that the situation on the Chinese Eastern Railway, come about after the conflict, should be changed in conformity with the Peking agreement and the Mukden agreement of 1924, it being understood that all such changes shall be resolved upon by the conference to be called according to the previous article.

3) The Soviet government will recommend a new Director and a new Vice Director for the Chinese Eastern Railway, who will be appointed by the Board of Administration of the said Railway.

The Soviet government will instruct the railway employees of Soviet nationality on the Chinese Eastern Railway to the effect that

⁷³ Translation from text printed in the Moscow *Izvestia*, No. 200, August 31, 1929; copy transmitted to the Department by the Minister in Latvia in his despatch No. 6397, September 11; received September 24, 1929.

* other [Footnote in the original.]

they are strictly to observe the provisions laid down in article 6 of the agreement of 1924.

4) Both sides will immediately release all persons arrested in connection with this incident, or after May 1, 1929.

On August 29 of the current year, at 6 o'clock p. m., the Acting Commissar of Foreign Affairs, Comrade M. M. Litvinov, received the German Envoy in Moscow, Mr. von Dirksen, and informed him that the government of the Union is prepared to accept the proposal of the Chinese Government to sign a joint declaration worded as follows:

1) Both sides declare that all disputes between the two sides they will settle in conformity with the agreement of 1924, and more particularly they will settle the conditions of buying out the Chinese Eastern Railway in conformity with article 9 of the Peking agreement.

Both sides will immediately and duly appoint plenipotentiary representatives to attend a conference which is to settle all the questions under dispute, mentioned in the previous paragraph.

2) Both sides hold that the situation on the Chinese Eastern Railway, come about after the conflict, should be changed in conformity with the Peking agreement and the Mukden agreement of 1924, it being understood that all such changes shall be resolved upon by the conference to be called according to the previous article.

3) The Soviet government will recommend a *Director* and a Vice Director for the Chinese Eastern Railway, who will be *immediately* appointed by the Board of Administration of the said railway.

The Soviet government will instruct the railway employees on the Chinese Eastern Railway, who are citizens of the U. S. S. R., *and the Chinese Government will instruct its local authorities and their organs*, to the effect that they are strictly to observe the provisions laid down in article 6 of the agreement of 1924.*

4) Both sides shall immediately release all persons arrested in connection with this incident, or after May 1, 1929.

In handing over the Soviet draft of the declaration, Comrade M. M. Litvinov at the same time informed Mr. von Dirksen that the government of the Union sees no reason to appoint a *new* Director and Vice Director in the place of the persons who originally had been lawfully appointed, carried out their functions in strict conformity with the treaties.

At the same time, Comrade Litvinov stated that in case the Chinese Government should appoint a new Chairman of the Board of Administration, in the place of the present Chairman who is directly responsible for the violation of the order of things established by the treaties on the Chinese Eastern Railway, the Commissariat of For-

* Italics of the original text. [Footnote in the original.]

ign Affairs, in conformity with the unvarying policy of peace, pursued by the U. S. S. R., and meeting the wishes of the Chinese Government, would submit to the Soviet government the question of appointing a new Director and a new Vice Director. In this connection, Comrade Litvinov stated that, as is understood of itself, the appointment of Director and Vice Director would have to take place simultaneously with the signing of the text of the joint declaration.

861.77 Chinese Eastern/290 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 31, 1929—1 p. m.

[Received September 1—11 a. m.]

772. Following from American Consul at Harbin:

"August 30, 4 p. m. German Consul General visited concentration camp across the Sungari yesterday. He states condition of 800 prisoners there bad. Food until yesterday bread, water; exercise and toilet facilities too limited, no beds but Chinese *k'angs*, scant bedding. Chinese, Siberia, treated worse and by [*sic*] alleged lack of funds. He has received 100,000 yen from Moscow for prisoners and has arranged for committee of Russian women to take supplies, clothing weekly to the prisoners. Chinese authorities show reluctance to cooperate with him."

MACMURRAY

861.77 Chinese Eastern/292 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 1, 1929—11 a. m.

[Received 11 a. m.]

781. My 772, August 31, 1 p. m. Following from American Consul at Harbin:

"August 31, 1 p. m. American newspapermen, Manchuria Station quote general at Mukden in charge there as stating that 300 Soviet troops threatening Chalainor; that state of war exists 500 miles along the border; that Soviet military activities planned with the purpose to frighten Chinese come to Soviet terms and that no White Russians serving with Chinese troops. German Vice Consul wishing arrange exchange of prisoners could not get in touch with the Soviet side. Manchuria Station deserted by the civilian population."

MACMURRAY

861.77 Chinese Eastern/289 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 1, 1929—noon.
[Received September 1—11 a. m.⁷⁴]

782. Legation's 776, August 31, 5 p. m.⁷⁵ Following from *Leader*, Peiping, September 1:

"Last message from Moscow under yesterday's date said that Monsieur Litvinoff, Acting People's Commissar of Foreign Affairs of the U. S. S. R., had advised the German Ambassador at Moscow, Herr von Dirksen, that his Government was ready to accept China's negotiation for the signing of a joint declaration settling the dispute but desired to put forward certain amendments to the draft which the Chinese Government has submitted.

These amendments were incorporated in a proposed new draft declaration which Monsieur Litvinoff handed to Herr von Dirksen for transmission to the Chinese Government and which reads as follows: [Here follows text of Russian draft printed on page 310.]"

Following from Reuter, Nanking, August 31st:

"Interviewed by Reuter this morning, a Foreign Office spokesman declared that Nanking had not received a statement from the Chinese Minister in Berlin regarding the alleged settlement of the Chinese Eastern Railway issue, reported in messages from Moscow.

However, the spokesman admitted that negotiations in Berlin were proceeding satisfactorily."

MACMURRAY

861.77 Chinese Eastern/293 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 2, 1929—1 p. m.
[Received September 2—9:21 a. m.]

783. My 782, September 1, noon. Following from Reuter, Shanghai, September 1st:

"The Foreign Minister Dr. C. T. Wang, commenting on reports from Moscow regarding the joint Sino-Russian declaration for a settlement of the Chinese Eastern Railway dispute, makes the following statement: 'The National Government can find no reason to replace the present chairman of the directorate of the railway with a new chairman. A report from certain quarters implying that China has agreed or would agree to such a proposal from the Soviet is absolutely groundless. The question has never been raised and should Russia put it forward the National Government would find it impossible to accept the demand.'"

MACMURRAY

⁷⁴ Telegram in four sections.

⁷⁵ Not printed.

861.77 Chinese Eastern/299 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 3, 1929—3 p. m.

[Received 11:23 p. m.]

788. My 781, September 1, 11 a. m. Following from American Consul at Harbin:

“Sept. 3, 10 a. m. American correspondents Powell, Wright, Goette, now at Manchuria Station, have reported to their respective newspapers that regular Soviet troops have invaded and have taken up positions inside Chinese territory and have shelled Chinese outposts. However they have taken the word of the Chinese authorities as to where the boundary is.”

MACMURRAY

861.77 Chinese Eastern/300

Memorandum by the Secretary of State

[WASHINGTON,] September 4, 1929.

The Japanese Ambassador requested an appointment and told me that he thought the situation in Manchuria was improving. He said that he had had several more cables which indicated that Russia had agreed to appoint a new manager and assistant manager of the railroad and this was a very long step forward. He further said that he thought there were no clashes on the border; that the reports which came from the American newspapers were not true. I asked him how about Mr. C. T. Wang's statement in respect to the Board of Directors. He said yes, he had noticed that; that Russia had suggested that the Vice President of the Board of Directors was the source of the trouble and that he should be changed; he thought Mr. Wang was seeking to save China's face in refusing it. He intimated that he thought that Wang might not insist on this and that there might be a change. He said that Baron Shidehara was doing everything he could to promote peace.

861.77 Chinese Eastern/331

The Ambassador in Germany (Schurman) to the Secretary of State

No. 4857

BERLIN, September 4, 1929.

[Received September 16.]

SIR: In connection with telegrams No. 159 and No. 160 of August 30, I have the honor to report that the German Foreign office has no confirmation so far of a Reuter despatch from Shanghai that the Nanking Government finds unacceptable the Russian answer to the

recent Chinese proposal for a settlement of the Chinese Eastern Railway conflict.

At the Foreign Office the feeling still exists that the way toward settlement has been definitely opened and that a settlement will in due time come, though it is anticipated that the actual negotiations, when they begin, will be difficult and protracted.

One of the principal officials concerned expressed to a member of the Embassy his personal conviction that a settlement had been greatly forwarded by the American proposal of July 25. The Russians, as well as the Chinese, were made to realize that other Powers were concerned and that, if a direct settlement was not accomplished fairly soon, outside pressure might develop which it would be difficult to resist. In particular the Soviets at once felt the political necessity of arriving at a direct accommodation with the Chinese so that their pacific purpose and diplomatic enterprise should not in any way seem less than that of the "capitalist world". The American initiative had thus disposed the Russians to accept much more readily than would otherwise have been the case the advances made by the Chinese.

I have [etc.]

For the Ambassador:
D. C. POOLE
Counselor of Embassy

861.77 Chinese Eastern/383

The Minister in China (MacMurray) to the Secretary of State

No. 2308

PEIPING, September 7, 1929.

[Received October 11.]

SIR: I have the honor to refer to a despatch No. 2006, of August 31, 1929, from the American Consul at Harbin to the Legation, copies of which were sent directly to the Department,⁷⁶ reporting the suggestion of Mr. A. Maffei, the Italian Consul at Harbin, that the Harbin Consular Body offer their good offices to the Soviet and National Governments, in an attempt to bring about an adjustment of the Chinese Eastern Railway dispute. In reply to the American Consul's request for the Legation's views concerning the Italian Consul's proposal, Consul Hanson was telegraphically instructed, on September 5th, that, pending further instructions from the Department, he should be guided by the instructions contained in the Department's telegram No. 231, of July 13, 3 [1] p. m., to the Legation. Such instruction had been repeated to Consul Hanson in the Legation's telegram of July 15, 5 p. m., and was to the general effect

⁷⁶ Not printed.

that any participation by the American Consul in an attempt to adjust the Sino-Russian dispute over the Chinese Eastern Railway was deemed inexpedient by the Department.

I have [etc.]

J. V. A. MACMURRAY

861.77 Chinese Eastern/309 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 9, 1929—5 p. m.

[Received September 9—6:45 a. m.]

805. Following from American Consul at Harbin:

“September 8, 11 p. m. Customs reports state that Soviet aircraft bombarded yesterday railway station area Suifenhö, destroying railway tracks, cars and wounding Chinese soldiers. Later local reports, unconfirmed, state that entire railway station there destroyed. American journalists recently returned from there conclude military situation is grave.”

MACMURRAY

861.77 Chinese Eastern/313 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 9, 1929—7 p. m.

[Received September 10—10:42 a. m.⁷⁷]

807. Legation's 793, September 5, 4 p.m.⁷⁸

1. Following from Kuo Wen News Agency, Nanking, September 6th:

“At a press interview this morning Dr. C. T. Wang said that the Sino-Russian situation this week is the same as last week and that complete agreement has not yet been reached on the joint declaration to be issued. The Wai Chiao Pu is waiting for further advices from General Chiang Tso-pin, Chinese Minister in Berlin, who is at present in Geneva.

Dr. Wang said that China has no objection to the selection of a new Soviet manager of the Chinese Eastern Railway as this is provided for in the Sino-Russian agreements of 1924 but that the Government maintains that the appointment should not be gazetted until after the formal conference opens. Agreement on this point remains to be reached. Dr. Wang observed that the Sino-Russian agreements confer too great power on the Soviet general manager and make the Chinese president of the railway a mere figurehead. This state of affairs should be remedied. The Minister indicated that at the forthcoming conference the question of the recommendation [*redemption?*] of the line will be brought up in accordance with provision 2 of article 9 of the Sino-Russian agreement of 1924. Dr. Wang further said

⁷⁷ Telegram in three sections.

⁷⁸ Not printed.

that the Wai Chiao Pu had received no such demands from Russia as the removal of the president of the railway."

2. Following from Reuters, Nanking, September 8:

"A message received here from Nanking reports that General Chiang Tso-pin, Chinese Minister in Berlin, has wired to the Wai Chiao Pu from Geneva stating that the Soviet Government has withdrawn its demand for the appointment of new manager and assistant manager of the C. E. R. as a preliminary to the opening of formal negotiations between the Soviet and Chinese.

Official circles in Nanking believe that it is only a question of time before an agreement with regard to procedure for settlement of the C. E. R. dispute is reached."

MACMURRAY

861.77 Chinese Eastern/311: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 9, 1929—9 p. m.
[Received September 9—2:40 p. m.]

808. Referring to my 805, Sept. 9, 5 p. m. Following from American Consul at Harbin:

"September 9, noon. General Manager Fan confirms Customs and Japanese official reports that railway station Suifenho destroyed by bombs from Soviet aeroplanes. Casualties estimated at from 30 to 100. Town in panic, railway staff escaped to Hsiao-suifen and Customs staff to Muling.

Japanese residents could not leave on account of lack of rolling stock. Firing near city heard until yesterday noon. Fan states that some aeroplanes flying over Chalinor dropped few bombs but situation there is not so serious as at Suifenho. States that night of September 7th passenger train blown up near Suifenho, two railway employees killed, others and some passengers wounded."

MACMURRAY

861.77 Chinese Eastern/317: Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, September 11, 1929—noon.
[Received 1:18 p. m.]

163. Yesterday, at the request of the Chinese National Government, the German Foreign Office telegraphed its Ambassador in Moscow for transmission to the Soviet Government the following *note verbale*.⁷⁹

"1. The National Government of China has declared repeatedly its readiness to enter into negotiations with the Soviet Government in

⁷⁹ *Note verbale* not paraphrased.

order to reach a just and fair settlement of the recent dispute. The National Government is therefore appreciative of the attitude of the Soviet Government in expressing its readiness to sign the joint declaration when agreed upon by both parties and agrees completely that the proposed conference should be opened as soon as possible in order that the representatives of both countries may effect a final solution of all the questions outstanding between the two countries.

2. The National Government has no objection to the proposal of the Soviet Government to insert the word 'immediate[ly]' before the word 'ratifications of [*recommend*]' in article 3 of the proposed joint declaration⁸⁰ but regrets that it cannot see its way to agreeing to the suggestion of making the appointment of a new manager and an assistant manager as a prerequisite for the signing of the said declaration, or for the opening of the congress because such a procedure would be contrary to the general principle laid down by article 2 of the draft declaration which has already been accepted by the Soviet Government.

3. With regard to the other amendments proposed by the Soviet Government the National Government is of the opinion that they may very well be left to be considered by the forthcoming conference and that should the conference decide in favor of the proposed amendments of [*the*] National Government will not oppose to their being adopted.

4. The National Government proposes that the conference be held in Berlin instead of Moscow as suggested by the Soviet Government and also hopes that the signature of the agreed joint declaration shall likewise take place in Berlin by the representatives of both parties."

An official in the German Foreign Office explains that the Chinese note is, in effect, a refusal of all the preliminary conditions of Russia. Described as a typically Chinese reply, it will exasperate Moscow greatly and will not forward in any way a settlement. Had the German Foreign Office not been requested formally to transmit this communication, with no advice asked, it would have hesitated to do so. The delay in the Chinese answer has already exasperated the Russians, whose main purpose in their recent protests and reprisals has been to hasten the reply. The above evasive answer, the Germans feel, shows that Nanking is much less concerned with an early settlement than is Mukden.

SCHURMAN

861.77 Chinese Eastern/318 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 11, 1929—1 p. m.

[Received September 12—1:10 p. m.⁸¹]

815. Legation's 814, September 11, noon.⁸² Following from Kuo Wen News Agency, Shanghai, September 9th :

⁸⁰ For changes proposed by Soviet Government as published in the *Izvestia*, see p. 310.

⁸¹ Telegram in two sections.

⁸² Not printed.

"Dr. C. T. Wang declined to comment this afternoon on the proposed joint Sino-Russian declaration saying that the matter is still under discussion.

Asked for his views on the renewal of Soviet attacks on Chinese border towns, the Foreign Minister said that China had made adequate preparations and that if Russia was set on provoking conflict the Chinese Army would not hesitate to defend the country against Red aggression; by renewing its campaign of bluff and intimidation the Soviet Government had shown the world that its [word] could not be trusted. Dr. Wang concluded by voicing his confidence in the ultimate triumph of China in the present controversy."

Following from Reuter, Moscow, September 10:

"The Foreign Commissariat has handed a statement to the German Ambassador here with the request that he transmit it to the Mukden and Nanking Governments.⁸³

It says there have 'been 19 new cases of attack on Soviet territory by Chinese military units and White Guard gangs' for which it lays full responsibility on the Nanking and Mukden Governments.

The statement goes on to say that the Soviet troops along the border have been compelled in self-defense to take firm retaliatory action to protect the frontier and the peaceful population.

In conclusion asks for the serious attention of the Nanking and Mukden Governments to the 'painful consequences which may take place in case of new provocative attacks by Chinese troops and Russian White Guards.'

MACMURRAY

861.77 Chinese Eastern/326 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 13, 1929—4 p. m.
[Received September 14—12:10 p. m.]

824. Following from American Consul at Nanking:

"September 12, 3 p. m. Tyau of Ministry of Foreign Affairs informed me today that, with reference to recent Sino-Russian military clashes, a telegram has just been received from Chinese diplomatic representative in Berlin saying that Russia denies any offensive by Russians on Manchurian border and claims that Russian forces have only acted defensively to repel Chinese raids."

MACMURRAY

⁸³ A translation of this statement, dated September 9, 1929, as printed in the *Izvestia* of September 10, was forwarded to the Department by the Minister in Latvia with despatch No. 6422, September 19. The translation of a further note, dated September 25, reporting more alleged border clashes, printed in the *Izvestia* of September 26, was enclosed with the Minister's despatch No. 6455, October 2 (861.77 Chinese Eastern/370,398). Despatches and translations of Soviet notes not printed.

861.77 Chinese Eastern/328 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 13, 1929—5 p. m.
[Received September 14—12: 10 p. m.]

825. My 772, August 31, 1 p. m. Following from American Consul at Harbin:

"September 12, 11 a. m. Vice Consul Lilliestrom visited concentration camp for student civilian prisoners September 10th, total prisoners 1170, 70 women and 13 children under five years. Prisoners crowded in dark, damp quarters, sanitary conditions bad, food sufficient but of poor quality, drinking water from the river, stomach trouble prevalent and epidemic feared, medical attention and exercise facilities inadequate. Communication with relatives provided for, no discretion allowed, only occasional complaints of intentional maltreatment by Chinese who promise improvement sanitary conditions but are very dilatory."

MACMURRAY

861.77 Chinese Eastern/397

The Chinese Minister for Foreign Affairs (C. T. Wang) to the German Counselor of Legation in China (Fischer), for the Soviet Commissariat for Foreign Affairs ⁸⁴

[Translation]

Text of the alternative proposal of the Chinese Minister of Foreign Affairs, relative to the first paragraph of article 3 of the joint declaration.

(Translation from the English)

The Soviet Government shall nominate an Assistant Manager of the Chinese Eastern Railway, who will immediately be appointed by the Board of Administration of the said road, and who, jointly with a Chinese Assistant Manager, will manage the railway pending the negotiations between the two Governments.

⁸⁴ Handed to the Soviet Foreign Office by the German Ambassador in the Soviet Union on September 13, 1929. Translation from text printed in the Moscow *Izvestia*, No. 215, September 18, 1929; copy transmitted to the Department by the Minister in Latvia in his despatch No. 6448, September 29; received October 17, 1929.

861.77 Chinese Eastern/397

*The Soviet Commissariat for Foreign Affairs to the German Embassy
in the Soviet Union, for the Chinese Government at Nanking*⁸⁵

[Translation]

Moscow, September 17, 1929.

TEXT OF THE STATEMENT

1. The Government of the Union, being guided by its invariable policy of peace, has willingly accepted the proposal of the Chinese Government, concerning the signing of a joint declaration.

2. The Government of the Union has introduced in the draft of that declaration, proposed by the Nanking Government, only absolutely necessary, and to the utmost limited, amendments and additions tending to greater precision, which were prompted by the tenor of article 2 of the Nanking draft itself (relative to the Mukden and the Peking agreements). From the very beginning of the conflict, the Government of the Union has considered, and does consider, compliance with the provisions set forth in the said amendments as the fundamental preliminary condition for the working of the conference.

3. In its Note of September 9th of the current year,⁸⁶ the Nanking Government rejects the said amendments, limited to the utmost, thereby annulling also its consent, given in the draft of the declaration, in regard to the appointment of the Soviet Manager.

This consent, given in Article 3 of the Nanking draft of the declaration, could have reason or sense only in the event of the Soviet Manager and Assistant Manager being appointed immediately. In expressing itself now against the immediate appointment of these officials, the Nanking Government thereby withdraws its own original proposal, and frustrates the liquidation of the conflict by means of mutual agreement.

4. The same character of withdrawal of its own proposals attaches also to the supplementary proposal of the Nanking Government, handed to the Government of the Union on September 13th through the German Envoy,⁸⁷ in which the Nanking Government substitutes for the question concerning the Soviet Manager and Assistant Manager of the road, the question of appointment of only the Assistant Manager, in open contradiction to the Mukden, as well as the Peking, agreement, and also to article 3 of its own draft of the joint declaration.

⁸⁵ Translation from text printed in the Moscow *Izvestia*, No. 215, September 18, 1929; copy transmitted to the Department by the Minister in Latvia in his despatch No. 6448, September 29; received October 17, 1929.

⁸⁶ See telegram No. 163, September 11, from the Ambassador in Germany, p. 316.

⁸⁷ *Supra*.

5. In view of the Nanking Government declining the principal conditions preparatory to the signing of the declaration and the conduct of negotiations, the question as to the place of the negotiations becomes deprived of its object, and the responsibility for the further development of the conflict devolves fully upon the Nanking Government.

861.77 Chinese Eastern/366

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] September 17, 1929.

I asked Mr. Yung Kwai, the Chinese Chargé, to come and see me this afternoon and he came at three o'clock. I asked him what information he had as regards the dispute between China and Russia relating to the Chinese Eastern Railway. Mr. Yung Kwai stated that he was without any information whatever as he had received no telegram since the departure of Minister Wu for Geneva. He asked me whether I had any information. I told him that it was because we had information that was very disquieting that I had asked him to come to see me. I said that I had talked with the Secretary about the matter and the Secretary had indicated to me that he was very much disturbed by reports which we had received which indicated that China was apparently unwilling to begin negotiations with Russia regarding this matter and had directed me to make inquiries of him and to express our concern not only in regard to this matter but also with regard to the condition of the Russian prisoners which the Chinese had interned at Harbin.

I said to Mr. Yung Kwai that our information indicated that the negotiations between China and Russia had been broken off, or were about to be interrupted, because China was refusing to accept the appointment of a new Russian manager and a new Russian assistant manager prior to the actual convening of a conference. Mr. Yung Kwai stated that it was his belief that what China had refused to accept was the reinstatement of the old Russian manager and the old assistant manager. I stated that this was not the case, that apparently, and our information from Nanking and other quarters agreed on this, the Russians no longer requested the reinstatement of the old manager and the old assistant manager but were asking for the appointment of a new manager and a new assistant manager. I said that this request was quite in accord with the 1924 agreement and that China's refusal to accept these men indicated that they were not quite reasonable in their attitude and that this attitude created a bad impression here. I stated that it seemed to me that China could well afford to accept a new manager and a new assistant manager as by

so doing they would really have won a victory as they would thereby have established their right to rid themselves of appointees not agreeable to them. I stated to Mr. Yung Kwai that China was in the stronger position in these negotiations as she was in physical possession of a railway which she had formerly agreed was to be jointly operated by herself and Russia, having ousted her partner and that the ousted partner could do nothing now but use force to recover her position, and as the stronger party in the matter it seemed to me that it was China's responsibility to be conciliatory in the matter in order that negotiations might be started, that the world could hardly hold China guiltless if matters should go on to a situation where there would be open conflict. I stated that our information from Europe indicated that the Russians were very much exasperated and that there was danger of open conflict, and I hoped he would communicate our concern to his Government and the feelings which I had expressed. He said that he would do so and that he would inform me of such reply as he might receive.

I stated that there was another matter that I desired to speak to him about. I said that our information indicated that the Chinese had arrested more than a thousand Russian civilian prisoners among whom were some 70 women and some 13 children under five years of age. I stated that our information was that these prisoners were crowded in dark, damp quarters with bad sanitary conditions, poor food and drinking water, with stomach trouble prevalent and an epidemic feared without adequate medical services. I stated that these conditions were bad and that I felt that we should call the attention of the Chinese Government to them and express our hope that the Chinese Government would do something towards the amelioration of these conditions in the interest of humanity. Mr. Yung Kwai stated that he would bring this matter to the attention of his Government.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/368

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] September 24, 1929.

Mr. Yung Kwai, Counselor and Chargé of the Chinese Legation, called to see me today and referred to my conversation with him of September 17. He stated that he had a reply from his Government which he had translated and which he handed to me, which is attached hereto.⁸⁹ He said that he was sorry that he could not bring a more favorable response.

N[ELSON] T. J[OHNSON]

⁸⁹ Not printed.

861.77 Chinese Eastern/351 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 25, 1929—9 a. m.

[Received 2:11 p. m.]

842. Legation's 833, September 19, 9 a. m. [1 p. m.]⁹⁰ Following from Kuo Wen News Agency, Nanking, Sept. 23:

"Dr. C. T. Wang returned from Shanghai this morning and approved of the draft reply to the Soviet Government in connection with the Sino-Russian dispute. The note later was submitted to General Chiang Kai-shek for approval by Mr. Chow Lung-kwang, director of the Asiatic Department of the Wai Chiao Pu.

It is understood that in the new note China proposes that to facilitate the opening of formal negotiations Soviet Russia may appoint an assistant manager to the Chinese Eastern Railway who will function until such time as the appointment of a general manager is decided upon at the formal conference. The note also says that the Sino-Russian agreement and the Russian-Mukden agreement of 1924 are valid pending conclusion of a new agreement."

MACMURRAY

861.77 Chinese Eastern/362 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 27, 1929—4 p. m.

319. Your 825, September 13, 5 p. m. Instruct American Consul, Harbin, to visit camp of interned Russians at Harbin and to submit a thorough and detailed statement of the condition of the interned Russians. If any obstacles are placed in the path of his observations I desire to know of them.

STIMSON

861.77 Chinese Eastern/371 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 3, 1929—8 p. m.

[Received October 4—9:40 a. m.]

854. Following from American Consul at Harbin:

"October 3, 1 p. m. Reliably reported that on October 1st and 2nd small parties Soviet troops under the protection of artillery fire attacked Chinese trenches, threw bombs near Manchuria Station. Few Chinese soldiers but no civilians wounded. Soviet aeroplanes dropped bombs outside town. After hour's fighting Soviet troops retreated."

MACMURRAY

⁹⁰ Not printed.

861.77 Chinese Eastern/418

*The Consul at Harbin (Hanson) to the Minister in China
(MacMurray)*⁹¹

No. 2033

HARBIN, October 4, 1929.

SIR: I have the honor to report that on September 29th three Soviet airplanes demonstrated over Russian territory near Manchuria Station. On October 1st three Soviet airplanes flew over Manchuria Station. In the evening that day three hundred Russians, with two field guns, appeared before the Chinese defence works north of Manchuria Station. After a twenty minutes struggle the Russian forces retreated.

On October 2nd several hundred Russian infantry under the protection of artillery barrage approached the Chinese frontier near the Chita Railway's 86th siding, and occupied part of the Chinese trenches. Hand to hand struggle ensued, and bombs were thrown. About three Chinese officers and twenty soldiers were wounded. The rest of the troops retired after holding the trenches for thirty minutes. On the same day at 10.30 A. M. artillery firing for one hour took place on the northwestern side of the city. From fifty to sixty shells were fired by the Russian side, but outside of the city so there was no damage done within it. At 5 P. M. the Chinese trenches became engaged in an artillery duel with the Russian side. At 6 P. M. six Soviet planes appeared above the Chinese frontier and dropped six bombs into the Chinese trenches. They retired at 7 P. M.

The above is based on Japanese and Customs official telegrams and can be considered to be authentic.

It is possible that the Soviet side, which wishes Manchuria to suffer economically, saw that Chinese merchants were returning to Manchuria Station to resume business and desired by military demonstration to drive them away again. There has been another exodus of merchants from Manchuria Station. It also may be that these Soviet troops have become restless on account of dissatisfaction and lack of action, so that their officers thought it might be advantageous, as far as morale was concerned, to let them attack the Chinese positions.

I have [etc.]

G. C. HANSON

⁹¹ Copy transmitted to the Department by the Consul in his despatch No. 4926, on the same date; received October 28, 1929.

861.77 Chinese Eastern/372 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 4, 1929—3 p. m.
[Received October 5—7:47 p. m.]

858. Your 319, September 27, 4 p. m. Following from American Consul at Harbin:

“October 3, noon. With Wright, Chicago *Daily News*, Vice Consul Lilliestrom and Japanese Vice Consul and Japanese journalists visited Russian prisoners of war Sungpei camp yesterday. Conditions improved since last visit Vice Consul Lilliestrom. Food consists of tea, black bread, and vegetables daily with soup every three days. Bathing facilities lacking but will be furnished, women confined and men complained of cold at night and restrictions against using toilet except during exercise periods, three of one-half an hour each per day. No complaints regarding beating or other corresponding treatment recently. The few sick apparently well taken care of by Chinese doctors and Russian nurse.

No reading matter nor letters, church, ventilation bad and buildings damp. Most serious complaint is that prisoners do not know charge against them and how long they will be detained.

Detailed report by mail.”⁹²

MACMURRAY

861.77 Chinese Eastern/377 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 9, 1929—noon.
[Received 4:47 p. m.]

873. My 854, October 3, 8 p. m. Following from American Consul at Harbin:

“October 8, 4 p. m. Reliably informed Soviet regulars or partisans recently killed unarmed male inhabitants White Cossack villages, Three Rivers district, Heilungkiang Province, reasons unknown, possibly provocation to cause White indignation against the Reds.”

MACMURRAY

861.77 Chinese Eastern/390 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, October 14, 1929—11 a. m.
[Received October 14—9:45 a. m.]

194. During a visit of Wiley⁹³ to Chief of American Division of Foreign Office on Saturday,⁹⁴ De Haas suggested that Wiley see Traut-

⁹² See extracts in telegram No. 915, October 21, p. 331.

⁹³ John C. Wiley, First Secretary of Embassy.

⁹⁴ October 12, 1929.

mann, Chief Far Eastern Division, who gave him text of note telegraphed by German Government on October 7 to Chinese and Soviet Governments proposing cessation of arrests of their respective nationals and reciprocal release of those already arrested.⁹⁵ Trautmann expressed the hope that the Department would adopt a friendly attitude toward the project. The support of the American press too he said would be most helpful.

Text of note ⁹⁶ by next pouch.

SCHURMAN

861.77 Chinese Eastern/392: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEIPING, October 14, 1929—6 p. m.

[Received October 14—3:55 p. m.]

884. (1) I am informed by the German Minister here that he and the German representative in Moscow on October 9 transmitted to the Chinese and Russian Governments a memorandum which suggested that each should liberate or (as regards those who were guilty of improper political activities) deport all persons arrested by either country in connection with the dispute over the Chinese Eastern Railway. Rather elaborate practical details involved in this German proposal are to be worked out by a committee composed jointly of Chinese and Russians.

(2) The Minister said further that his Government hopes both sides will take the occasion of appointing to this committee such outstanding men as would make it feasible for them to extend their discussion to other matters concerned with the dispute, thereby affording a means to bridge over the gap presently existing between the two Governments. The German Government prefers not being represented on this proposed commission; however, if both sides urge it, Berlin would appoint representatives from the German Red Cross or other primarily humanitarian interests.

(3) The Minister also told me that the recently proposed joint Sino-Russian declaration—referred to somewhat vaguely by each side as originated by the other—was, as a matter of fact, initiated through the German representative in Moscow by the Chinese. The proposal contemplated that one of the railway's present assistant managers be allowed temporarily to act as manager; but the Russians insisted that a Russian manager be appointed immediately, as provided by

⁹⁵ The Moscow *Izvestia* on October 18 announced the Soviet Government's refusal to accept the proposal.

⁹⁶ Not printed.

the 1924 treaties. The Chinese thereupon dropped the proposal. The Minister stated that the Chinese and Russian representatives in Berlin have had no discussion or contact, so far, at least, as the German Government is aware, despite reports in China.

MACMURRAY

861.77 Chinese Eastern/396

Memorandum by the Secretary of State

[WASHINGTON,] October 16, 1929.

I have asked the Japanese Ambassador what the situation was in China and he said that the situation was serious but their impression was that Chiang Kai-shek would have a hard time with the present revolt. We discussed the situation in Manchuria and I told him of our interest in the situation, saying the bad effect which a real state of war between China and Russia would have on the Kellogg Pact. He said that had not yet come; there was no fighting except "clashes", yet. He said that Russia was likely to take advantage of the difficulties of the Chinese Government. I then said that if Russia should take advantage of that situation to seize Harbin and the China and [Chinese?] Eastern Railway that I believe America would consider that an act of war. He agreed that that would be correct, but said that in his opinion there was no danger at present of Russia doing that.

861.77 Chinese Eastern/394 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 16, 1929—6 p. m.

[Received 8:56 p. m.]

890. My 873, October 9, noon. Following from American Consul at Harbin:

"October 15, 4 p. m. Reliably reported that Lahasusu at confluence Sungari and Amur captured on the 13th by Soviet forces after artillery bombardment, bombing from planes and naval engagement. Three or four Chinese gunboats sunk and about five hundred sailors drowned. Chinese claim three Russian gunboats sunk."

MACMURRAY

861.77 Chinese Eastern/400 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 17, 1929—5 p. m.

337. Department's 319, September 27, 4 p. m., and your 884, October 14, 6 p. m.

1. I feel greatly concerned over the treatment being accorded to the Russian prisoners and the prospect of their detention for an indefinite time. In the hope that it might bring pressure on the Chinese authorities to improve their condition and to effect the liberation of some of the prisoners, I am considering the advisability of releasing to the Press the information obtained by the Consulate at Harbin. News items concerning this subject have already appeared, but not as emanating from this Department. I note that the American Vice Consul on his visits to the prisoners camps has been accompanied by journalists.

2. I desire your opinion concerning the advisability of effecting the release of this information. I wish to avoid bringing any unfavorable reaction on the American Consulate at Harbin. I also wish to avoid, of course, anything which might adversely affect the step taken by the German Government which formed the subject of your telegram 884, October 14, 6 p. m. In this connection you are informed that an official of the German Foreign Office on October 12 handed an officer of the American Embassy the text of the notes telegraphed by the German Government on October 7 to the Chinese and Soviet Governments and simultaneously expressed the hope that the Department would adopt a friendly attitude toward the project; he said also that it would be most helpful to have the support of the American Press.

3. Are the "concentration camp," mentioned in your 825, September 13, 5 p. m., and the "prisoners of war camp," mentioned in your 858, October 4, 3 p. m., the same?

STIMSON

893.00B/650 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 17, 1929—5 p. m.

[Received 5:05 p. m.]

896. Following from American Consul at Harbin:

"October 16, 10 a. m. Verdict case 38 prisoners Soviet Consulate raid given out in prison yesterday. Five sentenced to nine years, 21 to seven, 7 to five and 4 (women) to two. Chinese interpreter freed. Local foreign opinion is that trial was a farce."

MACMURRAY

893.00B/660

*The Soviet Commissariat for Foreign Affairs to the German Embassy
in the Soviet Union, for the Chinese Ministry for Foreign Affairs*⁹⁷

[Translation]

[Moscow, October 18, 1929.]

On May 27, at the time of the raid upon the Consulate General in Harbin, 37 Soviet citizens who happened to have called at the Consulate General were arrested. Notwithstanding the demand for their release made by the Government of the Union in its Note of May 31, the said persons remained in custody during the course of many months.

In the court trial which was arranged for them, an attempt was made to justify the lawless raid upon the Consulate General and the unfounded arrests of the Soviet citizens there present at that time. That trial was conducted with complete disregard of all established rules and of the established mode of legal procedure. All requests on the part of the accused and their counsel, concerning the production of evidence, confrontation, etc. were summarily declined by the court on the ground that everything was already clear to the court before the trial. The accused were not even permitted to see the originals of those "documents", which already had been repeatedly denounced by the Government of the Union as forged, and which, together with the fact that the accused had been calling at the Consulate General, were the only actual evidence of the charge in court.

A trial of this kind must necessarily arouse the strongest indignation not only in the U. S. S. R., but also in other countries, including China itself. Nevertheless, on October 15 a verdict inflicting long terms of imprisonment upon the accused was pronounced.

The Government of the Union feels constrained to state that the trial, as its whole progress has shown, was nothing but a monstrous court comedy to which the Government of the Union does not attach any legal importance, and which it regards as an attempt to camouflage the latest lawless outrage upon Soviet citizens.

⁹⁷ Translation from text printed in the Moscow *Izvestia*, No. 242, October 19, 1929; copy transmitted to the Department by the Minister in Latvia in his despatch No. 6502, October 23; received November 8, 1929.

861.77 Chinese Eastern/401: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 18, 1929—4 p. m.

[Received 9:26 p. m.]

902. Legation's 873, October 9, noon.

1. Following from American Consul at Harbin:

"October 16, noon. Recent events Three Rivers district and Lahasusu have stirred deeply local inhabitants. It appears such events bound to continue unless some arrangements are made by Nanking and/or Mukden to settle railway dispute.

My suggestion of a solution would be for the Soviet and Chinese Governments to discharge entirely the present and to appoint new board of directors and revision committee on the ground that the present members including the Russians, now absent, showed themselves incapable of solving the problems which caused the present costly dispute. The neutral powers and the Japanese could act as delegates to a conference and could immediately elect new manager and appoint him. Managers would be permitted both sides in accordance with Mukden-Soviet agreement. This procedure would save the face of each side. New board could have its first meeting at Manchuria Station.

Russian side appears determined to regain rights by force, while Chinese side appears unwilling to give up control of the line. However, it is believed if present deadlock is not soon broken serious losses in lives and property already grave will ensue.

The method by which this suggestion could be brought to both sides is left for Legation to decide if it considers a conference feasible. Perhaps Japanese Government would be in the best position to act in this respect although a move in this direction by the German Government would be looked upon as less [*more?*] disinterested.

The Legation is requested to radio my suggestion to the Department."

2. I am not hopeful that any good results at this time could be obtained by the adoption of the above suggestion.

MACMURRAY

861.77 Chinese Eastern/403: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 19, 1929—7 p. m.

[Received 9:03 p. m.]

910. The Senior (Netherland) Minister received the following telegram dated on October 18th:

"Red bands raid Russian emigrant settlements Three Rivers district, torment [to?] death, murder all peaceful men, women; number victims grows incessantly. For humaneness beg you as representative

whole civilized world concur putting end barbarous massacre peaceful unarmed population. Signed representative Russian emigrants in Hailar, Barga. Narbut.”

Senior Minister suggested telegraphing contents of this message to the Secretary of League of Nations, but it was decided not to do so and interested Ministers are repeating description of it to their Governments. It has been given to Reuter's by the Senior Minister.

MACMURRAY

861.77 Chinese Eastern/402 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 19, 1929—8 p. m.

[Received 8 : 50 p. m.]

911. Following from American Consul at Mukden :

“According to trustworthy information, General Chang Hsueh-liang received a communication from President Chiang Kai-shek about a week ago urging him immediately to undertake negotiations with the Soviets in regard to the Chinese Eastern Railway. This move apparently came as a surprise to this government and is explained by the growing embarrassment of the President's position.

According to strictly confidential information, the local government has already taken steps with a view to bringing up [*about*] the opening of negotiations with the Soviets.”

MACMURRAY

861.77 Chinese Eastern/404 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 21, 1929—4 p. m.

[Received October 22—11 : 50 a. m.⁹⁸]

915. Department's 337, October 17, 5 p. m.

1. The following extracts are quoted from despatch number 2036 of October 5, addressed to the Legation by the American Consul at Harbin, with regard to the Chinese internment camp for Soviet Russians. Copies of this despatch were transmitted direct to the Department from Harbin :⁹⁹

“Judging by Mr. Lilliestrom's report and remarks and by what I saw and heard, considerable improvement had been made at the camp recently. The prisoners complained about the cold, rightly so, the lack of ventilation, lack of baths, no[n-] communication with the outside, and the restraint in regard to the use of the privies. They had

⁹⁸ Telegram in three sections.

⁹⁹ Not printed.

no complaints to make in regard to food, to crowding, and to beatings as formerly.

I could find no evidence of cruel treatment, systematic or otherwise, on the part of the Chinese toward the prisoners. Efforts appeared to have been made to meet the reasonable requirements of the inmates. The latter did not look weak or emaciated.

At the conclusion of the visit, the Chinese officers [*officials*] spoke very bitterly against the way in which they claimed Chinese prisoners in Siberia were being treated. While at Harbin they were attempting to treat the Russians detained with consideration, the Soviet side was subjecting Chinese to all manner of indignities.

In conclusion, I might add that the impression I received at the camp was a fairly favorable one. I shall not discuss the question as to whether the detaining of the [*these*] people is legal or illegal, just or unjust. The superintendent has received orders to restrain the liberty of certain persons delivered to him. He considers them prisoners. To be locked up as a prisoner is unpleasant. These people are being treated much better than prisoners in the ordinary Chinese jail and similarly as in the prison at Harbin, which is run along the lines of a Russian prison.

Aside from the fact that they did not keep out of hearing distance when I talked with the prisoners, a point I could not very well insist upon, the Chinese authorities appeared pleased to have me make this visit and acted as if they had nothing to be ashamed of in connection with their treatment of those detained."

2. It is suggested that the Department refrain from releasing information previously received from the Consul at Harbin pending receipt of the despatch above mentioned. In view of the nature of Hanson's report, it is evident that the Chinese are treating the Russian prisoners in question with more consideration than they ordinarily give to Chinese prisoners. It therefore seems to me that were the Department to try to bring pressure on the Chinese with regard to a case in which they appear to be endeavoring to live up to standards somewhat higher than their own in dealing with their own people, we should expose ourselves to the charge of attempting unfairly to exploit the situation with the object of justifying the position taken in our note of August 10th to the Chinese Government stating our unwillingness to abandon extraterritoriality under conditions now prevailing in China.¹

3. The question with regard to the identity of the "concentration camp" and the "prisoners camp" is being referred to the Consul at Harbin.

MACMURRAY

¹ See telegram No. 254, August 1, to the Minister in China, p. 596; also footnote 96, p. 599.

893.20/131 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 22, 1929—noon.

[Received 7:10 p. m.]

916. The following Kuo Wen press despatch dated Mukden, October 20, was published here today :

“General Chang Hsueh-liang held a military conference today attended by General Chang Chun and Mr. Chow Leong-kwang,² representatives from Nanking, and some fifty officers of the northeastern frontier defense forces. The following decisions were reached at the meeting:

1. To order the frontier troops to stop Russian incursions.
2. To report to the National Government that on account of the border war northeastern troops will not participate in civil wars against the southeast and the northwest.
3. To declare allegiance to the National Government.
4. To request General Yen Hsi-shan to settle the controversy between General Chiang Kai-shek and Marshal Feng Yu-hsiang.”

MACMURRAY

861.77 Chinese Eastern/411 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 23, 1929—3 p. m.

[Received October 23—11:40 a. m.]

922. Department's 337, October 17, 5 p. m., third paragraph. Yes.

MACMURRAY

861.77 Chinese Eastern/426

*Manifesto of the Chinese Government on the Sino-Soviet Situation*³

The authorities of the Three Eastern Provinces of Manchuria unearthed on the 27th of May, 1929, a dastardly plot within the Soviet Consulate-General at Harbin to overthrow the National Government and destroy the Chinese Eastern Railway. In pursuance of the Sino-Soviet agreements of 1924, the said authorities began to adopt on the 11th of July, 1929, necessary precautionary measures for the protection of the said railway. Circumstances leading to the above state of affairs were set forth in a manifesto of the National Government on 19th July, 1929,⁴ together with a statement showing how the Soviet Government had juggled with the actual facts, how it had misrepresented the true intent contained in China's reply

² Chou Lung-kwang, director of Asiatic Department of Chinese Foreign Office.

³ Received by the Department from the Chinese Legation on October 30, 1929.

⁴ See text received July 23, 1929, p. 228.

of the 17th of July, 1929, to the Soviet communications, and how it had brought about the present critical situation. In addition, the manifesto invited the attention of the friendly powers to the incriminating evidence of Soviet overt acts and attempts to conduct propaganda and create trouble within Chinese territory and declared that the National Government would nevertheless persevere in its effort to preserve peace and live up to the spirit of the Treaty for the Renunciation of War.

Having been apprised by the Soviet Consul-General in Harbin, Mr. Melnikoff, that his Government was prepared to settle the dispute independently with China, the National Government in accordance with its reply of July 17th instructed Mr. Chu Shao-Yang, then embarking for Moscow to assume his post as Chargé d'Affaires, to proceed to Manchuli to meet the Soviet representative. Upon Mr. Chu's arrival, the Soviet government failed to appoint such a representative.

The Soviet Ambassador in Germany next expressed the desire to open direct negotiations. Having informally secured the assent of both parties in advance, the German Government suggested the following formula in the form of a joint statement for the settlement of the dispute.

1. Both parties are prepared to settle all the outstanding questions in accordance with the Sino-Soviet agreements of 1924, particularly the Chinese Eastern Railway questions in accordance with Article IX, paragraph 2, which reads as follows:

“The Government of the Union of Soviet Socialist Republics agrees to the redemption by the Government of the Republic of China, with Chinese capital, of the Chinese Eastern Railway, as well as all appurtenant properties, and to the transfer to China of all shares and bonds of the Railway.”

2. Both parties agree to readjust the conditions prevailing in the Chinese Eastern Railway since the inception of the dispute in accordance with the agreements of 1924 on the one hand between the Republic of China and the Union of Soviet Socialist Republics and, on the other, between the governments of the autonomous Three Eastern Provinces and Soviet Russia. Such readjustments shall be however first agreed upon at a conference of the two plenipotentiary delegates.

3. The Soviet Government may recommend new Manager and Assistant Manager of the Chinese Eastern Railway, who shall be appointed by the Board of Directors of the said Railway. The Soviet Government shall instruct its nationals employed on said Railway to observe faithfully the provisions of Article VI of the agreements of 1924, which reads as follows:

“The Government of the two contracting parties mutually pledge themselves not to permit, within their respective territories, the existence and/or activities of any organization or groups whose aim is to struggle by acts of violence against the Governments of either contracting party.”

4. Both parties shall forthwith release the prisoners arrested or detained in connection with the dispute.

On the 27th of August, 1929, the above formula was formally submitted to both sides. The Soviet Government repudiated its previous assent and declined to accept it. Instead it insisted that, in clause 3 of the above formula, the word “new” shall be deleted and the word “immediately” inserted before “recommend”. Moreover it declared that the Manager should be appointed simultaneously with the joint statement and that the two Governments should simultaneously instruct their nationals to observe the provisions of the above-cited Article VI.

The National Government took note of this breach of faith on the part of the Soviet Government and rejoined as follows:

1. The National Government having repeatedly indicated its readiness to negotiate with the Soviet Government for an equitable settlement, it is exceedingly happy to note that the Soviet Government is prepared to issue a joint statement. It therefore declares its perfect agreement with Soviet Government's proposal that negotiations be commenced speedily for a permanent solution of all the outstanding questions.

2. While the National Government has no objection to the proposed insertion of the word “immediately” before “recommend” it cannot accede to the proposition that the appointment of a new Manager shall be a condition precedent to the signing of a joint statement or the commencement of formal negotiations between the two plenipotentiary delegates. This latter proposition will be inconsistent with clause 2 of the formula already accepted by the Soviet Government.

3. If further amendments are desired by the Soviet Government, they may be left to the two plenipotentiary delegates, and the latter decision will be endorsed by the National Government.

The Soviet Government refused to yield and declared that the failure of the National Government to agree to its counter-proposal, which must be accepted as condition precedent to the commencement of formal negotiations, would be taken to mean that China had of its own accord withdrawn the original proposition and made up its mind not to settle the dispute at all.

Undeterred by repeated rebuffs to its untiring efforts at conciliation, the National Government explored every reasonable and honourable avenue for reaching an agreement. On the 9th of October, 1929, on receipt of a suggestion from the German Government that there

might be mutual exchange of prisoners by way of easing the situation and facilitating peaceful settlement, the National Government pointed out that such a suggestion was included in the proposed joint statement agreed upon by the Soviet Government, and consequently could be effected simultaneously with the joint statement as long as the Soviet Government was sincere. The German Government concurred. Thereupon the proposed joint statement already adopted was revised to include provisions in favour of the mutual appointment of plenipotentiary delegates to settle all outstanding questions and readjust the prevailing conditions of the Chinese Eastern Railway in accordance with the agreements of 1924, respectively, for the Settlement of Outstanding Questions and the Provisional Management of the Chinese Eastern Railway, the mutual exchange of prisoners and the discontinuance of military movements along the Sino-Soviet borders in order to accommodate the wishes of both parties.

On the other hand, the Soviet Government formally rejected the German suggestion for the exchange of prisoners on the pretext that China had no intention to respect its treaty obligations. In addition the German Ambassador in Moscow was given to understand that no Soviet national would be permitted to negotiate with the National Government, nor would mediation by any third parties be accepted, unless the demands contained in Mr. Karakhan's communication were first complied with.

Since the National Government is unable to persuade the Soviet Government to come to an amicable settlement, it is constrained to invite the attention of the world to the numerous acts of aggression perpetrated by the Soviet Government within Chinese territory. There was no formal declaration of war and the aggressions were perpetrated while responsible spokesmen on both sides were consulting a third party and striving to reach an agreement. Notwithstanding contrary reports fabricated by Soviet propagandists, no Chinese soldier, or aeroplane or war vessel has crossed the frontier or invaded Soviet territory. On the other hand, it was the Soviet side that commenced the offensive, while hostilities always occurred within Chinese territory. If any Chinese gun had been fired, it was fired in self-protection. If the invader could not be dissuaded from crossing into Chinese territory, attacks were at least repelled effectively.

The National Government must therefore hold the Soviet Government responsible for all the losses and damages caused to Chinese life and property. And if a state of war should eventuate from the Soviet Government's incessant provocation, the responsibility for violating the peace of the Far East must be borne by the Soviet Government.

NANKING, 25 October, 1929.

861.77 Chinese Eastern/591

*Memorandum by the Vice Consul at Harbin (Lilliestrom)*⁵

HARBIN, October 28, 1929.

The sea captain, who has just returned from Lahasusu, dropped in this morning. He was in the midst of the Soviet shelling, and 46 Chinese soldiers were killed on his steamer. He gave me the following story.

On October 12th, at 5.30 in the morning, heavy artillery fire was started from the Soviet flotilla against the Chinese fleet and land positions at Lahasusu. The signal for firing was given by the Soviet gunboat *Liebknecht*. At 6.10 in the morning the Chinese gunboats *Chantai* and *Chanan* were sunk. At 6.20 a fire broke out on the Chinese gunboat *Chianping*, which sank at 6.40. At 7.05 the big former German, now Chinese, gunboat *Lichi* was abandoned by its crew and taken in tow by the Russians. It was subsequently brought to Habarovsk. Seven barges, formerly belonging to the Chinese Eastern Railway, were also captured by the Soviet forces, as well as army transport steamer No. 18. These were also taken to Habarovsk. The Soviet gunboats participating in the attack were: *Liebknecht*, *Kalmuk*, *Batrak*, *Arachanin* and *Lenin*. On the *Kalmuk* was killed the Chief of the Amur River Fleet, as well as 16 men. The Soviet side lost no gunboats, steamers or barges, nor any airplanes.

On October 13th at 8.45 in the morning the Chinese troops stationed at and near Lahasusu retreated in complete disorder to Fuchin, 45 versts distant. Soviet infantry and cavalry detachments pursued the retreating Chinese troops and killed great numbers with shrapnel fired from light artillery pieces. The Chinese troops completely robbed all the stores in Fuchin, and through their actions there were casualties among the civilian population of that town.

The Soviet detachments were brought to the Chinese shore in eight barges towed by the S/S *Krasny* [Krasnoie?] *Vimpel* and landed seven versts from Lahasusu on the Amur bank.

On October 14th and 15th the above barges were loaded with military stores, including 6 3½" and 1 6" guns, 4 machine guns and 346 rifles, Russian model, left behind by the Chinese troops. The Soviets also captured two barges loaded with ammunition and dynamite. From the mill at Lahasusu were taken 74,000 poods of wheat flour belonging to the winter reserve supplies of the Chinese forces, On the barges were also loaded large quantities of potatoes, cabbage, etcetera, stored by the military. The Chinese coolies engaged for this work were paid 6 chervonetz roubles per day. These coolies and the rest of the civilian population were not harmed by the Soviet troops.

⁵ Copy transmitted to Assistant Secretary of State Johnson by the Consul at Harbin in his covering letter of October 29; received November 22, 1929.

On October 16th and 17th the above work of loading stores was continued. On the 16th a meeting was held, and those Chinese who so desired were invited to join the red army and proceed to Habarovsk. My informant did not know whether or not any volunteers came forward. On the same day at 5 P. M. the *Krasnoie Vimpel* took on board 172 hastily made board coffins with dead Soviet soldiers. At five o'clock in the evening of October 17th the red troops left Lahasusu, and only two Soviet gunboats were left at the mouth of the Sungari $3\frac{1}{2}$ versts from Lahasusu.*

The Soviet casualties were 275 men killed or wounded, while the Chinese casualties were 964 killed or wounded, including 148 sailors from the gunboats and 225 marines killed.

On October 19th several Soviet airplanes appeared over Fuchin, and sunk with bombs the Chinese gunboat *Lisui*. By orders of Admiral Shen there were sunk at a place called Shalbatai, 5 versts below Fuchin, army transport steamer *Lochin* and three barges, in order to prevent the Soviet fleet from sailing up the Sungari river.

At the present time 16 steamers are held at Fuchin by order of Admiral Shen. On these steamers are Chinese land troops, which, in case Fuchin is taken by the Soviets, will be immediately transported on to Harbin. The number of the Chinese troops in that neighborhood is approximately 3,000.

T. L. L.[ILLIESTROM]

861.77 Chinese Eastern/421 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 29, 1929—9 p. m.

[Received October 30—9:20 a. m.⁶]

934. Legation's 911, October 15 [19], 8 p. m. In a despatch dated October 26th the American Consul at Mukden refers to steps taken with a view to bringing about opening of negotiations with the Soviet and states the British Legation was approached in the matter but that nothing eventuated as the British Government was disinclined to take any action owing to the absence of diplomatic relations between the two countries and the existence of negotiations through Berlin. Myers also comments as follows on situation:

"A few days ago the Mukden Government received another [message?] from President Chiang Kai-shek to the effect that nothing further can be done through Berlin and that he is unable to render any assistance in bringing the two countries together for negotiation.

* On the 21st Chinese troops in small numbers began to return to Lahasusu. [Footnote in the original.]

⁶ Telegram in two sections.

In view of the approaching winter and the heavy financial burden of maintaining large forces along the border, not to mention the danger of the outbreak of hostilities which is always present, this Government is anxious to reach a settlement with Russia in regard to the Chinese Eastern Railway.

It is apparently realized in high quarters that the seizure of the railway was without sufficient justification and was a mistake. Now that an opportunity exists for Mukden to handle the negotiations without the interference of Nanking, which has been accused of using the incident for political purposes, it is possible that an agreement may be reached for the holding of a conference.

The Mukden Government is ready to open negotiations on the basis of the Soviet-Mukden agreement of 1924 subject to the Soviet personnel being *persona grata* to the Chinese Government. This Government apparently only objects to the reinstatement of the Soviet general manager and assistant general manager because of alleged connection with subversive activities in Manchuria. In view of conditions in China and the attitude of this Government the prospects of reaching an early settlement of existing difficulties seems brighter than ever before."

MACMURRAY

861.77 Chinese Eastern/429

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation Between the Secretary of State and the Chinese Minister (C. C. Wu)

[WASHINGTON,] October 30, 1929.

Dr. Wu said that he had a telegram from his Government the contents of which he was instructed to bring to the attention of the Secretary. He then read what appeared to be an abstract. He said that the Russians had sent a force of airplanes and gunboats to Tungkiang (Linkiang) with 2000 infantry and 1000 cavalry. (Note: This city is located at the juncture of the Amur and Sungari Rivers, and is apparently on the Chinese side.) He said that they had sunk five Chinese gunboats and caused five hundred Chinese casualties. His Government wished to point out that, although the Russians have made these and other incursions into Chinese territory, the Chinese have at no time set foot on or fired into Russian territory. China wished to notify the Powers signatory to the Kellogg Pact and to affirm that if hostilities eventuate the responsibility lies with the Russians, the Russians having taken the offensive.

Dr. Wu continued, referring to the negotiations which have from time to time been attempted but which have been broken off. The Secretary thereupon stated that he very greatly regretted that the negotiations have so far come to nothing, particularly so as he felt

that the issue over which, apparently, the Russians and the Chinese have failed to agree, namely, that of whether the appointment of new officials of the Railway shall take place before or take place after negotiations are entered into, would seem to be an issue of small consequence. Dr. Wu said that the real issue was that of the maintenance of the existing government in China. He said that the Russians were attempting in every way to undermine the government. He said that it was his personal opinion that the problem between China and Russia cannot be settled until the internal political problem in China is solved. The Secretary said that he realized that the two problems are inter-related and that trouble in relation to the one is bound to spread into and affect the other.

The Secretary then took occasion to refer to the subject of Russian prisoners at Harbin. He said that he realized that China and Russia had reciprocal grievances in connection with the matter of imprisoned nationals. He suggested that the Chinese might to advantage endeavor to effect an exchange of prisoners. Dr. Wu said that on this the Soviets are holding off. He said that the Russian persons whom the Chinese are holding prisoner are being held not as political prisoners or hostages but as criminals—because of acts which they had done in connection with the Railway. The Secretary observed that it seemed that many of the persons were wives and children: surely such persons were not accused of crimes in connection with the Railway. The Secretary said that, regardless of the reasons for their being held, it would probably be to China's advantage to get them off their hands—perhaps just to take them to the border and discharge them into Russian territory. Dr. Wu said that if he had it to do he would like nothing better than to see China relieved of the responsibility and expense of "entertaining" them. The Secretary then said that his whole interest in this question was on behalf of peace, he solicitously hoped for peace between Russia and China.

The conversation then turned to another subject.

(Note: See memoranda of even date.⁷)

861.77 Chinese Eastern/430

Memorandum by the Secretary of State of a Conversation With the Japanese Ambassador (Debuchi)

[WASHINGTON,] October 31, 1929.

The Ambassador said there was no unfavorable news from China; that it was rather favorable. I told him I had received a message yesterday from Dr. Wu reporting serious clashes at Lin Kiang in

⁷Not printed.

Northern Manchuria. He said that the Russians attacked with 2000 artillery and 1000 cavalry, some eight gun boats, and sunk some three Chinese gun boats and inflicting 500 casualties. I told him I had also had a despatch from Mukden on the other hand, from our own people, to the effect that the Manchurian authorities were now more anxious to make peace than ever before and that in the opinion of the American authorities the chances were better than ever before for the settlement of the Chinese Eastern Railway question; that the Manchurian authorities were now freer from dictation from Nanking and that this caused the brighter hope. I asked him in which of these two conflicting reports did he place the most credence. He said unhesitatingly that the latter message would conform to a message which he had received from his Government, while, frankly, he did not believe the former. He told me that he had word from Baron Shidehara that he was constantly exerting upon the Chinese Minister and the Russian Ambassador in Tokyo all of his efforts to make them obey the spirit of the Kellogg Pact.

861.77 Chinese Eastern/431 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 1, 1929—4 p. m.
[Received November 2—10:20 a. m.⁸]

943. Legation's 915, October 21, 4 p. m. In a despatch dated October 19th on political conditions during September American Consul at Harbin comments as follows with regard to the internment camp for Soviet Russians:

"The camp was visited by the German Consul many times and by me, Vice Consul Lilliestrom, and American, Japanese and Chinese journalists at different times. Some of the prisoners are accused of real crimes, others are no doubt held as 'suspects', clearly proving [*although the?*] Chinese authorities now pretend that they are all accused of some definite crime in order to do away with the criticism that internment camps were only established in times of war and not in times of peace. Some weeks ago the superintendent of the camp told me that he had ordered stoves put in. Up to this writing this has not been done, and the prisoners must be suffering intensely, especially at night, when it is quite cold. A threatened hunger strike was started but called off on assurances of the German Consul that better treatment would be afforded. As mentioned before, besides cold, absence of bathhouses and lack of communication with the outside, the prisoners' complaints are that they have no knowledge of what charges have been brought against them, if any, and of how long they must remain prisoners. I conclude that their condition is now worse than when I inspected the camp on October 2nd, 1929.

⁸ Telegram in two sections.

The fate of the 38 prisoners arrested during the raid on the Soviet Consulate General was mentioned in my telegram of October 16, 1929. (Legation's 895 [896], October 17, 5 p. m.) A report on conditions in detail will soon follow."

MACMURRAY

861.77 Chinese Eastern/432 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 2, 1929—3 p. m.

[Received November 2—1:20 p. m.]

951. Following from American Consul at Harbin:

"November 1, noon. October 30th three Soviet aircraft bombed outskirts of Fuchin which unconfirmed rumor states now in Soviet hands. Communication between Fuchin and Lahasusu cut, so conditions in latter place unknown. It is reported that Soviet gunboats are in the vicinity of Fuchin, probably in search of grain barges. Early this morning freight train blown up on east line railway, resulting in derailment of locomotive and five cars."

MACMURRAY

861.77 Chinese Eastern/434 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 4, 1929—4 p. m.

[Received November 5—10:20 a. m.]

961. My 951, November 2, 3 p. m. Following from American Consul at Harbin:

"November 4, 3 p. m. Fuchin some days ago occupied by Soviet forces but now again in the hands of Chinese troops. This raid and loss of practically entire Chinese gunboat fleet have depressed all local Chinese circles and produced panicky feeling at Harbin. Inhabitants Taheiho evacuated, they and other residents along the Amur River fear Soviet offensive when Amur freezes which will be within a period of a week."

MACMURRAY

861.77 Chinese Eastern/437 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 9, 1929—1 p. m.

[Received 7:25 p. m.]

975. Legation's 934, October 29, 9 p. m.

1. In a despatch dated November 4th, American Consul at Mukden reported that the following telegram was sent October 29th to Karakhan at request of Chang Hsueh-liang:

“Referring to your telegram of October 25th, it has been shown to Mukden authorities. Marshal Chang says Manchuria’s attitude towards the problem has been [*has not*] changed from that originally expressed by him. He adds that if Russia sincerely wishes to negotiate with Mukden he is as sincerely ready to negotiate with Russia on the basis of the 1924 agreement between Mukden and Russia. I am certain you understand why an amicable settlement has so far not been effected. Marshal Chang has not received directly or indirectly the terms which you state were sent to the Mukden authorities on August 29, therefore would you kindly wire to him as soon as possible an exact copy of the terms given to the German Ambassador.”

2. Myers added that no reply to the foregoing had yet been received but it was expected in Mukden that if Karakhan intended sending a reply it would be received there.

MACMURRAY

861.77 Chinese Eastern/451 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 19, 1929—3 p. m.
[Received 9:20 p. m.]

1006. Legation’s 975, November 9, 1 p. m. In a despatch dated November 15 American Consul, Mukden, reports that no reply has been received from Karakhan to the telegram sent October 29. A second telegram was sent on November 7th inquiring if the Mukden authorities could expect a repetition of the Soviet Government’s requirements on August 29 as they had not yet been received. Myers continues:

“No answer to [any of] these telegrams is now expected. It is believed that the Soviet Government intends to await the outcome of the present conflict between the Nanking Government forces and the Kuominchun before resuming conversations with the Chinese authorities and possibly intends in the meantime to invade and occupy Chinese territory. The ominous character of the situation is undoubtedly causing considerable anxiety in official circles.

That the Chinese authorities in Manchuria are anxious to make a reasonable settlement of this issue there can be little [doubt]. However, their efforts at bringing about a resumption of negotiations have thus far failed and under the circumstances the means of obtaining their object seems to be wanting.”

MACMURRAY

861.77 Chinese Eastern/452 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 19, 1929—5 p. m.

[Received November 20—9 a. m.]

1008. My 1001, November 15, 11 a. m.⁹ Following from American Consul at Harbin :

“November 18, 3 p. m. Soviet planes bombed, November 16, railway line between Tsagan¹⁰, 61 kilometres from Manchuria Station, and Chalainor. Communications in that section broken and trains only proceeding to Hailar. Unconfirmed reports state that heavy fighting last two days Manchuria Station which partially destroyed and that Chalainor coal mines ruined. On 19th large number Soviet planes reached Mutanchiang, 191 kilometres from Pogradichnaya. Unconfirmed reports state that they destroyed Chinese depot there where stored 14 aeroplanes. Russian population [apparent omission] Harbin.”

MACMURRAY

861.77 Chinese Eastern/453 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 20, 1929—3 p. m.

[Received November 21—2:55 a. m.]

1011. My 1008, November 15 [19], 5 p. m. Following from American Consul at Harbin :

“November 19, 3 p. m. Reports of serious Red aeroplane attacks on Chalainor, Tsagan and railway line, of which 30 kilometers destroyed between Chalainor and Hailar and at Mutanchiang, confirmed. On 17th passenger train fired upon, held up, and robbed near Tsagan by Red irregulars. Trains running as far as Horhonte¹¹.”

MACMURRAY

861.77 Chinese Eastern/454 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 21, 1929—noon.

[Received November 21—6 a. m.]

1020. Following from American Consul in charge at Mukden :

“November 20, 5 a. m. According to confidential information received from official source, Chinese lost 2,000 men killed up to yesterday on the western front. Twenty-seven Soviet aircraft are re-

⁹ Not printed.

¹⁰ The same as Tsokang.

¹¹ The same as Heierhuungteh.

ported to have dropped more than 300 bombs which did much damage; fighting still continues, with Chinese forces reported to be generally holding their positions.”

MACMURRAY

861.77 Chinese Eastern/462

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] November 21, 1929.

The Chinese Minister called upon the Secretary today and in conversation stated that the Russians made a further attack upon the Chinese frontier at Manchuli and at Dailainor.^{11a} He said that they had counted as many as 27 aeroplanes in the raid and that nearly 30,000 Russian troops and a large number of tanks had invaded Chinese soil. He said that China intended to lay the matter before the League as there was an article in the League Covenant under which they could do this. The Secretary asked whether Russia was a member of the League and the Minister said that he thought not, but a provision of the Covenant provided for that. The Chinese Minister asked whether as sponsors for the Kellogg Treaty the United States intended to do anything about it. The Secretary replied that he thought the United States had done everything it could do in the matter; that we had called to the attention of the Chinese and the Russians their obligations under the Kellogg Pact and both had announced their pacific intentions. He reminded the Chinese Minister that in conversation with him he had suggested to him the advisability of setting up a commission voluntarily by the Russians and the Chinese without dictation from the other Powers for the purpose of investigating the facts and for the reestablishment of the *status quo*. The Secretary stated also that he felt that the Chinese were in their present predicament because they had very unwisely, it seemed to him, refused to accept the settlement proposed by the Russians, insisting upon the only difference between the two, apparently over the question as to whether the new Russian manager should be appointed before or after the discussions or investigations began. And now the Russians were refusing to negotiate and apparently were exerting pressure while waiting upon the course of events in China.

N[ELSON] T. J[OHNSON]

^{11a} Presumably Chalainor.

861.77 Chinese Eastern/458 : Telegram

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

[Paraphrase]

LONDON, November 22, 1929—noon.

[Received November 22—9:35 a. m.]

336. Frank B. Kellogg sends the following to the Secretary of State: He suggests whether the time has not come for the Secretary and the other governments to make the appeal, considered last July, or some thing like it, to China and Russia before the Manchurian border disorders drift too far.

DAWES

861.77 Chinese Eastern/459 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 22, 1929—6 p. m.

[Received November 22—11:15 a. m.]

1026. My 1020, November 21, noon. Following from American Consul at Mukden:

“November 21, 6 p. m. It has been learned from official source today that Manchuli and Chalainor have both been captured by the Soviets. General Han and another general, name unknown, were captured; latter committed suicide.”

MACMURRAY

861.77 Chinese Eastern/464 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 23, 1929—noon.

[Received 1:15 p. m.¹²]

1033. My 1011, November 20, 3 p. m. Following from American Consul at Hankow [*Harbin*]:

“November 22, 4 p. m. Further reports indicate Red forces with the aeroplanes did considerable damage to Chinese forces; to railway between Manchuria Station and Tsagan; and to Chalainor mines where electric plant machinery destroyed, resulting in flooding of mines and drowning of hundreds employees who had taken refuge underground. There are unconfirmed reports of annihilation four echelons Chinese forces by Soviet aeroplanes at station Tsagan. There is one American citizen John Ganin at Manchuria Station but conditions there unknown due to the breakage telegraphic communication with that place. Mishan has fallen into Red hands. Attempts have been made to destroy Muling coal mines, and raids have been made on Chinese towns on the Argun River which now frozen. Hailar panic-

¹² Telegram in two sections.

stricken inhabitants fear retreat of Chinese forces to that place and farther east. Postal staff and Chinese officials are about to leave Hailar. Later reports indicate that Chinese inhabitants have withdrawn from Manchuria Station to the empty shores of Lake Dalainor pursued by Red forces and that entire district between Manchuria Station and Horhonte is in Red hands. Many freight cars are being sent today to Hailar in anticipation of the evacuation of troops and inhabitants there."

PERKINS

861.77 Chinese Eastern/466 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 24, 1929—noon.

[Received 2:50 p. m.¹³]

1036. My 1033, November 23, noon. Following two telegrams received from American Consul at Harbin:

"November 23, 3 p. m. It would appear that Chinese military intend to withdraw forces to this side of the Hingan Mountains if Red pressure continues. Reliably reported retreating troops have done some looting at Hailar, which place is being evacuated by civilian population. Reds advancing from Mishan toward Muling. No news has been received regarding fate customs and postal staffs, Japanese Consul. John Ganin at Manchuria Station. Reliably reported that Mukden had decided independently commence negotiations through Taoyin Tsai by wireless but recent Red attacks upset this plan. Situation between Hingan Mountains and Manchuria Station serious."

"November 23, 5 p. m. German Consul General and I together called upon General Chang Ching-hui, civil administrator, who stated that General Wang Shu-chang, commander of the [apparent omission] army, was holding three brigades Fengtien troops at Harbin to protect this place from attacks by Red forces, brigands or retreating disorderly troops and that there would be no danger to foreign lives and property here. He had no knowledge of the whereabouts of foreign colony of Manchuria Station or troops which left there for Hailar by way of Lake Dalainor. He believed that foreigners were with these troops. He added that there was fighting near Mishan but not at Pogranichnaya and that Fengtien troops were stationed east as far as Imienpo and west as far as Hingan Mountains. He inferred that, inasmuch as Hailar could not be defended, Chinese forces which were not equipped for offensive and did not possess anti-aircraft guns or aeroplanes might be forced to retreat to Hingan Mountains. He stated, which is true, that defeats of Chinese forces due to the activities Soviet aeroplanes against which Chinese have no protection. Reliably informed that Soviet aeroplanes commenced dropping bombs at Hailar noon today.

Inhabitants panic stricken and representatives foreign firms have just telegraphed to local consuls to render immediate assistance. Heilungkiang military governor Wan Fu-lin now at Bukedo¹⁴."

PERKINS

¹³ Telegram in three sections.

¹⁴ The same as Pokotu.

861.77 Chinese Eastern/773

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] November 25, 1929.

The Counselor of the Italian Embassy, Count Marchetti, came to see me today and stated that his Government had instructed him that the Chinese Minister had informed them that the Chinese Government was considering making an appeal to the League of Nations in regard to the invasion of China by Russia in the Chinese Eastern matter. He said that his Government told the Chinese that they thought this was a proper act and that frankly speaking they would be very glad to participate in any consideration of the matter the League might take. Marchetti stated that since receiving that information he had read the newspapers here which indicated that the situation was very serious and he wondered whether the situation had changed.

I told Marchetti that so far as I knew it had not changed; that so far as we were concerned we had no objection to the Chinese taking the matter up with the League, if they so desired; that we hoped they would be able to find some peaceful solution, if such could be found.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/817

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] November 25, 1929.

The Japanese Ambassador came to see me, at my request, today and I asked him whether he had any information as to conditions in China. He told me that only this morning he had had a telegram stating that from Chinese sources they were informed that on the seventeenth the Red Army bombed Dailainor but had not attacked Manchuli and that the Chinese troops were withdrawn to Hailar. He said that the Japanese Ambassador at Moscow had been instructed by his Government to make representations to the Soviet Government asking them to respect Japanese lives and property.

I asked him whether he had any intimations from his Government that they looked upon the situation as being serious. He said that he had nothing except this message and as it was marked urgent he naturally assumed that they were carefully watching the situation and looked upon it as having serious aspects.

I asked him if he had any information to indicate the intentions of the Russians. He said he had not but he assumed that the Russians were attempting to put pressure upon China for the purpose of forcing them to accept the Russian terms for settlement of the rail-

way matter. He said he did not believe that the Russians intended to occupy the railway by force; that to do so would be to feel that they were absolutely mad for to occupy the railway by force would bring them to Changchun and right up against the Japanese. I gathered that I should infer that the Japanese would not sit quietly by and see this happen.

At this point the Secretary buzzed for me and after I had gone to him and told him of my conversation with the Japanese Ambassador, the Secretary asked the Ambassador to come in. In the course of conversation the Secretary stated to the Ambassador that he was somewhat worried about the present situation. He said he had reason to feel that when he made his suggestions in July they had not been well received by the Japanese.

The Japanese Ambassador stated that in order to be quite frank he wanted to say that the Government and himself quite understood our motives but that the Secretary must remember that the information came to them through the French first and naturally created certain doubts. The Secretary said he wanted the Japanese to understand that he desired to keep them informed of his thoughts in this matter. He said that there was no question of special interests or such like questions involved in his own mind. It was a question of the disturbance of peace in the Far East and he thought the Japanese and ourselves were equally interested in seeing the peace preserved and his only proposition at the present moment, or at any moment was to find some way in which peace might be preserved.

The Secretary stated that he was thinking very seriously of what possible steps might be taken by the Powers party to the Kellogg Pact to bring about an amicable settlement of the troubles now besetting the Chinese and the Russians. He said he would be very glad if the Ambassador would communicate that fact to his Government and obtain for him any thoughts or suggestions the Japanese Foreign Minister might have.

The Secretary stated that he had not reached any conclusions in his own mind but he thought perhaps it might be necessary for him to make some kind of a public statement on the subject, calling the attention of the Chinese and Russians to their obligations under the Pact. He said he had not thought of consulting the other Powers on the matter but he wanted to let the Japanese know.

The Ambassador stated he would make inquiry and let the Secretary know what Baron Shidehara had to say. The Ambassador then departed.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/469 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 26, 1929—noon.
 [Received November 26—6:30 a. m.¹⁵]

1042. My 1036, November 24, noon. Following from American Consul at Harbin:

"November 25 [26?], 9 a. m. Arrivals from Hailar confirm the report Chinese garrison Manchuria Station which is in Red hands surrendered or lost near Lake Dalainor. Demoralized troops from Chalainor retreating to Hailar looted all stations en route. Soviet aeroplanes dropped few bombs outskirts Hailar, caused panic among troops who commenced looting foreign and Chinese property and fleeing toward Hingan Mountains. Reliable report states that Chinese military have given orders to destroy Hailar by fire, that native quarter now burning and that inhabitants fleeing over land. It is believed that the Chinese forces west of Hingan Mountains are out of hand and that military headquarters have been established at Bukedu with plans to make a stand at the mountains. Mongol *amban* and his staff have left Hailar in the direction Hulunarshan. Russian population at Harbin much disturbed. Telegrams only accepted for points to Bukedu. General Wan Fu-lin wired me he ordered military to aid Americans to evacuate from Hailar. If Soviet aeroplanes should bomb troops at Bukedu then there would be grave danger of demoralized soldiers, bent upon looting, retreating to Harbin."¹⁵

PERKINS

861.77 Chinese Eastern/473 : Telegram

The Secretary of State to the Chargé in Japan (Neville)¹⁶

[Paraphrase]

WASHINGTON, November 26, 1929—2 p. m.

117. (1) I wish you to make an appointment with the Minister for Foreign Affairs at once and to say to him that, from the information which is available to the United States Government, it is evidently clear that serious hostilities, which approximate a condition of actual warfare, are proceeding between the armed forces of China and Russia in Manchuria and are accompanied by the occupation of territory and by numerous casualties.

(2) Both China and Russia, you will recall, have adhered to and ratified the Paris Pact renouncing war and covenanting to use pacific means to settle disputes and conflicts arising between them.

(3) The obligations which were thus solemnly assumed, you will further recall, were called last July to the attention of these two pow-

¹⁵ Telegram in two sections.

¹⁶ The same, *mutatis mutandis*, on November 26 to the diplomatic representatives in France (No. 384), Great Britain (No. 314), and Italy (No. 73); and, on November 27, to the diplomatic representative in Germany (No. 90).

ers, just as the controversy which now involves them was beginning, and at that time both countries reaffirmed publicly their adherence to the Paris Pact's obligations.

(4) You will state that the United States Government, being alarmed because of the serious extent to which both China and Russia have recently carried hostile acts, is decidedly of the opinion that a further development of the situation along lines which are so fraught with danger to everyone concerned should not be permitted without protest by those powers who sponsored the pact against its violation.

(5) To the Minister for Foreign Affairs you will read and leave in his possession a copy of the following statement: ¹⁷

(6) "The Government and people of the United States have observed with apprehensive concern the course of events in relations between China and Russia in the phase which has developed in reference to the situation in Northern Manchuria since July 10.

On July 18 this Government took steps, through conversations between the Secretary of State and the diplomatic representatives at Washington of five Powers,¹⁸ to see that the attention of the Chinese and the Russian Governments be called to the provisions of the Treaty for the Renunciation of War, to which both China and Russia were signatories. Both the Russian and Chinese governments then made formal and public assurances that neither would resort to war unless attacked. Since that time that Treaty has been ratified by no less than fifty-five Powers, including China and Russia.

The American Government desires again to call attention to the provisions of the Treaty for the Renunciation of War, particularly to Article II, which reads, 'The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise, among them, shall never be sought except by pacific means;' and the American Government takes occasion to express its earnest hope that China and Russia will refrain from measures of hostility and will arrange in the near future to discuss between themselves the issues over which they are at present in controversy. The American Government feels that the respect with which China and Russia will hereafter be held in the good opinion of the world will necessarily in great measure depend upon the way in which they carry out these most sacred promises."

(7) You will say to the Minister for Foreign Affairs that you have been instructed by me to ask him if his Government would be ready to make public a statement, along lines similar to those quoted above, but not necessarily in the same wording, on a date which will be fixed to coincide with this Government's issuance of such a statement on an early date to be decided upon and to communicate it at the same time textually to the Chinese and Russian Governments.

¹⁷ Quotation not paraphrased.

¹⁸ See telegram No. 237, July 19, to the Minister in China, p. 215.

(8) You will say to the Minister for Foreign Affairs that, if he can give me his answer through you, I shall be grateful to receive it if possible by Thursday, November 28.¹⁹

(9) In conclusion you will say that identical communications are being made to France, Great Britain, and Italy, and you will ask that confidential treatment be given the matter pending a decision being reached with regard to action which may be possible.

(10) You may add that this Government hopes that each government, in publishing such a statement as I have proposed above, will take appropriate steps to convey its hope to the other powers, which are parties to the Paris Pact, that they will be associated with France, Great Britain, Italy, and Japan in deprecating any violation, impending or actual, of the Paris Pact obligations. You may say that the United States Government urges this action so that the protest represents the widest possible signatory group and thereby the broadest possible world opinion.

STIMSON

861.77 Chinese Eastern/573

Memorandum by the Chief of the Division of Eastern European Affairs (Kelley)

[WASHINGTON,] November 26, 1929.

The following information with regard to the Soviet troops on the Chinese frontier is of interest in connection with the recent Soviet raids into Chinese territory.

The Soviet forces east of Lake Baikal are organized into a "special Far Eastern army" and consist of two army corps (3 rifle divisions, 1 cavalry brigade, 30-35 airplanes each) with a total strength of about 113,000 men. Before the seizure of the Chinese Eastern Railway the troops in this region numbered about 34,000. The increase to present strength has been brought about by the recruitment of the various units to war strength and by the transfer of two rifle divisions from Western Siberia. No new units have been transferred from European Russia to Eastern Siberia. The only transfers of which we have knowledge are individual replacements and a detachment of 7,000 O. G. P. U. (secret police) troops.

The Commander of the Special Far Eastern Army is General Vassili Blucher, who, under the name of Galen, was military adviser to the Chinese Nationalists at the time that Borodin was political adviser. He is considered to have an excellent knowledge of the organization of the Chinese military forces and internal political conditions

¹⁹ In telegram No. 118, November 26, 1929, 4 p. m., the Secretary of State informed the Chargé in Japan that in Japan's case the date should be "Friday, November 29" (861.77 Chinese Eastern/476).

in China. He is also well informed with regard to the Russian Far East, since he was Minister of War of the Far Eastern Republic in 1921-22.

R. F. K[ELLEY]

861.77 Chinese Eastern/474 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 27, 1929—noon.
[Received November 27—6:30 a. m.]

1046. Legation's 1042, November 26, 12 noon. Following from Reuter, Nanking, November 26:

"The State Council yesterday sent identical telegrams to the League of Nations and the signatories of the Kellogg Peace Pact drawing attention to the Soviet incursion into Manchuria.

The telegram then goes on to say that while the Nationalist Government has always remained on the defensive, despite repeated attacks by the Soviet forces, the Soviet Government has now, without declaring war, invaded China and occupied Chinese cities and has 'masacred innocent Chinese citizens in cold blood'.

The telegram hopes in conclusion that the signatories of the Kellogg Pact will take appropriate steps to stop and punish this deliberate violation of the pact."

PERKINS

861.77 Chinese Eastern/483 : Telegram

*The Acting Secretary of State to the Chargé in France (Armour)*²⁰

WASHINGTON, November 27, 1929—noon.

387. Department's 384, November 26, 2 p. m.²¹ I am adding German Government. Inform Foreign Office.

COTTON

861.77 Chinese Eastern/475 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 27, 1929—2 p. m.
[Received November 27—7:35 a. m.]

1048. Legation's 1041 [1042], November 26, noon. Following from American Consul, Harbin:

"November 26, 6 p. m. Recent arrivals from Hailar confirm looting and burning that place by Chinese forces. Region east Hingan Mountains appears quiet.

²⁰ The same to the diplomatic representatives in Great Britain (No. 316), Italy (No. 74), and Japan (No. 119) (861.77 Chinese Eastern/489, 490, 491).

²¹ See footnote 16, p. 350.

It is reported Manchuria Station administered by joint Soviet-Chinese but all quiet and foreigners safe there. Reds have retired from Mishan. Conditions quiet at Pogranichnaya, Taheiho. Chinese and Russians at Harbin panicky and place no reliance on Chinese troops who have caused and threaten to cause more trouble than the Reds. Chinese Chamber of Commerce here have asked authorities to approach consular corps with request that it call in foreign troops if local soldiers get out of hand. Many Chinese families leaving Harbin; however, I do not think any serious danger threatens Harbin at present.

It is practically certain that Mukden has been authorized to negotiate separately. Taoyin Tsai has departed for Mukden evidently in connection Chinese desire to commence negotiations. Embassy informed."

The Department's attention is particularly invited to the statement that the consular body may be approached with a request that it call in foreign troops if local soldiers get out of hand.

PERKINS

861.77 Chinese Eastern/478 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 27, 1929—6 p. m.
[Received November 27—11:50 a. m.]

1049. Legation's 1048, November 27, 1 [2] p. m. Following instruction is being sent to the American Consul at Harbin:

"November 27, 6 p. m. Your November 26, 6 p. m.

1. During the civil disturbances in China proper in January 1927, American consular officers were authorized, in the event of trouble occurring or becoming imminent within foreigners' respective consular districts, to advise Americans at interior points or at smaller treaty ports to proceed without delay to places at which they might receive protection or from which they might be evacuated if necessary.

2. In the present endeavors you should be guided by the general principle adopted at the time by a treaty government [*sic*] with respect to the protection of its nationals.

3. Foregoing being repeated to the Department."

PERKINS

861.77 Chinese Eastern/482 : Telegram

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

BERNE, November 27, 1929—7 p. m.
[Received November 27—6:25 p. m.]

112. Drummond²² informs me privately that Chinese representative at Geneva called on him today with reference to Russo-Chinese

²² Sir Eric Drummond, Secretary General of the League of Nations.

dispute and explained that, in spite of all representations thus far made, Russian aggression is continuing and that in the eyes of the Chinese Government the situation is growing daily more acute. He came to inquire what steps the League could or would take if he were [to] present a formal request for intervention. Drummond pointed out to him that if China should appeal to the League he, Drummond, would at once arrange for an emergency meeting of the Council under article XI which could be convened within a minimum of three days. It would then be necessary for the Council to take action under article XVII of the Covenant and invite Russia which is not a member of the League "to accept the obligations of membership" for the purpose of this dispute. Chinese representative thereupon left without presenting a request for League assistance.

I understand that following this interview Chinese representative told members of the press that there were two mechanisms designed to insure peace, namely, the League of Nations and the Kellogg Pact, and that in the circumstances China might well decide to invoke both.

MOFFAT

861.77 Chinese Eastern/477 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, November 27, 1929—8 p. m.
[Received November 27—11:05 a. m.]

111. Department's telegram No. 117.²³ Minister of Foreign Affairs told me that he doubted the practical benefit which would ensue from the issuing of a joint statement by the powers. He said that statements had been made at Nanking that China would appeal to the powers and that the Russians regardless of the facts in the case would regard any such public statement as instigated by the Chinese; that reports from Japanese Consulates in Manchuria [Station] and Tsi-tsihar indicated that the recent warlike activity in Manchuria was greater in degree but no different from actions that had been fairly constant during the past few months; that the actual fighting seemed to have quieted down and he did not apprehend any further grave developments as the Japanese Consuls stated there was no danger to Japanese residents; though it was found true that the Chinese officials had left Manchuli.

He then told me that he was anxious for the restoration of peaceful conditions and that he was prepared to, and would on his own responsibility, tell both the Russians and the Chinese privately that the recent disturbances were attracting the attention of the world

²³ Of November 26, p. 350.

and producing a bad impression and added that he did not believe that actual warfare would result or that the Soviets had any intention if they had the ability to occupy any territory permanently. He told me further that there was a prospect of negotiations over the Chinese Eastern Railway being opened between Mukden and the Soviets with the approval of the Nanking authorities and that he would hesitate to recommend any action that might prejudice such arrangements.

He then said, in reply to my question, that this was not his final answer and that although he did not believe he would change his mind he would see me again before the 29th and tell me his decision.

NEVILLE

861.77 Chinese Eastern/481 : Telegram

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

[Paraphrase]

LONDON, November 27, 1929—8 p. m.

[Received November 27—6:30 p. m.]

350. The matter in your No. 314, November 26, 2 p. m.,²⁴ I submitted this evening to the British Foreign Secretary. In general he approves, but he suggests a joint statement by Great Britain, France, Italy, Japan, and the United States. The general sense of your statement in No. 314 he is entirely willing, he added, to accept. He urges strongly inviting Japan to become a signatory to the joint statement, unless substantial reasons exist to the contrary.

Regarding your paragraph (10), the Foreign Secretary suggests that the arrangements with the other signatory powers be completed by you. He suggests also that finally the appeal to the Chinese and Russian Governments be presented on behalf of all the signatory powers by you in the way which you think is most appropriate. He suggests further the wisdom of leaving to you any publication relative to this matter.

DAWES

861.77 Chinese Eastern/487 : Telegram

The Acting Secretary of State to the Chargé in China (Perkins)

WASHINGTON, November 28, 1929—noon.

394. Associated Press despatch from Moscow printed in today's papers say China has accepted Russian terms for settlement Chinese Eastern Railway controversy. Can you confirm?

CARR

²⁴ See footnote 16. p. 350.

861.77 Chinese Eastern/484: Telegram

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

[Paraphrase]

PARIS, November 28, 1929—noon.

[Received 12:15 p. m.]

535. As instructed in your telegram 384, November 26, 2 p. m.,²⁵ I have seen the French Minister for Foreign Affairs, brought the contents to his attention, and left with him in writing the statement in your paragraph (6).

Foreign Minister Briand states his entire agreement with you that France and the United States, as the two original sponsors of the Paris Pact, cannot, in the face of events transpiring now in North Manchuria, stand with folded arms. Therefore, he agrees in principle with the proposed action and is ready to make public a statement, similar to the one you outlined, on a date which is fixed to coincide with the issuance of the statement by you.

M. Briand has asked me to inquire, however, what significance, if any, is to be given to Japan's omission from the list of governments to which your proposal is made. Japan, he pointed out, is the only original Paris Pact signatory from the principal powers to be omitted from your list (the Department's No. 387, November 27, noon, regarding Germany's inclusion among the powers approached, reached me prior to my interview with M. Briand). Taking into account the importance of Japan's position in affairs of the Far East and of Japan's interests in China, and especially in Manchuria, M. Briand feels that failing to include Japan with the powers to be consulted originally not only might offend the Japanese Government but might be interpreted by the Chinese and Russian Governments to indicate a lack of agreement on this question between Japan and the other powers.

M. Briand has accordingly requested me to obtain from you further information as to this point, presumably desiring such before giving to the proposed plan the final approval of his Government.

ARMOUR

861.77 Chinese Eastern/480: Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 28, 1929—1 p. m.

[Received November 28—6:20 a. m.²⁶]

1051. My 1048, November 27, 2 p. m. Following from American Consul at Harbin:

²⁵ See footnote 16, p. 350.

²⁶ Telegram in two sections.

"November 27, 5 p. m. It now appears that through mediation Japanese Consul, Manchuria Station, Chinese forces there were voluntarily disarmed by Commander Liang Chung-chia who took refuge in Japanese Consulate. There was some severe fighting near Chalainor. Soviet aeroplanes expedition several times dropped few bombs near railway bridge outside Hailar and flew west.

No indication any large Soviet troop movements then or now. With possible exception of damage to Chalainor mines, all damage caused by looting, burning, and killing was done and is being done by disorganized retreating Chinese troops whose commanding officers deserted them at Hailar. Muling was taken and then evacuated by a few hundred Red troops supported by a few Soviet aeroplanes which had for their object securing grain supplies.

Chinese populace is not worrying about Red invasion but is in deadly fear of being attacked and looted by Chinese soldier mob. Refugees arriving daily by the hundreds tell the same story of looting by Chinese forces but not by the Reds at all points from Hailar to Buketu. Reports indicate there are no Red forces between Hingan Mountains and Chalainor. It is possible Red forces have already withdrawn from that place and Manchuria Station. Tension at Harbin has relaxed. It is requested that in view of the distorted statements regarding situation broadcast by the Chinese as mentioned in the newspapers, the contents of this telegram be sent as soon as possible to the Department.

Embassy informed by mail."

PERKINS

861.77 Chinese Eastern/494 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, November 28, 1929—4 p. m.
[Received November 28—3:15 p.m.]

234. Your No. 90, November 27, 1 p. m.²⁷ . . . I saw the German Minister for Foreign Affairs at 1 p. m. After I had explained the matter in full to him, he asked if I would object to having Von Schubert join us. When he came, the subject was explained to him. They wished to have until 7 p. m. for a definite reply, and we finally agreed on 6 p. m.

However, from the conversation I believe I can anticipate their decision. The Foreign Minister said that his Government on November 26 had received from the Chinese Government and had transmitted to the Russian Government a proposal to settle the dispute with Russia. According to the German Wolff's Telegraph Bureau on November 27, this proposal was directly repeated by Chang Hsueh-liang at Mukden in a telegram to Litvinoff at Moscow, and the latter

²⁷ See footnote 16, p. 350.

accepted it. The proposal is based on restoring the situation which existed when the present conflict began.

So far the German Government has no official confirmation as to Litvinoff's reply; but the Soviet Telegraph Agency, Tass, on November 27 published at Moscow the text of his acceptance.

SCHURMAN

861.77 Chinese Eastern/486 : Telegram

The Ambassador in Italy (Garrett) to the Secretary of State

[Paraphrase]

ROME, November 28, 1929—8 p. m.

[Received November 28—5:45 p. m.]

88. Your 73, November 26, 2 p. m.²⁸ The Italian Minister for Foreign Affairs is in entire sympathy with the action you have suggested and assures me that his Government will join those of the United States and the other powers you mention in carrying it out. A joint note of the five powers would, however, in his opinion, be more effective, and his suggestion is that, following their agreement and in view especially of the fact that the American and British Governments have no diplomatic representatives in the Soviet Union, the French Government should be asked to forward to both China and Russia an identic note in the sense of your paragraph (6). If such joint action for any reason cannot be carried out, he says his Government will act as you suggested in your paragraphs (7) and (10). Until he receives further communications through the American Embassy here, he will keep the whole matter confidential. Query: Is Japan included in the action suggested?

GARRETT

861.77 Chinese Eastern/495 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, November 28, 1929—8 p. m.

[Received November 28—6 p. m.]

235. My 234, November 28, 2 [4] p. m. The German Foreign Minister, Curtius, stated his Government's position to me as follows:

(1) The German Government is prepared to do everything in its power, in accordance with the Paris Pact, to further peace in the Far East.

(2) A final decision cannot be given by the German Government today, owing to the latest news concerning Chang Hsueh-liang's step at Mukden, about which authoritative information is lacking.

²⁸ See footnote 16, p. 350.

(3) Germany has today telegraphed Moscow for official information on the result of the Nanking Government's proposal, which was transmitted November 26 through Berlin, and also on the Mukden Government's step.

(4) If you should still propose, in spite of the change taking place in the situation during the last two days, to go on with this matter, the German Foreign Minister would like to know if it is desired to have the communication to the Chinese and Russian Governments (described in your paragraph (7)) made by the German Government alone or by all the Governments addressed. Curtius said the German Government would find it inconvenient to act alone.

(5) Information regarding further developments will be promptly given me, Curtius said.

I asked him if the Mukden telegram to Litvinoff (mentioned in my 234) was identical with the Nanking Government's proposal, and Curtius replied he did not know.

SCHURMAN

861.77 Chinese Eastern/496 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State
[Paraphrase]

BERLIN, November 29, 1929—noon.

[Received November 29—11:50 a. m.]

237. My 234, November 28, 4 p. m. I have been given by the German Foreign Office a copy of the Chinese Government's note of November 14, which was transmitted November 26 to the German Embassy in Moscow for the Russian Government:

(1) The National Government of China, being a signatory of the Pact of Paris, refrained, even after the break with the Russian Government, from engaging in provocative or aggressive actions against Russia, though Chinese citizens were being treated badly in Russia.

(2) The Russian Government at the same time sent armed forces to the Sino-Russian frontier, and they attacked Chinese garrisons and entered Chinese territory, which resulted in loss to life and property. Chinese forces neither returned the attacks nor entered Russian territory.

(3) The National Government of China is surprised by the Russian declaration, contained in the Russian notes of September 25 and October 12,²⁹ that either Chinese troops alone or together with Russian White Guard had attacked Russian troops and had raided the Russian frontier.

(4) Taking into account the Russian Government's stubborn insistence that the Chinese began hostilities on the frontier, the National Government of China, while solemnly denying the accusation, proposes the formation of a mixed commission in order to investigate and to establish the responsibility for the serious situation. The

²⁹ Neither printed.

mixed commission would consist of both Chinese and Russian representatives, with a citizen of a neutral country as its chairman.

(5) For the purpose of meeting the anxious wishes expressed by the Russian Government in its note dated September 25 to establish peace on the frontier, the National Government of China proposes the withdrawal of armed forces of both countries from the frontier to a depth of 30 miles.

(6) Should the foregoing proposal be accepted by Russia, the National Government of China, as a signatory of the Pact of Paris, is prepared to submit the entire dispute to a neutral, impartial resort for adjustment.

SCHURMAN

861.77 Chinese Eastern/503 : Telegram

The Acting Secretary of State to the Chargé in France (Armour)

[Paraphrase]

WASHINGTON, November 29, 1929—noon.

389. Your 535, November 28, noon. Referring to Department's 384, November 26, 2 p. m.,³⁰ the instructions contained therein were sent to the Embassies in France, Great Britain, Italy, and Japan and, later, in Germany. Close contact with the Japanese Ambassador has been maintained in relation to this question. Omitting Japan from the names in the telegram received by your Embassy was an error in transmission.³¹

CARR

861.77 Chinese Eastern/485 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, November 29, 1929—5 p. m.

[Received November 29—6:35 a. m.]

112. My 111, November 27, 8 p. m. Minister for Foreign Affairs remains of the same opinion as that previously expressed. The Foreign Office has been informed by the Japanese Consul General at Mukden that Chang has been authorized by Nanking to open negotiations with Soviets over the Chinese Eastern Railway question and is ready to accede to the Russian demand for restoration of the Russian directors on the railway as this would remove the original cause of the present difficulty. The Japanese feel that nothing could be accomplished by outside pressure.

NEVILLE

³⁰ See footnote 16, p. 350.

³¹ The Embassies in Italy and Great Britain were also informed (861.77 Chinese Eastern/507, 508).

861.77 Chinese Eastern/497 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 29, 1929—5 p. m.
 [Received November 29—1:40 p. m.³²]

1054. Legation's 1000 [1006], November 19, 3 p. m. Following from Tass Agency, Moscow, November 28:

"The Acting People's Commissar of Foreign Affairs of the U. S. S. R., Mr. Litvinov, has sent the following telegram to General Chang Hsiao-liang:

'We have received your telegram of 26th instant declaring your full acceptance of the preliminary conditions as communicated in writing on the 22nd instant through Mr. Tsai Yun-sheng, the Diplomatic Commissar at Harbin.

These conditions were as follows:

1. The official consent of the Chinese side for the restoration of the situation which existed on the Chinese Eastern Railway prior to the conflict on the basis of the Peking-Mukden agreements of 1924.
2. The immediate reinstatement of the manager and the assistant manager of the railway recommended by the Soviet side in accordance with the Peking-Mukden agreements of 1924.
3. The immediate release of all Soviet citizens arrested in connection with the conflict.

In accordance with point 2 of the above-mentioned conditions, the Soviet Government recommends the reinstatement of Mr. Emschanov as manager and Mr. Eismont as assistant manager of the railroad, and expects your immediate official confirmation thereof.

As regards points 1 and 3 which have been also accepted by you, the Soviet Government proposes as soon as point 2 has been fulfilled that you send your representative to Habarovsk with official written credentials; and for its part the Soviet Government appoints Mr. Simanovsky, the Soviet agent of the People's Commissariat of Foreign Affairs at Habarovsk, for the discussing of the technical questions connected with the carrying out of these points as well as for the settlement of questions concerning the time under [and] the place of the Soviet-Chinese conference.'

PERKINS

861.77 Chinese Eastern/492 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 29, 1929—7 p. m.
 [Received November 29—7:55 a. m.]

1056. Your 394, November 28, noon. Following from American Consul in charge at Mukden:

"November 28, 4 p. m. Reliably informed that Tsai Yun-sheng arrived at Mukden from Vladivostok on the 26th with Soviet terms for the holding of a [conference?] and restoration of power of Soviet manager and immediate release of prisoners.

After conference of high officials at Marshal's³³ villa same day a telegram was sent to Moscow accepting in principle Soviet terms on

³² Telegram in three sections.

³³ Chang Hsieh-liang.

condition that terms 1 and 3 be first referred to a joint committee to arrange procedure. Old wing of party³⁴ responsible for this peace overture. No reply as yet.”

PERKINS

861.77 Chinese Eastern/493 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 29, 1929—9 p. m.
[Received November 29—10:05 a. m.]

1058. Department's [394,] November 28, noon. German Minister informs me that he has as yet received no confirmation from either Berlin or Mukden of the report that China has accepted Russian terms of settlement.

PERKINS

861.77 Chinese Eastern/814

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] November 29, 1929.

The German Ambassador came in to speak to me about the Russian-Chinese situation in connection with the telegram we sent Germany in the matter. He said that it was, of course, before our telegram reached Germany that the German Government had transmitted to the Soviet Government a proposition from the Chinese Government as to the settlement of the question. He said he did not know whether the Soviet Government had fully accepted or not, although one of the Russian papers has printed the alleged text of the acceptance by Litvinoff. I said that, of course, if the situation was as simple as that the matter was presumably ended, but the papers this morning seemed to indicate a lack of cooperation, to say the least, between the government in Mukden and the Nationalist Government in Nanking. The Ambassador asked whether, under the circumstances, we would be likely to make the declaration which we had proposed to the other governments. I told him that I could not answer as to this, that it seemed to me that if the Russian answer was satisfactory and fighting ceased, it would obviously be better to say nothing whatever as to what we had been doing in the matter for publication except for the fact that there had been a leak in Tokyo as to our proposition, that we had been compelled to admit that we had made certain advances and that this being so it might prove necessary to be entirely frank with the press. I pointed out that Henderson³⁵ was already being pressed in England and in Parliament

³⁴ Fengtien Party, formerly led by the late Marshal Chang Tso-lin.

³⁵ Arthur Henderson, British Secretary of State for Foreign Affairs.

and that other nations might also be urged to say what is being done. The Ambassador agreed that this might be the case. He felt that the only danger was that possibly if China felt that the whole world was working in its favor to prevent any further encroachment by Russia, China might itself become more intransigent and precipitate further trouble. I said that this was, of course, a trouble, but the danger was perhaps minimized because of the very mildness of what we suggested, which was, after all, merely that the two nations get together. The Ambassador seemed quite satisfied with this explanation.

W. R. C[ASTLE,] JR.

861.77 Chinese Eastern/818

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] November 29, 1929.

The Japanese Ambassador called upon me this afternoon and asked me whether we had received word from Tokyo as to Baron Shidehara's reply to the Secretary's message.

I told him we had and I read to him the message transmitted by Neville.

The Ambassador stated that he wished the Secretary to know, that although this reply was negative and indicated that Japan wished to follow its policy of watchful waiting, that Baron Shidehara agreed with the Secretary's proposal in principle. I told him I thought that was evident from the Foreign Minister's statements that he was willing for his own part to call in the Russian and Chinese Ministers and make a communication to them.

The Ambassador asked me whether we had received replies from the other countries and I told him generally the nature of the replies from Italy, France and Great Britain. I told him that in the case of Germany we had no definite word yet.

The Ambassador asked me whether we had any further news about the situation in Manchuria and I read to him the telegram from Harbin³⁶ indicating that the Russians had withdrawn from Manchuria and the tension there had relaxed.

In the course of the conversation the Ambassador stated that he was very much embarrassed to see from the press that the information about this movement of the Secretary's had broken into the press in Tokyo. He said he had noticed first that the British Foreign Minister had made a statement, somewhat vague, but that the report from Tokyo was quite circumstantial and detailed indicating a complete knowledge of the proposition. He said he wanted to say that

³⁶ See telegram No. 1051, November 28, from the Chargé in China, p. 357.

he was very sorry this had happened. He said that of course one could not tell the source of news, although one could locate the place. I told him it had been quite embarrassing for me as I had been called on the telephone by the Associated Press when they received this information from Tokyo and had to confirm the news.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/505 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 30, 1929—1 p. m.

[Received November 30—9 a. m.]

1059. My 1051, November 29 [28], 1 p. m., and 1056, November 29, 7 p. m. Following from American Consul General [*Consul*] at Harbin:

“November 29, 1 p. m. Soviet aeroplanes bombed Buketu yesterday and commenced again at 11 a. m. this morning. Some looting was done by Chinese troops, but it appears panic among them not so great or as disastrous as at Hailar, which it is reported now patrolled by local Mongols. I cannot secure from Chinese official sources any confirmation of the reports emanating from Soviet sources that Mukden has agreed to reestablish *status quo ante* on the railway.”

PERKINS

861.77 Chinese Eastern/506 : Telegram

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

[Paraphrase]

PARIS, November 30, 1929—1 p. m.

[Received November 30—12:50 p. m.]

539. Immediately on receiving Department's 389, November 29, noon, I informed the French Foreign Office of the Japanese Government's inclusion among the other Governments to which were sent the Department's suggestions in its telegram 384, November 26, 2 p. m.³⁷ In view of this, the French Foreign Minister requests that his remarks relative to Japan's omission be ignored and that you consider M. Briand is in agreement in principle with your proposed action and is ready to make a statement such as you outlined. In short, the last two paragraphs in my 535, November 28, noon, are to be disregarded.

The French Foreign Office says it has been besieged by the press here, as well as by American correspondents, who have seen one or two telegrams from Washington which mentioned that negotia-

³⁷ See footnote 16, p. 350.

tions are proceeding—notably a *Paris Herald* communication, dated Washington, November 28, as follows:³⁸

“The State Department today communicated with the British, Japanese, French, Italian and German Governments on the possible joint action to prevent complications in the Manchurian situation. The contents of the note to the powers have not been divulged but it is believed merely to draw attention to the fact that both Russia and China are signatories to the Kellogg Pact without making any concrete proposal.”

Consequently—and also because of the fact that some French newspapers are taking the position that the Paris Pact is proving to be ineffective in meeting the Sino-Russian situation—the French Foreign Office would like to know if you do not consider the situation now calls for a statement being made to the press, even if it is only to the effect that negotiations are proceeding among certain powers signatory to the Paris Pact, with the object of finding a solution for the problem.

The Foreign Office, meanwhile, assures me that the request in paragraph (9) of your 384 is being respected.

ARMOUR

861.77 Chinese Eastern/499 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 30, 1929—4 p. m.
[Received November 30—7: 37 a. m.]

1060. Your 394, November 28, noon. According to the latest report from reliable official sources at Mukden, Chinese have not yet fully accepted Soviet terms. Nanking has not been party to preliminary telegraphic discussions and its attitude so far remains undeclared.

PERKINS

861.77 Chinese Eastern/513 : Telegram

*The Secretary of State to the Chargé in France (Armour)*³⁹

WASHINGTON, November 30, 1929—7 p. m.

392. Department's 384, November 26, 2 p. m.⁴⁰ and your 535, November 28, noon.

1. Having received replies from all of the Governments addressed, and finding the replies in general favorable in principle to my proposal that attention be called to the obligations assumed by the signatories of

³⁸ Quotation not paraphrased.

³⁹ Telegrams to the same effect were sent to the diplomatic representatives in Germany (No. 93), Great Britain (No. 319), Italy (No. 77), and Japan (No. 121) (861.77 Chinese Eastern/512, 511, 514, 515).

⁴⁰ See footnote 16, p. 350.

the Pact of Paris, but finding, further, a variety of opinions, suggestions and proposals as to method of proceeding, the American Government intends for its own part to communicate directly to the Chinese Government and to ask the French Government to transmit to the Russian Government substantially the statement contained in paragraph 6 of the Department's telegram under reference, and to make statement public on the morning of Monday, December 2.

I appreciate the promptness and cordiality with which the French Government gave its frank reply to my inquiry, and I hope that the French Government will see its way clear to addressing the Chinese and the Russian Governments in a sense similar to or identical with the communication which the American Government intends to make.

2. The alteration which will be made in the text as supplied in paragraph 6 of Department's telegram under reference will appear in the next to the last sentence after the semi-colon and will read after "refrain": "or desist from measures of hostility and will find it possible in the near future to come to an agreement between themselves upon a method for resolving by peaceful means the issues over which they are at present in controversy." What precedes and what follows will remain as previously submitted.

3. I request that you communicate the above immediately to the French Foreign Office.

STIMSON

861.77 Chinese Eastern/516 : Telegram

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

WASHINGTON, November 30, 1929—8 p. m.

393. You are directed immediately to request of the Foreign Office that it convey on behalf of the American Government to the Soviet Government the statement herewith and that it inform the Soviet Government that the same statement is being communicated to the National Government of China through the American Legation at Peiping.

"The Government and people of the United States have observed with apprehensive concern the course of events in relations between China and Russia in the phase which has developed in reference to the situation in Northern Manchuria since July 10. On July 18 this Government took steps, through conversations between the Secretary of State and the diplomatic representatives at Washington of five Powers, to see that the attention of the Chinese and the Russian Governments be called to the provisions of the Treaty for the Renunciation of War, to which both China and Russia were signatories. Both the Russian and Chinese governments then made formal and public assurances that neither would resort to war unless attacked. Since that time that Treaty has been ratified by no

less than fifty-five Powers, including China and Russia. The American Government desires again to call attention to the provisions of the Treaty for the Renunciation of War, particularly to Article II, which reads, 'The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise, among them, shall never be sought except by pacific means'; and the American Government takes occasion to express its earnest hope that China and Russia will refrain or desist from measures of hostility and will find it possible in the near future to come to an agreement between themselves upon a method for resolving by peaceful means the issues over which they are at present in controversy. The American Government feels that the respect with which China and Russia will hereafter be held in the good opinion of the world will necessarily in great measure depend upon the way in which they carry out these most sacred promises."

STIMSON

861.77 Chinese Eastern/537 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, November 30, 1929—8 p. m.

399. You are directed immediately to transmit to the National Government and to inform them that there is being communicated to the French Government for transmission to the Soviet Government the following statement:

[Here follows the text of the statement quoted in telegram 393, November 30, 8 p. m., to the Chargé in France, printed *supra*.]

STIMSON

861.77 Chinese Eastern/520 : Telegram

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

PARIS, December 1, 1929—1 p. m.

[Received December 1—10:30 a. m.]

540. I have communicated to the Foreign Office your telegrams Nos. 392, November 30, 7 p. m., and 393, November 30, 8 p. m. The French Government will be glad to transmit on behalf of our Government through the French Ambassador at Moscow to the Soviet Government the statement contained in your telegram No. 393. Furthermore, the French Government, as I informed you in my telegram 535, November 28, noon, agreeing in principle with our proposal, wishes itself to make a similar statement as requested in paragraph 7 of your telegram 384, November 26, 2 p. m.⁴¹ However, today is Sunday and the Minister of Foreign Affairs being absent from Paris it will be impossible to have such a statement prepared

⁴¹ See footnote 16, p. 350.

and forwarded to Russia and China before tomorrow at the earliest. The Foreign Office feels that if the two statements might be made simultaneously to China and Russia and published together they would have a greater effect. So far as the effect on the Soviet Government is concerned they pointed out, and I am sure you will agree, that the presentation of the American statement by the French Ambassador on one day to be followed, say a day later, by a statement from his own Government, if it did not give rise to misinterpretation, would at any rate be less effective than his presenting the two statements simultaneously.

In view of the above the French Government asks (1) whether we will not delay the publication of the statement set for the morning of Monday, December 2nd, until the morning of Tuesday, December 3rd, at the earliest, and (2) whether they may delay the transmission of our statement to the Soviet Government until it can be forwarded together with their own (presumably they would appreciate our delaying the delivery of our statement to the Chinese Government also until their statement could be communicated simultaneously).

I have assumed the responsibility of informing the Foreign Office that it may delay the transmission of our statement to Moscow until I have received a reply to this telegram which I hope you will be able to send me in time to be communicated to the Foreign Office tomorrow. May I express my own personal recommendation that this apparently reasonable request be granted, particularly as it is after all occasioned by a desire to comply with the suggestions contained in paragraph 7 of your telegram 384, November 26, 2 p. m., and the last sentence of paragraph numbered 1 of your telegram No. 392, November 30, 7 p. m.

ARMOUR

861.77 Chinese Eastern/510 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, December 1, 1929—2 p. m.

[Received December 1—1:20 p. m.]

246. My 235, November 28, 8 p. m. Last night at the foreign press ball I talked with the German Foreign Minister. Curtius said they had learned that the British, French, and Italian Governments, although like the German Government approving in principle your proposal, deemed it wise at present to wait for results from the direct negotiations between Chinese and Russians. He added that official telegrams from Moscow indicated that the two sides were not in as

near a complete agreement as reported in the last few days in the newspapers.

I conversed also with the Soviet Ambassador and was told that his information regarding the present state of affairs was that Marshal Chang Hsueh-liang had acceded to last July's ultimatum demands of the Soviet.

SCHURMAN

861.77 Chinese Eastern/534 : Telegram

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

WASHINGTON, December 1, 1929—3 p. m.

394. Your 540, December 1, 1 p. m. You may inform French Foreign Office that I shall be very glad for my part to delay publication until the morning of Tuesday, December 3, and have already made arrangements to that end. You should say however that we have sent communications to Tokyo, London, Berlin and Rome similar to those sent to you and that there is possibility that news will break at any one of those places. Department however is informing those points of delay here.

I cannot delay the message to the Chinese Government as it has already gone. I of course have no objection to French Government communicating message to Russian Government simultaneously with message of their own. I hope however that message will be transmitted on Monday.

STIMSON

861.77 Chinese Eastern/509 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 1, 1929—4 p. m.

[Received December 1—1:05 p. m.⁴²]

1062. Legation's 1045 [1055], November 29, 6 p. m.⁴³ Following from Tass Agency, Moscow, November 29:

"Today the German Ambassador handed to the Acting People's Commissioner of Foreign Affairs of the U. S. S. R., Mr. Litvinov, Nanking Government's note of November 14th.⁴⁴ Mr. Litvinov handed to the German Ambassador at Moscow the following reply:

'We beg to acknowledge the receipt of the note of the Nanking Government of November 14th which you have handed me this morning. The Union Government has already received an official communication from Marshal Chang Hsiao-liang stating his acceptance of the preliminary conditions necessary for the speediest settlement of the conflict by direct negotiations. The Nanking Government's proposals stated in the above note, which are [likely to] only protract the conflict, are therefore of no avail.'

⁴² Telegram in three sections.

⁴³ Not printed.

⁴⁴ See telegram No. 237, November 29, from the Ambassador in Germany, p. 360.

Following from Kuo Wen News Agency, Nanking, November 29th :

“Chinese circles concerned today deny the return [*alleged?*] report from Moscow that Marshal Chang Hsiao-liang has wired to Mr. Litvinov, acting Soviet Foreign Commissar, agreeing to the restoration of the status which prevailed on the Chinese Eastern Railway before the Chinese took the line over last July and also to the reinstatement of the Soviet general and assistant manager. It is pointed out that the Manchurian authorities have always been in agreement over the Russian situation and that Marshal Chang has never indicated such intentions in his recent wires to the Government. It is suggested that the report in question is another piece of Soviet propaganda.

Dr. C. T. Wang, Minister of Foreign Affairs, categorically denied in an interview this morning that any differences had arisen between the Central Government and Manchuria over the CER dispute. Since the trouble arose, the Central Government had taken the stand that the issue was one of national concern and should be dealt with by the Government. This attitude was shared by the Manchurian authorities which had been in daily communication with the Government.”

PERKINS

861.77 Chinese Eastern/536 : Circular telegram

*The Secretary of State to Certain Diplomatic Representatives*⁴⁵

WASHINGTON, December 1, 1929—4 p. m.

1. I desire that you call immediately upon the Minister for Foreign Affairs, or whatever officer is in charge of the Foreign Office in his absence, and make orally a statement substantially as follows: The American Government has been engaged in discussions with the Governments of several of the other Powers signatory to the Pact of Paris in regard to the situation in Manchuria. During the past few days organized Russian forces have been in conflict with organized Chinese forces near Dalainor in Northern Manchuria. It is credibly reported that many casualties occurred and that thousands of the inhabitants

⁴⁵ In Albania, Austria, Belgium, Bulgaria, Canada, Chile, Costa Rica, Cuba, Czechoslovakia, the Free City of Danzig, Denmark, the Dominican Republic, Egypt, Ethiopia, Finland, Greece, Guatemala, Honduras, Hungary, the Irish Free State, Latvia, Liberia, Mexico, The Netherlands, Nicaragua, Norway, Panama, Persia, Peru, Poland, Portugal, Rumania, Siam, Spain, Sweden, Switzerland, Turkey, Venezuela, and Yugoslavia.

The circular telegram was also sent December 1, 6 p. m., to the diplomatic representatives in Germany (No. 95), Italy (No. 79), and Japan (No. 123); Great Britain (No. 321), with a request to relay it to Australia, New Zealand, South Africa, and India; France (No. 395), with a request to relay it to Afghanistan, and (No. 396, 7 p. m.), with request that Belgium, Denmark, and Latvia respectively be requested to relay it to Luxemburg, Iceland, Estonia, and Lithuania (861.77 Chinese Eastern/524, 530, 532, 535).

On December 2, 1929, 4 p. m., the Legation in Poland (No. 68) and the Consul in the Free City of Danzig were instructed that the former should relay the circular telegram to Poland and, through Poland, to the Free City of Danzig (861.77 Chinese Eastern/556, 557).

of the neighboring towns have been driven from their homes. Although the causes of the conflict are in dispute and the accounts are somewhat contradictory, it is clear that serious encounters between military forces of China and Russia have occurred. It is also clear that during the months since this controversy began no effective steps have been taken by the Chinese and Russian Governments looking toward an arbitration of the dispute or its settlement through neutral conciliation or other pacific means. The efficacy of the Pact of Paris depends upon the sincerity of the Governments which are party to it. Its sole sanction lies in the power of public opinion of the countries, constituting substantially the entire civilized world, whose governments have joined in the Covenant. If the recent events in Manchuria are allowed to pass without notice or protest by any of these Governments the intelligent strength of the public opinion of the world in support of peace cannot but be impaired.

We have found in our discussions referred to above a community of view with regard to the fundamental principles. There has been in these discussions no suggestion of intervention of any kind. Discussions have been directed to discovering the best means of expressing the opinion of each of the nations by way of remonstrating against the use of force by either side in this controversy.

2. The Government of the United States on its part has communicated to China and to Russia a statement as follows:

"The Government and people of the United States have observed with apprehensive concern the course of events in relations between China and Russia in the phase which has developed in reference to the situation in Northern Manchuria since July 10.

On July 18 this Government took steps, through conversations between the Secretary of State and the diplomatic representatives at Washington of five Powers, to see that the attention of the Chinese and the Russian Governments be called to the provisions of the Treaty for the Renunciation of War, to which both China and Russia were signatories. Both the Russian and the Chinese governments then made formal and public assurances that neither would resort to war unless attacked. Since that time that Treaty has been ratified by no less than fifty-five Powers, including China and Russia.

The American Government desires again to call attention to the provisions of the Treaty for the Renunciation of War, particularly to Article II, which reads, 'The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means'; and the American Government takes occasion to express its earnest hope that China and Russia will refrain or desist from measures of hostility and will find it possible in the near future to come to an agreement between themselves upon a method for resolving by peaceful means the issues over which they are at present in controversy. The American Government feels that the respect with which China and Russia will

hereafter be held in the good opinion of the world will necessarily in great measure depend upon the way in which they carry out these most sacred promises."

3. It is desired that in presenting the above communication you lay urgent stress upon the importance at this moment to the world movement toward peace that the Powers that have so unreservedly joined in the Covenant of the Pact of Paris record themselves publicly and to the two Powers so unhappily embroiled as condemning a recourse to arms for the solution of this controversy and as believing that a solution should be reached by pacific means. You will conclude by expressing this Government's earnest hope that the Government to which you are accredited will find it possible as a party to the Pact of Paris to participate in this action by issuing on its part a statement along lines similar to that quoted above and at the same time communicating its views to the Governments of China and Russia. I am addressing communications in this sense to the Governments of all of the countries party to the Pact, and I am informing the press with regard to the statement addressed by the American Government to China and to Russia and with regard to this circular communication.

STIMSON

861.77 Chinese Eastern/528 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 1, 1929—5 p. m.

[Received 10:47 p. m.^{45a}]

1063. My 1059, November 30, 1 p. m. Following from American Consul at Harbin:

"November 30, 4 p. m. Have received following telegrams from Leonard, American missionary who went to Buketu on American Red Cross relief work:

Number 1. '29th. Fifteen aeroplanes, sixty bombs Buketu eleven to one today, one on station. All front windows out, center's ceiling blown in, Chinese magazine aflame, many explosions, residences aflame, bombs fell all around our car, we in the fields. Many refugees here in great need. We are trying remove them, we Yalu [*via Yal River?*] this evening; morning train escaped by 20 minutes.'

Number 2. '30th. Three physicians massacred [*Three Rivers District Massacre?*] taking Manchuli, Chalainor, bombing Hallar Buketu yesterday, day before, even as trains, removal protection Tsitsihar.⁴⁶ Danger further air raids, massacre, robbing causing Chinese, Russians flee great distress; thousands fleeing, hundreds camping cold snow-covered plains without shelter, many foodless, sick, wounded; Harbin congested, business bad, makes necessary additional funds, clothing, food, housing.'

^{45a} Telegram in two sections.

⁴⁶ Sentence obviously garbled.

Harbin ex-Commissioner Foreign Affairs Tsai Yun-sheng and member of the railway board of directors, Li Shao-keng, left today for Suifenho, perhaps Habarovsk, to conduct preliminary peace negotiations. Consular corps consulting almost daily. Situation at Harbin quiet at present, but, if danger from looting [by] troops becomes imminent, I shall advise local Americans, women and children first, men later, depart south to Changchun and beyond. American Red Cross might be interested Leonard's telegrams. Department and Embassy informed regarding Tsai's departure."

PERKINS

861.77 Chinese Eastern/529 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 1, 1929—10 p. m.

[Received 10:45 p. m.]

1064. Legation's 1063, December 1, 5 p. m. Conflicting reports as to the acceptance by Mukden of Soviet terms and continued activity of Soviet forces since November 26th suggest:

1. The likelihood of the correctness of the report that Soviet terms have not as yet been fully accepted by Mukden, or;

2. An apprehension on the part of Soviet Government lest, if pressure be at all relaxed, Mukden may, at the instance of Nanking or from hope of foreign mediation, repudiate terms which, if correctly reported, constitute an abject surrender by Mukden and a dangerous loss of prestige by Nanking.

PERKINS

861.77 Chinese Eastern/523 : Telegram

The Ambassador in Italy (Garrett) to the Secretary of State

ROME, December 2, 1929—10 a. m.

[Received December 2—8:25 a. m.]

90. Your 77, November 30, 7 p. m.⁴⁷ Italian Government will communicate immediately to Moscow and Peiping in the sense of your paragraph 6, telegram 73, November 26,⁴⁸ with alterations as suggested in your 77, November 30th and will publish its action as soon as it hears from its representatives that the communications have been delivered.

GARRETT

⁴⁷ See footnote 39, p. 366.

⁴⁸ See footnote 16, p. 350.

861.77 Chinese Eastern/531 : Telegram

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

PARIS, December 2, 1929—1 p. m.

[Received December 2—10:40 a. m.⁴⁹]

541. Department's 395, December 1, 6 p. m.,⁵⁰ communicated to the Foreign Office. Regarding request contained in paragraph 2, Foreign Office will be glad to transmit the text on behalf of our Government to the Government of Afghanistan.

The Minister for Foreign Affairs has requested me to inform you that he is in complete accord with the action you propose taking. Furthermore, to show how fully he approves of the text of your note to the Soviet and Chinese Governments he is adopting the identical text, translated of course, for his statements to the above Governments which were telegraphed urgent to Moscow and Peiping this morning, the former of course accompanied by our statement, both of which the French Ambassador at Moscow has been instructed to deliver simultaneously immediately upon their receipt. The French Minister at Peiping has also been instructed to communicate the French statement to the Chinese Government immediately upon its receipt and to endeavor to arrange for its delivery to be as nearly simultaneously as possible with that of your statement.

The Foreign Office is giving the text of their statement to the press for publication tomorrow. The Foreign Minister informs me that if you wish to do so you are at liberty to inform the American press, at the time you make the statement contained in the last paragraph of your circular telegram, of the action which the French Government is taking, as showing how closely our two Governments are cooperating to carry out the spirit of the pact which they together sponsored. The Foreign Office [*Minister?*] has also asked me to inform you that realizing to what an extent time is of the essence in this matter he abandoned his first intention to obtain from certain of the other original signatory powers their views before deciding upon the action his Government would take in the premises.

ARMOUR

861.77 Chinese Eastern/533 : Telegram

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

LONDON, December 2, 1929—3 p. m.

[Received December 2—1:10 p. m.]

356. I made presentation of matter in your No. 321, December 1, 6 p. m.⁵⁰ to the Foreign Secretary at 1:30 p. m. today. The British

⁴⁹ Telegram in two sections.

⁵⁰ See footnote 45, p. 371.

Government will make statement along the lines of your statement to the Chinese and the Russian Governments for publication in tomorrow's press and Henderson will announce in the House of Commons this afternoon the proposed procedure.

DAWES

861.77 Chinese Eastern/540 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, December 2, 1929—4 p. m.

[Received 8:40 p. m.]

248. Your 95, December 1, 6 p. m.⁵² Curtius has just handed in writing German reply which in translation is as follows:

"The German Government has noted with deep appreciation the generous endeavors of the Government of the United States which have as their object to preserve peace, in accordance with the principles of the Kellogg Pact, between the conflicting parties in the Russo-Chinese conflict. The German Government which originally assumed the protection of the nationals of both countries has had several occasions, because of its special position towards both parties, to act in the same spirit on its own initiative. Thus it transmitted to the Soviet Government the Chinese proposals that a joint declaration be agreed upon by the opposing powers to put an end to the conflict. Furthermore on its own initiative the German Government made proposals for the exchange of prisoners of both countries in order in this way to reduce the cause of friction between them. The German Government for its part is determined to continue to do everything whereby it can contribute toward assuring that the Kellogg Pact is respected by the parties to the conflict. At the present moment the German Government has before it reports to the effect that direct negotiations for the peaceful composition of the conflict have been opened. As the German Government is not in possession of all the facts which would enable it to judge of the momentary status of these negotiations, it would like to reserve its decision as to the time and form of its further steps in the matter. Meanwhile it would express the hope that the *démarche* of the American Government may be successful, vis-à-vis the two Governments, in that the opposing parties desist in accordance with the obligations assumed under the Kellogg Pact from hostile measures for the achievement of their aims and that the direct negotiations may shortly lead to a peaceful settlement of the conflicts."

Curtius feels that the German Government in the special position it occupies in relation to the Chinese-Russian difficulty is already carrying out, along its own established lines, the object you have in mind in suggesting that all signatories of the Paris Pact make communications to China and Russia urging a peaceful solution of

⁵² See footnote 45, p. 371.

their differences. Furthermore he told me that the German Government would make through Wolff's Telegraph Bureau a public statement on the subject as soon as you have made your communication to the American press.

SCHURMAN

861.77 Chinese Eastern/545 : Telegram

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

WASHINGTON, December 2, 1929—5 p. m.

399. I desire to express my high appreciation of the promptness and complete success with which you have carried out at each step my instructions in connection with the action which I am taking in regard to the Russo-Chinese situation.

You may also express to the Minister for Foreign Affairs my appreciation of his prompt and cordial cooperation.

STIMSON

861.77 Chinese Eastern/539 : Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, December 2, 1929—5 p. m.

[Received 6:30 p. m.]

93. Minister for Foreign Affairs states Panaman Government will immediately take the action indicated in penultimate sentence of your circular December 1, 5 [4] p. m.

(Not signed)

861.77 Chinese Eastern/819

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 2, 1929.

The Japanese Ambassador came to see me today and referred to the Sino-Russian situation. I explained to him what had been done over Sunday and gave to him, in confidence, a copy of the statement which is to be issued to the press on December third. I also read to him the telegram which Mr. Neville had sent to us and stated that I felt quite happy to find that the Japanese Government was in agreement with us on this proposition and that Baron Shidehara had found it possible to speak to the Chinese and to the Russians along the lines of our statement.⁵³ I said I quite realized their situation

⁵³ See second paragraph of telegram No. 111, November 27, from the Chargé in Japan, p. 355.

and appreciated his reluctance to make a statement along the lines of our own. I thought that in what he had done he had cooperated. The Ambassador seemed pleased at this and stated several times that he was sure Baron Shidehara would wish to do everything possible in the interests of peace and in the interests of supporting the Kellogg Pact. The Ambassador read the statement very carefully and was pleased to see that in making it we had stated that we had found in our discussions of the question a community of view with regard to the fundamental principles, thus making no difference between the attitude of Japan and that of the other countries. He seemed very grateful.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/864

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 2, 1929.

The Chinese Minister during a call today informed me that he had received from the Chinese Minister at Berlin a translation of the note dated November 14, which the Chinese Government had asked the German Government to transmit on its behalf to the Soviet Government. He read to me this note, which in substance was the same as that communicated to us by the Embassy in Berlin, (Legation's [*sic*] 237, November 29, noon). The Minister pointed out that this note proposed two things to be done simultaneously, one the withdrawal of the armed forces on both sides to a distance of thirty miles from the frontier in order that peace on the frontier might be maintained, and second, that the question of responsibility for hostilities be investigated by an impartial commission. He pointed out that the note stated that provided this was agreed to, China was prepared to submit the whole matter of dispute to a commission for arbitration and settlement in accord with its obligations under the Pact of Paris. He stated that he felt that this note was quite in line with the suggestions of the Secretary with regard to conciliation and indicated the Chinese Government's willingness to resort to pacific means for the settlement of the dispute.

I pointed out to the Chinese Minister that this note, although dated November 14, apparently was not handed to the Russians until November 29. I asked him if he knew why that was. He said he did not.

N[ELSON] T. J[OHNSON]

861.77 Chinese Eastern/589

The Minister in Canada (Phillips) to the Secretary of State

No. 1224

OTTAWA, December 2, 1929.

[Received December 5.]

SIR: I have the honor to acknowledge the receipt today of the Department's circular telegraphic instruction of December 1, 6 [4] p. m., instructing the Legation immediately to communicate orally to the Minister for Foreign Affairs a statement regarding the Sino-Russian situation in its relation to the Pact of Paris for the renunciation of war as an instrument of national policy.

I personally communicated the substance of the telegraphic instruction to the Prime Minister within two hours of the time when decoding was finished. The Prime Minister stated that he approved of the idea and would immediately take the matter under consideration. He added that he would wish to communicate regarding it with the British Government before making a final decision, since there had already been exchanges between London and Ottawa on the subject.

Any further developments will be promptly reported to the Department.

I have [etc.]

For the Minister:

B. REATH RIGGS

First Secretary of Legation

861.77 Chinese Eastern/541 : Telegram

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

LONDON, December 3, 1929—11 a. m.

[Received December 3—8:30 a. m.]

357. Embassy's 356, December 2, 3 p. m. The official text of the British memorandum to the Chinese and Soviet Governments as published in the *Times* this morning is practically identical with your statement. I understand press agencies have cabled full summaries to Washington so [am?] not cabling text to you unless so instructed. Copies of text being forwarded by pouch today. Yesterday in the House of Commons the Foreign Secretary, after briefly outlining the steps taken, stated, when asked whether the Government intended to call the attention of the League Council to the matter, "Not at the moment, until we see whether the effort made jointly by the powers who have signed the Kellogg Pact is sufficiently effective."

DAWES

861.77 Chinese Eastern/544 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 3, 1929—11 a. m.

[Received December 3—9:15 a. m.]

1067. Your 394, November 28, 12 noon. Following from American Consul at Nanking:

“December 2, 11 a. m. While I have not seen Wang, other officials of the Ministry Foreign Affairs inform me that Central Government has given Chang Hsueh-liang a free hand in negotiating with Russia for the settlement of the Chinese Eastern Railway controversy. They add that Chang is reporting daily to the Central Government concerning this matter.”

PERKINS

861.77 Chinese Eastern/546 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 3, 1929—1 p. m.

[Received December 3—9:30 a. m.⁵⁴]

1069. My 1064, December 1, 10 p. m. Following from American Consul at Harbin:

“December 2, 5 p. m. Chinese higher command fled from Buketu when Soviet aeroplanes first started drop bombs. Thousands [of] Russian refugees slowly making way toward Harbin, are being robbed by Chinese soldiers who are taking booty, including horses and cattle to the hills off main road. Soldier rabble has looted every place east Hupah [?] and including Chalantun to which place only trains now run and which has been reached but not bombed by Soviet aeroplanes.

General Wang Shu-chang, commander of First Army, has about three thousand Fengtien troops at Harbin and he assured consuls, November 30th, he could maintain peace and quiet here, but little faith is placed in his assurances. He stated that of the 40,000 Chinese troops formerly between Buketu and Manchuria Station there only remained in that section a few thousand disarmed at Manchuria Station and a few thousand cavalry near Hailar. Tsai and Li, part of the way on foot and part by car attached to locomotive, have crossed frontier at Pogranichnaya. They were very secretive regarding their mission and destination. It is difficult to secure here information regarding peace overtures but it would appear that prospects of an immediate preliminary settlement are not so bright as the Soviet Propaganda Bureau's reports attempt to indicate. Chinese merchants who are sending families and large amount salary money south desire restoration of normal conditions at any price. Embassy informed in regard to looting by the Chinese troops and to Tsai and Li crossing into Siberia.”

PERKINS

⁵⁴ Telegram in two sections.

861.77 Chinese Eastern/547 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 3, 1929—3 p. m.
[Received December 3—10 a. m.]

1071. Legation's 1064, December 1, 10 p. m. Following from American Consul in charge at Mukden :

"December 2, 4 p. m. Reliably informed that Mukden replied to Moscow requesting the appointment of a new manager and assistant manager and proposing to remove certain high Chinese officials connected with the railway; Tsai Yun-sheng and Li Shao-keng, and [*sic*] appointed Mukden representatives, have already left Pogradichnaya for Habarovsk."

"December 2, 9 p. m. With reference to my telegram December 2, 4 p. m., have just learned from officials that no reply has been sent to Moscow but representatives have gone to Habarovsk."

PERKINS

861.77 Chinese Eastern/525 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

TOKYO, December 3, 1929—4 p. m.
[Received December 3—7: 14 a. m.]

114. Department's 121⁵⁵ and 123.⁵⁶

I delivered to Foreign Office the text of the statement as modified which the American Government intends to transmit to the Chinese Government direct and to the Soviet authorities through the French Government.

The Vice Minister told me that the Chinese Minister and the Russian Ambassador had been in conference with the Minister for Foreign Affairs. The Chinese Minister stated that the Chinese had conceded the principle of the *status quo ante* July last in regard to the Chinese Eastern Railway, and the Russian Ambassador said that the Soviet troops had been out of Chinese territory as of November 18th (this date is evidently a mistake . . .) and that direct negotiations were under way between the Soviet and Mukden authorities.

These statements bear out what the Foreign Minister has told me previously. The Japanese believe that the negotiations should remedy the situation by removing the cause of the present difficulties.

NEVILLE

⁵⁵ See footnote 39, p. 366.

⁵⁶ See footnote 45, p. 371.

861.77 Chinese Eastern/582 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, December 3, 1929—5 p. m.
 [Received December 3—12:45 p. m.]

57. Your circular telegram of December 1, 4 p. m. I have made statement to Minister for Foreign Affairs, who expressed warm approval of your step and desire to cooperate. He regards the irritation provoked at Moscow as affording the best indication of its utility. He proposes to make immediate inquiries as to the form of procedure adopted by other nations, notably France and Italy, in order to be guided by this.

EINSTEIN

861.77 Chinese Eastern/551 : Telegram

The Minister in the Netherlands (Diekema) to the Secretary of State

THE HAGUE, December 3, 1929—5 p. m.
 [Received December 3—4:10 p. m.]

142. Department's circular December 1, 4 p. m. Immediately called on Minister for Foreign Affairs and strongly urged that his Government join with other governments along the lines suggested by you. The Minister for Foreign Affairs expressed himself as in entire harmony with your suggestions and promised at once to cable Netherlands Legation accordingly. He however declined to communicate with Russia since his Government has no official relations with the Soviet Government. He informed me that private official despatches from representative at Peking were not reassuring, and expressed himself as deeply interested in arousing public sentiment as the only means of enforcing Paris Pact.

DIEKEMA

861.77 Chinese Eastern/553 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, December 3, 1929—6 p. m.
 [Received December 4—12:19 a. m.]

368. Reference to my telegram No. 367, December 2, 9 p. m.;⁵⁷ my telephone conversation of this morning with the Secretary; and the Department's telegram 528, December 3, 5 p. m.⁵⁷

I saw the Minister for Foreign Affairs at noon and left with him a memorandum in the sense of your circular telegram of December 1st. Mr. Estrada repeated his previous statement that he was in

⁵⁷ Not printed.

entire accord with the principles expressed in that message and that he was quite willing to issue a statement relative to the attitude of his Government in the Russo-Chinese conflict, to send a communication to both the Chinese and the Russian Governments and to instruct the diplomatic representatives of Mexico in the Central American countries to communicate to the governments of those countries the attitude of the Mexican Government.

I shall follow the matter up with the Foreign Office and endeavor to procure copies of the statement issued and communications sent.

MORROW

861.77 Chinese Eastern/571

*The Chinese Minister (C. C. Wu) to the Secretary of State*⁵⁸

WASHINGTON, December 3, 1929.

SIR: I have the honor to transmit the following communication from my Government relating to the controversy between the Republic of China and the Union of Soviet Socialist Republics:

On August 19, 1929, the Chinese Government had the honor to address a communication to the Signatories of the Treaty for the Renunciation of War giving an account of the origin of the controversy concerning the Chinese Eastern Railway between the Republic of China and the Union of Soviet Socialist Republics and announcing its readiness at any time to seek by discussion with the Soviet Government a settlement of the controversy.

From the beginning it has been apparently the policy of the Soviet Government to use force as a solution of the dispute. On various occasions there have been attacks by Soviet forces on Chinese garrisons and invasions of Chinese territory by land, by water, and by air, for instance at Tungning on August 14, 16, and 17, at Chalainor on August 18, September 4, and 8, at Suiyuan on September 29, at Manchuli on October 1 and 2, and at Tungkiang on October 12. Not only have casualties been sustained by Chinese troops, but there has been heavy loss of life and property among the civilian population in the invaded territory.

The Chinese Government, on the other hand, mindful of its obligations as a Signatory of the Treaty for the Renunciation of War, has in spite of extreme provocation confined itself strictly to measures of self-defence. Chinese troops even after repulsing the invaders have in no instance set foot across the border. And repeated but unfortunately unsuccessful attempts have been made to reach with the Soviet Government a settlement by pacific means.

Recently in view of Soviet allegations of Chinese responsibility for the warlike conditions along the border, the Chinese Government, aware of the falsity of these allegations, proposed to the Soviet Government the appointment of a mixed commission of inquiry, presided

⁵⁸ A similar communication, dated Nanking, December 3, 1929, was addressed by the Chinese Minister for Foreign Affairs to the American Chargé in China (861.77 Chinese Eastern/878).

over by a national of a third country, to investigate and report on the responsibility for the frontier situation.⁵⁹ Pending the investigation, both sides were to withdraw their forces from the frontier to a distance of thirty miles. In case of acceptance by the Soviet Government of these conciliatory suggestions, the Chinese Government stated that it was further prepared to submit the whole case for adjustment to a neutral agency according to the established usage for the peaceful settlement of international disputes.⁶⁰

The Chinese Government has thus continually and consistently demonstrated its faithful and scrupulous adherence to the Treaty for the Renunciation of War. Nevertheless the Soviet Government seems to persist in its policy of waging undeclared but actual war on China. On November 17 an armed invasion in greater force than hitherto took place resulting in the Soviet occupation of Manchuli and Chalinor.

Under these circumstances, the Chinese Government considers it its duty to communicate with the Governments of the Co-Signatories of the Treaty for the Renunciation of War, for the purpose of drawing their attention to the acts and attitude of the Soviet Government which are contrary to the provisions of the Treaty and requesting that such measures be adopted as may be necessary and appropriate in view of Article II of the Treaty.

Accept [etc.]

CHAO-CHU WU

861.77 Chinese Eastern/560 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 4, 1929—11 a. m.

[Received December 4—8:50 a. m.]

1077. My 1067, December 3, 11 a. m. Following from American Consul, Nanking:

"December 3, 10 p. m. My December 2, 11 a. m. I am most reliably informed that C. T. Wang today denies that Mukden authorities have committed themselves to an agreement with the Russian Government upon the basis of Russian terms which are: (1) Restoration of the railway to its former status, (2) appointment of Russian general manager and assistant manager of railway, and (3) release of all Russian prisoners. Wang says what has been done has been merely agreement to discuss points (1) and (2) in the forthcoming conference and that no difficulty is expected over point (3). Wang admits, however, that Chang Hsueh-liang has asked the Russian Government to nominate Russians for the position of general manager and assistant general manager for possible appointment by Chinese Government."

PERKINS

⁵⁹ In the note as received by the Chargé in China, this sentence does not end here; the next sentence is added to it as a closing phrase shortened and modified as follows: "or the withdrawal by both sides of their forces from the frontier to a distance of 30 miles."

⁶⁰ The note as received by the Chargé in China contains an additional sentence at this point as follows: "These suggestions were rejected in their entirety by the Soviet Government."

861.77 Chinese Eastern/568 : Telegram

The Ambassador in Italy (Garrett) to the Secretary of State

ROME, December 4, 1929—11 a. m.

[Received 2:30 p. m.]

92. Your 79, December 1, 6 p. m.⁶¹ The following official Stefani communication was published in the press last night:

"The Government of the United States has expressed to the governments of the principal powers signatories of the Kellogg Pact the desire that they call attention of the Government of China and of the Government of Russia to the obligations resulting from the above pact of which they are signatories.

Last week the Ambassador of the United States, Mr. Garrett, and the Minister for Foreign Affairs, Grandi, together examined the situation created in the Far East as a result of the Russo-Chinese conflict and they communicated to each other their respective points of view on the question. The Italian Government has willingly adhered to the desire expressed by the Government of Washington.

As a result of these understandings Minister Grandi instructed the Italian Ambassador at Moscow and the Minister at Peiping to transmit to the Soviet Government and to the Nanking Government a note in the following tenor:

"The Italian Government, in associating itself with the step proposed by the Government of the United States to the principal powers signatories of the Kellogg Pact for the purpose of resolving in a peaceful manner the situation in Manchuria, calls the full attention of the Governments of China and Russia to the provisions of the above-mentioned pact.

The formal assurances which the aforesaid two Governments gave both [*both gave?*] when adhering to the Treaty for the Renunciation of War and [*sic*] therefore permit the Italian Government to hope that they will desist from measures of hostility and will agree between themselves upon some suitable means to arrive at a peaceful settlement of their present controversy.'"

A copy of the above Italian note was also received by the Embassy from the Foreign Office today.

GARRETT

861.77 Chinese Eastern/562 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 4, 1929—noon.

[Received December 4—11:25 a. m.]

1078. My 1069, December 3, 1 p. m. Following from American Consul, Harbin:

"December 3, 1 p. m. Tsai and Li en route to Habarovsk where it is expected that they will discuss with Soviet representatives technical questions connected with points (1), restoration of *status quo ante*, and (3), release of Soviet prisoners, and that with reference to point (2)

⁶¹ See footnote 45, p. 371.

regarding managers temporary [*sic*] attempt to persuade Soviet representatives to select new general and assistant managers instead of Emshantoff and Eismont in exchange for which president of board of directors Lu Jung-huan will be relieved of his post. I believe actual putting into effect of terms proposed by Moscow and accepted by Mukden will depend upon Young Marshal and resistance to pressure which is being or will be brought to bear on him by Nanking officials, Kuomintang and young Mukden party. It is believed here that any hesitation on his part will be followed by further Soviet aeroplane raids which have done little actual damage as regards loss of life and destruction property but which have been effective in demoralizing the Chinese forces and turning them into a rabble of indiscriminate looters."

"December 3, 5 p. m. Unconfirmed reports state that Tsai and Li have recrossed frontier and are on their way back to Mukden via Harbin."

PERKINS

861.77 Chinese Eastern/581 : Telegram

The Minister in the Dominican Republic (Young) to the Secretary of State

SANTO DOMINGO, December 4, 1929—2 p. m.
[Received December 4—11:15 a. m.]

68. With reference to the Department's telegram December 1, 3 [4] p. m. The Minister for Foreign Affairs is addressing telegram to Russia and China along the lines indicated and a public statement will be issued.

YOUNG

861.77 Chinese Eastern/589 : Telegram

The Chargé in Poland (Cable) to the Secretary of State

WARSAW, December 4, 1929—5 p. m.
[Received 7:40 p. m.]

84. Referring to the Department's circular instruction December 1, 4 p. m. Had interview with Minister of Foreign Affairs today who was noncommittal except to state that his Government would consider what action should be taken. He informed me that he was in receipt of a note from the French Embassy, the purport of which was similar to the Department's telegram. In view of Polish attitude, I stressed the communication to the Free City of Danzig of the stand taken by the United States.

CABLE

861.77 Chinese Eastern/570 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 4, 1929—5 p. m.

[Received 7:40 p. m.]

1084. The following from Reuter, dated Moscow, December 3d:

“The Russo-Chinese dispute over the Chinese Eastern Railway has been settled by a protocol signed at Nikolsk-Ussuriisk by Mr. Tsai Yun-sheng, Commissioner for Foreign Affairs in Harbin, and Mr. Simanovsky, Russian Diplomatic Agent.

This protocol agrees to the reorganization of the administrators of the railway in strict conformity with the Peking and Mukden agreements of 1924.

Mr. Tsai promised to dismiss Mr. Lu Yung-huan, chairman of the Railway Board, and, in return, Mr. Simanovsky agreed to recommend other candidates for the managership and assistant managership than Messrs. Emsharov and Eismont, both of whom however may be given other positions on the railway.”

PERKINS

861.77 Chinese Eastern/579 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 4, 1929—7 p. m.

[Received December 5—12:40 a. m.]

1083. My 1065, December 2, 4 p. m.⁶² The following telegram has been received from the Minister for Foreign Affairs:

“I have to acknowledge receipt of your telegram dated December 2, transmitting a statement from your Government and to state in reply as follows:

Throughout the whole present dispute with Soviet Russia the National Government has maintained a peaceful attitude and refrained from adopting any hostile military actions except for the purpose of self-protection, as may be attested by the established facts. Being a cosignatory of the Treaty for the Renunciation of War, the National Government circularized the other signatories of the aforesaid treaty on August 20, 1929, declaring that China would, apart from adopting measures for self-protection in defense of her territorial sovereignty against external invasions, faithfully abide by article 2 of the aforesaid treaty providing for the solution of international disputes by pacific means and that she was ready any time within reasonable limits to negotiate with the Soviet Government for the settlement of the present dispute. Such declaration is in complete harmony with the intent of the note under reply. The National Government has always imposed implicit confidence in aforesaid treaty and desisted from acting in any way contrary to its spirit. It will continue to adhere to its reiterated policy.”

PERKINS

⁶² Not printed.

861.77 Chinese Eastern/578 : Telegram

The Minister in Portugal (Dearing) to the Secretary of State

LISBON, December 4, 1929—8 p. m.
 [Received December 5—9:20 a. m.]

42. Department's circular telegram December 1, 4 p. m., received and deciphered today. Instructions complied with. Minister for Foreign Affairs is in complete accord, will act in the sense desired and as closely in conformity with our action as possible. At his request am giving him paraphrase of our Government's statement to China and Russia to assist him in preparing Portugal's statement.

DEARING

861.77 Chinese Eastern/691

*Statement by the Secretary of State Issued to the Press on
December 4, 1929*

I have seen the text of the Russian memorandum⁶³ as reported in the press. Between co-signatories of the Pact of Paris it can never be rightly thought unfriendly that one nation calls to the attention of another its obligations or the dangers to peace which from time to time arise. As far back as The Hague Convention of 1899 the nations of the world agreed that strangers to a dispute, on their own initiative, could make suggestions looking for peace between the states which were at variance and that the exercise of that right is not to be regarded by the parties in conflict as an unfriendly act.⁶⁴ This was reaffirmed again in 1907⁶⁵ and has been the recognized rule ever since.

The message of the American Government was sent not from unfriendly motives but because this Government regards the Pact of Paris as a covenant which has profoundly modified the attitude of the world towards peace and because this Government intends to shape its own policy accordingly. In the language of the joint statement issued by the President of the United States and the Prime Minister of Great Britain on October tenth last "both our governments resolve to accept the Peace Pact not only as a declaration of good intentions but as a positive obligation to direct national policy in accordance with its pledge".⁶⁶ The present declaration of the authorities of Russia that they are now proceeding with direct negotiations which will make possible the settlement of the conflict is not the least significant evidence to show that the public opinion

⁶³ See telegram No. 550, December 7, from the Chargé in France, p. 404.

⁶⁴ See *Foreign Relations*, 1899, pp. 521, 523 (art. III).

⁶⁵ *Ibid.*, 1907, pt. 2, pp. 1181, 1182 (art. III).

⁶⁶ See vol. III, p. 34.

of the world is a live factor which can be promptly mobilized and which has become a factor of prime importance in the solution of the problems and controversies which may arise between nations.

861.77 Chinese Eastern/645

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 11

HABANA, December 5, 1929.

[Received December 9.]

SIR: Referring to the Department's circular telegram of December 1, 4 p. m., 1929, and to my telegram in reply thereto, No. 128 of December 3, 2 p. m., 1929,⁶⁷ in which the Department was informed that the Cuban Secretary of State had assured me of the full cooperation of his Government, I have the honor to report that the Cuban Government yesterday sent messages to the Governments of China and Soviet Russia inviting their attention to the desirability of settling their present differences by peaceable means.

The Cuban Legation at Peking was directed to make the following communication to the Chinese Government:

"The Cuban Government and people have not failed to follow with deep concern the events which have been developing in Northern Manchuria since the month of July.

In its character as a signatory to the Kellogg Pact, the second article of which binds all the contracting states to have recourse to pacific means for the settlement of differences which may arise between them, the Cuban Republic feels obliged to address itself to the Government and people of the Chinese Republic, invoking their sentiments of human solidarity, and cordially inviting them to settle a conflict which menaces sacred interests common to all peoples, who, in view of the apparent inefficacy of solemn international promises, would feel that their firmest hopes of peace and progress have been destroyed".

The following telegram was sent directly to the Soviet Minister for Foreign Affairs by the Cuban Secretary of State:

"The Cuban Government and people have followed with the greatest anxiety the development of the events which have occurred since the month of July in Northern Manchuria.

As a signatory to the Pact of Paris, the Cuban Republic, through my agency, addresses itself to Your Excellency, calling upon the sentiments of the Russian Government and people, in the conviction that its attitude will contribute to the settlement of a conflict which would surely detract from the efficacy of solemn international agreements in which humanity sees its guarantees of progress and of peace".

I have [etc.]

HARRY F. GUGGENHEIM

⁶⁷ Latter not printed.

861.77 Chinese Eastern/587 : Telegram

The Chargé in Albania (Holmes) to the Secretary of State

TIRANA, December 5, 1929—10 a. m.

[Received 5:09 p. m.]

40. Department's circular telegram December 1 [, 4 p. m.]. Foreign Minister has given me oral assurance that Albania will immediately comply.⁶⁸

HOLMES

861.77 Chinese Eastern/583 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 5, 1929—noon.

[Received December 5—11 a. m.]

1087. My 1078, December 4, noon. Following from American Consul at Harbin:

"December 3, 3 p. m. Tsai and Li returned to Harbin this morning and left for Mukden."

"December 4, 5 p. m. According to the local press, Li declared in Harbin this morning that negotiations not broken and expected to continue smoothly; that Tsai handed Soviet representative Chinese terms as basis for negotiations; that three Soviet points affirmed and, in addition, Moscow must guarantee cessation of Communist propaganda, prisoners to be released by both sides simultaneously, military operations to cease and forces withdrawn from the front. And that since Emschanoff and Eismont were engaged in such propaganda it is not convenient to take them back and Chinese willing to make personnel changes to offset Soviet concessions of [on] this point. Embassy informed briefly."

PERKINS

861.77 Chinese Eastern/596 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, December 5, 1929—noon.

[Received 4:37 p. m.]

73. Department's circular December 1, 4 p. m., received December 3. I took first train to Angora and last evening presented your statement orally to the Minister for Foreign Affairs who heartily applauds your action. Although the latest news despatches indicate that the Russo-Chinese conflict has ceased and that negotiations for a pacific solution have already been agreed upon, the Minister for Foreign Affairs states that he will endeavor to formulate and to issue an appropriate public declaration in line with your proposal.

⁶⁸ See telegram No. 99, December 14, from the Ambassador in Italy, p. 421.

[Paraphrase.] Evidently the Russian Ambassador at Angora has held the ear of the Turkish Minister for Foreign Affairs constantly and has convinced him that White Russians, serving with Chinese troops and inciting them, engineered the attacks in Manchuria. This being assured, it is evident also that the Foreign Minister fears that the Soviet Government would bitterly resent the Turkish Government's issuing even an impartial note, such as yours, so it appears very doubtful whether the Foreign Minister sees his way clear to doing it. Nevertheless, I strongly urged him, and at great length, to take full part in your action. He promises in due course to inform me of any action he may take. [End paraphrase.]

GREW

861.77 Chinese Eastern/590 : Telegram

The Chargé in Peru (Mayer) to the Secretary of State

LIMA, December 5, 1929—noon.

[Received 6 p. m.]

230. Your circular telegraphic instructions of December 1, 4 p. m., carried out immediately. The President and the Minister of Foreign Affairs showed great interest in support of your action. The following is translation of the note Peruvian Government telegraphed to Nanking last night. An identic note is being sent to the Soviet authorities:

“Lima, December 4, 1929. To His Excellency the Minister for Foreign Affairs of the Republic of China, Nanking.

Mr. Minister: Peru, as a signatory of the multilateral pact signed at Paris on August 27, 1928, in which war is renounced as an instrument of international policy and in which the high contracting powers agree that the settlement or solution of all disputes or conflicts of what nature or origin they may be, that may arise among the nations will be sought only by pacific means, finds itself keenly interested in the present matter because no one may fail to recognize the obligation of complying with the prescriptions of that pact.

The Government of Peru feels itself compelled to recall to China and to Russia, two great powers signatory to the above pact, the moral and juridical obligation which they face before the world to resort to pacific means such as arbitration, conciliation or international justice to resolve their difference, renouncing above all the use of force.

The growing development of humanitarian and Christian sentiments among men and peoples obliges the nations of all continents to follow the guide of the pacifism indicated by the multilateral pact for the renunciation of war.

Complying with instructions of the President of the Republic, Don Augusto B. Leguía, I am sending this friendly communication to the Government and people of Your Excellency to the end that, with the high serenity which must characterize great decisions, the

use of force in the Sino-Russian conflict be definitely excluded and pacific means be sought to end the present difference which alarms all the powers and particularly those which cultivate friendly relations with those two nations and desire for them the incalculable benefits of peace.

On this basis and entertaining the hope that the Governments of China and Russia will make a new effort to assure the reestablishment of their good relations, I have the honor to offer to Your Excellency the sentiments of my highest and most distinguished consideration. Signed, Pedro Jose Rada y Gamio, Minister for Foreign Affairs of Peru."

2. Minister for Foreign Affairs stated that the notes would be published about Saturday.

MAYER

861.77 Chinese Eastern/588 : Telegram

The Minister in the Dominican Republic (Young) to the Secretary of State

SANTO DOMINGO, December 5, 1929—noon.

[Received 9:20 p. m.]

70. Legation's telegram No. 68, December 4, 2 p. m. Minister of Foreign Affairs informed me this morning that in view of the press cables today reporting the signing of a protocol between China and Russia, his proposed telegrams to those Governments will be withheld pending developments.

YOUNG

861.77 Chinese Eastern/574 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 5, 1929—3 p. m.

[Received December 5—8:50 a. m.⁶⁹]

1090. Legation's 1084, December 4, 5 p. m. Following from Tass Agency, Moscow, December 4th:

"The protocol signed yesterday in Nikolsk-Ussurisk by Messrs. Tsai and Simanovsky, the Mukden and Soviet representatives respectively, runs as follows:

'On behalf of the Mukden Government, the Diplomatic Commissar, Mr. Tsai Yun-sheng, declares that the chairman of the Board of Directors of the Chinese Eastern Railway, Mr. Lu Jung-huan, has been [*is to be?*] dismissed from the post of chairman of the board.

On behalf of the Government of the U. S. S. R., the Agent of the Foreign Commissariat [at] Habarovsk, Mr. Simanovsky, declares that when the chairman of the Board of Directors of the Chinese Eastern Railway, Mr. Lu Jung-huan, will

⁶⁹Telegram in four sections.

be [*has been?*] dismissed from the post, the Soviet Government, in accordance with declaration of the Acting Commissar of Foreign Affairs, Mr. Litvinov, handed the German Ambassador at Moscow on August 29,⁷⁰ will be ready to recommend new candidates for the post of manager and assistant manager of the Chinese Eastern Railway, instead of Messrs. Emshanov and Eismont. But in the [*this*] case, the Soviet Government reserves the right to appoint Messrs. Emshanov and Eismont to other posts on the Chinese Eastern Railway, whereupon Mr. Tsai Yun-sheng, in personal conversation with Mr. Simanovsky, expressed his consent.

The Deputy [*Diplomatic*] Commissar, Mr. Tsai Yun-sheng, of the Mukden Government declared that the latter, desiring by all means to contribute towards the settlement of the conflict between China and the U. S. S. R. and to remove all causes for further complications, will strictly conform with the Mukden and Peking agreement[s] of 1924, in whole as well as in each part.

The Agent of the Foreign Commissariat [at] Habarovsk, Mr. Simanovsky, on behalf of the Soviet Government, accepted with satisfaction the declaration of Commissar Tsai Yun-sheng that the Mukden Government will fulfill the agreements of 1924 and declared on his part that the Government of the U. S. S. R., which has always stood on the basis of the agreement[s] existing between China and the U. S. S. R., will, of course, strictly fulfill them in whole as well as in each part.

The above declarations in the first and second clauses of this protocol are considered as accepted by both parties.'"

PERKINS

861.77 Chinese Eastern/586 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, December 5, 1929—3 p. m.

[Received 9:05 p. m.]

371. Reference to my telegram No. 368, December 3, 6 p. m. I saw the Minister for Foreign Affairs personally again today and he informed me that he had sent messages by telegraph to the Commissar for Foreign Affairs at Moscow and to the Minister for Foreign Affairs at Nanking. He said that he was giving a copy of this communication to the Russian Minister in Mexico City so that he might transmit it to his Government in the Russian language. Mr. Estrada says that the Government of Mexico merely made friendly representations as a signatory to the Pact of Paris to two other signatories of that pact and expressed the hope that their difficulties might reach a peaceful solution assuring the two Governments of the friendly disinterestedness of Mexico. He also stated that he had sent a telegram to the Mexican diplomatic representatives in Guatemala, Salvador, Honduras and Costa Rica directing them to inform the Governments of those countries that a communication in this sense had been sent to the Governments of China and Russia.

MORROW

⁷⁰ Quoted in statement by the Soviet Commissariat for Foreign Affairs, p. 309.

861.77 Chinese Eastern/601 : Telegram

The Secretary of State to the Chargé in Japan (Neville)

[Paraphrase]

WASHINGTON, December 5, 1929—5 p. m.

124. On December 2, in conversation, I asked the Japanese Ambassador to make clear to Baron Shidehara that our recent action in regard to Russia and China was not taken from any desire to intrude into Manchurian affairs but to save the Kellogg-Briand Pact from losing its strength and force. He said he understood perfectly and would make this clear to his Government. The foregoing merely for your information.

STIMSON

861.77 Chinese Eastern/593 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 5, 1929—7 p. m.

[Received 9:42 p. m.]

1093. My 1071, December 3, 3 p. m., and 1087, December 5, noon. Following from American Consul in charge at Mukden:

“December 5, 11 a. m. Tsai and Li arrived here last night from Nikolsk where meeting with Soviet representatives was held. Reliably informed that following preliminary agreement reached: All clauses of 1924 agreements are to be fulfilled, Lu Jung-huan and Chang Ching-hui to be removed, and Soviet to recommend two other persons as manager and assistant manager of railway, Emshanoff and Eismont to be given other appointments in railway which was accepted by Tsai [apparent omission] officials of General Chang Hsueh-liang after having last night sent telegram to Moscow that Chinese could not concede Soviet demand appointment Emshanoff, Eismont.”

PERKINS

861.77 Chinese Eastern/584 : Telegram

The Minister in the Netherlands (Diekema) to the Secretary of State

THE HAGUE, December 5, 1929—8 p. m.

[Received December 5—1:55 p. m.]

144. Legation's telegram No. 142, December 3, 5 p. m. The Minister for Foreign Affairs sent for me today to say that just as he was about to send a telegram to the Netherlands Chargé d'Affaires at Peiping along the lines suggested in the Department's circular of December 1, he received a telegram from Peiping saying that the

Chinese Government had already received communications from other governments to which it had replied. For this reason and since the Netherlands Government could not communicate with the Soviet Government, Mr. Beelaerts stated that he had not sent the promised telegram and desired me to telegraph my Government accordingly.

DIEKEMA

861.77 Chinese Eastern/644

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] December 5, 1929.

THE SECRETARY: The German Ambassador came to see me on Tuesday⁷¹ to say that he had a telegram from Curtius, Minister of Foreign Affairs, asking him to assure the Department that Germany had entirely sympathized with your attitude in connection with your communication to China and Russia about the Kellogg Pact and to explain why Germany could not take similar action. Curtius said that Germany was in a peculiar position owing to the fact that it had charge of the interests of Chinese nationals in Russia, Russian nationals in China and, therefore, felt that it had little right to intervene. Germany felt also that, inasmuch as it was already acting as a channel of transmission in negotiations between the Chinese and the Russians, it would be wrong suddenly to act in concert with other nations toward bringing about a meeting. I think the Ambassador was genuinely afraid that you would feel that Germany had not played the game. I told him that I thought you realized Germany's peculiar position in the matter, but that I would pass on what he had said to you.

W. R. C[ASTLE,] Jr.

861.77 Chinese Eastern/638: Telegram

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

MONROVIA, December 6, 1929—8 a. m.

[Received 11:35 p. m.]

Department's circular telegram dated December 1, 4 p. m., complied with yesterday. Barclay⁷² states that Liberia will support Pact of Paris and intend[s] to issue similar statement.

WHARTON

⁷¹ December 3, 1929.

⁷² Edwin Barclay, Liberian Secretary of State.

861.77 Chinese Eastern/605 : Telegram

The Chargé in Venezuela (Engert) to the Secretary of State

CARACAS, December 6, 1929—9 a. m.

[Received 2:22 p. m.]

195. The substance of your circular of December 1st, 4 p. m., was duly communicated to the Minister of Foreign Affairs who sent for me last night and made the following statement:

"Please thank the Secretary of State for his communication. The Venezuelan Government is in entire accord with the sentiments of the American Government regarding the deplorable conflict in the Far East and the necessity of upholding the Paris Pact. You may count upon our wholehearted moral support, but as Venezuela has no diplomatic relations with either China or Soviet Russia it is not practicable to address any formal representation to them."

ENGERT

861.77 Chinese Eastern/599 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 6, 1929—10 a. m.

[Received 10:40 a. m.⁷³]

1094. My 1087, December 5, noon. Following from American Consul at Harbin:

"December 5, 1 p. m. It is probable that, judging by quick return of Tsai and Li, they were told that no new conditions would be accepted by Soviet side and that an announcement of what has transpired will not be made for a few days at least. Many local people believe that if Mukden hesitates, Tsitsihar will next be visited by Soviet aeroplanes. A panic among the troops there would increase tremendously the danger of the soldier rabble Chalainor and Manchuria Station because of lack of communications. However, unconfirmed reports indicate that a few hundred Soviet troops, perhaps only irregulars, were used to demoralize the Chinese forces at Chalainor and Manchuria Station and to change them into a rabble. Certainly conditions at both places are quiet except that the Soviet state police have arrested Russians on proscribed lists and that non-Russian foreigners are descending upon Harbin and [fear?] of looting here by local troops. The Japanese Consul General will propose today to the local consular corps that it request the Chinese authorities to send special train on which representatives of the various consulates tomorrow travel as far west as possible to ascertain the fate of and to remove, if possible and necessary, non-Russian foreigners, mostly Japanese (one American), from Hailar. It is difficult to get news from Chalainor. It is reported about one hundred Russians, presumably railway employees, have been killed by Chinese panic-

⁷³ Telegram in two sections.

stricken soldiers at Buketu and other stations. Trains can proceed as far as Buketu, but it is believed that that station is still overrun by rioting Chinese soldiers."

PERKINS

861.77 Chinese Eastern/597 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 6, 1929—11 a. m.

[Received December 6—3:12 a. m.]

1095. My 1084 [1093], December 5, 7 p. m. Following from American Consul in charge at Mukden:

"December 5, 10 p. m. My telegram of December 5, 11 a. m. Reliably informed that discussions concerning Emshanoff, Eismont were continued today. The Marshal eventually acquiesced in their appointment to other positions. A reply to Litvinoff's telegram of November 27th⁷⁴ in this sense was sent today. Apparently no message was sent last night. Lu Jung-huan has not signed [*sic*]; Mukden has now agreed to the conditions of Soviet for starting negotiations."

PERKINS

861.77 Chinese Eastern/598 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

CAIRO, December 6, 1929—11 a. m.

[Received December 6—6:32 a. m.]

76. My 75, December 4, 1 p. m.⁷⁵ Text of Egyptian Government's representations through Egyptian Minister in Paris to Chinese and Russian diplomatic representatives there is, in an abbreviated form, substantially same statement as you have communicated. It has been given out to the Egyptian press. I shall forward full text by despatch.⁷⁵ Do you wish me formally to make any acknowledgment of Egyptian Government's prompt cooperation? Repeated to Paris.

GUNTHER

861.77 Chinese Eastern/608 : Telegram

The Minister in Hungary (Wright) to the Secretary of State

BUDAPEST, December 6, 1929—noon.

[Received 4:10 p. m.]

26. Your circular December 5, 4 p. m.⁷⁵ Department's December 1, 4 p. m., received 3rd and brought on morning of 4th to attention of the Minister of Foreign Affairs who stated that he concurred

⁷⁴ See telegram No. 1054, November 29, from the Chargé in China, p. 362.

⁷⁵ Not printed.

that this was an important moment in the application of the treaty and that a moral obligation rested upon the signatories to the pact again to express their adherence to the principle therein embodied and to take whatever action appeared proper to them according to their respective circumstances. He observed, however, that Hungary as a small power should perhaps await for a few days the action of other powers. After further conversation, however, he stated that he would seek an early opportunity to state the position of the Government at a meeting of the Committee on Foreign Affairs of either House of Parliament which would be made public as he considered such method preferable to an interview or statement by the Prime Minister. The question of addressing communications to the governments parties to the controversy must await further consideration. Hungary maintains diplomatic relations with neither. At my suggestion an officially inspired statement appeared in all morning papers of the 5th that I had informed the Government of the action of the American Government and the vital importance which we attribute to the serious application of the pact.

Prime Minister observed to me last night that the reply of Russia as reported in press here was about what was to have been expected, while Minister of Foreign Affairs characterized it as impertinent. Hungarian papers carry only press reports of controversy and of representations made by certain governments. Only editorial comment is that appearing 4th by Appomnivori [*Apponyi* ?] who observes that this conflict emphasizes the contention advanced by him in private speech at Parliamentary Union in Geneva last August that the reservations made by certain powers signatories to the Pact of Paris in defining aggression have impaired its value.⁷⁷

WRIGHT

861.77 Chinese Eastern/689

The Belgian Embassy to the Department of State

[Translation]

The Belgian Government thanks the Government of the United States for having informed it of the official note addressed to China and Russia on the subject of the situation in Manchuria. The idea which inspired the American initiative has the entire sympathy of the Belgian Government. Like the Government of the United States, the Belgian Government is greatly concerned with seeing the pro-

⁷⁷ See *Inter-Parliamentary Bulletin* (Geneva), 9th year, No. 4, July-August, 1929, pp. 131, 134.

visions of the Paris Pact scrupulously respected by all its signatories.

If public opinion did not watch over their strict observation, the moral force of the Pact would be seriously weakened in the eyes of the world.

The Belgian Government is glad to learn that at present it seems that the Sino-Russian difference is to be the object of a pacific settlement.

WASHINGTON, December 6, 1929.

861.77 Chinese Eastern/624 : Telegram

The Minister in Rumania (Wilson) to the Secretary of State

BUCHAREST, December 6, 1929—2 p. m.

[Received 5:15 p. m.]

32. Made yesterday to Prime Minister, Acting Minister for Foreign Affairs, statement contained in Department's circular of December 1, 4 p. m.

Prime Minister showed great interest, expressed his approval of attitude of United States and procedure followed. He has this morning informed me that he fully shares the Department's views and will be glad to follow procedure suggested. Ministry of Foreign Affairs now studying method of communicating Rumania's views to China and Russia as she has no diplomatic representative in either country.

WILSON

861.77 Chinese Eastern/610 : Telegram

The Minister in Portugal (Dearing) to the Secretary of State

LISBON, December 6, 1929—3 p. m.

[Received 4:15 p. m.]

43. Department's circular December 5, 4 p. m.⁷⁸ Government's attitude is only of approval and willing concurrence. Minister for Foreign Affairs telephoned yesterday, confirmed statements to me of previous afternoon as reported in my telegram 42, December 4, 8 p. m., and said he was sending me copy statements Portugal is despatching to China and Russia.

• • • • • • •
DEARING

⁷⁸ Not printed.

861.77 Chinese Eastern/611 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 6, 1929—3 p. m.

[Received 4:30 p. m.]

282. Department's circular telegrams of December 2 [1], 4 p. m., and December 5, 4 p. m.⁷⁹

The Acting Minister for Foreign Affairs showed me a copy of a note which he says he will address today to the Governments of China and Russia calling their attention to the provisions of the Pact of Paris and expresses the hope that they will settle their difficulties by pacific means. . . .

BEAULAC

861.77 Chinese Eastern/621 : Telegram

The Chargé in Chile (Lay) to the Secretary of State

SANTIAGO, December 6, 1929—3 p. m.

[Received 9:12 p. m.]

170. Department's circular telegram of December 5, 4 p. m.⁸⁰ Minister of Foreign Affairs told me this morning that his Government is in entire accord and sympathy with the action and suggestions made by United States Government to Russia and China and that his Government desires to take identical action, but he feels that inasmuch as Chile has repeatedly refused to recognize the Soviet Government and is not a great power like the United States, Chile has decided not to address Russia in the matter even through an intermediary. The Minister for Foreign Affairs told me howbeit that he intends to ask the Chargé d'Affaires of China in Santiago to transmit a communication to the Chinese Government substantially the same as yours to both China and Russia in Department's circular telegram of December 1, 4 p. m. He is sending this communication to China through its Chargé here, as Chile's [representative?] accredited to Japan and China is now in Tokyo ill.

No comments in Chilean press on this subject has [*have*] appeared as yet, probably awaiting announcement of the action of the Chilean Government.

LAY

⁷⁹ Latter not printed.

⁸⁰ Not printed.

861.77 Chinese Eastern/604½ : Telegram

The Chargé in Sweden (Crocker) to the Secretary of State

STOCKHOLM, December 6, 1929—4 p. m.
[Received December 6—12:30 p. m.]

41. Your circular December 5, 4 p. m.⁸¹ I am informed by the Undersecretary of State for Foreign Affairs that the Swedish Government cordially approves and is sympathetically interested in the action of the American Government in calling the attention of China and Russia to their obligations under the pact. Sweden is inclined to take similar action provided there is indication that a considerable number of the other smaller powers will also act. The Swedish Government have already taken steps to ascertain the views of certain other countries in the matter. The reported disinclination of Germany and Japan to act is discounted here as both those countries are considered to have special interests.

The press has made no comment whatever.

CROCKER

861.77 Chinese Eastern/625 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

[Paraphrase]

VIENNA, December 6, 1929—4 p. m.
[Received 9:05 p. m.]

42. Referring to your circular telegrams of December 5, 3 p. m. and 4 p. m.⁸²

(1) On December 4 the Secretary General of the Austrian Foreign Office referred to the Moscow reaction to your action as "extraordinary". Today he informed me of his Government's opinion that the United States Government's action and suggestions were entirely correct and in harmony with the Paris Pact, which was signed by China, Russia, and the United States.

(2) Inasmuch as Soviet Acting Foreign Commissar Litvinoff has characterized the Franco-American *démarche* as "unfriendly" and, as reported by the Austrian press, has stated publicly that the new Austrian Government has declared it is ready to maintain the existing Austro-Soviet economic relations (this, reading between the lines, is here interpreted to be a warning), Austria as a weak power feels it must refrain from publicly taking a stand, since commercial relations with Russia are important. I think also, though this is secondary, it is felt here that, just at the moment of reaching a

⁸¹ Not printed.

⁸² Neither printed.

constitutional compromise with the Socialists, possible internal complications should be avoided.

(4) As early next week as is possible, there will be handed to me a note embodying the sense of paragraph (1) and also perhaps paragraph (2). The acute constitutional crisis which culminated this week here has subordinated everything else. . . .

WASHBURN

861.77 Chinese Eastern/614 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, December 6, 1929—5 p. m.

[Received December 6—3:40 p. m.]

92. Reference my telegram 91, December 4, 5 p. m.⁸³ Moscow *Izvestia* of December 4 publishes communiqué from the Commissariat of Foreign Affairs stating that Tsai Yun-sheng on behalf of the Mukden Government and Simanovsky on behalf of the Soviets signed on December 3rd at Nikolsk-Ussurisk a protocol containing the following points:

1. Tsai declared on behalf of the Mukden Government that Lu is to be removed from his position as chairman of the Board of the Chinese Eastern Railway.

After the removal of Lu the Soviet Government "will be prepared to nominate for the posts of manager and assistant manager of the Chinese Eastern Railway other persons than Messrs. Emshanov and Eismont". The Soviet Government however "reserves the right to appoint Messrs. Emshanov and Eismont to other positions on the Chinese Eastern Railway."

2. Tsai stated that the Mukden Government "will observe the Mukden and the Peiping agreements strictly in general as well as in particular." Simanovsky "declared on his part that the Government of the U. S. S. R. which has always adhered to the agreements existing between China and the U. S. S. R. will of course observe them strictly in general as well as in particular." In the same number of the *Izvestia* the statement of the American Government expressing the hope that the settlement of the Soviet-Mukden conflict be effected by peaceful means and the Soviet reply thereto⁸⁴ were published in full. The same paper also devotes its leading [article?] to a bitter attack upon the Governments of the United States, France and Great Britain for what it describes as their "attempt by means of overt interference to frustrate the beginning of a settlement of the Soviet-Chinese conflict."

⁸³ Not printed.

⁸⁴ See telegram No. 550, December 7, from the Chargé in France, p. 404.

“Who has empowered these Governments”, the editorial asks, “to take upon themselves the protection of the Kellogg Pact; the pact does not contain provisions regarding the playing of such a role by any individual states. When and to whom has the Soviet Government indicated its willingness to receive suggestions and advice regarding questions of its own foreign policy in connection with matters which do not concern the states offering such advice?”

The editorial then charges that the action of the powers was not prompted by any desire to prevent the violation of the obligations of the Kellogg Pact but for the purpose “in conjunction with the Nanking Government . . .⁸⁵ of exercising pressure upon the negotiations between the U. S. S. R. and Mukden at a moment when these negotiations were already presenting the possibility of a genuine and speedy settlement of the conflict.”

It is pointed out that an agreement with China that would result in the return of the railway to the joint Soviet-Chinese administration would interfere with the plans of “the American and French imperialists”. “American capitalism” desires to gain possession of the railway and France hopes to obtain its share when the railway is divided up. The editorial “notes with satisfaction” that “Japan, Italy and Germany did not join in the action and that they thereby refrained from an unfriendly act in respect to the U. S. S. R.”

COLEMAN

861.77 Chinese Eastern/612 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, December 6, 1929—6 p. m.

[Received December 6—3:10 p. m.]

104. Contents of Department's circular telegram of December 1, 4 p. m., received December 3d, was at once communicated to Minister for Foreign Affairs who issued strong press statement supporting American Government's suggestions and declaring that Russia and China are obviously bound to suspend military action and to seek solution of the conflict by arbitration. This statement received wide publicity. Subsequently the Minister consulted Mr. Venizelos⁸⁶ with respect to concrete action to be taken and requested me this morning to inform the Department that the Greek Government would adopt any course adopted generally by the powers, but being a small state could not take the lead and considered that it would be imprudent to make direct representations to Moscow otherwise than in conjunction with all the powers or in accordance with an agreed plan. Mr. Michalacopoulos

⁸⁵ Omission indicated in the original.

⁸⁶ Greek Prime Minister.

reminded me that there were 200,000 Greek citizens residing in Russia now. Greece maintains no representative in China and would have to communicate with that power through some other government, probably the United States. In my opinion, Greece will move positively as soon as the Government is informed that all the principal powers are acting in the sense suggested in the Department's telegram.

SKINNER

861.77 Chinese Eastern/622 : Telegram

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

PARIS, December 7, 1929—10 a. m.

[Received 1:10 p. m.⁸⁷]

550. I have this morning received from the Foreign Office the reply of the Soviet Government, transmitted through the French Government, to your statement in accordance with instructions contained in the Department's telegram 393, November 30, 8 p. m.

The following is a translation of the covering note from the Foreign Office dated December 6, 1929:

"In conformity with the desire of [*expressed by*] the Embassy of the United States in its note of December 1st, the Ministry for Foreign Affairs has not failed to invite the Ambassador of the French Republic at Moscow to remit to the Soviet Government, in the name of the American Government, the declaration the text of which accompanied the aforementioned communication of December 1st of the Embassy of the United States.

M. Jean Herbet, Ambassador of the Republic at Moscow, hastened to remit this declaration on Tuesday, December 3, to M. Litvinoff, Assistant Commissaire to the Foreign Affairs of the U. R. S. S., leaving with him at the same time a similar communication in the name of the French Government.

The Soviet Government having sent to the Ambassador of the Republic a declaration in reply to the communications made to it, the Ministry for Foreign Affairs has the honor to send herewith to the Embassy of the United States the text, translated into French, of the Soviet reply to the American declaration."

The following is the text of the Soviet note:

"Moscow, December 5 [3], 1929. Reply of the Soviet Government to the American declaration.

[(1)] The U. R. S. S. has practiced since the first day of its existence a policy of peace and, not following the example of the powers, it has not once had recourse to acts of war, unless one counts the necessary measures of defense calumniating [*called*] into action by a direct attack on the Union or by armed intervention of certain powers

⁸⁷ Telegram in five sections.

in its domestic affairs. It has constantly followed this policy of peace, and it has the intention to follow it, independently of the Treaty of Paris for the Renunciation of War.

(2) The Government of Nanking, in the course of the last few years, turning aside from the methods which habitually serve [to] resolve, by diplomacy, the disputes which have arisen, has practiced towards the U. R. S. S. [a] policy of provocation which consists of violating the usual international regulations and treaties, although these treaties had not been imposed on China by armed force or other compulsory measures, but had been concluded on the basis of full equality and good will, and although the Soviet Union, as is known, had spontaneously abandoned in these treaties [the] extraterritorial rights, consular jurisdiction and other privileges, the suppression of which the Chinese Government has vainly endeavored up to the present to obtain from the other powers.

(3) The culminating point of this policy has been the seizure of the Chinese Eastern Railway, without any warning and without previous notification of any claim, in violation of the existing agreements on the conjoint administration of the railway.

(4) The Soviet Government considers that like conduct on the part of the Government of Nanking, if it had taken place vis-à-vis the United States of America, Great Britain or France, would have been considered by the Governments of these countries a sufficient pretext for invoking the reservations made when signing the Treaty of Paris for the Renunciation of War. The Soviet Government has declared, in its time, that it did not recognize these reservations and that it had no intention of invoking them.

(5) The Nanking Government has not limited itself to the illegal seizure of the Chinese Eastern Railway, but has mobilized along the Soviet-Manchurian frontier an army, of which certain units in accord with the Russian counter-revolutionary bands which it contains have executed systematic attacks against the U. R. S. S. penetrating into Soviet territory, firing on units of the Red army and on the frontier villages, pillaging and violating the peaceful population and causing, by its acts, considerable loss of life and property. In spite of the repeated warnings given to the Nanking Government, by the intermediary of the German Government, these attacks have not ceased and [*but?*] they have rather multiplied and become more and more intense. These attacks have obliged the Soviet army of the Far East, in the interest of the defense and protection of the peaceful population of the frontier region, to take counter-measures. Thus the acts of the Red army have been caused by consideration[s] of legitimate defense, absolutely necessary, and do not constitute to any degree the violation of obligations, whatever they be, resulting from [the] Treaty of Paris; this cannot be said of the armed forces which are on Chinese territory and in Chinese ports and which belong to powers which have today addressed identical declarations to the Government of the Union.

(6) The Government of the Union notes that the Government of the United States of America has forwarded its declaration at the moment when the Soviet and Mukden Governments had already come to an agreement on a series of terms and when direct *pourpar-*

lers are taking place which open up the possibility of a rapid settlement of the Soviet-Chinese conflict.

By reason of this circumstance, the *démarche* in question cannot fail to be considered as a pressure, which nothing justifies, on the *pourparlers*, and consequently it can in no way be considered as a friendly act.

(7) The Government of the Union notes in addition that the Treaty of Paris for the Renunciation of War does not envisage, either by an individual state or by a group of states, the putting into effect of this pact.

In any case, the Government of the Union has never stated that it agreed that the states (whichever they may be) in their own name, or by virtue of a mutual understanding between themselves, should arrogate to themselves such a right.

(8) The Government of the Union declares that the Soviet-Manchurian conflict can only be settled by way of direct *pourparlers* between the Soviet Union and China on the basis of terms which are known to China and which are already accepted by the Government of Mukden, and it cannot admit the intervention of anybody in these *pourparlers* or in the conflict.

(9) In conclusion the Government of the Union cannot fail to express its astonishment that the Government of the United States, which, by its own will, does not entertain any official relations with the Government of the Soviet Union, should find it possible to address to [the] latter advice and recommendations."

ARMOUR

861.77 Chinese Eastern/623 : Telegram

The Chargé in Japan (Neville) to the Secretary of State

[Paraphrase]

TOKYO, December 7, 1929—11 a. m.

[Received December 7—6:37 a. m.]

118. Department's 124, December 5, 5 p. m. It is not my belief that our action will be attributed by the Japanese to a desire to intrude respecting Manchurian affairs, nor is this indicated by press comment. In responsible quarters I have not heard anything to that effect. I have been asked by the Japanese Minister for Foreign Affairs to assure you that he understands your disinterested motives and that his unwillingness to take part in formal representations arises not because of disagreement with their purpose, but from his feeling that, after he had been informally and confidentially talking over the question with both parties and since he knew China and Russia were about to open direct negotiations, he could not press suddenly for formal action.

NEVILLE

861.77 Chinese Eastern/619 : Telegram

The Chargé in Denmark (Paddock) to the Secretary of State

COPENHAGEN, December 7, 1929—11 a. m.

[Received December 7—8:10 a. m.]

30. Your circular telegram dated December 5, 4 p. m.⁸⁸ Danish Government expresses sympathy with initiative taken by principal powers with respect to Pact of Paris, but considers it must postpone definite decision as to participation in view of developments since date of Department's circular of December 1, 4 p. m. Foreign Minister informs me this decision in accord with attitude of other Scandinavian countries. Danish press in general questions efficacy of the pact.

PADDOCK

861.77 Chinese Eastern/629 : Telegram

The Minister in the Irish Free State (Sterling) to the Secretary of State

DUBLIN, December 7, 1929—11 a. m.

[Received December 7—9 a. m.]

15. Department's circular December 5, 4 p. m.⁸⁸ Your instruction December 1, 4 p. m., was carried out promptly with the Foreign Office in the absence of the Minister for External Affairs in London. No action was taken in his absence. I saw him yesterday on his return and he stated that in view of the Soviet's reply he doubted that Free State support would now serve any useful purpose. He would, however, take it up with the Cabinet next Tuesday.⁸⁹

There has been no press comment.

STERLING

861.77 Chinese Eastern/711

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

No. 10066

PARIS, December 7, 1929.

[Received December 20.]

SIR: With reference to the action taken by our Government in regard to the Russo-Chinese situation, I have the honor to confirm my telegram No. 551, December 7, 11 a. m.⁸⁸ and to transmit herewith a copy and translation of a note dated November [December] 6, 1929, from the Ministry for Foreign Affairs.⁸⁸ It will be noted there-

⁸⁸ Not printed.

⁸⁹ December 10, 1929.

from that, having no minister in Afghanistan, the Foreign Office has instructed M. Hackin, head of the French Archaeological Mission in Afghanistan, charged unofficially in the absence of a minister with French interests at Kabul, to inform the Afghan Government that the Foreign Office has received the text of the statement of our Government which is being forwarded to him by mail and that he should bring it verbally to the attention of the Afghan Government when received.

I have [etc.]

NORMAN ARMOUR

861.77 Chinese Eastern/633 : Telegram

The Minister in Costa Rica (Davis) to the Secretary of State

SAN JOSÉ, December 7, 1929—noon.

[Received 4:30 p. m.]

75. Department's circular telegram of December 3 [1], 4 p. m. The Minister for Foreign Affairs has orally informed me that the Costa Rican Government yesterday instructed its Minister at Paris to communicate its views to diplomatic representatives of China and Russia along lines similar to those expressed by the Government of the United States.

Since the Costa Rican Government does not maintain a diplomatic mission in China and has not previously made any gesture toward establishing diplomatic relations with Russia (see the Legation's despatch No. 1216, May 16, 1928⁸²) the Costa Rican Minister at Paris was instructed to follow the mode of procedure adopted by other nations in a similar position, acting jointly with such nations in making representations to diplomatic representatives of China and Russia or acting independently.

DAVIS

861.77 Chinese Eastern/635 : Telegram

The Chargé in Yugoslavia (George) to the Secretary of State

BELGRADE, December 7, 1929—noon.

[Received 6:30 p. m.]

23. Department's circular of December 1, 4 p. m. I am orally informed by Foreign Office, Yugoslav Minister at Washington telegraphically instructed to accomplish full adherence to proposals regarding Manchuria and that declaration will be published in Belgrade.

GEORGE

⁸² Not printed.

861.77 Chinese Eastern/765

The Minister in Finland (Pearson) to the Secretary of State

[Extracts]

No. 1530

HELSINGFORS, December 7, 1929.

[Received December 31.]

SIR: Referring to the Department's telegram of December 1, 4 p. m. I have the honor to report that I called at the Foreign Office on December 4th and had a conversation with Mr. Procopé, the Foreign Minister, stating in substance the facts set forth in the Department's telegram. The Foreign Minister expressed great interest in the act and suggestions of Washington. He said he would talk the matter over with other Government officials and would then like to see me again if possible the next day. On the fifth I met Mr. Procopé again at five o'clock in the Foreign Office. We talked for an hour or more about the situation in the Far East and about Finland's relations with Russia. Mr. Procopé made a special effort during this conversation to impress upon me that Finland is very happy over the fact that Washington called the attention of Russia and China to the Pact of Paris. . . .

He added, "I have written an *Aide Memoire* which I wish you would transmit to Washington. In this I have set forth my Government's earnest approval of the act and suggestions of your Government." A copy of the *Aide Memoire* is enclosed herewith, without change, as written in English by the Foreign Minister.⁹³

I have [etc.]

ALFRED J. PEARSON

[Enclosure]

The Finnish Minister for Foreign Affairs (Procopé) to the American Minister (Pearson)

AIDE MÉMOIRE

The Finnish Minister for Foreign Affairs has the honor to thank Mr. Pearson, the American Minister, most sincerely for the statement made by him on December 4th on behalf of the Government of the United States. Monsieur Procopé has received the statement made with the greatest interest and has communicated the contents of the same to some other members of his Government. We are of the opinion that the maintenance of peace and the settlement by pacific means of all international disputes or conflicts are of common interest to all the civilized powers and quite specially to the States signatory to the Paris Treaty for the Renunciation of War. In the case of a

⁹³ A brief report was made in telegram No. 31, December 8, 1929 (861.77 Chinese Eastern/636).

conflict those of these States not involved are due to pay all attention to this interest, at the same time, taking into consideration the character of the special case as well as its own position and international engagements.

In view of these considerations the Finnish Government pays its earnest tribute to the noble efforts of the Government of the United States to uphold the efficacy and scrupulous observation of the Kellogg Treaty, which are so important to all Powers. In this view the Finnish Government which from the beginning has followed with close attention the development of the dispute between China and the Union of the Socialist Sovietic Republics, will give due consideration to the statement made on behalf of the United States Government.

HELSINKI, December 5, 1929.

861.77 Chinese Eastern/637 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 8, 1929—6 p. m.

[Received December 8—12:10 p. m.⁹⁴]

1109. Legation's 1098, December 7, noon [*December 6, 4 p. m.?*].⁹⁵

1. Following from Tass Agency, Moscow, December 6th:

"The following exchange of telegrams has taken place between Marshal Chang Hsueh-liang and the Acting People's Commissar of Foreign Affairs of the U. S. S. R., Mr. Litvinov:

Chang Hsueh-liang's telegram received by the Foreign Commissariat and [*in*] the Chinese language states:

"We have received the telegram of the People's Commissariat of Foreign Affairs of November 27.⁹⁶ Since the most important part subject to discussion on point 2 has been agreed upon by representatives of both sides sent to Nikolsk-Ussurisk, I hereby specially express my full agreement with the rules [*decisions?*] of the conference.

In addition, I am immediately seeking [*sending*] the Diplomatic Commissioner, Mr. Tsai Yun-sheng, with official written credentials, to discuss all questions with the representative of the U. S. S. R., Mr. Simanovsky, in accordance with our telephonic [*telegraphic*] correspondence and the results of the conference. I am specially advising you of this by telegraph."

Mr. Litvinov wired the following reply today:

"The Foreign Commissariat acknowledges the receipt of your telegram of December 5 and begs to advise you that the Foreign Commissariat's Agent at Habarovsk, Mr. Simanovsky, has been directed to meet Mr. Tsai Yun-sheng."

.2. Following from Reuter, Mukden, December 7th:

"Lu Yung-huan, president of the Chinese Eastern Railway, has sent in his representation [*resignation*] to the Mukden authorities."

⁹⁴ Telegram in three sections.

⁹⁵ Not printed.

⁹⁶ See telegram No. 1054, November 29, from the Chargé in China, p. 362.

3. Following from Reuter, Nanking, December 7th:

"Report that the National Government has approved the Sino-Soviet protocol is officially confirmed. The Government had appointed Tsai Yun-sheng as plenipotentiary delegate for the formal Sino-Soviet negotiations."

PERKINS

861.77 Chinese Eastern/642 : Telegram

The Minister in Siam (Mackenzie) to the Secretary of State

[Paraphrase]

BANGKOK, December 9, 1929—5 p. m.

[Received December 9—10: 20 a. m.]

31. Department's circular of December 5, 4 p. m.⁹⁷ The Siamese Minister for Foreign Affairs states that his Government is in complete sympathy with the American action in calling the attention of China and Russia to the obligations of the Pact of Paris, but he will not make any further statement until the King, who is at the winter palace in the country now, has instructed him. A public statement is, therefore, not decided upon. The local press is noncommittal.

MACKENZIE

861.77 Chinese Eastern/650 : Telegram

The Chargé in Sweden (Crocker) to the Secretary of State

STOCKHOLM, December 10, 1929—11 a. m.

[Received December 10—9:10 a. m.]

42. Department's circulars December 1, 4 p. m., and December 5, 4 p. m.;⁹⁸ my 41, December 6, 4 p. m.

The Minister for Foreign Affairs informed me yesterday that in view of the present direct negotiations between China and Russia he feels action by the Swedish Government would serve no useful purpose.

CROCKER

861.77 Chinese Eastern/800

The Yugoslav Minister (Pitamie) to the Secretary of State

AIDE MEMOIRE

I have the honor to inform Your Excellency that I have received instructions from my Government to inform the Government of the United States, that the Kingdom of Jugoslavia, as one of the coun-

⁹⁷ Not printed.

⁹⁸ Latter not printed.

tries which signed the Kellogg Pact, associates itself with the intervention of the United States Government, made with a view of stopping the hostilities between the Soviet and Chinese Governments and bringing about a peaceful settlement of the conflict.

My Government, in view of the fact that it is not in diplomatic relations with either the Soviet or the Chinese Governments, begs the United States Government to take steps to make a declaration in the aforesaid sense on its behalf, to these Governments.

WASHINGTON, December 10, 1929.

861.77 Chinese Eastern/668 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 10, 1929—2 p. m.
[Received December 11—9:45 p. m.]

1120. Following from American Consul at Harbin:

"December 9, 5 p. m. Chinese officials connected with the railway dejected. It would appear that the Chinese authorities in general are willing to grant any Soviet demands in order to restore normal conditions in North Manchuria. It is reported that a Soviet armored train has come as far east as station Charomte [*Chalamute*] and the [*that?*] Red Mongol cavalry detachments are moving about near Hailar Station. There is some uneasiness in regard to how successful the authorities will be in sending south superfluous troops including enormous number out of hand, many of whom will become brigands, and in regard to taking care of the thousands of penniless Russian and Chinese refugees who are moving down the railway line and into Harbin."

PERKINS

861.77 Chinese Eastern/654 : Telegram

The Chargé in Poland (Cable) to the Secretary of State

WARSAW, December 10, 1929—3 p. m.
[Received December 10—2:10 p. m.]

85. Department's circular and my telegram No. 84, December 4, 5 p. m. I inquired informally of Mr. Lipski, Chief of the Western Division of the Ministry for Foreign Affairs, what collaborative action, if any, Poland might be expected to take with regard to the Soviet-Chinese entanglement. He stated that in view of the negotiations reported as taking place between the belligerent countries and the many difficulties existing between Poland and the Soviets, no useful purpose would be served in addressing notes to Russia and China. A telegram, he stated, would shortly be sent to the Polish Legation at Washington which would embody the above. The

French Ambassador subsequently informed me that although he knew that the Polish Government had every desire to cooperate, it did not feel the present an opportune moment.

So far, strictly limited and unimportant press comment.

CABLE

861.77 Chinese Eastern/653 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, December 10, 1929—3 p. m.
[Received December 10—12:23 p. m.]

59. Your circular telegram of December 1, 4 p. m. Ministry of Foreign Affairs informs me that yesterday Dr. Benes sent a telegram to Shanghai and today he addresses a note to the Soviet representative at Prague to say that Czechoslovak Government adheres to American point of view.⁹⁹

EINSTEIN

861.77 Chinese Eastern/655 : Telegram

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

BERNE, December 10, 1929—6 p. m.
[Received 7:07 p. m.]

118. Department's circular December 5, 4 p. m.¹ Federal Council at recent meeting decided that in view of Switzerland's lack of relations with Russia and in view of its traditional policy of neutrality and nonintervention it could not make official representations to the Government[s] of Russia and China even though it fully concurred in the aims of the American Government in calling attention to the obligation assumed under the Pact of Paris. Mr. Motta drafted a communiqué based on the discussion without [*with?*] the Federal Council reading as follows:

"The American Chargé d'Affaires has officially informed the Federal Council of the contents of the note which the American Government addressed to the Chinese Government and delivered to the Government of Soviet Russia as a result of recent events in Manchuria and inquired whether the Federal Government might find it possible to participate in some manner in this action which the American Government was taking by virtue of the Pact for the Renunciation of War.

Inasmuch as it has no diplomatic relations with Russia and in view of Switzerland's special position, the Federal Council has not judged

⁹⁹ The Czechoslovak Legation confirmed this action on December 11 (861.77 Chinese Eastern/732).

¹ Not printed.

it possible to make diplomatic representations in the strict sense of the word to the Governments of China and Soviet Russia. None the less in the conviction that it is voicing public opinion throughout Switzerland, the Federal Council joins in the hope that these two Governments which signed a treaty which solemnly proscribes recourse to war for the settlement of international conflicts will strive for a pacific solution of the dispute which has arisen between them."

[Paraphrase.] Desiring to be helpful, Mr. Motta has indicated his willingness to be guided by your preference in regard to whether this communiqué be issued or be regarded as an oral response to my oral representations last week. I request urgently your instructions. [End paraphrase.]

MOFFAT

861.77 Chinese Eastern/659 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANGORA, December 10, 1929—11 p. m.

[Received December 11—9 a. m.²]

18. Department's circular of December 1, 4 p. m. Following is translation of statement concerning Russo-Chinese dispute and the Pact of Paris which the Minister for Foreign Affairs sent me tonight. He proposes to give it to the press tomorrow, December 11, and authorizes its immediate release to the press in the United States if you so desire.

"The Government of the United States of America, which took the initiative in extending the Pact of Paris to all countries, has informed Turkey, as a signatory of this pact, that by reason of the acute situation of the Sino-Soviet controversy and following consultation with five unspecified states, it delivered, through the instrumentality of the French Ambassador at Moscow, a note to the Soviet Government expressing its hope and belief that the latter would not neglect its obligations under the said pact in relation to the renunciation of recourse to war as an instrument of national policy. The Washington Government adds that at the same time it delivered an identic note to the Chinese Government and that notes of like tenor have been addressed by other states signatory to the Pact of Paris to the two interested parties. By the same communication, it invited Turkey publicly to express its opinion on this subject.

His Excellency, the Ambassador of the United States of America, who communicated the foregoing orally to me, has been requested by me to transmit to his Government the thanks of the Government of the Republic therefor.

While recalling that Turkey, which unreservedly adhered to the Pact of Paris—known as the Kellogg Pact—was also one of the first to ratify it and that, with the U. S. S. R., it is likewise one of the states

²Telegram in two sections.

signatory to the Litvinoff pact³ which gave immediate effect to the Pact of Paris in Eastern Europe, I explained the particular position of Turkey in this matter:

As a neighbor and friend of Soviet Russia, Turkey from the beginning has closely followed the Sino-Soviet controversy, in respect of the different phases of which Moscow has kept it informed. Turkey knew that Soviet Russia, loyal to the principles of the Pact of Paris and to the oriental policy which it is following in complete harmony with the spirit of the universal peace policy, had from the first proposed direct negotiations to the Chinese Government and in the course of this dispute had had no thought whatever of war.

According to the most recent information which we have received, direct negotiations between the Soviet Government and that of Mukden for the peaceful settlement of this controversy, which concerns the entire world, have begun.

Turkey has greeted this news with satisfaction, and I myself hope that the negotiations will provide for a successful conclusion, since the settlement of this dispute between the interested parties is wholly in accord with the general policy of peace as well as with their own interest. Moreover, we have learned through the press that the Chinese Government has likewise shown its peaceful intentions and has consented to enter into negotiations with the Soviet Government.

At the same time, I desire to emphasize that we have followed with real sympathy, as everywhere, the national movement in China and have always desired the maintenance of good relations between these two great neighboring countries.

In conclusion, I again express my conviction that the Pact of Paris is the most important work which has been accomplished in our time in the interest of peace."

[Paraphrase.] The obviously biased, and in my view, unsatisfactory nature of this Turkish statement clearly is owing to the Foreign Minister's leanings toward Russia, perhaps based more on *viva* than love, and probably is influenced also by the forthcoming visit of the Soviet Acting Commissar for Foreign Affairs, Karakhan, to Angora. [End paraphrase.]

GREW

861.77 Chinese Eastern/663 : Telegram

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

MADRID, December 11, 1929—1 p. m.

[Received December 11—11:43 a. m.]

72. Your circular December 1, 4 p. m. Palacios sent for me this morning and told me that the Spanish Government had been quite prepared to follow your course of action until the Soviet reply to your

³This protocol was signed at Moscow, February 9, 1929, by Estonia, Latvia, Poland, Rumania, and the U. S. S. R.; League of Nations Treaty Series, vol. LXXXIX, p. 369. Turkey's accession thereto took place on April 1, 1929; *British and Foreign State Papers*, vol. CXXX, p. 631.

communication was published. This convinced the Spanish Government that any communication to the Soviets, no matter how indirectly, would not only do no good but might do harm. As a communication could not be made only to the Chinese Government, it seemed wiser in the interest of peace merely to observe events. In case the situation should again become complicated the matter will be reexamined in view of the then existing circumstances. Palacios said that he thought the recent events in China while bad for China probably would be helpful for the settlement of the Soviet-Chinese dispute.

WHITEHOUSE

861.77 Chinese Eastern/665 : Telegram

The Chargé in Chile (Lay) to the Secretary of State

SANTIAGO, December 11, 1929—1 p. m.

[Received 2 p. m.]

172. Referring to Department's telegram of December 1, 4 p. m., last paragraph. Minister of Foreign Affairs handed me this morning the following statement:

[Translation]

"The Government of Chile, informed of the invitation of the Government of the United States of America to the Governments of China and Russia to consider the stipulations of article 2 of the Treaty for the Outlawry of War in the settlement of their difficulties in Northern Manchuria, expresses to the United States the greatest interest in this pacific action and, as an adherent to the said treaty, hopes that any conflict of that kind may be satisfactorily settled in the spirit of that pact."

This has also been given to the press and to the Chinese Chargé d'Affaires in Santiago.

The Minister for Foreign Affairs has decided not to send to China a statement similar to the American one to China as he intended, as reported in my telegram number 170 of December 6, 3 p. m.

LAY

861.77 Chinese Eastern/667 : Telegram

The Chargé in Bulgaria (Kodding) to the Secretary of State

SOFIA, December 11, 1929—4 p. m.

[Received 5 : 15 p. m.]

19. Department's December 1, 4 p. m. After approval of Council of Ministers the Bulgarian Government yesterday instructed its representative in Paris to inform the Russian Embassy and the Chinese

Legation that it entirely associates itself with the views of the Government of the United States and the other protesting powers concerning the situation in Manchuria.

KODDING

861.77 Chinese Eastern/708

Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the Netherlands Minister (Van Royen) on December 10, 1929

[WASHINGTON,] December 12, 1929.

The Dutch Minister came to see me to ask about the *démarche* we made concerning the Manchurian situation. He said that he felt it was the best thing that could possibly have happened with regard to the Kellogg Pact, inasmuch as it proved the reliability of the Pact. He said, of course, the main thing was to show that it is possible to mobilize public opinion in favor of peace and that he felt Mr. Stimson's note had done exactly this thing.

W. R. C[ASTLE, JR.]

861.77 Chinese Eastern/669 : Telegram

The Minister in the Irish Free State (Sterling) to the Secretary of State

DUBLIN, December 12, 1929—11 a. m.

[Received December 12—11 a. m.]

16. In continuation of my 15, December 7, 11 a. m. It was decided in the Executive Council yesterday that the Free State, while entirely sympathetic with the United States suggestion, would send no communication to the Chinese and Soviet Governments, since, in view of Soviet reply, such representations would serve no useful purpose. I gather that this decision is largely influenced by the fact that when the British Foreign Office in negotiating with the Soviet for the resumption of diplomatic relations desired to include Dominion recognition with that of Great Britain, and the Free State and presumably other Dominions objected to this procedure, the Soviet [apparent omission] sided with the Dominion point of view in insisting on separate negotiations. Moreover it is most probable that after the Anglo-Soviet treaty⁴ is ratified, the Free State will recognize Russia, all of which creates a somewhat delicate situation in the eyes of the Government here.

STERLING

⁴ For exchange of notes signed at London, December 20 and 21, 1929, see League of Nations Treaty Series, vol. xcix, p. 61. For temporary commercial agreement signed at London, April 16, 1930, see *ibid.*, vol. ci, p. 409.

861.77 Chinese Eastern/673 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 12, 1929—noon.

[Received December 13—11:05 a.m.⁵]

1129. My 1120, December 10, 2 p. m. Following from American Consul, Harbin :

1. "December 11, noon. Tsai and Li left yesterday afternoon direct for Habarovsk on special train which will open up communications at least temporarily with the Ussuri Railway on which it is expected Soviet railway officials will come to Harbin within a few days. General Wan Fu-lin telegraphically stated that he could guarantee protection to a consular corps commission on a proposed special train only as far as to Yakeshi where Chinese vanguard stationed and where Chinese forces have taken up position against the Russians. It is safe to assume that practically the whole region of Barga, west of Yakeshi,^{5a} is no longer under Chinese control. Refugees who have arrived from the vicinity of Manchuria Station and Hailar report that Mongol and other Red military detachments are patrolling that vicinity and that members of the G. P. U. or Soviet State military [police?] have made arrests of Russians suspected by them of having carried on White propaganda principally at Manchuria Station and Chalainor."

2. "December 11, 4 p. m. Tsai and Li have been detained at Pogranichnaya owing to some obstruction in tunnel near that place."

PERKINS

861.77 Chinese Eastern/670 : Telegram

The Minister in Austria (Washburn) to the Secretary of State

VIENNA, December 12, 1929—1 p. m.

[Received 5:22 p. m.]

44. My telegram No. 42, December 6, 4 p. m. The following is text of memorandum this day received :

"The Federal Government has followed with great interest and full sympathy the steps taken by the Government of the United States in its efforts to settle the present conflict between the Union of Socialist Soviet Republics and China by the methods prescribed in the anti-war pact accepted by both parties to the dispute.

If in the course of these endeavors the Government of the United States, jointly with a few other governments, recently undertook a *démarche* in Moscow and Nanking in order to remind both parties to the dispute of the duties arising from the above-mentioned pact, the Federal Government is fully convinced that the motive of these steps

⁵ Telegram in two sections.^{5a} The same as Yakoshih.

was to take all measures to the end that in this first great international conflict since the coming into force of the Pact of Paris the high ideals of the pact should find their practical application and thus the prestige of the pact and thereby also its political efficacy in the service of the world peace be assured and intensified."

Should the Department desire to give publicity to the contents of this memorandum the Austrian Government has no objection.

WASHBURN

861.77 Chinese Eastern/672 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 12, 1929—6 p. m.
[Received December 13—9:35 a. m.]

1135. Following from the American Consul at Nanking:

"December 11, 11 a. m. C. T. Wang told Jacobs⁶ last night that press reports of the settlement of Chinese Eastern Railway controversy are correct, with the addition that Chinese and Russian Governments have agreed that the person who was formerly Russian general manager is not to be reinstated."

PERKINS

861.77 Chinese Eastern/677

Memorandum by the Secretary of State

[WASHINGTON,] December 12, 1929.

The Polish Minister brought me a message from his Foreign Minister in regard to the Russian--Chinese message; that he did not get my message until several days after the announcement of the settlement of the Russian-Chinese difficulty and thought that therefore it would be unwise now to convey it, but that he wanted to tell me how much they agreed with our sending of the message and how much good they thought that it would accomplish and he spoke very frankly about the character of the Russian reply and how it would damage the aspirations of Russia in connection with this country.

He felicitated me on the fact that he thought this had produced great beneficial effect towards the purpose of the Kellogg Pact and told me that Poland would be ready to act accordingly on any other occasion.

⁶ J. E. Jacobs, Consul at Shanghai and a delegate at Nanking in the negotiations concerning the Shanghai Provisional Court.

861.77 Chinese Eastern/671 : Telegram

The Minister in Czechoslovakia (Einstein) to the Secretary of State

PRAGUE, December 13, 1929—11 a. m.

[Received December 13—8:09 a. m.]

60. Rumanian Minister for Foreign Affairs, now in Prague, told me last night that the Polish Government had just requested him to delay Rumanian representations to the Soviet and Chinese for concerted action with Poland and the Baltic States. Both Rumanian and Czechoslovak Ministers of Foreign Affairs expressed their opinion to me that Poland as a neighbor of Russia felt reluctant to irritate the Bolsheviks. The Rumanian Minister told me that he had advised Warsaw that he feared the request came too late; he had already sent instructions from Paris to Bucharest to associate action with ours but he would try to recall these if possible.

EINSTEIN

861.77 Chinese Eastern/678 : Telegram

The Minister in Portugal (Dearing) to the Secretary of State

LISBON, December 13, 1929—3 p. m.

[Received 4:10 p. m.]

44. My telegram No. 43, December 6, 3 p. m. When I requested yesterday, for forwarding to Department, copies of Portuguese Government statements to Russia and China, I was asked to call at Foreign Office and was informed by Director General, in the absence of Foreign Minister, that there had been a delay and that while Portugal was in accord with us in the original situation it feels that situation has now changed and that in view of the direct negotiations between Russia and China, Foreign Minister feels opportunity to act seems to have passed and debates the wisdom of now sending a statement. He also feels that as our Government's objective seems to have been achieved by the representation of the great powers that have already acted, a statement from Portugal would not add to their effectiveness. I was assured that I have not misunderstood or misinterpreted the Minister and that a note to this effect, and explaining his present state of mind, would be given me to send to the Department.⁷ . . .

DEARING

⁷ Not printed.

861.77 Chinese Eastern/679 : Telegram

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

WASHINGTON, December 13, 1929—5 p. m.

143. Your 118, December 10, 6 p. m., last two paragraphs. I appreciate Mr. Motta's desire to be helpful and would be gratified if he would make public a communiqué.⁸

STIMSON

861.77 Chinese Eastern/682 : Telegram

The Ambassador in Italy (Garrett) to the Secretary of State

ROME, December 14, 1929—noon.

[Received 1:20 p. m.]

99. The Albanian Minister handed me the following note this morning with the request that it be telegraphed to you :

[Translation]

"On instructions from its Government, the Royal Legation of Albania has the honor to appeal to the kind offices of the Honorable Embassy of the United States earnestly requesting it to be so good as to forward to the Government of the Union of Soviet Socialist Republics, as well as to that of Nanking, the following communication :⁹

The Royal Government of Albania has followed with the greatest uneasiness the turn which Russo-Chinese relations recently took as a result of the situation created by engagements between the troops of the two powers in question.

The Royal Government of Albania, having the reign of peace in the world at heart, begs to associate itself with the Government of the United States in order to express the firm hope that the Governments of Moscow and Nanking will, by common accord, in conformity with the stipulations of the Peace Pact, find a formula capable of pacifically and definitely settling the differences which separate them."

GARRETT

861.77 Chinese Eastern/681 : Telegram

The Minister in Norway (Swenson) to the Secretary of State

OSLO, December 14, 1929—1 p. m.

[Received December 14—11:30 a. m.]

21. Department's circular of December 5, 4 p. m.¹⁰ After conferring with Foreign Offices of the other Scandinavian countries, the Nor-

⁸ Publication was set for December 16, 1929 (861.77 Chinese Eastern/680).

⁹ The Albanian Minister for Foreign Affairs in note No. 3409/IV, December 12, 1929, informed the Chargé in Albania regarding this communication (861.77 Chinese Eastern/777).

¹⁰ Not printed.

wegian Government feels that in view of agreement entered into between Soviet and Chinese Governments the suggested representations would seem inopportune.

SWENSON

861.77 Chinese Eastern/697 : Telegram

*King Tafari Makonnen of Ethiopia to President Hoover*¹¹

ADDIS ABABA, December 14, 1929.

We concur in and adhere to the message which you have addressed to the Russian and Chinese Governments asking them to use the provisions of the Kellogg Peace Pact for the solution and settlement of their present difficulties. We are willing that you communicate our message to the Russian and Chinese Government[s].

KING TAFARI MAKONNEN

861.77 Chinese Eastern/684 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 15, 1929—noon.

[Received December 15—10:40 a. m.]

1151. My 1129, December 12, noon. Following from American Consul at Harbin:

"December 13, 5 p. m. Mo Te-hui, reported appointed Chinese chief delegate to coming Chinese-Soviet conference, arrived Harbin yesterday. Special car carrying American Vice Consul Lilliestrom, Japanese Vice Consul, representatives British, French and Italian Consulates, American journalists Wright and Smith, three Japanese journalists, one Japanese from the Military Mission and representatives South Manchuria Railway, left Harbin this afternoon attached to regular train in an endeavor to go west as far as possible to ascertain welfare of Hailar non-Russian foreigners. It appears that Wan Fu-lin favors this trip but that General Hu Yu-kun, commanding at Buketu, does not. Tsai and Li have undoubtedly met Soviet delegates today."

PERKINS

861.77 Chinese Eastern/695 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 17, 1929—noon.

[Received December 17—10:40 a. m.]

1159. My 1151, December 15, 11 p. m. [noon]. Following from American Consul, Harbin:

"December 16, 1 p. m. Vice Consul Lilliestrom and other consular representatives have arrived Mientuho beyond which place Chinese

¹¹ Received in the Department of State on December 17, from the White House.

authorities have no control. They are attempting to proceed further. Railway between Yakeshi and Manchuria Station apparently in good order under Mongol or Soviet control. Situation Manchuria Station quiet; practically no damage on account of fighting there, but Chinese forces looted until stopped by Soviet forces. Peace negotiations appear to be progressing favorably."

PERKINS

861.77 Chinese Eastern/706 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 18, 1929—11 a. m.

[Received 2:05 p. m.]

1160. My 1159, December 17, noon. Following from American Consul, Harbin:

"December 17, 11 a. m. Railway Administration has refused officially to take responsibility of dispatching international car farther west than Mientuho because it has not a single employee beyond that place and has no information regarding condition of track. This is a strong indication that Barga is no longer under Chinese control."

PERKINS

861.77 Chinese Eastern/701 : Telegram

The Chargé in Persia (Williamson) to the Secretary of State

[Paraphrase]

TEHERAN, December 18, 1929—3 p. m.

[Received December 18—10:15 a. m.]

55. Department's circular December 1, 4 p. m. The Persian Minister for Foreign Affairs stated to me today that, Persia having no formal relations with China, a Persian note to Russia regarding Sino-Russian relations would be unfriendly interference, from the Russian interpretation. Therefore, he deeply regretted Persia's inability, while anxious for universal peace, to join the protest by the powers.

Turkey's refusal is believed to have influenced directly the decision by Persia, and Russian pressure is believed to have been brought to bear upon the Persian Government.

WILLIAMSON

861.77 Chinese Eastern/703 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 18, 1929—6 p. m.

[Received December 19—8:40 a. m.]

1166. Following from American Consul at Harbin:

"December 17, 5 p. m. According to press reports, gist of the agreement signed at Habarovsk is as follows: Formal conference to open within a month on the basis of 1924 agreements and conclude its work within six months. *Status quo ante* to be restored and railway operated on the basis of equality as commercial enterprise. Personnel changes already reported agreed upon. Each side agrees to undertake within its territory no action inimical to other. Prisoners to be released by both sides. Mukden agrees to abstain from oppression of Soviet organizations and citizens. Troops to be withdrawn by both sides. Consuls and commercial institutions to be restored. Joint commission to investigate direct and indirect loss of property suffered by both sides during the conflict with a view to settlement. This agreement subject to ratification."

PERKINS

861.77 Chinese Eastern/707 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 18, 1929—7 p.m.

[Received December 18—2 p.m.]

1167. My 1160, December 18, 11 a. m. Following from American Consul, Harbin:

"December 18, 11 a.m. International car has been ordered to return to Buketu by the Chinese military command. It appears that Red Mongol detachment started an encircling movement which forced Chinese military to withdraw on the [railway?] to Mientuho, possibly to Buketu."

PERKINS

861.77 Chinese Eastern/704 : Telegram

The Minister in Latvia (Coleman)¹³ to the Secretary of State

RIGA, December 19, 1929—1 p. m.

[Received December 19—11:10 a. m.]

101. Latvian Minister for Foreign Affairs informed me today that while Latvian Government highly appreciates the initiative of the United States Government, it feels that since China and Russia are

¹³ Accredited also to Estonia and Lithuania.

now engaged in direct negotiations, any communication on its part would be inopportune.

American Consuls at Tallinn and Kovno report that they have received oral assurances that replies from the Estonian and Lithuanian Governments will be forthcoming very shortly.

COLEMAN

861.77 Chinese Eastern/716 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 20, 1929—11 a. m.
[Received December 21—7:05 a. m.]

1171. My 1167, December 18, 7 p. m. Following from American Consul at Harbin:

"December 19, 4 p. m. American, British, Japanese consular party now at Buketu but anxious to proceed by any means now [to?] Yakeshi where a motor car for the trip to Hailar can be procured. Chinese military command, although able to run trains to Yakeshi, is putting obstacles in the way, evidently because it is feared that party will see results of systematic looting done by Chinese officers and soldiers who are shipping loot by the carload. Local consular corps has requested Mukden consular corps to ask Marshal Chang to give orders that party be permitted to proceed.

Tsai has telegraphed that date of his return to Harbin uncertain."

PERKINS

861.77 Chinese Eastern/718 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 21, 1929—10 p. m.
[Received December 22—2:40 a. m.]

1179. My 1171, December 20, 11 a. m. Following from American Consul at Harbin:

"December 21, 1 p. m. It is expected that the international party will return to Harbin tomorrow. Chinese military command at Buketu has refused to let them proceed.

Tsai's return still uncertain. It appears that Rudiando [*Rudy and Denisov?*] will be new Soviet general and assistant manager[s] of railway and that there is some hitch in negotiations possibly on account of the alleged occupation of Barga by Red forces."

PERKINS

861.77 Chinese Eastern/724 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, December 23, 1929—1 p. m.

[Received 2:15 p. m.]

104. Department's circular telegram of December 1, 4 p. m. I have today received the following *aide-mémoire*, dated December 20, from the Estonian Ministry of Foreign Affairs:

"The Estonian Government has given the most careful consideration to the conditions now prevailing in Manchuria and to the issues over which the [Union of] Socialist Soviet Republics and China are at present in controversy.

Cooperating with all its energies in every action directed towards the consolidation of peace, the Estonian Government warmly welcomes the statement communicated by the Government of the United States to China and the Socialist Soviet Republics in order to call the attention of the two powers in controversy to the fundamental principles of the Treaty for the Renunciation of War.

The Estonian Government greatly appreciates the procedure adopted by the Government of the United States to uphold the principle of peaceful settlement of international disputes; it has the utmost confidence in the results of such procedure and is convinced that it cannot but be received with gratitude by the signatories of the Kellogg Pact.

In the meantime, however, the Governments of the Union of Socialist Soviet Republics and China have entered upon negotiations for a peaceful settlement of the conflict that now seems to come to an end by means which are in harmony with the provisions of the Pact of Paris.

Considering the changed situation the Estonian Government has come to the conclusion that, the results which it seeks in common with the United States in the application of the principles established in the Pact of Paris having been achieved, there may be no advantage in issuing at the present moment by the Estonian Government on its part a statement similar to that communicated by the Government of the United States to the Union of Socialist Soviet Republics and China."

COLEMAN

861.77 Chinese Eastern/823

*Statement by the Soviet Commissariat for Foreign Affairs*¹⁴

[Translation]

On December 22nd, at 7.30 in the morning according to Moscow time, the following Protocol was signed at Habarovsk by the Agent

¹⁴ Translation from text printed in the Moscow *Izvestia*, No. 303, December 23, 1929; copy transmitted to the Department by the Minister in Latvia in his despatch No. 6669, December 23, 1929; received January 10, 1930. The text as released by the Tass News Agency was telegraphed to the Department by the Chargé in China in telegram No. 1185, December 24, 1929 (861.77 Chinese Eastern/726).

of the People's Commissariat of Foreign Affairs at Habarovsk, Comrade Simanovsky, in the name of the U. S. S. R., and by the Diplomatic Commissioner, Mr. Tsai Yun-shen, in the name of the Chinese Republic:

"The undersigned, being duly authorized by their respective governments, have agreed upon the following:

1. Both parties interpret point 1 of the preliminary conditions of the Union Government, in full accordance with the telegram of the Acting People's Commissar for Foreign Affairs, Mr. Litvinov, of November 27th of the current year¹⁵ and with the Nikolsk-Ussurisk Protocol of December 3rd of the current year,¹⁶ as a restoration of the situation which existed previous to the conflict and which was based upon the Mukden and Peking agreements.

All disputed questions which arose during the period of the Soviet-Chinese joint administration of the railway shall be settled at the pending Soviet-Chinese Conference. Accordingly, the following measures shall be put into effect immediately:

(a) The resumption, on the basis of previous treaties, of the activity of the Board of the Chinese-Eastern Railway and the entry of the Soviet members of the Board upon the performance of their duties. Hereafter the Chinese Chairman of the Board and the Soviet Associate Chairman of the Board must act jointly as provided under point 6 of article 1 of the Soviet-Mukden agreement;

(b) The restoration of the former proportion of Soviet and Chinese citizens heading the various services, and the reinstatement in their rights (or the immediate appointment of new candidates, if such should be proposed by the Soviet side) of Soviet citizens who are chiefs and assistant chiefs of the various services;

(c) Orders and instructions for the Railway issued on and after July 10, 1929, in the name of the Board and of the Administration of the Chinese-Eastern Railway, shall be considered as null and void if they are not properly confirmed by the lawful Board and Administration of the railway.

2. All Soviet citizens without exception arrested by the Chinese authorities after May 1, 1929, and in connection with the conflict, shall be freed immediately without being subdivided into any categories, including also those Soviet citizens arrested at the time of the search of the Harbin Consulate on May 27, 1929.

The Union Government likewise shall release immediately, without any exceptions, all Chinese citizens arrested in connection with the conflict, as well as interned Chinese soldiers and officers.

3. To all workers and employees of the Chinese Eastern Railway who are citizens of the U. S. S. R. and who have been dismissed or have resigned, on and since July 10, 1929, is granted the right and opportunity of returning immediately to the positions occupied by them up to the time of their dismissal, and of receiving the money due to them from the railway.

A full settlement of wages, pension payments, etc., shall be made at once with those persons who have been dismissed or have resigned and who do not desire to make use of this right.

¹⁵ See telegram No. 1054, November 29, from the Chargé in China, p. 362.

¹⁶ See telegram No. 1090, December 5, from the Chargé in China, p. 392.

The filling of vacancies which have occurred can take place only by order of the lawful Board and Administration of the Chinese Eastern Railway, respectively, and in this connection all former Russian subjects who are not citizens of the U. S. S. R. and who were hired by the railway during the time of the conflict are subject to unconditional and immediate dismissal.

4. The Chinese authorities shall immediately disarm the Russian White-Guard detachments and deport their organizers and inspirers from the territory of the Three Eastern Provinces.

5. Leaving entirely open the question of the resumption of diplomatic and consular relations between the U. S. S. R. and China, until the Soviet-Chinese Conference, both parties consider the immediate restoration of Soviet consulates in the territory of the Three Eastern Provinces, and of Chinese consulates at the appropriate points of the Soviet Far East, possible and indispensable.

Taking into consideration the fact that the Union Government on May 31 of the current year¹⁷ declared that "since the Chinese authorities by all their actions prove their manifest disinclination and inability to recognize generally accepted standards of international law and custom, therefore it, for its own part, does not henceforth consider itself bound by these standards with respect to the Chinese Mission in Moscow and to the Chinese consulates in Soviet territory and that it will no longer recognize the extra-territoriality with which this Mission and these Consulates are endowed by international law," and taking into consideration the fact that both parties intend to restore consular relations on a basis conforming to the principle of international law and custom, the Mukden Government declares that it undertakes to guarantee to the Soviet consulates in the territory of the Three Eastern Provinces all the inviolability and all those privileges which are due to them under international law and custom and, it goes without saying, it will refrain from any acts of force which may infringe upon this inviolability and these privileges.

For its own part, the Union Government renounces the special régime established by it for the Chinese consulates in the interval between May 31, 1929, and the rupture of relations and it grants to the consulates, which, according to the first paragraph of this article, are to be restored in the territory of the Soviet Far East, all the privileges and the inviolability due them under international law and custom.

6. Along with the restoration of the consulates, there shall be immediately granted the same opportunity for the resumption of normal operations by all Soviet economic institutions as that which existed previous to the conflict in the area of the Three Eastern Provinces.

In like manner the opportunity shall be granted for a restoration of Chinese commercial enterprises which existed within the limits of the U. S. S. R., insofar as their operations have been terminated in connection with the conflict on the Chinese Eastern Railway.

The entire question of trade relations between both countries shall be subject to settlement at the Soviet-Chinese Conference.

¹⁷ See *ante*, p. 193 for translation of note from the Soviet Acting Commissar for Foreign Affairs to the Chinese Chargé in the Soviet Union, from text printed in the Moscow *Izvestia*, No. 123, June 1, 1929.

7. The question of effective guaranties for the observance of the agreements and interests of both parties shall be subject to settlement at the pending Conference.

8. The Soviet-Chinese Conference for the settlement of all disputed questions shall open at Moscow on January 25th, 1930.

9. A state of peace shall be restored at once along the frontiers of China and of the U. S. S. R., to be followed by a withdrawal of troops by both parties.

10. The present Protocol shall go into effect at the moment of its signature.

Signed at the city of Habarovsk on December 22nd, 1929.

Plenipotentiary of the Chinese Republic:

TSAI YUN-SHENG

Diplomatic Commissioner [SEAL]

Plenipotentiary of the Union of Soviet Socialist Republics:

SIMANOVSKY

Agent of the People's Commissariat of Foreign Affairs

In conformity with the above Protocol, the new Manager of the Chinese Eastern Railway, Comrade Rudy, and his assistant, Comrade Denissov, are departing for Harbin to enter upon the performance of their duties and both parties are issuing orders for the withdrawal of their troops.

861.77 Chinese Eastern/727 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 24, 1929—4 p. m.

[Received December 24—11:55 a. m.]

1189. My 1179, December 21, 10 p. m. Following from the American Consul at Harbin:

“December 22, 4 p. m. International party returned yesterday morning. No doubt that party's trip was purposely blocked by Chinese military. Fate of foreigners and foreign priests at Hailar still uncertain. It is planned to send international party later if Marshal Chang at Mukden will issue orders to the military commander in chief at Buketu to allow it to proceed.

Soviet aeroplane flew over and sound of firing whether from aeroplane or by Chinese forces unknown heard yet at Yakeshi furthest Chinese outpost. From this station west, neither Chinese military nor civil authorities have any control whatsoever. Unconfirmed reports state that there is a movement among the young Barguts who are under Soviet influence to secure the detachment of Barga from Manchuria and that the older Barguts are opposed to this movement. Three brigades of Fengtien troops are on the defensive between both Yakeshi and Buketu. No preparations are being made by the Chinese military to clear railway west of Yakeshi of so-called Red, Mongol, or other detachment or brigands.

Conditions at Suichangho and Taheiho quiet.

It is still unknown when Tsai will return.”

PERKINS

861.77 Chinese Eastern/779½

Memorandum by the Secretary of State

[WASHINGTON,] December 26, 1929.

The French Ambassador came to tell me what had happened when France handed to Russia the Rumanian note on the Sino-Russian affair. The note was in the same form as the American note to Russia and when M. Herbette, the French Ambassador, presented the note to Litvinov, Litvinov said he did not care to receive it. Herbette said it was his duty to present it and Litvinov then took it and tore it up.

861.77 Chinese Eastern/734 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

[Extract]

RIGA, December 27, 1929—1 p. m.

[Received December 27—10:10 a. m.]

106. Department's circular telegram of December 1, 4 p. m. Lithuanian Minister for Foreign Affairs informed American Consul at Kovno orally on December 23rd that after mature deliberation Lithuanian Government had determined to take no action in Chinese-Soviet dispute . . .

COLEMAN

861.77 Chinese Eastern/735 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 27, 1929—5 p. m.

[Received December 27—10:48 a. m.]

1192. Following from American Consul, Harbin:

"December 27, 11 a. m. Tsai, Rudy, Denisov, Simanovsky, who will be Soviet Consul General at Harbin, and other members of party arrived late last night and departed early this morning for Mukden where they will be introduced to Marshal Chang."

PERKINS

861.77 Chinese Eastern/756 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 28, 1929—noon.

[Received December 28—10:40 a. m.]

1195. Following from American Consul, Harbin:

"On December 24, among 2,400 Russian refugees in barracks at Harbin, 254 were ill. Among them were 22 cases of measles, 22

relapsing fever, 14 smallpox. Nine deaths to that date, municipal hospital full with 102 cases of relapsing fever and 14 cases of smallpox. Railway hospital has 14 cases of smallpox. Consular corps has urged Chinese authorities to take measures against further spread of these diseases."

PERKINS

861.77 Chinese Eastern/755 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 28, 1929—1 p. m.

[Received December 28—10:35 a. m.]

1196. Legation's 1185, December 24, noon.^{17a} Japanese Embassy in Moscow has been informed by the Soviet Foreign Office that all Soviet troops in Manchuria were withdrawn on December 23rd.

PERKINS

711.74/7

The Chargé in Bulgaria (Kodding) to the Secretary of State

[Extract]

No. 1586

SOFIA, December 30, 1929.

[Received January 15, 1930.]

SIR:

I also have the honor to report that the Bulgarian Government's effort to present its views to the Soviet Government concerning the armed clashes in Manchuria met with a refusal by the Russian Embassy in Paris to accept the Bulgarian Minister's note on the subject: The note of the Soviet Chargé d'Affaires to the Bulgarian Minister was couched in the following words:

"Sir: I am sorry to state that at present there exist no official relations between the Bulgarian Government and the Government of the Union of the Soviet Socialist Republics. The Bulgarian Government has thus far given ample evidence of its persistent determination to continue this state of affairs by refusing to enter into negotiations even on questions, which, in my opinion, are of mutual interest to both countries.

"Bearing in mind the above facts, I think I have no right either to receive or to transmit to my Government the communication which you were so kind to address to me on December 17th and which I have the honor to return to you herewith.

"Very respectfully yours,

"Arens"

The Legation is uninformed as to whether further steps will be taken by the Bulgarian Government.

I have [etc.]

T. KODDING

^{17a} Not printed.

861.77 Chinese Eastern/758: Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 31, 1929—10 a. m.
[Received December 31—12:27 a. m.]

1206. Following from American Consul at Harbin:

"December 30, 4 p. m. Fan Chi-kuan handed over charge as general manager Chinese Eastern Railway today to Kuo Chung-hsi, former Chinese assistant manager, in order to avoid direct handing over to new Soviet manager."

PERKINS

861.77 Chinese Eastern/772: Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, January 2, 1930—noon.
[Received January 2—6:22 a. m.]

2. My 1206, December 31, 10 a. m. Following from American Consul at Harbin:

1. "December 31, 10 a. m. Tsai and Soviet party arrived Harbin this morning from Changchun. They were met by a few Chinese but many Soviet adherents waving red flags. Local press reports that Mo Te-hui has been appointed *Tupan* of Chinese Eastern Railway."

2. "December 31, 4 p. m. Soviet prisoners, including those arrested at Soviet Consulate General May last, liberated today. Meeting of new board of directors of railway took place at 2 p. m. and new Soviet General Manager Rudy and Assistant Manager Denisoff took over charge of administration of railway at 3:10 p. m. today."

PERKINS

861.77 Chinese Eastern/845

The Minister in Rumania (Wilson) to the Secretary of State

No. 336

BUCHAREST, January 2, 1930.
[Received January 20.]

SIR: I have the honor to refer to the Legation's despatch No. 331 of December 13, 1929,¹⁸ reporting that the Rumanian Government had readily accepted the proposal made by the United States Government to the signatory powers of the Kellogg Pact to communicate their views to the Governments of Russia and China concerning their controversy in Manchuria.

¹⁸ Not printed.

As Rumania has no diplomatic relations with either Russia or China, she requested the French Government to act as her intermediary in transmitting the statement of her views.

The French Government accepted and the Ambassador in Moscow was instructed to convey the Rumanian communication to the Russian Commissary for Foreign Affairs. The Department of course knows the result, and how Mr. Litvinoff refused to accept the Rumanian note, or even hear it read, and, if the newspaper reports are true, rudely forced Mr. Herbetto, the French Ambassador, to retire, carrying the unread note with him. Personally, I was convinced from the beginning that this would be the attitude adopted by the Soviet Government toward Rumania, but, nevertheless, here, in addition to the quite natural indignation, it seems to have created great surprise.

As soon as the news of the Russian refusal to receive the Rumanian note was known here, the Minister for Foreign Affairs issued the following statement:

"Desiring to contribute toward the maintenance of peace, the Rumanian Government, loyal to the Briand-Kellogg Pact, as well as to the protocol signed at Moscow on February 9, 1929, and at the invitation of the United States of America, decided to request Russia and China, who were in conflict with each other, to act in conformity with the pact signed by both, and to settle their differences by means of diplomatic negotiations, avoiding all acts of war.

"As Rumania, like the United States, does not maintain diplomatic relations with Russia, she followed the example of the United States, and requested the French Republic to be so kind as to transmit the Rumanian note to Russia.

"The French Government having kindly accepted, fulfilled this duty. The Rumanian Government has renewed to the French Government its sincere thanks for this friendly service, and regrets that the Soviet Government, not taking into consideration the pacific character of the Rumanian *démarche*, had declined to take note of it."

I also have the honor to enclose herewith translations of a number of articles from the press¹⁹ of various political opinions, commenting upon the incident in a tone very unfriendly to Russia.

In addition to the quite natural indignation created by the act of the Russian Government, special bitterness and resentment is felt, owing to the fact that the Russian Government and press have seized upon the occasion to revive discussion concerning the question of Bessarabia, a question which from the Rumanian point of view is non-existent.

I have [etc.]

CHARLES S. WILSON

¹⁹ Not printed.

861.77 Chinese Eastern/789 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, January 4, 1930—9 p. m.

[Received January 4—7:10 p. m.]

19. Following from American Consul at Harbin:

1. "January 3, 5 p. m. General Manager Rudy has reappointed as chiefs of the principal departments of the administration those former Soviet chiefs who were discharged by Chinese authorities. Latter are very depressed and appear to have yielded and to be yielding to all Soviet demands."

2. "January 4, noon. Soviet Consul General Simanovsky took over charge of local Consulate General from Stobbe, German Consul General, on January 2nd. Soviet flag flying over building since December 31st."

PERKINS

861.77 Chinese Eastern/806

The Secretary of State to the Chargé in Albania (Holmes)²⁰

No. 264

WASHINGTON, January 6, 1930.

SIR: You are informed that on December 14, 1929, the Department received by telegraph from the American Ambassador at Rome the French text of a note which had been handed to him by the Albanian Minister at Rome, regarding the Russo-Chinese dispute in Manchuria. A translation of this note is enclosed herewith²¹ for your information.

You are instructed to deliver to the Albanian Minister for Foreign Affairs the Department's reply to this note as follows:

"Under instructions from my Government, I have the honor to inform Your Excellency that the Government of the United States has received the note of the Government of Albania, handed by the Albanian Minister at Rome to the American Ambassador at that place on December 14, 1929, and transmitted by the Ambassador to the Department of State. The American Government is deeply gratified to learn that the Government of Albania associates itself with the action of the Government of the United States directed toward effecting a peaceful settlement of the controversy between China and Russia.

"With regard to the request that the Government of the United States transmit to China and Russia a communication setting forth the views of the Government of Albania, I am instructed to inform Your Excellency that the American Government considers that the situation which prompted the action and suggestion of the United States has been, subsequent to that action and suggestion, materially changed inasmuch as present reports indicate that progress has been made by

²⁰ Similar replies were sent on January 6, 1930, in a note to the Yugoslav Minister and in instruction No. 112 to the Minister in Ethiopia (861.77 Chinese Eastern/804, 805).

²¹ See telegram No. 99, December 14, from the Ambassador in Italy, p. 421.

China and Russia in negotiations looking toward the settlement of their differences by peaceful means. In view of these developments, the present situation does not seem to require that further communications be sent at this time to China and Russia."

I am [etc.]

For the Secretary of State:
J. P. COTTON

MEASURES TAKEN BY THE UNITED STATES FOR THE PROTECTION
OF AMERICAN LIVES AND PROPERTY IN CHINA ²²

893.00/10286

*The Consul at Foochow (Atcheson) to the Minister in China
(MacMurray)*²³

[Extracts]

No. 109

FOOCHOW, January 4, 1929.

SIR: I have the honor to inform the Legation that an open show of anti-foreignism in Foochow occurred on December 27, 1928, in the form of a parade organized by the party delegates from Nanking who have been "stationed" here since early October, and composed of students, representatives of guilds and various organizations and, according to the Chinese press, officials.

At my suggestion the French Consul and Senior Consul, with the approval of the other members of the Consular Corps, addressed a note to the Provincial Government Administrative Council protesting the unrestrained broadcasting of these incitations to anti-foreign sentiment. This note, dated December 31, 1928, a copy of which forms Enclosure No. 3,²⁴ was delivered today. . . .

I have [etc.]

GEORGE ATCHESON, JR

[Enclosure—Translation ²⁵]

*The Dean of the Consular Corps at Foochow (Soulange-Tessier) to
the Provincial Administrative Council of Fukien*

FOOCHOW, December 31, 1928.

SIRS: In my capacity as Dean of the Consular Corps of Foochow, I have been charged by my colleagues to draw your most serious

²² For previous correspondence, see *Foreign Relations*, 1928, vol. II, pp. 213 ff. and 254 ff.

²³ Copy transmitted to the Department by the Consul in his despatch No. 198, January 4; received February 15, 1929.

²⁴ Enclosure *infra*.

²⁵ File translation revised.

attention to an article in the *Chiu Shih Pao* of December 27th and to various placards of propaganda which were posted on the same date in the streets of Nantai (Nantai Island, Foochow).

You will find these documents annexed.²⁶

The Consular Corps declare on this occasion that the repeated requests which they have made during the year 1928 to all the local authorities, to point out the danger of a propaganda of violence against foreigners, have remained without effect.

Public appeals such as "Take back the Concessions," "Drive out the imperialist troops stationed in China," "The unequal treaties are sharp instruments used by the imperialists to kill the Chinese," cannot but excite the population to disorders involving the responsibility of the authorities just as has happened in the past.

At a moment when new treaties are being signed with the Nationalist Government, at a moment when this same Government is declaring its desire to maintain peaceful and friendly relations with foreigners, the Consular Corps of Foochow point out with displeasure and regret the discrepancy between the deeds and the declarations of the authorities.

In the interest of all, Chinese as well as foreigners, it is deemed necessary that the protestations of good will of the Nationalist Government and of the local authorities translate themselves into deeds, and that in the future all provocations to violence, whence-soever they proceed and whatever their nature, be made an object of public repudiation and legal repression.

Accept [etc.]

R. SOULANGE-TESSIER

611.9331/158

*Memorandum by the Counselor of Legation in China (Perkins) of a Conversation With the Chinese Minister for Foreign Affairs (C. T. Wang) at Nanking on January 17, 1929*²⁷

[Extracts]

Accompanied by Mr. Price,²⁸ I called on Dr. Wang, by appointment, at 10 a. m. and explained to him that I was visiting Nanking and Shanghai for purposes of observation and to maintain contacts with officials of the National Government. . . .

Dr. Wang then took up the question of the continued occupation of American mission property by the Chinese, and said that we did

²⁶ Not printed.

²⁷ Copy transmitted to the Department by the Minister in China in his despatch No. 1962, March 11; received April 15, 1929.

²⁸ Ernest B. Price, Consul at Nanking.

not know how much trouble he had had in this matter and the vigorous efforts which he had made to have such property restored. He said it was the definite policy of the National Government to effect the complete restoration of all of these properties and he would be pleased to have all specific information available on this matter, giving the names of the detachments of troops and of their commanders. I observed that such property was still occupied not only in and about Nanking but also in other parts of China, especially in Hunan, and inquired whether he could effect the restoration wherever occupied. He replied in the affirmative. Dr. Wang then took up a defensive attitude towards this question, stating that in time of war it was the practice of soldiers to occupy property necessary for their purposes without discrimination as to such property's being owned by natives or aliens, citing the American practice during the Civil War. Mr. Price then observed that apparently it had been the practice of the Chinese commanders to occupy foreign property in preference to Chinese. . . . I then remarked that many of the properties, when returned after such occupancy, had often been found in anything but good condition and that such treatment did not seem to indicate a very great appreciation of the kind of properties to which he made reference.

M[AHLON] F. P[ERKINS]

FEBRUARY 18, 1929.

893.801 Search/1 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 23, 1929—7 p. m.

[Received January 24—9:20 a. m.²⁹]

48. Department's telegram No. 203, September 22, 1 p. m., 1926.³⁰

1. Following from Shanghai:

"January 19, noon. Through the Commissioner of Foreign Affairs the Woosung fort notifies the Senior Minister [*Consul*] that

"The official duty of this fort is to protect the capital. As the bad characters have not been removed and as the winter defence is very important, all incoming or outgoing, river or sea, vessels passing the entrance to Woosung shall be subjected to inspection (by this fort) when it is deemed necessary, in order to pay due regard to the guard duty.

In accordance with the usual regulations, whenever this fort wants to search a vessel a signal flag is to be hoisted. If this is ignored, three signal guns will be fired.

However, recently when signal flag was hoisted and signal gun fired, the various incoming or outgoing vessels paid no heed to the signals. They not only despised the rules and orders but also greatly violated the regulations of this fort.

²⁹ Telegram in three sections.

³⁰ *Foreign Relations*, 1926, vol. I, p. 638.

In view of the fact, I have to request you to take note and notify all foreign vessels plying along the river or on the sea to the effect that in the future they should stop at once to await inspection as soon as this fort hoists a signal flag or fires a signal gun, in order to carry out the established regulations of and to pay due regard to the guard duty.'

I do not consider that American vessels should submit to search by other than Customs and hope that I can be authorized so to inform the Commissioner of Foreign Affairs. However, instructions are solicited as to the correct reply to be made to the Commissioner of Foreign Affairs and also correct advice to be given to American shipping."

2. Legation has replied as follows:

"January 23, 6 p. m. Your number 11, January 19, noon.

(1) Copy of your telegram has been handed to Senior Minister with request that matter be discussed at an early meeting of the diplomatic body.

(2) In the meantime, you are authorized to make informal representations to Commissioner for Foreign Affairs, pointing out the fact that under the general provisions of extraterritoriality, American merchant vessels are not subject to detention and search by military authorities.

(3) As regards naval vessels of the United States, you should inform the authorities concerned that, under existing treaties, naval vessels may not be in any way obstructed or detained in the carrying out of their official duties, and that such vessels will not submit to any attempt on the part of military authorities to search them.

(4) During 1926, Chinese authorities at Hankow attempted during the siege of Wuchang by Southern forces to institute regulations that would enable them to stop and search all foreign vessels; and the position was taken by the Admiral and Consul General, and approved by Legation and Department, that, as a temporary measure, merchant vessels would submit to search but that naval vessels would not recognize such regulations. This decision was in part based upon the attitude of merchant vessels which were unwilling to run the risk of being fired upon by the military authorities and in view of the fact that the practical difficulties in the situation made it impossible adequately to protect such merchant vessels in the event they refused to comply with the regulations. Please inform Legation of the attitude of the American shipping interests in Shanghai as to the present proposal."

MACMURRAY

393.1111 Young, Edward/1: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 24, 1929—5 p. m.

31. Department is informed by National Catholic Welfare Conference that they have received a report that the Reverend Edward Young, an American citizen, has been captured by bandits in the Province of Kiangsi in or near the town of Nananfu. Please investi-

gate and instruct Perkins³¹ now at Nanking to bring matter to the attention of the Nationalist Government with a view to his release.

KELLOGG

393.1111 Young, Edward/2 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 25, 1929—5 p. m.

[Received 9:07 p. m.]

52. 1. Following from Hankow:

"January 24, 6 p. m. Bishop O'Shea of Catholic Mission, in telegram from Kanchow, Kiangsi, states that a member of his mission, Reverend Edward Young, American citizen, was on January 22 captured at Nananfu, Kiangsi, by Communists Chu Teh and Mao Chih-tung, who demand \$20,000³² as ransom within three days.

I am making direct representations to Nanchang urging immediate action to effect Young's release. Respectfully suggest that Legation urge Nanking Government to take all possible action to effect Young's release."

2. I have instructed Perkins as follows:

"Please take up the matter with Wang³³ and request immediate action to effect Young's release. Department has been informed."

MACMURRAY

893.801 Search/2 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 26, 1929—7 p. m.

35. Your 48, January 23, 7 p. m. Your telegram of January 23, 6 p. m., to the American Consul General at Shanghai is approved. Department assumes that information of interest to the Commander-in-Chief³⁴ in this connection is transmitted to him.

KELLOGG

393.1111 Young, Edward/11 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 1, 1929—noon.

[Received February 1—10:40 a. m.]

76. Legation's 60, January 28, 4 p. m.³⁵ Following telegrams from Canton:

³¹ Mahlon F. Perkins, Counselor of Legation.

³² Estimated at U. S. \$10,000.

³³ C. T. Wang, Chinese Minister for Foreign Affairs.

³⁴ Admiral Mark L. Bristol, of the U. S. Asiatic Fleet (flagship the U.S.S. *Pittsburgh*).

³⁵ Not printed; it reported that the Chinese Vice Minister for Foreign Affairs had, on January 26, "promised to take immediate steps towards Young's release." (393.1111 Young, Edward/3)

"January 31, 1 p. m. I have just received telegram from Cahill, American Catholic missionary at Kanchow, Kiangsi Province, that Edward Young, American Catholic missionary, and German Protestant minister, wife and child, were captured by Communist banditti at Nananfu on January 22 and taken to unknown destination. Message adds that other foreigners fled, that Hankow has been advised but no response received.

Reliable reports from Kiangsi indicate the so-called Communist forces are numerous and have occupied several important towns, including Namyung in Northern Kwangtung.

I am asking the local authorities who have troops on the Kweiyang [Hunan?]-Kiangsi border to render all possible assistance. I am also asking the Catholic missionaries to report any further information that may be available as to the probable destination of the bandits with their prisoners."

"January 31, 4 p. m. Referring to my telegram of January 31, 1 p. m. German Consulate officially informed that bandits have released missionary's wife and child, and later officially informed that German missionary has also been released. This leads me to hope that American priest may also be liberated soon, but Chinese unofficial report says that bandits are demanding \$30,000."

MACMURRAY

393.1111 Young, Edward/13 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 4, 1929—11 a. m.
[Received 11:10 a. m.]

84. [Department's 48,] February 2, 6 p. m.³⁶ Following was received from Hankow February 3rd:

"Following telegram has been received from Corbette, Kanchow, Kiangsi: 'Grateful for prompt action. Young freed, also Schram, wife and child. Letter follows'".³⁷

MACMURRAY

393.11/900 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 11, 1929—4 p. m.
[Received March 11—3:20 p. m.]

166. The following telegram has been received from Nanking:

"March 9, 1 p. m. From additional independent sources I have received strong confirmatory evidence of organized preparations on

³⁶ Not printed.

³⁷ In despatch No. 1020, February 19, the Consul at Hankow transmitted to the Department a letter from Bishop J. A. O'Shea at Kanchow, dated February 5, which stated that the Reverend William Edward Young was set free on January 28 "after the 'Reds' saw themselves practically surrounded by soldiers and knew they would have to break up to escape total annihilation." (393.1111 Young, Edward/22)

the part of poorer classes of the city to loot foreign properties if occasion offers. While I have brought this matter to the attention of the authorities and believe that so long as the present administration remains in control the probability is that no harm will come to American lives and property, I would request consideration of the following suggestions: In the event of (a) the government forces' being defeated and commencing a retreat to Nanking, (b) defection actual or probable among the troops here (rumors of which are already current), (c) other local conditions which appear to be beyond the power of the local authorities to control, I be authorized to issue general advice to Americans to withdraw from Nanking.

2. While I understand that all American women with children have either already left the city or are planning to do so, I do not believe women without children or men will leave except under direct official advice of the Consulate.

3. I have sent the local authorities complete list American citizens and properties."

I have replied as follows:

"March 11, 4 p. m. Your March 9, 1 p. m. You are authorized to issue general advice to Americans to withdraw from Nanking in the event conditions develop as described in subparagraphs (a), (b) or (c) of your first paragraph."

MACMURRAY

393.11/900 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Extract]

WASHINGTON, March 13, 1929—3 p. m.

93. Your 166, March 11, 4 p. m.

1. Your instruction March 11, 4 p. m. to Price approved.

2. Should a dangerous emergency arise at Nanking or other consular post, in the Legation's opinion warranting such action, the Legation may authorize consular officers concerned to send their families temporarily to nearby places of safety. . . .

KELLOGG

393.11/938

*The Consul General at Hankow (Lockhart) to the Minister in China (MacMurray)*³⁸

[Extracts]

No. 660

HANKOW, March 19, 1929.

SIR: I have the honor to refer to the Legation's circular telegram of February 20, 1929, requesting a list of American property in this consular district now occupied by Chinese authorities.

³⁸ Copy transmitted to the Department without covering despatch; received April 29, 1929.

Definite information concerning the occupation of American property by Chinese troops or officials is now available in the following cases:

Hankow Consular District:

Under date of March 9, 1929, the Reverend Peter Matson reported as follows: "Our church and our Boys' School building at Nanchang hsien (Hupeh) are still being occupied by the local Tang Pu[³⁹]."

In connection with the statement of the Minister for Foreign Affairs of the Chinese National Government, as contained in the Legation's instruction under reply, the following excerpt from the letter received from the Reverend Peter Matson may be of interest:

"I complied last autumn with a request from the Nanking Government to furnish them with a list of properties occupied. Several letters have passed between us and they have repeatedly promised to order the Tang Pu to restore to us our property. This promise has been given several times but the Tang Pu is still occupying the church and the school buildings."

I have [etc.]

F. P. LOCKHART

393.11/904: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 21, 1929—1 p. m.

[Received 4:20 p. m.]

197. Following has been received from Canton:

"March 20, 11 a. m. Telegram received from Bishop O'Shea at Kanchow. Communist uprising in many parts of southern Kiangsi, several localities burned and missionaries forced to flee. General admits inability to protect life and property. This Consulate General has asked local military authorities to issue orders to render assistance."

I am repeating to Hankow and requesting Lockhart to make a like request to the appropriate military authorities.

MACMURRAY

393.11/908: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 25, 1929—7 p. m.

[Received March 26—10:10 p. m.⁴⁰]

213. Legation's 203, March 22, 6 p. m.⁴¹ Following from Hankow:

"March 22, 10 a. m. Following telegram received this morning from Father O'Shea, American missionary at Kanchow, Kiangsi:

³⁹ Party office of the Kuomintang or Nationalist Party.

⁴⁰ Telegram in two sections.

⁴¹ Not printed.

'Communist uprisings everywhere in Kangan; several missions burned; missionaries forced flee; General admits inability protect life and property; asked in vain reinforcements; urge assistance, danger imminent'.

I have today again requested assistance of Kiangsi authorities in protecting lives of Americans resident in southern Kiangsi."

2. Following from Canton:

"March 23, 2 p. m. Referring to my telegram above mentioned. Telegram just received from Bishop O'Shea reports all Americans and other foreigners in South Kiangsi still safe but situation considered dangerous. Bishop has received confirmation of looting and burning of missions at Hingkwo and Anyuan."

3. Following from Foochow:

"March 23, 7 p. m.

[(1)] It has been confirmed that Tingchow and Shanghang, in Amoy consular district, have been captured and partially burned by a Communist force from Kiangsi said to have 5 Russian advisers and to number 14,000. Their plan of operations is trying to embrace a two-column advance to Yenping, one via Lungyen, the other via Yungan, which is also reported captured.

(2) The provincial government who, in the absence of Admiral Yang, lack leadership and force, are in a state of trepidation, and, while the coup is probably an opportunist adventure which is speculating upon hoped-for developments in Nanking and the Yangtze Valley, there are several unfortunate circumstances in the situation. The marine and provincial defense forces cannot be considered formidable, local subversive elements have never been suppressed and of late have been increasingly active, and Lu Hsin-pang at Yenping, commanding Nationalist Second Division, cannot be expected to do more than cherish his own security.

(3) Barring a serious diversion in Nanking, I do not anticipate within the next week or from any other cause any local developments to arise from further advance of the Communists which would seriously affect the safety of Foochow.

(4) I am advising Americans at Yungchun to withdraw upon [apparent omission] of Communists or signs of disorder.

(5) Repeated Amoy only."

MACMURRAY

893.00/10344 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 25, 1929—9 p. m.

[Received March 26—10 p. m.⁴²]

215. On March 20 the commander in chief telegraphed that the U. S. S. *Trenton* would be withdrawn from Chefoo about March 23rd

⁴²Telegram in two sections.

in accordance with recommendation from Admiral Blakely.⁴³ This information was transmitted to the American Consul in Chefoo with a request for his comments in the matter. I have now received his reply which is quoted below:

“March 23, 1 a. m. Your telegram of March 22, 3 p. m. The Legation’s attention is invited my telegram of March 22, noon. In view of the possibilities of the situation I now strongly recommend *Trenton* be left here at least for the next few days pending outcome present situation. Letters received today from the American missionaries, Tengchow indicate trouble at Chefoo in the near future. Remarks to me by Chang Tsung-chang and Liu Chen-nien admit of possibility of trouble at Chefoo, which might bring in certain foreign interests (Japanese), in which event I would like an American naval vessel to be here and an American officer to operate. Further, a deputation from the Chinese Chamber of Deputies, which I received today, spoke of the possibility of trouble and they assured me that the presence here of an American warship is reassuring to the people of Chefoo. The Japanese Consul, who in the past appeared to be exceptionally well informed, told me today that they expected trouble at Chefoo within a few days and that he had received news to this effect from Dairen. I positively know that Chinese here are frightened and negotiating for peace, so if by keeping *Trenton* here a few days longer we assure protection of American lives and property and its presence contributes towards the maintenance of peace and order in Chefoo, I strongly recommend *Trenton* remain here. A paraphrase of this telegram furnished Admiral Blakely.”

This has been repeated to commander in chief with the recommendation that a naval vessel be left at Chefoo pending the outcome of the present situation.

MACMURRAY

393.1163Am3/50a : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 26, 1929—7 p. m.

104. Your 207, March 22, 2 p. m.⁴⁴ and preceding. Sisters of Charity of St. Vincent de Paul are greatly concerned regarding staff at Kanchow, Kiangsi. Instruct Consuls Shanghai and Nanking supplement efforts Canton, Hankow to obtain information regarding Americans in Kiangsi Province. Suggest consult Shanghai branch St. Vincent de Paul. Make such representations to authorities Nanking as you consider advisable.

KELLOGG

⁴³ Rear Admiral John R. Y. Blakely, commanding the Light Cruiser Division 2, Scouting Fleet, but temporarily assigned to the U. S. Asiatic Fleet (flagship the U.S.S. *Trenton*).

⁴⁴ Not printed.

393.1163Am3/64

*The Consul General at Canton (Jenkins) to the Minister in China (MacMurray)*⁴⁵

No. 791

CANTON, March 28, 1929.

SIR: I have the honor to enclose herewith copies of correspondence between this Consulate General and representatives of the American Catholic Mission in Kwangtung Province⁴⁶ concerning the intervention of Father Mueth⁴⁷ in a case in the Chinese courts affecting certain native converts. It will be observed that as soon as this Consulate General was informed of Father Mueth's action it addressed a letter to Bishop Walsh⁴⁸ pointing out the danger of such a course and urging that Father Mueth and other members of the mission be instructed not to interfere in proceedings of this sort in the future.

A copy of Bishop Walsh's letter is enclosed⁴⁶ and although it is somewhat vague it is believed to agree with the principle that missionaries should under no circumstances interfere with judicial proceedings involving only Chinese interests.

It is thought that this correspondence may be of interest to the Legation⁴⁹ and the Department.

I have [etc.]

DOUGLAS JENKINS

393.11/909 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 28, 1929—9 p. m.

[Received March 28—2:45 p. m.]

231. 1. The following telegram has been received from the American Consul at Nanking:

"March 27, 5 p. m. As most recent reports indicate continued reverses by government military forces, I am sending out to Americans in the consular district a preliminary circular letter informing them of the situation and to be prepared to receive advice for a general evacuation. I am inclined to think one or more of the three contingencies mentioned in my telegram of March 9, 1 p. m. may occur shortly."

⁴⁵ Copy transmitted to the Department by the Consul General in his despatch No. 1429, of the same date; received April 27, 1929.

⁴⁶ Not printed.

⁴⁷ Rev. Edward V. Mueth, of the Maryknoll Catholic Mission, Taan On, Hoingan, Toishan, Kwangtung.

⁴⁸ Bishop James E. Walsh, Kongmoon, Kwangtung. The letter was dated March 14, 1929.

⁴⁹ The Minister in China on April 15 replied that "The Legation has noted the contents of your despatch with interest and fully concurs in your statement of March 14, 1929, to Bishop Walsh"; received by the Department without covering despatch on May 25 (393.1163Am3/64).

Nanking's telegram of March 9, 1 p. m., was repeated to the Department in my 166, March 11, 4 p. m.

2. Legation has repeated first sentence of above telegram to commander in chief, Asiatic Fleet and added following:

"I accordingly repeat my urgent recommendation of March 26, 9 p. m., and request that arrangements be made for the immediate despatch of an American naval vessel to Nanking."

My March 26, 9 p. m., to Admiral was as follows:

"(1) Following from American Consul Nanking: 'U.S.S. *Mindanao* left here this morning. Commanding officer informed me he had had no information of any American vessel to be sent to relieve *Mindanao*.'

(2) In view of the present very unstable conditions in Nanking I urgently recommend that a naval vessel be there for the time being."

3. American Consul at Nanking has been advised of action taken.

4. In view of present developments I believe presence of American naval vessel at Nanking imperative.

MACMURRAY

393.1163Am3/52: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 1, 1929—7 p. m.

[Received April 2—4:20 p. m.⁵⁰]

254. Department's No. 104, March 23 [26], 7 p. m., was repeated to the American Consuls at Nanking, Shanghai, Hankow, and Canton and telegraphic note was addressed to Ministry of Foreign Affairs at Nanking. . . .

The following reply has been received from the American Consul at Nanking:

"March 31, noon. Yesterday afternoon I presented to Vice Minister Tong a memorandum summarizing the Legation's March 28, 10 p. m. He said that the Government had had no report on the matter; that communications with Kiangsi seemed to be broken but somehow the Government would take all steps possible to protect American life and property there. He pointed out that the region affected was in the zone between contending Kwangsi [and] Nanking armies and was held by strong, well-organized Communist forces. . . ."

MACMURRAY

⁵⁰ Telegram in two sections.

393.1163/321

The Secretary of State to the Vice President of the United Christian Missionary Society at Indianapolis (Stephen J. Corey)

WASHINGTON, April 6, 1929.

SIR: The Department acknowledges the receipt of your letter of April 3, 1929,⁵¹ asking advice with regard to the maintaining of two missionaries and their families at Batang, in the Province of Szechwan near the Tibetan border, and with regard to another missionary and his family who are probably now in Shanghai ready to proceed up the Yangtze River on their way to Batang.

Basing its opinion on information received from official and other sources, the Department feels compelled to inform you that it considers that an attempt to maintain American missionaries at Batang at the present time will unavoidably be attended with great difficulty and with risk to the missionaries themselves. The menace of war and of lawless conditions has for some years been present in Western Szechwan and the Department is unable, from the information now available to it, to expect any substantial improvement in conditions there in the near future. The Department is, of course, ready at all times to utilize the agencies at its disposal in an effort to safeguard and promote the interests of American citizens and organizations abroad. In the present instance, however, the Department cannot but recognize the possibility of dangers threatening American citizens who continue to reside in Batang of a character that no measures open to the Department might be able to avert or mitigate. Disordered political conditions increase, as a rule, the expense and difficulty of transporting supplies and funds to remote localities like Batang. The Department is of the opinion that the residence of American citizens at Batang will continue to involve considerable risk until material improvement has taken place in political conditions in Szechwan.

I am [etc.]

For the Secretary of State:
STANLEY K. HORNBECK
Chief, Division of Far Eastern Affairs

393.1163Am3/54: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 7, 1929—2 p. m.
[Received April 7—10:45 a. m.]

267. Legation's 254, April 2 [1?], 7 p. m. Following from Canton:

"April 1, 10 a. m. Telegram just received from Bishop O'Shea states all Americans still safe but Reds continue active and no reen-

⁵¹ Not printed.

forcements have arrived to assist Government troops. In my opinion Bishop O'Shea and all Americans in South Kiangsi should be advised to leave."

I have replied as follows:

"You should exercise your discretion with regard to advising Bishop O'Shea and other Americans in southern Kiangsi to leave that locality. American Consul General at Hankow has been advised of these instructions which are given to your office because of disturbed or probably interrupted communications between Hankow and southern Kiangsi."

Hankow has been advised of action taken.

MACMURRAY

393.11/957

*The Consul at Nanking (Price) to the Minister in China
(MacMurray)*⁵³

[Extract]

No. L-64

NANKING, April 8, 1929.

SIR:

It has recently come to the attention of this office that the property of the Northern Presbyterian Mission at Showchow has been occupied by the Hsien Tang Pu (Local Kuomintang Chapter) ever since August of last year.

I have [etc.]

ERNEST B. PRICE

393.1163Am3/55 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 9, 1929—3 p. m.
[Received April 9—9:30 a. m.]

270. 1. Referring to Department's telegram No. 104, March 26, 7 p. m., and my 254, April 2 [1?], 7 p. m.

Under date of April 3rd, Minister for Foreign Affairs, in reply to my note of March 28th, stated Kiangsi Provincial Government has been instructed to investigate the situation in Kiangsi and to accord adequate protection to American citizens.

2. American Consul General, Canton telegraphed April 8, 2 p. m.:

"I am telegraphing today to Bishop O'Shea that in my opinion he and other Americans in southern Kiangsi should leave because situa-

⁵³ Copy transmitted to the Department without covering despatch; received May 25, 1929.

tion will probably grow much worse with coming of defeated Kwangsi troops. I have no list of Americans in that area but presumedly Bishop O'Shea will pass my warning on to them."

MACMURRAY

393.1163Am3/57 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 11, 1929—5 p. m.

[Received April 12—11:30 a. m.]

274. Referring to my telegram 270, April 9, 2 [3?] p. m. Following from American Consul General, Hankow:

"April 10, noon. Following received from Bishop O'Shea at Kanchow this morning: 'Communist army near and reinforcements several days away. City preparing for siege. Juikin mission burned. Request you urge Nanchang take prompt action.'

I have requested the Nanchang authorities to send immediate relief and have also requested Chiang Kai-shek through local Commissioner of Foreign Affairs to despatch sufficient military units to Kanchow area to afford protection to American lives and property.

I concur in Jenkins' recommendation to Bishop O'Shea to withdraw."

Following from American Consul, Canton:

"April 10, 2 p. m. Following telegram has been received from Bishop O'Shea: 'Defeated troops from north not [now] crossing Kiangsi. Communist army nearing Kanchow. Reinforcements officially reported on the way from Nanchangfu but will not arrive for several days. City preparing for siege. Juikin mission burned.'"

MACMURRAY

393.1163/324a

The Secretary of State to the Secretary of the International Missionary Council at New York (Warnshuis)

WASHINGTON, April 13, 1929.

SIR: There is quoted for your information the following excerpt from a telegram from the American Consul at Chefoo, China, of date April 4, 5 p. m.:⁵⁴

"In view of the uncertainty of the situation up country I have repeatedly advised women and children at Laichau, Hwanghsien and Tengchow to concentrate at Chefoo. While many have come, others persist in remaining. It is hoped that the Department can bring pressure through foreign mission board and Southern Baptist Convention."

⁵⁴ Telegram not printed.

The Department realizes that withdrawal of American citizens from their places of residence in China may involve considerations of inconvenience and expense. The Department is confident, however, that American official representatives in China give advice in these matters only when and as the circumstances warrant; and the Department believes that in the matter of withdrawal from dangerous areas the interests of all concerned may best be promoted by action on the part of American citizens in accordance with the advice given by the Consuls.

The Department would be grateful if you would transmit to the mission organizations concerned the views of the Department as set forth herein.

I am [etc.]

For the Secretary of State:
 STANLEY K. HORNBECK
Chief, Division of Far Eastern Affairs

393.1163Am3/58 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 15, 1929—6 p. m.
 [Received April 15—2:10 p. m.]

279. 1. Referring to my 274, April 11, 5 p. m. Following from American Consul General, Canton:

“Your telegram of April 11, 5 p. m. I have telegraphed and written Bishop O’Shea advising Americans to depart southern Kiangsi, but have no reply. In view of present political situation I am sure Cantonese authorities cannot send assistance to Kanchow which can only come from the North.”

Such information repeated to Hankow with the following instruction:

“You may in your discretion renew your representations to Chiang Kai-shek, as reported in your 44, April 10, noon, looking to prompt action in protecting American lives and property.”

MACMURRAY

393.11/919 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 15, 1929—9 p. m.
 [Received April 15—3:30 p. m.]

282. 1. Following to Hankow:

“April 12, 4 p. m. Following from commander [in chief], Asiatic Fleet: ‘April 10, 4:12 p. m. As conditions at Hankow are now becoming normal, unless you have other recommendations, I intend to withdraw the U. S. S. *Helena*.’

Your comments are requested prior to Legation's reply to commander in chief."

2. Following from Hankow:

"April 13, 1 p. m. Your 26, April 12, 4 p. m. I considered that it would be distinctly inadvisable to leave this port unprotected and unless the U. S. S. *Helena* is replaced at the time of withdrawal by another naval vessel I would strongly urge that it be kept here. There is no solidarity about the local situation and even if there were it would be most awkward to be placed in the position of having to depend on other navies for the protection of American lives in some sudden emergency. This in general represents the view of the American community as well as my own."

3. Hankow's reply has been repeated to commander in chief with following comment:

"I concur in Consul General's judgment that the naval force at Hankow should not be withdrawn at the present time."

MACMURRAY

393.11/911

The Secretary of State to the Minister in China (MacMurray)

No. 1175

WASHINGTON, April 15, 1929.

SIR: The Department has received your despatch No. 1929, dated February 21, 1929,⁵⁵ enclosing a copy of despatch No. 53, dated January 22, 1929, from the American Vice Consul in Charge at Yunnanfu,⁵⁵ in which the Legation's instructions are requested with regard to the issuance of travel passes to American citizens in the Yunnanfu consular district. A copy of your instruction in reply, dated February 21, was also enclosed⁵⁵ and the comments of the Department were requested.

It is, of course, desirable that the Legation should exercise supervision over the issuing of travel certificates, in order to achieve, among other objectives, a certain uniformity of procedure. Nevertheless, as indicated in the penultimate paragraph of its instruction No. 890, of June 11, 1928,⁵⁶ the Department realizes that conditions differ in different areas and that it is necessary to grant to consular officers a certain latitude in the matter of issuing travel certificates. The Legation's instruction to the American Vice Consul in Charge at Yunnanfu, placing upon him the responsibility of making the decision in these matters, is approved.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

⁵⁵ Not printed.

⁵⁶ *Foreign Relations*, 1928, vol. II, p. 269.

893.00/10394 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

PEKING, April 20, 1929—6 p. m.

[Received April 22—9:50 a. m.]

298. Following from American Consul, Hankow:

"April 19, 4 p. m.

1. Situation for past several days on north bank river between Shasi and Ichang due to retreating Wuhan troops has brought about recurrence of firing on foreign ships. Vessels have been heavily fired upon at several places. Yangtze Rapid[s] *Iping* arrived safely yesterday and reported one Chinese passenger killed and two wounded at a point midway Shasi and Ichang.

.

4. The clearing up of the situation between Ichang and Shasi will give the National Government complete control of the Yangtze Valley from Shanghai to Chungking and beyond.

.

MACMURRAY

393.1163Am3/61 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 22, 1929—8 p. m.

[Received April 22—11:40 a. m.]

303. Referring to my telegram No. 290, April 17, 5 p. m.⁵⁷

1. Following from American Consul General, Hankow:

"April 21, 3 p. m. Telegram from Reverend Tootell,⁵⁸ dated April 19, at Changteh states: 'Changteh quieter. Communication to Taoyuan stopped and situation there desperate'. I have today again taken up matter with Chiang Kai-shih,⁵⁹ through Commissioner of Foreign Affairs, requesting that relief be sent as Ho Chien, who is now at Changsha, professes inability to control situation at Taoyuan. British Consul accompanied by armed guard from H.M.S. *Widgeon* left Changsha a day or two ago to render assistance to foreigners at Changteh."

MACMURRAY

⁵⁷ Not printed.⁵⁸ George T. Tootell, of the American Presbyterian Mission at Changteh, Hunan.⁵⁹ Generalissimo Chiang Kai-shek.

393.11/912

The Secretary of State to the Minister in China (MacMurray)

No. 1199

WASHINGTON, April 29, 1929.

SIR: The Department has received your despatch No. 1951 dated February 21, 1929, enclosing a copy of despatch No. 14 dated February 15, 1929, from the American Consul at Tsinan,⁶⁰ in which the Consul raises the question of the advice that should be given to American citizens and firms resident within the Japanese occupied area in the absence of any responsible Chinese authorities and the apparent disinclination of the Japanese to assume responsibility. A copy of your instruction in reply dated February 21 was also enclosed ⁶⁰ in which you instructed the Consul to inform interested American citizens and firms of the conditions obtaining in the area, leaving the question of their remaining or of leaving the district for the decision of the individual or firm concerned. You added that in the event of an actual case of loss or damage to an American citizen or firm you would request a ruling from the Department concerning the question of political responsibility and the procedure to be followed in filing claim for loss or damage.

It would seem from information reaching the Department that a settlement of the Tsinan incident has been reached between the Japanese and Chinese Governments which provides *inter alia* for the withdrawal of Japanese troops from Shantung. In the event that this is carried out, it seems probable that the unusual circumstances hitherto obtaining in the area along the Shantung Railway affected by the presence and activities of the Japanese military forces will cease, and that American citizens and firms living or represented in that area will look to the responsible Chinese authorities for protection in the same manner as in other parts of China.

The Department believes that any American citizen or firm desiring the assistance of the Department in the presentation of a claim for indemnification of losses suffered in the region along the Shantung Railway during the period of the occupation of that Railway by Japanese military forces should be asked to prepare his claim in accordance with the form prescribed by the Department. Upon receipt of the application, the Department would consider it with a view to determining whether the grounds upon which it was based were sufficient to warrant its presentation to the Government indicated in the application as the one responsible.

A copy of this instruction is transmitted herewith to be forwarded to the American Consul at Tsinan.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

⁶⁰ Not printed.

393.11/972

*The American Minister in China (MacMurray) to the British
Minister in China (Lampson)*⁶¹

PEKING, April 30, 1929.

SIR AND DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your communication of April 26th informing me that, in view of the recent disturbances at Changteh and reports that foreign life was in danger, a British Naval landing party from H.M.S. *Widgeon* proceeded there on April 18th in an armed motor-tug accompanied by Mr. Harding, His Majesty's Consul at Changsha, who later reported to you that the party returned to Changsha on April 22nd bringing with them a number of refugees, including two American citizens, Mr. Tootell and Miss Jacobson, but that an American family named Wager declined to leave Changteh, although the situation there was disquieting at the time.

Please accept my warmest thanks for the very real service rendered by this British party to the American citizens concerned. I shall be grateful if you will express to Mr. Harding and to the British Naval authorities my appreciation of their services.

I avail myself [etc.]

J. V. A. MACMURRAY

893.00/10424 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, May 9, 1929—10 p. m.

[Received May 9—3 p. m.]

Referring to my telegram of May 8, 4 p. m.⁶² Four Cantonese aeroplanes bombed three pro-Kwangsi cruisers in the harbor today, dropping five or six bombs which fell in the river and did no serious damage. Chinese cruisers then moved upstream to Shameen and anchored amongst foreign merchant vessels, whereupon provincial authorities called upon consular body to force cruisers to surrender, failing which renewal of bombardment was threatened. Negotiations were begun between authorities and rebellious cruisers, with consuls and naval officers concerned trying to mediate. Only result was promise from both sides that negotiation should be resumed tomorrow at 10 o'clock and that there should be no hostilities in the meantime. I hope agreement will be kept but I feel somewhat doubtful of good faith of commander of cruisers. If no agreement is reached tomorrow and Government forces insist on attacking cruisers, foreign gunboats may

⁶¹ Copy transmitted to the Department by the Minister in his despatch No. 2123, June 1; received July 5, 1929.

⁶² Not printed.

have to change position and Shameen will be in considerable danger.

General situation seems to have greatly improved in respect of Cantonese forces which now show some determination to fight.

JENKINS

893.00/10434 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, May 11, 1929—3 p. m.
[Received May 12—12:15 p. m.]

Referring to my telegram of May 9, 10 p. m., and May 10, 6 p. m.⁶³ Before Chinese renewed negotiations yesterday morning, I, as Senior Consul, consulted my colleagues and senior naval officers who authorized me to warn commander of revolting gunboats that if he failed to reach agreement with Cantonese authorities and persisted in remaining near Shameen and amongst foreign gunboats, commanders of foreign gunboats would probably find it necessary to change their positions which might make it possible for Cantonese aeroplanes to renew attack.

This seemed to have desired effect on revolting commander who assumed a more reasonable attitude, and good progress was made towards surrender until early afternoon when revolting commander unexpectedly refused to sign agreement on the ground that he must consult his officers and men. He then returned to ships and it began to look as though local government would insist upon aeroplane attack. As this would have been dangerous to Shameen residents, consuls warned their respective nationals accordingly and foreign gunboats prepared to change positions slightly in order not to embarrass aeroplane operations.

However, at 3:30 p. m., commanders from revolting gunboats returned to Consulate, and negotiations were resumed, with the result that gunboats surrendered about 6 p. m., and the incident appears closed.

Terms of settlement were not disclosed to consular body but it is understood that certain money payments were made to crew and officers with the exception of leaders in revolt. Just what will be done to these leaders is not known but it is hoped that government will not resort to harsh measures.

This incident has been one of the most difficult consular body has had to meet in years. Consuls recognized that local officials were representatives of recognized Central Government and that foreign gunboats could not permit revolting Chinese men-of-war to seek

⁶³ Latter not printed.

shelter indefinitely under shadow of Shameen and foreign gunboats. At the same time consular body did not wish to admit specifically that local authorities had right to subject Shameen and foreign men-of-war to serious danger while launching attack on the Chinese gunboats. Consular body believed, however, that the local authorities had right to demand that foreign men-of-war withdraw in order that an aeroplane attack might be launched.

Consuls assumed no responsibility or guarantees in connection with settlement but advised them and encouraged negotiations in order to avoid further hostilities which might involve Shameen and foreign gunboats. Local authorities has [*have*] verbally expressed thanks for assistance rendered. I permitted negotiations between Chinese to occur at Consulate General, and commander, United States ship *Tulsa*, as senior naval officer, allowed the Chinese commander to spend night of 9th on board. This was done at the request of local government and with the consent of the Chinese commander himself as a means of insuring that local gunboats would not attack city during the night.

Kwangsi offensive appears to have collapsed. Local government assures me Kwangsi troops on West River are retreating towards Wuchow and that Kweilin is in danger of capture from the north. Troops in the city appear to be loyal, and government's attitude has stiffened very considerably. It seems evident now that Kwangsi's plans miscarried. British naval wireless informs me all Americans up West River are quite safe. Full reports being [apparent omission] by mail.

Legation has been informed.

JENKINS

893.00/10434 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 14, 1929—5 p. m.

159. Canton's May 11, 3 p. m., to Department regarding incident of three Chinese gunboats anchored near Shameen.

On basis of reports by Jenkins Department considers that he is to be highly commended for the manner in which he handled a threatening situation. Department is gratified that this danger to the foreign community appears to have been obviated and without the intervention of foreign naval vessels. Department is gratified also at close cooperation evident between American Consul General and senior American naval officer and feels that credit is likewise due latter for favorable outcome of the incident. Unless you entertain dissenting view please inform Jenkins of the Department's commendation.

STIMSON

893.00/10444 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 18, 1929—1 p. m.

[Received May 18—11:30 a. m.]

397. Following from American Consul General at Canton:

“May 17, 4 p. m. Preparatory to launching an attack on Wuchow, Cantonese authorities are endeavoring to stop all traffic on the West River. Gunboats and airplanes will probably be used in the attack; and, as there is likely to be considerable damages to foreigners, I have telegraphed advising all American women and children to leave for Hong Kong. I have also requested commander of the South China Patrol to send U.S.S. *Guam* to Wuchow to assist in evacuation if necessary.

 MACMURRAY

893.00/10445 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 18, 1929—4 p. m.

[Received May 18—2:30 p. m.]

400. 1. Following from American Consul at Swatow:

“May 17, 4 p. m. Kwangsi adherents evacuating Swatow hurriedly. . . . Due to the possibility of disorders during the period of transition . . . , I request the presence of an American warship, if one be available.”

2. Message has been repeated to commander in chief United States Asiatic Fleet with my concurrence in request.

 MACMURRAY

893.00/10447 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 19, 1929—noon.

[Received May 19—11:45 a. m.]

401. My 397, May 18, 1 p. m. Following from American Consul General at Canton: ⁶⁴

“May 18, 1 p. m. Commissioner of Foreign Affairs has just informed me that Canton Government intends to close West River to merchant shipping and foreign men-of-war during next fourteen days when it hopes to capture Wuchow. Commissioner said, however, that evacu-

⁶⁴This telegram from the Consul General at Canton was received direct by the Department on May 18 at 9:03 p. m.

ation of foreigners would be permitted and that the passage of one gunboat to and from Wuchow would be allowed for this purpose.

I told Commissioner that I would refer matter to my Government, but said, in the meantime, that American men-of-war would undoubtedly go wherever they felt their presence was needed in protection of American lives and property under treaties. I added, however, that as far as conditions permitted I felt sure our gunboats would endeavor not to embarrass local government in its military operations.

United States ship *Guam* is now on her way to Wuchow, and there is no American ship in Canton at present."

I am repeating this telegram by commercial to commander of the South China Patrol at Hong Kong.

MACMURRAY

893.00/10491

*The Consul at Tsinan (Stanton) to the Minister in China
(MacMurray)* ⁶⁵

[Extract]

No. 32

TSINAN, May 22, 1929.

SIR:

Recent reports received from American missionaries stationed at Weihsien on the Kiaochow-Tsinan Railway contain most harrowing details of the looting and pillaging of Loan and Showkwang, to the northwest of Weihsien. Both places were attacked and looted by the combined bandit-military forces of Liu Hei-ch'i and Tao Pao-chang . . . There are no American missionaries resident in either of these places but American missions own property at both Loan and Showkwang. The mission premises were thoroughly looted in both places, and in the case of Loan, seriously damaged by shell fire. The looting and damaging of this American property has already been brought to the attention of the Commissioner for Foreign Affairs with the request that General Ch'en ⁶⁶ take immediate steps to protect American property in this area and prevent the recurrence of similar depredations. The Consulate has not yet been informed whether the Missions concerned wish to present any claim for the looting and damaging of their property. . . .

I have [etc.]

E. F. STANTON

⁶⁵ Copy transmitted to the Department by the Minister in his despatch No. 32, of the same date; received June 22, 1929.

⁶⁶ Gen. Ch'en T'iao-yuan, acting chairman of the Shantung Provincial Government.

893.00/10453 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 23, 1929—7 p. m.

[Received 9:04 p. m.⁶⁷]

414. My 401, May 19, noon. Following from the American Consul General at Canton:

"May 22, 4 p. m. Referring to my telegram of May 18, 1 p. m. Consular representatives concerned have received identic notes from the Commissioner of Foreign Affairs advising us of closing of West River to navigation for 14 days including foreign men-of-war and merchantmen. As Senior Consul, I have replied for myself and Consul[s] General of Japan, France, Great Britain and Portugal, calling attention to our rights under treaties and [*sic*] but promising to endeavor to conform as far as practicable in this instance to the wishes of the Chinese authorities, subject to instructions that may be received from our respective Governments; at the same time, however, warning Chinese authorities that men-of-war must continue the performance of their duties as authorized under the treaties and that, should difficulties result, in respect to either men-of-war or merchantmen, responsibility will rest with the Chinese authorities.

Consular and naval representatives have decided that men-of-war shall avoid West River as far as possible for the present, but what our attitude should be as to merchant ships is not so clear.

For the present, British merchant ships are not going up the West River, but it seems likely that convoys may become necessary if the blockade is prolonged. We have no ships on the West River except Standard Oil Company lighters, which company will probably wish to send up under convoy if the blockade continued unduly.

I am keeping in close touch with my colleagues; but, beforehand, would appreciate suggestions from the Legation as to how our merchant ships have [apparent omission] similar emergencies on the Yangtze. Consuls are agreed that, as duly constituted authorities, Cantonese should be allowed as much freedom as possible in their effort to suppress Kwangsi clique.

Legation has replied as follows:

"May 23, 6 p. m. Your May 22, 4 p. m., has been repeated to the Department. Legation approves action which you have taken. If blockade continues unduly and American merchant shipping becomes acutely affected, the Legation will give further consideration to question."

MACMURRAY

⁶⁷ Telegram in two sections.

893.00/10454 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, May 24, 1929—3 p. m.
 [Received May 24—10:55 a. m.]

Referring to my telegram of May 22, 10 a. m.⁶⁸ Canton Government again notified me yesterday that the offensive against Wuchow is to be resumed with vigor both by land and water. I passed this information on to commander of the South China Patrol who now informs me that the U. S. S. *Guam* left Wuchow this morning with six Americans for Hong Kong. This indicates that about thirty Americans have remained in Wuchow in spite of warnings. Commander of the *Guam* reports that Kwangsi authorities will not defend Wuchow but intend to withdraw to the interior.

Private messengers from Shiuchow on Canton-Hankow Railway report that Communists under Chu Teh are approaching the city which is defenseless. These Communists have already looted several towns on northern border of Kwangsi and were formerly active in southern Kwangsi. Consuls interested urged Cantonese Government to send troops to protect Shiuchow, and the Government has promised to despatch 1,000 men.

The Legation has been informed.

JENKINS

893.1111 Holleman, C.H./1 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 28, 1929—noon.
 [Received May 28—9:25 a. m.]

426. Following from American Consul at Amoy:

"May 27, 4 p. m. Communist force, estimated 2,000, raided American Reformed Church Mission, Lungyenchow, May 23rd, looting everything except hospital equipment but did not damage buildings. No Chinese persons or property interfered with in the city and Communists retired towards Shanghang and Tingchowfu same day, taking Doctor C. H. Holleman prisoner with them. Mrs. Holleman, Mrs. Poppen and four children escaped, reaching Amoy today safely. Communists told Chinese they required Holleman to render medical services. I have asked authorities to take all possible steps to establish communication and obtain his release by negotiation. Also a Chinese connected with the mission is following Communists [with?]

⁶⁸ Not printed.

same purpose. I am endeavoring to inform General Chang Chen through the American Consul at Swatow."

This telegram is being repeated to American Consul at Nanking with the following instruction:

"Please inform Minister of Foreign Affairs, urgently requesting his assistance in effecting the release of Holleman."

For the Minister:
PERKINS

893.00/10463: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 29, 1929—3 p. m.
[Received May 29—10:40 a. m.⁸⁹]

431. My 400, May 18, 4 p. m. Following from American Consul at Swatow:

"May 28, 4 p. m. U. S. S. *Tulsa* arrived at Swatow evening 21st. On the 23rd morning three Chinese warships arrived here and sent representatives to me with the request that I assist them to meet the commandant of the hundred and fifty Kwangsi troops in Swatow, informing me that they intended to demand the surrender of Swatow on threat of bombardment. I arranged to have the commandant call at the Consulate to meet the representatives. I declined to be present at the conference and do not know what demands were made or the replies thereto. I was informed by both parties that nothing was accomplished. On the 24th morning I accompanied Captain Decker to call on the commander of the Chinese warships to ascertain his intentions (his representatives had informed me on the day before that he would bombard the city should it not surrender immediately). The commander of the Chinese warships stated that he did not [apparent omission] to bombard the city if it could be avoided. He requested that Captain Decker and I arrange a meeting between himself and the local commander. The conference took place on board the *Tulsa* the 24th afternoon with no result. One of the war vessels left for Hong Kong the 25th evening, two for Amoy the 26th morning. There are about one thousand Kwangsi troops in Chaochowfu and one hundred and fifty in Swatow. I have been informed privately that Chang Chen will make a general attack on the Kwangsi forces today. All inland communications are cut off and all shops are closed today."

For the Minister:
PERKINS

⁸⁹ Telegram in two sections.

393.1111 Holleman, C.H./6 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 31, 1929—5 p. m.
[Received May 31—10:53 a. m.⁷⁰]

437. My 426, May 28, noon.

1. [Following from] American Consul at Swatow:

"May 30, noon. *Tulsa* left here last night for Amoy under orders commander in chief. Swatow is being held by Kwangsi adherents with 150 soldiers in Swatow and 1,000 Chaochowfu. Commander an ex-bandit. Armed robberies occur daily in Swatow but the victims [will?] not report to the police authorities, on account of fear of reprisals. Putnam⁷¹ has requested me to convey messages to Chang Chen concerning Holleman. To do so I must close the Consulate temporarily and travel through the lines of the contending factions. The trip would require about two days. Request instructions and suggest that *Tulsa* return immediately to Swatow."

I am replying as follows:

"May 31, 3 p. m. Your May 30, noon. In view of your May 28, 4 p. m., and of other reports indicating the probability of an early attack on Swatow, the Legation deems it inadvisable that at this juncture you close the Consulate and endeavor to get into personal contact with Chang Chen by trip through the fighting lines. You should however make every effort to reach Chang by special messenger or by other means. The Legation authorizes reasonable expenditure for this purpose. Please keep the Legation fully informed. Should it prove impossible to dispose of message to Chang Chen concerning Holleman, or should there be any marked change in the situation, the Legation may reconsider proposal for your personal visit to Chang.

(2) Is your request for return of the *Tulsa* based on the local situation?

(3) Your telegram and this reply are being repeated to the commander in chief.⁷²

2. Department's authorization is requested for expenditure referred to.

3. Above telegrams are being repeated to commander in chief.

For the Minister:
PERKINS

⁷⁰ Telegram in two sections.

⁷¹ John R. Putnam, Consul at Amoy.

393.1111 Holleman, C.H./7 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 1, 1929—7 p. m.
[Received June 1—4:35 p. m.⁷²]

439. My 437, May 31, 5 p. m. Following naval radiogram from Amoy:

"The following is for the American Minister from the American Consul, Amoy: 'Holleman is now at Engteng, according to a letter received today by his wife. A ransom of \$50,000 is demanded but they may accept less. With the assistance of Lungyen Chinese who are in communication with the doctor, the mission is trying to arrange the ransom, doing everything possible to secure his release. He has so far been well treated. I fear his death will result if any attempt is made to use force. A very confidential explanation dated May 26th to Lungyen Chinese from Holleman states that he is in serious danger unless \$10,000 ransom is paid within a week. Local authorities promise every aid to secure his release by the authorities. Putnam.'"

2. Message repeated to American Consul at Nanking with instructions to push representations to the Minister for Foreign Affairs, urging immediate assistance in securing release of Holleman.

3. Message repeated to American Consul at Swatow with following instructions, modifying my instructions of May 31, 3 p. m.

"Since American Consul at Amoy reports official and private negotiations now in progress in Fukien and that he fears use of force will result in death of Holleman, you should refrain from representations to General Chang Chen pending further advices from the Legation or direct from American Consul at Amoy in event of urgency."

4. Amoy informed of action taken.

For the Minister:
PERKINS

893.00/10471 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 3, 1929—noon.
[Received June 3—9:45 a. m.⁷²]

441. 1. Following from American Consul at Swatow:

"June 1, 11 a. m. The Commissioner of Public Safety has petitioned to grant him asylum in the Consulate when Swatow is taken by Cantonese. He is a local politician, and if I do not consent he will

⁷² Telegram in two sections.

run away to Hong Kong, immediately leaving the police without a head, which will endanger American lives and property. He would remain at the Consulate for only a few hours until I could arrange for his passage to Hong Kong. In view of the peculiar circumstances I request authority to comply with his wishes."

2. I am replying as follows:

"June 3, 11 a. m. Your June 1, 11 a. m.

(1) The Legation is of the opinion that a prearranged understanding or promise on your part to grant asylum as suggested might have the indirect effect of assisting one faction against the other in this case, apparently the faction which is opposing the forces cooperating with the recognized Nanking Government.

In any case such a promise would expose the Consulate to the possibility of a charge of this kind and would constitute a very dangerous precedent.

(2) In further reference to your May 30, noon, and the Legation's May 31, 3 p. m., paragraph (2), if you consider local situation threatens safety of Americans and property, the Legation will ask the commander in chief for the immediate despatch of a war vessel to Swatow."

3. Telegrams mentioned in my reply were repeated to the Department in the Legation's 437, May 31, 5 p. m.

For the Minister:
PERKINS

893.00/10470 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, June 3, 1929—3 p. m.
[Received June 3—10:48 a. m.]

Cantonese naval forces occupied Wuchow last night without opposition. River will be reopened to navigation immediately.

Legation has been informed.

JENKINS

393.1111 Holleman, C.H./9 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 5, 1929—4 p. m.
[Received 7:15 p. m.]

447. My 439, June 1, 7 p. m.

1. Following from American Consul at Amoy:

"June 4, 3 p. m. Letter received from Holleman by Lungyen-chou Chinese stating that he escaped 28th and was making his way toward Taipu where he is trying to reach Swatow. Believed that owing to conditions in Swatow district his arrival there may be delayed or he may have to return overland to Amoy via Pingwo. Chinese authori-

ties trying to inform General Chang Chen requesting verification and protection. Have telegraphed Berger⁷⁴ requesting him try to verify and render any assistance possible.⁷⁵

For the Minister:
PERKINS

393.11/1009

*The Consul General at Hankow (Lockhart) to the Minister in China
(MacMurray)*⁷⁶

L. No. 764

HANKOW, July 17, 1929.

SIR: I have the honor to refer to the Legation's circular telegram of February 20, 1929, in which it was stated that the Minister for Foreign Affairs of the National Government had informed Mr. Perkins that it was the definite policy of the National Government to restore to the owners all foreign property occupied by Chinese civil or military authorities wherever located, and to state that during the past month numerous cases of the occupancy by Chinese soldiers of American mission property have been brought to the attention of the Consulate General. This recrudescence of the violation of American property by Chinese soldiers has been particularly noticeable in Honan Province, where, it is understood, there are many troops under the command of General Tang Seng-chi. During General Tang's rule in the Hankow area the occupation of mission property was very general. The practice has become very annoying and almost intolerable to American mission enterprises, many of which feel that with the culmination of internecine warfare there is no longer the least excuse for the occupation of their property. All of these cases have been reported by me to the respective Commissioners of Foreign Affairs and efforts are being made to have the properties vacated. A separate despatch is being sent to the Legation concerning recent cases of occupation.

In this connection, I wish to state that I believe that the assurances given to Mr. Perkins by the Nanking authorities last February⁷⁷ have been utterly valueless, so far as this consular district is concerned, and it is quite possible that the present system of depending on the Nanking authorities to have foreign property vacated has been equally ineffective in other consular districts. I now offer for the Legation's consideration as an alternative to the present plan or to supplement it, the suggestion that the Legation request of the National Government a

⁷⁴ David C. Berger, Consul at Swatow.

⁷⁵ The Minister in China in telegram No. 501, June 24, reported Dr. Holleman's safe arrival at Amoy from Swatow (393.1111 Holleman, C.H./29).

⁷⁶ Copy transmitted to the Department without covering despatch; received October 25, 1929.

⁷⁷ The reference is apparently to Mr. Perkins' conversation with the Chinese Minister for Foreign Affairs on January 17, reported in his memorandum dated February 18, p. 436.

number of proclamations, bearing the chop of the Commander in Chief of the Army, Navy and Aerial Forces, forbidding the occupancy of American property by Chinese soldiers. Such proclamations could be issued in blocks and sent to the consulates in China concerned with this problem and by them distributed to the American properties in need of protection. This method would have the very great advantage of tending to prevent the occupation by troops of the National Government of American property rather than to obtain repossession after Chinese soldiers had occupied and damaged the property.

I am somewhat strengthened in my belief that this procedure would meet with the favor of the National Government, if that Government is sincere in its desire to prevent depredations by soldiers, by the fact that the local Commissioner of Foreign Affairs under date of June 14, 1929, transmitted to this office a number of proclamations, chopped by the Commander in Chief of the Army, Navy and Aerial Forces, for the use of foreigners going to Kikungshan, Honan, for the summer months. The proclamation, a copy of which is attached,⁷⁸ translates as follows: "Foreigners enjoying their summer vacations must be afforded protection; private dwellings must not be occupied". I believe that if the Legation can obtain from the National Government proclamations, similar to the one enclosed, for posting on American property in the interior of China, they will serve very effectually in freeing such property from occupancy by Chinese soldiery and may, in many instances, prevent future occupancy. If the Nanking authorities should agree to this suggestion it would be well for the proclamations to be phrased in more emphatic terms than is the case with the proclamations issued for the foreign residents of Kikungshan.

Since the above was written I have obtained from the Commissioner of Foreign Affairs at Hankow four proclamations bearing the chop of General Chiang Kai Shih ⁷⁹ forbidding the occupation of private property in Hupeh Province by Chinese troops. One of the proclamations is enclosed herewith, together with a translation.⁸⁰

I have [etc.]

F. P. LOCKHART

393.1163/342

The Consul General at Hankow (Lockhart) to the Secretary of State

No. 1190

HANKOW, August 6, 1929.

[Received September 14.]

SIR:

. . . I beg now to make further observations on the question of depredations committed by the military on American mission prop-

⁷⁸ Note on file copy reads: "[Attached] to original only."

⁷⁹ Generalissimo Chiang Kai-shek.

⁸⁰ Note on file copy reads: "Attached to original only."

erty in this consular district, as well as in the Changsha and Chungking consular districts . . . I deem it now advisable, in order that there may be a concise and continuous record in the Department of these unlawful acts, to give in this despatch a brief summary of cases of depredation not previously reported to the Department, most of which were committed during the past twelve months.

The various reasons which have prompted the occupation of missionary properties, and the means adopted to curb the evil as much as it was possible to do, have been recounted in the previous despatches herein mentioned, and no attempt will be made now to repeat them here. It is pertinent to remark, however, that public utterances and official assurances given by the National Government authorities at Nanking have been persistently violated by military officials in various parts of the three consular districts administered by this office. There have been periods, however, when there were but few cases of occupation of missionary property in the three districts in question, but these periods have invariably been confined to a time when no major military operation was being undertaken. The instances of occupation of American property have multiplied many fold since the beginning of the campaign by the National Army last March against the Kwangsi Group and later against Feng Yu-hsiang. As the armies of the recognized Government of China moved up the Yangtze Valley and spread to the south, west and north of Kiukiang and Hankow during the months of March and April of the present year the occupation of mission property became more and more prevalent. Not only was missionary property occupied in various places as hereinafter described, but the arrival of the National Army in Hankow on April 4, 1929, was the signal for the occupation of many pieces of foreign business property in the city. While there were no cases involving the occupancy of American business property, properties belonging to other nationals were occupied by officers and men of the newly arrived army. The most persistent representations on the part of the representatives of the Governments whose nationals' property was being occupied were absolutely ignored except in a few isolated cases. This state of affairs continued even after the arrival of Chiang Kai-shek in Hankow and notwithstanding oral representations made to him by the Consular representatives concerned. It was not until after contingents of troops occupying foreign properties in the city of Hankow were moved to new stations that such properties were vacated, except, as stated above, in a few isolated cases. It is worthy of note that assurances were communicated almost daily to owners of properties and to the consular officers concerned that the occupied properties would be surrendered, but in spite of these promises occupation continued in most cases until the troops moved on to new stations.

Mission properties at Hankow of all nationalities, so far as I have been able to ascertain, were free of occupation, but no sooner had the National Army invaded northern and western Hupeh and Honan than numerous cases of occupation of American mission property were brought to my attention. The Commissioners of Foreign Affairs in Hupeh and Honan were repeatedly reminded by me of the announced policy of the National Government not to permit troops to occupy foreign mission property and all specific cases of occupation were brought to the attention of the authorities. I found but little effort being made by these officials to prevent the occupation of mission property and the efforts put forth in that direction were, until recently, quite perfunctory, as were the efforts to have troops removed from occupied property. The area in which this condition was most flagrant was the province of Honan into which many thousands of Nationalist soldiers had been despatched in connection with the campaign against Feng Yu-hsiang. It is significant that General Tong Sen-chi [*Tang Sheng-chi*], who was one of the most notorious violators of foreign mission property rights of all the generals who invaded this area from Canton in 1926 and 1927, was the General in command of a large area in Honan from which the reports of unlawful occupations reached this office. While these depredations were not by any means confined to the troops under the command of Tong-Sen-chi, a close check on the many occupations in Honan would doubtless reveal that not a few cases are directly attributable to his long established policy of occupying foreign mission property whenever and wherever it may be required.

That so many cases of the occupation of foreign mission property should recently have been brought to the attention of this Consulate General when the National Government at Nanking is proclaiming that it is now a unified government whose authority extends throughout the whole of China would be ludicrous if it were not so serious. There is but one conclusion that can be drawn from this situation, and that is that the National Government either does not possess sufficient authority to prevent its own troops from occupying such property or else the National Government, with its full knowledge and consent, encourages its military leaders to use the properties in whatever manner they may choose. For my part, I thoroughly believe that the National Government at Nanking possesses sufficient authority, by invoking measures which might even call for drastic disciplinary steps towards officers guilty of permitting these depredations, to cause every piece of American mission property to be vacated within five days time and to absolutely prevent henceforth the occupation of any piece of mission property by soldiers in the Hankow, Chungking and Changsha consular districts. If the National Government possesses a will

to protect foreign property as it now claims that it is in a position to do, there is not the slightest doubt but that complaints of the occupation of mission property would cease in short order if only the authorities at Nanking would apply the same means of punishment to the officers guilty of these depredations that the officers themselves often apply to so-called agitators and petty law breakers. I believe that I am safe in saying that practically every instance of the occupation of a piece of American mission property has been at the instance, or with the consent, of an officer of considerable rank.

I am not informed as to whether it has been the practice of all American Consular officers in China to report every case of the occupation of American mission property since the beginning of the revolutionary period, but I venture to say that the number of such depredations within the last three years far outnumbers any like period in the history of missionary enterprise in China. Certainly that is true of the Hankow, Changsha, and Chungking consular districts. This condition may be due to the fact that more major military campaigns have been conducted in these three districts than in others for the three-year period, but the fact remains that there have been 112 such cases, practically every one of which has been reported to the Legation. This despatch should complete the record in the Department to date.

It is to be regretted that but few missionary societies have presented claims to indemnify them for the losses sustained and for the use of commandeered properties. If all mission societies would adopt a course calling for reimbursement the total amount would be surprisingly large and might impress the Chinese authorities of the magnitude of this evil and the monetary loss suffered by the mission societies. So much of the property has been wantonly destroyed that the Chinese Government should not be kept in ignorance, if indeed it is ignorant, of its complete failure to control even its own forces. It must be remembered that practically every case of occupation and deliberate destruction of property has been by armed forces belonging to organized Chinese armies and in recent months by troops of the Government recognized by the Government of the United States. There could scarcely be better grounds for presenting claims for indemnification than for damages wrought by men in uniform belonging to the army of a recognized Government. I might add also that there is scarcely a country in the world that would not be quick to recognize the justice of a claim of this character. In this general connection the attention of the Department is invited to case No. 40 on page 15 of this despatch reported by Reverend Peter Valder. Particular attention is invited to the following observations made by the Reverend Mr. Valder :

"Enclosed kindly receive a Chinese card with name and rank of the military officer, who forcefully occupied our mission compound for two weeks at Tungpeh, Honan, from June 24th, 1929.

"The officer referred to was very imposing and threatened to beat up our Chinese co-workers, if they did not yield to his demands.

"It is earnestly hoped the Chinese authorities will endeavor 'to save their face' and discipline such brutes in uniform in the future."

There is also quoted, as follows, an excerpt from a letter dated July 28, from Reverend E. T. Sheehan at Poyang, Kiangsi, commenting on this practice of National Government soldiers:

"I would be very thankful to you if you could make the Nationalist Government of China understand that as there is neither reason nor excuse for the soldiers entering our residences at this time, it should either take measures to keep soldiers out or be willing to pay an indemnity. Our properties are private. We will neither rent nor loan to any soldiers."

The following brief résumé of cases involving the occupancy of mission property in recent months will afford an idea of the extent to which this evil has been permitted to flourish under the National Government:

[Here follows a list of 43 cases, of which there were 12 in Honan, 14 in Hunan, 5 in Hupeh, 5 in Kansu, 4 in Kiangsi, and 3 in Szechwan.]

I have [etc.]

F. P. LOCKHART

393.1163Am3/75

*The Consul General at Hankow (Lockhart) to the Minister in China (MacMurray)*⁸¹

L. No. 785

HANKOW, August 7, 1929.

SIR: I have the honor to enclose a copy of a letter which has recently been received from the Right Reverend E. T. Sheehan, concerning the occupancy of Catholic Mission property in I Yang, Kiangsi, by Chinese soldiers, together with a complete file of the correspondence in the case,⁸² as indicative of the action taken by the Consulate General to obtain the return of the property to the mission.

In this connection the Legation's attention is respectfully invited to the Consulate General's despatch L. No. 765, dated July 18, 1929,⁸² and particularly to the last sentence of the subject matter thereof wherein it was stated that "missionary interests in this consular district feel rather strongly that the National Government is utterly indifferent to this evil and that the Nanking authorities should now demonstrate their sincerity by adopting effective measures to abolish

⁸¹ Copy forwarded to the Department without covering despatch; received September 28, 1929.

⁸² Not printed.

the practice." By way of suggestion, it has occurred to me that the Minister for Foreign Affairs of the National Government may wish to make public pronouncement of the National Government's policy to restore to the owners all foreign occupied property, as conveyed to Mr. Perkins in the conversation which served as the basis for the Legation's telegraphic instruction of February 20—6 p. m.⁸³ I may add that conditions in this consular district with respect to the occupation of American property by Chinese soldiers and officials are extremely deplorable and are showing no improvement. It is true that it is generally possible to obtain the removal of the troops after about two months of negotiation with the local authorities but in most cases their removal is actually merely due to military maneuvers and often means that one property in one place is vacated and another in some other city or village is occupied.

I entertain the hope that the Legation will find an opportunity to impress upon the National Government the seriousness of the situation, so that the government may institute effective remedial measures.

I have [etc.]

F. P. LOCKHART

393.1163/356

The Minister in China (MacMurray) to the Secretary of State

No. 2329

PEIPING, September 3, 1929.

[Received October 25.]

SIR: I have the honor to enclose a copy of a despatch L. No. 800, of August 17, 1929, addressed to the Legation by the Consul General at Hankow,⁸⁴ from which it will be seen that the Christian and Missionary Alliance is of the opinion that the question of making claims of the Chinese Government for indemnity for losses sustained by the mission should be left entirely to the discretion of the American Government on the ground that the mission's work in China is carried on under existing Sino-American treaties.

While the Government has the right, in the enforcement of treaty provisions defining the rights and privileges of American citizens, to determine, irrespective of the desires of individual sufferers or claimants, whether or not to exact indemnity or compensation in any particular instance, I do not feel, as a general rule, that initiative in the matter of claims should rest exclusively with the Department or that American citizens can divest themselves of the responsibility of deciding themselves whether they wish to prepare and have filed claims for

⁸³ See memorandum by Mr. Perkins of his conversation with the Chinese Minister for Foreign Affairs on January 17, p. 436.

⁸⁴ Not printed.

losses incurred by them. Before replying to Mr. Lockhart in that sense, however, I beg to request an expression of the Department's views on the subject.⁸⁵

I have [etc.]

J. V. A. MACMURRAY

893.801 Search/4

The American Minister in China (MacMurray) to the Chinese Minister for Foreign Affairs (C. T. Wang) ⁸⁶

No. 867

PEIPING, September 12, 1929.

EXCELLENCY: I have the honor to invite Your Excellency's attention to the unauthorized action of certain military authorities in Shanghai in boarding and searching the S. S. *Chi Chuen*, an American vessel belonging to the Yangtze Rapid[s] Steamship Company, Federal Incorporated U. S. A., at 10:15 a. m. on August 9th, while the vessel was entering the Whangpoo River on a voyage from Chungking to Shanghai.

In this relation I have the honor to enclose a copy of a statement of the Master, Captain Harris,⁸⁷ in regard to the incident. A perusal of this statement with particular reference to the last paragraph will show the danger of such unauthorized forcible boarding and search of American vessels, and I have the honor to request that Your Excellency will investigate the matter, and will issue the necessary instructions for the punishment of the military authorities involved, and the issuance of instructions that will insure cessation of such illegal activities in the future.

I avail myself [etc.]

J. V. A. MACMURRAY

393.11/1008

The Consul General at Canton (Jenkins) to the Minister in China (MacMurray) ⁸⁸

No. 870

CANTON, September 24, 1929.

SIR: I have the honor to enclose herewith for the information of the Legation a copy (in translation) of a despatch dated September 18 from the Commissioner of Foreign Affairs⁸⁷ asking that foreigners be warned not to proceed to the interior without first consulting the

⁸⁵ In instruction No. 1401, November 15, the Secretary of State replied that "the Department concurs in the views expressed by you in the final paragraph of your despatch under acknowledgment."

⁸⁶ Copy transmitted to the Department by the Minister in his despatch No. 2331, September 18; received October 25, 1929.

⁸⁷ Not printed.

⁸⁸ Copy transmitted to the Department by the Consul General in his despatch No. 1599, of the same date; received October 25, 1929.

responsible Chinese authorities. It will be observed that this action is based on the suggestion of the military authorities in the vicinity of Swatow who are endeavoring to rescue several German and Swiss missionaries captured by bandits in that area some time ago. As far as this Consulate General can ascertain the greater part of northern Kwangtung is now overrun by bandits and soldiers who decline to submit to the authority of the present regime in Canton.

The attitude of the local authorities in this instance does not seem to be unreasonable, but may possibly be carried to such an extreme that few foreigners will be permitted, or at least authorized, to proceed to points in the interior of the country. Under the circumstances I should be glad to know what position the Legation is inclined to assume in connection with notices of this sort.

I may add that I have already forwarded a copy (in translation) of the enclosure to the American Consul at Swatow.

I have [etc.]

DOUGLAS JENKINS

893.00B/653

*The Consul in Charge at Swatow (Smyth) to the Minister in China (MacMurray)*⁸⁹

SWATOW, September 25, 1929.

SIR: I have the honor to inform the Legation that Mr. John S. Dick, an American missionary connected with the Mennonite Mission at Shanghang, Fukien, but now residing in Swatow, called at the Consulate today and stated that he had just received word from his Chinese colleagues in Shanghang that communists had attacked Shanghang on September 11th and 13th, and that during the attack on the 13th the mission's property outside the walls of Shanghang had been burned by the communists.

Mr. Dick stated that the attacks on September 11th and 13th had been made by some 4,000 or 5,000 communists, of whom perhaps 250 were armed with rifles, the remainder carrying knives, clubs and other weapons. The defenders of the city, consisting of a brigade of Fukien troops under General Lu Sing-ming, repulsed these attacks but on September 19th a further attack occurred and the city was captured.

The Mennonite Mission property which was burned by the communists on September 13th consisted of eight buildings situated outside the city walls and was valued at approximately M\$25,000. Mr. Dick states that he has received no news concerning the fate of the mission property inside the city but that he fears that this property, valued at M\$15,000, has also been destroyed. Mr. Dick reports that

⁸⁹ Copy transmitted to the Department by the Consul in his despatch No. 4, of the same date; received October 26, 1929.

the communists did not molest the Chinese residing in the mission property, but requested that they move out in order that the buildings might be burned.

Many Chinese refugees from Shanghang have arrived in Swatow and have issued a petition to the government at Nanking concerning the action of General Lu, who apparently concealed the danger of a communist attack from the government in order that no reinforcements would be sent to Shanghang, thus necessitating a division of the local spoils. General Lu fled from Shanghang after its capture and his troops, apart from those who escaped, were disarmed or incorporated with the communists.

The capture of the strong walled city of Shanghang, not far from the Kwangtung border and only 190 miles from Swatow, has caused serious alarm in this city. Many Chinese in Swatow have expressed the fear that the communists will endeavor to continue their advance southwards. There are some 2,000 Kwangtung troops in Yungting, Fukien, a few miles from the border, and a total of approximately 15,000 scattered about this district, but it is by no means certain that these troops could check a serious attack from the communists.

It will be recalled that the plan of the central government for the extermination of the communists in Southern Fukien, northern Kwangtung and eastern Kiangsi, called for an encircling attack by the troops of these three provinces. The Fukien troops have already shown themselves to be unequal to the task and the Kwangtung troops have confined their efforts to driving the principal groups of communists from northern Kwangtung into southern Fukien. As it is now reported that Kiangsi Province is on the point of disowning allegiance to the central government, it is probable that the anti-communist campaign will not be carried on with sufficient vigor to subdue the communists, who will apparently remain unincited in southern Fukien, gathering strength for an attack at an opportune moment.

In conclusion, it should be noted that there is a steadily increasing dissatisfaction with the present authorities among the people of this district. This spirit is particularly evident among the farmers, many of whom are communists or would become communists if conditions permitted. The people are struggling under heavy taxation and, to add to their burden, the present crop prospects are exceedingly poor. It seems quite possible that a famine, together with the resentment against the authorities, would result in the support of the people being given to any group having as its object the overthrow of the present government.

I have [etc.]

R. L. SMYTH

811.30 Asiatic Fleet/47

*General Order No. 3-29 of the United States Asiatic Fleet on "The Policy of the Fleet"*⁹¹

U.S.S. "PITTSBURGH", Flagship.
CHEFOO, 30 September, 1929.

1. The policy of this Fleet shall follow the approved Naval Policy of the United States.

2. The development of the Fleet in preparation for war must be coupled with efforts to maintain peace and to prevent war. The more thorough the preparedness for war, the greater will be the influence exerted for prevention of war.

3. The duty of the Navy as an agent to assist in the maintenance of peace in the world is defined in Section 3, Chapter 18, U. S. Navy Regulations, 1920. Particular attention is invited to the requirements of Article 727:

"The Commander in Chief shall impress upon officers and men that when in foreign ports it is their duty to avoid all possible causes of offense to the authorities or inhabitants; that due deference must be shown by them to the local laws, customs, ceremonies, and regulations; that in all dealings with foreigners moderation and courtesy should be displayed, and that a feeling of good will and mutual respect should be cultivated."

4. The cultivation of good will and mutual respect between personnel of the naval service and foreigners in every port and locality where our forces operate must be coupled with an exhibition of a sympathetic attitude towards all Americans resident therein. By the application of this principle a cordial contact will be established whereby the views of Americans as to their needs for assistance from our Government may be ascertained and they may be informed regarding the nature and extent of the assistance which the Navy is prepared to render. This should tend toward a common understanding with cooperation and coordination of American effort.

5. The policy of the United States with particular reference to China as enunciated by our Government from time to time is as follows:

- a. Open door policy.
- b. Aloofness from interference in the internal affairs of China.
- c. Maintenance of the territorial integrity of China.
- d. Traditional friendship for China.

6. The unusual conditions in China today place a peculiar and heavy responsibility upon the Asiatic Fleet to prevent incidents arising which

⁹¹ Copy transmitted to the Department by the Consul General at Shanghai, in his despatch No. 6230, November 2; received December 21, 1929.

will necessitate the active employment of force to protect American interests. The policy of units of the Fleet on duty in China will be:

- a.* The protection of American lives.
- b.* The protection of American property.
- c.* The promotion of American interests.
- d.* The cultivation of friendly relations with the Chinese.

7. If the forces of the naval service are required at any time to protect American interests in China in accordance with the foregoing policies, the following specific instructions shall be carried out:

a. Do not underestimate the opposing forces. Be sure of a force adequate to succeed and be governed by your own trained estimate of the situation. A dignified evacuation is far better than a defeat. American interests throughout China are affected by local incidents which may be to the credit or discredit of America.

b. By every means consistent with the spirit of this policy the forces of our naval service shall be kept from any armed clash with the regular organized forces of the central or any local Chinese Government, always bearing in mind the necessity of protecting lives. However, if our ships are fired upon without provocation they will return the fire to silence the same. When required to be present in localities where Chinese troops are engaged in armed conflict, both sides engaged shall be requested to give safe-conduct whenever practicable.

c. Protect American lives within gun range of forces of the naval service against disorganized mobs and rioters, or, preferably, if time permits, evacuate them to places of safety previously designated.

d. Within gun range of forces of the naval service, protect American property against disorganized mobs and rioters and against robbers and pirates, avoiding unnecessary risks to personnel. The degree of protection to be afforded American property will be governed by conditions existing at the time. In general, it shall not be considered as co-equal with the measures to be taken for the protection of lives.

e. The United States has no concessions in China and only joint responsibility in the International Settlements at Shanghai and Amoy. Forces of the naval service shall not be used for the purpose of maintaining the integrity of any settlement in China. Cooperation with other forces shall be strictly limited to such measures as involve the protection of American lives and interests or, in any unusual situation, to such action as may be justified for the sake of humanity. Actual command of any forces of the naval service will not be exercised by any foreigner.

f. The forces of the naval service located on shore in Shanghai shall not be quartered outside the International Settlement nor employed outside thereof except in carrying out these instructions.

g. The Marine Detachment, American Legation, Peiping, shall not be quartered outside the American Legation compound except by special authority of the Commander in Chief and for any operations outside thereof will be governed by the policy and instructions herein contained.

8. Any situation which may arise must necessarily require an estimate of said situation, a decision, and a plan of action to meet the

local conditions and attendant circumstances, but the estimate shall be made with the policy and instructions herein set forth fully in mind.

CHAS. B. McVAY, JR.
U. S. Asiatic Fleet
Admiral, U. S. Navy, Commander in Chief

893.00P.R.Hankow/27

The Consul General at Hankow (Lockhart) to the Minister in China
*(MacMurray)*⁹²

[Extract]

L. No. 842

HANKOW, October 1, 1929.

SIR:

The local community was shocked by the news of the murder of three Belgian missionaries near Patung by bandits early in the month. This crime makes a total of seven foreign missionaries, three of whom were Americans, who have been murdered by bandits in this consular district within the last few months. I am endeavoring to impress upon missionaries, who call at this office on their way back to their stations in the interior, of the dangers with which they may be confronted on again taking up their work at remote stations.

There have been isolated cases of anti-foreign agitation, the outstanding case of this kind being in Hwaiking, Honan. Among the following [*sic*] slogans on the walls of a missionary compound at that place was found the following:

It is the aim of the revolution to drive out the foreign devil;
 Drive out the foreign devil and recover liberty and power;
 Strike down British Imperialists;
 Exterminate the foreigner.

I have [etc.]

F. P. LOCKHART

393.1163/370

The Vice Consul at Tsinan (Clark) to the Minister in China
*(MacMurray)*⁹³

No. 61

TSINAN, October 1, 1929.

SIR: I have the honor to inform the Legation that the property of the American Presbyterian Mission at Ichowfu is being occupied

⁹² Copy transmitted to the Department by the Consul General in his despatch No. 1231, of the same date; received November 9, 1929.

⁹³ Copy transmitted to the Department by the Minister in his despatch No. 2372, October 11; received November 8, 1929.

by troops of the 4th battalion of the 10th regiment under General Kao Kuei-tsu, and that the property of the same mission at Yihsien is being occupied by the troops of the 1st battalion of the 10th regiment also under Kao Kuei-tsu.

I have brought this matter to the attention of the Shantung provincial authorities and have demanded the immediate evacuation of the premises. However, in this connection, I wish to inform the Legation of the procedure that has been followed in this case by the missionary concerned, as it seems to be one that is followed by several missionaries in southern Shantung.

It seems that Dr. C. T. Wang has personally written or spoken to these missionaries and told them to write direct to him in the future when there was any case of the occupation of mission premises, and that he would personally see to it that the premises were evacuated. Mr. T. N. Thompson, superintendent of the mission at Ichowfu, has done this in both of the present cases. In each case he had first written directly to the Ministry of Foreign Affairs at Nanking, and then has enclosed a copy of that letter when he has notified this Consulate.

Before calling the attention of the missionaries to the terms of the treaties which provide that the consul shall be the medium of communication between resident foreigners and the Chinese authorities, I have the honor to request the Legation's opinion as to whether or not the possible advantage to be gained by this direct communication is sufficient to warrant its continuance.

I have [etc.]

LEWIS CLARK

893.00/10546 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

PEIPING, October 2, 1929—5 p. m.

[Received October 3—1:15 p. m.⁹⁴]

852. My 845, September 26, noon.⁹⁵

1. Following from American Consul General at Canton:

"October 1, 2 p. m. . . . Local military situation now appears developing rapidly. . . .

Americans at Wuchow are asking that gunboat be sent up river for their protection. I have passed this on to Captain Loge [*Logan*], U. S. S. *Mindanao*, now in Hong Kong. Unfortunately, U. S. S. *Guam* has been ordered back to the Yangtze, and we have only one ship in South China waters. If *Mindanao* is not prepared to pro-

⁹⁴ Telegram in two sections.

⁹⁵ Not printed.

ceed to Wuchow, I will advise American women especially to leave for Hong Kong."⁹⁶

The above is being repeated to commander in chief of the United States Asiatic Fleet.

2. Dutch Minister informs me he has learned from a dependable Chinese source that Province of Kwangsi has expressed independence of the Central Government. Information from the French Minister that he has received from the Minister for Foreign Affairs urgent message asking him to prevent the delivery of certain arms contracted for in Indochina by Kwangsi authorities tends to confirm this.

MACMURRAY

893.00/10552 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 8, 1929—1 p. m.

[Received 3:57 p. m.]

867. Following from American Consul General at Hankow:

"At 10 a. m. Thursday steamship *Iling* of Yangtze Rapids Steamship Company was fired on by Chinese troops at mileage 219 above Hankow. Ship struck 6 times, but no casualties. I have lodged protest with Commissioner of Foreign Affairs."

MACMURRAY

393.1163/370

*The Minister in China (MacMurray) to the Vice Consul at Tsinan (Clarke)*⁹⁷

PEIPING, October 9, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch, No. 61, of October 1, 1929, in which you request the Legation's opinion as to the advisability of missionaries referring cases of occupation of their premises direct to the Ministry of Foreign Affairs.

While not desiring to lay down any specific instructions in the matter, I am of the opinion that you should interpose no objection if the missionaries concerned desire to take up such matters direct with the Minister for Foreign Affairs of the National Government. On the other hand, you should at the same time give them to understand that such action on their part may have the effect of prejudic-

⁹⁶ The Minister, in his telegram No. 869, October 8, reported that the *Mindanao* arrived at Wuchow on October 5 and that a destroyer was expected at Canton (893.00/10551).

⁹⁷ Copy transmitted to the Department by the Minister in his despatch No. 2372, October 11; received November 8, 1929.

ing your freedom of action in the matter, in which event it might be difficult for you to render as effective assistance as in cases brought immediately to your attention.

I am [etc.]

J. V. A. MACMURRAY

393.11/1017

*The Minister in China (MacMurray) to the Consul General at Canton (Jenkins)*⁹⁸

PEIPING, October 9, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch, No. 870, of September 24, 1929, enclosing a copy of a despatch, of September 18th, from the Commissioner for Foreign Affairs⁹⁹ requesting that foreigners be warned not to proceed to the interior without first consulting the responsible Chinese authorities. You point out that the attitude of the local authorities in this instance is not unreasonable, but may possibly be carried to the extreme that few foreigners will be authorized to proceed to points in the interior, and request information with regard to the Legation's attitude in the matter.

In the event that the Americans concerned desire to consult with the local authorities before venturing into the interior, the Legation perceives no objection to their doing so. It is suggested, however, that, in your reply to the local authorities, you should state that the Consulate General should be kept informed of conditions existing in various parts of the interior in order that you may yourself consult with and advise American citizens in regard to travel within your Consular district. It might also be well for you to inform the Chinese authorities that, while you are not disposed to object to American citizens requesting information in regard to conditions, you are unable to admit the right of the Chinese authorities either to authorize or to forbid American citizens traveling to interior points of the country. You might also state that you are prepared to cooperate with the authorities in every way and will exert every effort to see that American citizens are warned of dangerous conditions existing in any part of your Consular district immediately upon receipt of such information from the Chinese authorities concerned.

I am [etc.]

J. V. A. MACMURRAY

⁹⁸ Copy transmitted to the Department by the Minister in his despatch No. 2370, October 9; received November 8, 1929.

⁹⁹ Not printed.

893.00/10556 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 12, 1929—5 p. m.

[Received October 13—12:07 p. m.]

881. Legation's 863, October 7, 3 p. m.¹

1. Commander in chief informs me that foreign steamship lines have been approached by the Chinese military authorities at Chungking with a view to having these lines submit bids for transporting troops at one-quarter of the regular fare. He adds that the British Admiral has instructed British vessels to refuse to carry troops, but that according to information from Chungking the French attitude is that their merchant vessels would carry unarmed troops but would not transport arms and ammunition. The Admiral has instructed the commander of the Yangtze Patrol not to permit the seizure of American vessels for this purpose but has told him not to write to the companies forbidding it since this prohibition is not a naval function. He tells me that he is informed that the Chinese attitude in the matter was adopted in order to relieve Chinese steamers of the duty of carrying troops so as not to disturb their trade.

2. Department's instruction as to attitude to be adopted by the Legation concerning advice to be given American shipping companies is requested.

MACMURRAY

893.00/10556 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 14, 1929—5 p. m.

333. Your 881, October 12, 5, p. m. The view of the Department that "foreign nations should stand so far as possible aloof from the internal dissensions in China" is unchanged (see Department's telegram May 17 [18], 5 p. m., 1922).² At your discretion you may advise American shipping companies that the degree of protection this Government can afford them in their normal activities will be adversely affected to the extent that they allow themselves to become involved in Chinese military operations.

STIMSON

¹ Not printed.² *Foreign Relations*, 1922, vol. 1, p. 705.

793.00/229

*The Consul General at Shanghai (Cunningham) to the Minister in China (MacMurray)*³

No. 6195

SHANGHAI, October 17, 1929.

SIR: As an appropriate supplement to the chapter in this office's political report for September, 1929, No. 6188, dated October 11, 1929,⁴ under the heading "Anti-Foreignism," on page 9 of the report, I have the honor to quote the following from a recent statement made by a well informed foreign authority concerning crimes against foreigners during recent months:

"Apropos of the National Government's assurance of protection for foreigners in the event of extraterritoriality being abolished events in China wherein the lives of foreign subjects are ruthlessly taken are undoubtedly on the increase and so far no remedy has been found by Nanking to counteract the activities of organized gangs of bandits who are responsible for the outrages and who appear to have established themselves in every part of the country in spite of the presence of a large standing army supposedly united under the direct control of the Chief Executive of the country. While it is impossible to give details of every outrage coming under this category the following details go to show that the methods adopted for the safety of foreigners in the interior is anything but satisfactory.

"Messrs. Burton and Godfrey, British subjects who were captured by bandits in the vicinity of the Sungari River in August, were released in the beginning of September after being in the hands of bandits for 19 days.

"Bishop Trude Jans and Fathers Bruno and Rupertus members of a French Mission were murdered by bandits at Liaoting in Hupeh early in September and in spite of a strong protest by the French Legation to the Chinese Government the culprits are still at large.

"Five officers, including the captain, of the Norwegian steamer 'Botnia' were captured when the vessel was stranded and was pirated at Haichow on September 12. The sum of \$500,000 was demanded for their release. Three of the officers succeeded in effecting their release the same evening while the other two were subject to the most barbarous treatment, which nearly resulted in their death, before they were liberated by their captors owing to the latter being harassed by Government troops.

"The Rev. G. Cecil Smith of the China Inland Mission was also captured by bandits at Yungning in Southwest Kueichow on September 10 but was released some six days later through the efforts of Government troops.

"In addition to the above eight foreigners have been murdered in the interior since April 1929 while a goodly number of foreign missionaries have been either abducted or been the victims of robbery with violence."

I have [etc.]

EDWIN S. CUNNINGHAM

³ Copy transmitted to the Department by the Consul General in his despatch No. 6508, October 17; received November 8, 1929.

⁴ Not printed.

893.00/10631

*The Minister in China (MacMurray) to the Consul General at Shanghai (Cunningham)*⁵

PEIPING, October 25, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch No. 6200, of October 18, 1929,⁶ in which you transmit a copy of a communication from the Commander of the Yangtze Patrol,⁷ informing you that under instructions from the Commander-in-Chief, protection will not be afforded to such vessels as contract to carry members of the military forces of China, or arms, ammunition, or any other non-commercial article, such as opium.

In this relation, I beg leave to inform you that the American Consul General at Hankow recently reported that the Chinese military authorities at Chungking were endeavoring to persuade the Yangtze Rapids Steamship Company to transport troops from Kweifu to Chungking at one-fourth fare. This information was reported to the Department with the request that instructions be issued as to what advice, if any, should be given American shipping companies in the premises. The Department replied to the effect that in its discretion the American Legation may advise American shipping companies that the degree of protection that the American Government can afford such companies in their normal activities will be adversely affected to the extent that they choose themselves to become involved in Chinese military operations. In the event that similar conditions should arise in your consular district, you are authorized in your discretion to inform American shipping companies of this instruction.

With reference to the protection to be extended vessels carrying non-commercial articles, such as opium, a copy of your despatch is being forwarded to the Department for any comment that it may consider appropriate in the premises.

I am [etc.]

J. V. A. MACMURRAY

893.00/10574 : Telegram

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

WASHINGTON, October 26, 1929—2 p. m.

282. The Minister at Peiping has informed me of the kind action of H. M. S. *Cricketer* in taking on board the Americans who were at Wuhu on October 18th when that place was in line of fire of opposing Chinese forces. Please convey to the British Government the most sincere thanks of this Government for the action of the British Naval forces in extending protection to American citizens on that occasion.

STIMSON

⁵ Copy transmitted to the Department by the Minister in his despatch No. 2397, October 25; received November 22, 1929.

⁶ Not printed.

⁷ Dated October 7, from Rear Admiral T. T. Craven; not printed.

393.1163/375

*The Consul at Nanking (Adams) to the Minister in China
(MacMurray)*⁸

[Extract]

L-97

NANKING, November 1, 1929.

SIR:

It is of interest to note that the properties now occupied are all held by civilian or semi-official organizations with the exception of the two properties reoccupied by troops during late August and the middle of October. It has been the general experience of this Consulate that military occupations, while perhaps more frequent, are more quickly terminated as a rule, than cases where semi-official civilian bodies have gained control of American property. This may be due, however, only to more or less continuous movements of troops, whereby it is rendered impossible for any one group to settle down to a prolonged occupation of a given spot.

I have [etc.]

WALTER A. ADAMS

393.1111 Kreutzin, Mathias/1 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, November 9, 1929—noon.

[Received November 9—11:35 a. m.]

63. Reverend Mathias Kreutzin, an American citizen currently registered here, Department's approval No. 59160, October 2, 1924, home Calumet, Michigan, captured by bandits at Weiyuankow below Hankow yesterday. Notify Franciscan Provincial, 1615 Vine Street, Cincinnati. Ransom of \$10,000 is being demanded. Have taken up case with Chinese authorities. Legation informed.⁹

LOCKHART

393.1111 Kreutzin, Mathias/8 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, November 12, 1929—1 p. m.

[Received November 13—9:15 a. m.]

64. My 63, November 9, noon. Local Chinese authorities claim to be making every effort to release Reverend Kreutzin by a military expedition against the bandits who are composed of a band of Anhwei troops formerly belonging to General Fang Cheng-wu who recently

⁸ Copy transmitted to the Department without covering despatch; received December 21, 1929.

⁹ In telegram No. 370, November 12, the Department instructed the Minister to "Report by telegraph steps taken and results achieved looking toward release." (393.1111 Kreutzin, Mathias/7)

revolted against Nanking. The release of Reverend Kreutzin will doubtless be difficult to accomplish, especially since the bandits have proceeded inland from Weiyuankow, where the capture actually occurred. I shall continue my efforts to effect release through Chinese officials.

Ten or twelve American missionaries are now concentrating at Hwashihkang, to which place the U.S.S. *Panay* is proceeding to afford protection.

Repeated to the Legation.¹⁰

LOCKHART

393.11/1047

*The Consul General at Canton (Jenkins) to the Minister in China (MacMurray)*¹¹

No. 892

CANTON, November 12, 1929.

SIR: In connection with the Legation's instruction of October 9, 1929, regarding a communication from the Commissioner of Foreign Affairs, requesting that foreigners be warned not to proceed to the interior without first consulting the responsible Chinese authorities, I now have the honor to enclose copies of this Consulate General's despatch of October 23 to the Commissioner of Foreign Affairs in Canton, together with that official's reply of November 7, 1929.¹²

It will be observed that the Commissioner admits that bandits infest certain areas and urges that the responsible authorities be consulted before foreigners attempt to go into the interior. As the Commissioner says nothing more about the necessity of obtaining "permission" from the local authorities, I assume that the correspondence may be allowed to rest where it now stands, and I shall take no further action unless specifically instructed to do so by the Legation.

I have [etc.]

DOUGLAS JENKINS

393.1163/370

The Secretary of State to the Minister in China (MacMurray)

No. 1399

WASHINGTON, November 14, 1929.

SIR: The Department has received your despatch No. 2372 of October 11, 1929,¹³ in regard to the occupation of American mission premises by Chinese troops.

¹⁰ In telegram No. 996, November 14, the Minister reported to the Department his telegraphic request of the Chinese Ministry for Foreign Affairs "to make every effort to effect the release of Kreutzin at the earliest possible date." (393.1111 Kreutzin, Mathias/9)

¹¹ Copy transmitted to the Department without covering despatch; received December 21, 1929.

¹² Neither printed.

¹³ See footnote 97, p. 479.

The Department approves the instruction issued to the American Consulate at Tsinan by the Legation under date of October 9, 1929, a copy of which was enclosed with the despatch under acknowledgment.

The Department would be interested in receiving information regarding the results that may follow a direct appeal by American missionaries to the Minister for Foreign Affairs in cases of occupation of mission property by Chinese troops.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

393.1111 Kreutzin, Mathias/17 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, November 17, 1929—3 p. m.
[Received November 17—10:40 a. m.]

67. My 65 [66], November 15, 1 p. m.¹⁴ Ransom has been reduced to \$6,000 Mexican, \$60 to be paid immediately for subsistence for Father Kreutzin. Sixty dollars sent by messenger. Three hundred soldiers were sent from Tayeh to Tawangtien, but on arrival there found town deserted and Father Kreutzin removed elsewhere. Catholic Fathers here feel confident he will be released in a few days. Letter received by them yesterday from bandit chief states Father Kreutzin well and that he will be delivered over unharmed on payment of reduced ransom. A Father from Wuchang has gone to Tayeh authorized to pay a maximum of \$1,500 not as ransom but expense money to effect release. I am pressing Chinese authorities daily on case and they are lending cooperation. Legation informed.¹⁵

LOCKHART

893.00/10618 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, November 19, 1929—11 a. m.
[Received 9:35 p. m.]

Referring to my November 18, 5 p. m., to Legation.¹⁴ Cantonese authorities have notified me officially that West River is to be blockaded beginning November 21 and closed to shipping, including men-of-

¹⁴ Not printed.

¹⁵ In telegram No. 72, November 30, the Consul General at Hankow reported to the Department that "Mission authorities state bandits have agreed to release Father Kreutzin for \$3,000. Money will be sent by messenger from Tayeh at once" (393.1111 Kreutzin, Mathias/37). The release and safe arrival at Tayeh of Father Kreutzin was reported in telegram No. 73, December 2 (393.1111 Kreutzin, Mathias/38).

war. I am taking essentially the same attitude as last May (see my despatch No. 815 of May 22 to Legation).¹⁶ Am informing U.S.S. *Mindanao* which is now proceeding up West River to Wuchow.

. . . There seems to be no danger to Americans in Wuchow at present.

. . . U.S.S. *Helena* is in port.

JENKINS

893.00/10621 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

[Extracts]

CANTON, November 20, 1929—noon.

[Received November 21—6 a. m.]

Referring to my November 18, 5 p. m.,¹⁷ and November 19, 11 a. m. Cantonese military authorities assure me orders have been issued to release Standard Oil motor lighter *Denver*, commandeered at Wuchow on 17th. . . .

In official notice of closing of West River, Cantonese authorities announce that Kwangsi leaders, Li Tsung-jen and Huang Shao-hung, have returned to Kwangsi to operate with Chang Fa-kuei against Canton.

JENKINS

893.00/10624 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

[Extract]

CANTON, November 21, 1929—1 p. m.

[Received November 22—8:45 a. m.]

Referring to my telegram of November 20, noon. U.S.S. *Mindanao* has arrived Wuchow and reports that Standard Oil Company lighter *Denver* has been released and company's premises cleared of troops. Also that Cantonese troops have entirely evacuated Wuchow and the city is without protection until Kwangsi forces arrive, probably not before the 23rd. *Mindanao* is remaining at inner Wuchow for the present. . . .

JENKINS

¹⁶ Not printed; but see telegram No. 414, May 23, from the Minister in China, p. 459.

¹⁷ Not printed.

893.00/10627 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 22, 1929—10 p. m.
[Received November 22—8:45 p. m.¹⁹]

1030. Legation's 1023, November 21, 5 p. m.²⁰

1. The commander in chief yesterday telegraphed the Legation that he had directed naval vessels in south China to disregard the restrictions announced by the Chinese authorities with regard to the closing of the West River and to operate at their discretion.

2. The following telegram was received last night from the Minister for Foreign Affairs:

"We have the honor to inform you that we are in receipt of a telegram from the Kwangtung Provisional Government: 'In consequence of military affairs and for the sake of the safety of foreign merchant vessels, it has been decided to blockade temporarily the West River beginning with the 21st instant for a period of 14 days. Consuls of the several countries have been notified to transmit this information to warships and merchant ships of the several countries to the end that they all may evacuate. It is requested that the matter be taken up by telegraph with the Ministers of the several countries separately.' We have the honor to address to you this special telegram and to express the hope that you will be good enough to transmit instructions to those concerned to acknowledge accordingly. This is our hope."

3. Subject to the Department's approval, I purpose to reply to the Minister for Foreign Affairs that with reference to his note of November 21, the Legation is instructing the American Consul General at Canton that, whereas he should endeavor to conform as far as practicable with the wishes of the Chinese authorities in this matter, he should at the same time make it clear that in spite of the proposed restrictions American men-of-war must continue the performance of their duties as authorized under the treaties and should they be interfered with and difficulties result in respect to either men-of-war or merchantmen, responsibility would rest with the Chinese authorities.

4. In this reference is made to the Legation's No. 401, May 15 [19], noon, Legation's No. 414, May 23, 7 p. m., and the Legation's mail despatch No. 2130, June 8th.²¹

PERKINS

¹⁹ Telegram in two sections.

²⁰ Not printed.

²¹ Latter not printed.

393.1163Am3/85

*The Consul in Charge at Swatow (Smyth) to the Minister in China
(MacMurray)*²²

SWATOW, November 22, 1929.

SIR: I have the honor to inform the Legation that the Acting Superior of the American Catholic Mission at Kaying has reported to this Consulate in a letter, dated November 13, 1929, that on November 1, 1929, the mission station at Shak Chin, Kwangtung, was looted by communists.

As reported in my despatch of November 16, 1929,²³ the communists attacked Kaying on October 31st but were defeated. They retired to the northwest, reaching Shak Chin, a town some thirty miles from Kaying, on November 1st. Father Malone, an American Catholic missionary, had a narrow escape from capture, and the mission station was thoroughly looted by the communists, who destroyed everything they could not carry away. Father Malone estimates the losses, in church property and personal effects, at M\$4,000.

I have requested the mission to furnish details concerning the losses suffered and will report to the Legation when this information is received.

I have [etc.]

R. L. SMYTH

893.00/10632 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, November 23, 1929—noon.

[Received 1:05 p. m.]

Referring to my telegram of November 22, 3 p. m.²³ Cantonese authorities have just informed me aeroplanes will bombard Wuchow in the next day or two. I have asked commander of U. S. S. *Mindanao*, now at Wuchow, to advise Americans to leave if possible, but at the same time warned Cantonese authorities time is short and many Americans may not be able to get away, that United States Government will expect every precaution to be taken to avoid harm to Americans and their property and that I could give no assurance as to our attitude in the event of Americans being killed or property damaged. As Cantonese now have 10 or 12 planes, bombing may be serious.

Legation and Department has been informed.

JENKINS

²² Copy transmitted to the Department without covering despatch; received December 26, 1929.

²³ Not printed.

893.00/10634 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, November 26, 1929—noon.
[Received November 26—6:30 a. m.]

Referring to my telegram November 23, noon. Admiral Chan Chat informed me last night that eight or ten Cantonese aeroplanes would bomb Wuchow in near future. He promised that instructions would be given to avoid American property and was pleased to know [American] national flag would be spread on roofs of American-owned buildings. This information has been repeated to U. S. S. *Mindanao* at Wuchow.

. . . Admiral Chan Chat has permitted two Standard Oil Company lighters to proceed up river to Shiuhing, but intimated that situation might soon be such as to render further shipments impossible.

JENKINS

893.00/10635 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, November 26, 1929—3 p. m.
[Received November 26—10:10 a. m.]

Referring to my telegram November 26, noon. Have just been informed by *Mindanao* that two Cantonese planes dropped five bombs on Wuchow this morning. Five killed and three wounded, all civilians,²⁵ but no damage done to foreign property or persons. Endeavor of aviators to avoid foreign property was very apparent.

Repeated to Department and Legation.

JENKINS

893.00/10627 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, November 26, 1929—7 p. m.

388. Your 1030, November 22, 10 p. m., paragraph 3.

1. The Department understands that there is a possibility of imminent hostilities on the West River. Your note to the Chinese Ministry of Foreign Affairs should lay emphasis on the intention of the American authorities concerned to conform to the wishes of the

²⁵ The Consul General's telegram of November 27 added: "According to latest reports, naval telegraphy from Wuchow, five planes bombed city yesterday, killing 23 people and wounding 12, all Chinese civilians" (893.00/10636).

Chinese authorities in the matter of the navigation of the West River as far as may be compatible with the duties performed by the former under the authorization of the treaties.

2. The Department is consulting the Navy Department and is confident that its officers in China and the American naval authorities will be able to extend needed assistance to American residents and at the same time avoid as far as may be practicable complications with the Chinese.

STIMSON

893.00/10637 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 28, 1929—noon.

[Received November 28—3:20 a. m.]

1050. Department's 388, November 26, 7 p. m.

1. I am replying to the Minister for Foreign Affairs as indicated in the Legation's 1030, November 22, 10 p. m., third paragraph, but am incorporating in the note the phraseology employed in paragraph 1 of the Department's telegram under reference.

2. I am also telegraphing the text of the note to the commander in chief and to the American Consul General at Canton and am informing the latter of the content of paragraph 2 of the Department's telegram.

PERKINS

893.1163Am3/81 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 3, 1929—2 p. m.

[Received December 3—10:05 a.m.]

1070. In response to telegraphic appeal sent to Lazarist Mission at Shanghai by Bishop O'Shea at Kanchow, Kiangsi, and repeated to me by Cunningham, I have telegraphically instructed Adams²⁶ to deliver the following to the Minister for Foreign Affairs:

"I have the honor to inform Your Excellency that American member of Catholic Mission at [Kanchow,] Kiangsi, has telegraphically reported the capture by bandit troops of nearby cities, stating that a serious situation exists and that the Government troops are leaving the mission unprotected. They request that the commanding officer of the Twelfth Division be directed not to withdraw his forces. I am informed that there are 18 American citizens in the mission, 6 nuns and 12 priests. I have the honor to request that Your Excellency will take immediate steps for the effective protection of the American citizens at Kanchow."

PERKINS

²⁶ Walter A. Adams, Consul at Nanking.

893.00/10641 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

[Extract]

CANTON, December 4, 1929—1 p. m.

[Received December 4—12:03 p. m.]

U. S. S. *Mindanao* arrived in Canton yesterday afternoon and reports all American missionaries on West River are safe.

JENKINS

893.00/10642 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 4, 1929—9 p. m.

[Received 10:07 p. m.]

1076. Legation's 1050, November 28, noon. Legation has received a further telegram from the Ministry of Foreign Affairs stating that he will have to extend the time limit for the blockade of the West River and requesting instructions be given American warships and merchantmen to refrain from navigation there for the time being. I am replying that the American authorities concerned are being informed with regard to the extension of the time limit for the blockade and I am at the same time reaffirming the position taken in the Legation's former note with regard to the responsibility of the Chinese Government.

PERKINS

893.22/19 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 5, 1929—6 p. m.

[Received 9:32 p. m.]

1092. The following telegram has been sent to the commander in chief:

"December 5, 6 p. m. 1. Following telegrams have been received from the Consul at Nanking:

"December 5, 11 a. m. My December 4, noon.²⁷ Tientsin-Pukow Railway official states that mutinous troops are intrenching themselves on railway at Wuyi some thirty miles north of Pukow. The Government has ordered portions of the Third and Fifth Divisions in Nanking to Pukow and Puchen and is moving troops from points along the Shanghai-Nanking Railway to Nanking. Eight[h] Division arrived last night from Chinkiang. Local coolies are being impressed for military labor.

²⁷ Not printed.

The magnitude of preparations which Government is making indicates that it does not consider the revolt a local affair. There is a distinct nervousness amongst high officials.

Shanghai, Tientsin and Hankow informed.' And

'December 5, 1 p. m. My December 5, 11 a. m. I suggest that it would be prudent to have an American naval vessel at Nanking.'

2. In view of the situation outlined in the telegram first quoted above I concur in Adams' recommendation that a naval vessel should be despatched to Nanking."²⁸

PERKINS

893.00/10650 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 7, 1929—1 p. m.

[Received December 7—10:55 a. m.]

1099. Following from American Consul General at Hankow:

"December 6, 3 p. m. Authentic reports from Ichang this morning indicate a tense situation there. Rebellious troops, having captured Itu, are now moving towards Ichang, and foreigners are mostly concentrated on or near the foreshore prepared to evacuate if necessary. American and other foreign gunboats are standing by. U. S. S. *Guam*, escorting steamship *Meiming* and two Yangtze Rapid[s] lighters past danger zone, was fired on yesterday from shore below Ichang and hit 17 times, but no casualties. Fire was silenced by one shell from [apparent omission]. On returning to Ichang, *Guam* was not fired on.

PERKINS

893.00/10649 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 7, 1929—3 p. m.

[Received December 7—10:35 a. m.]

1101. Following from American Consul General at Hankow:

"December 5, noon. At a point between Ichang and Itu all shipping is being heavily fired upon by troops ashore. British ship *Wanhsien*, escorted by British naval vessel, was heavily fired on yesterday near Itu, and latter returned the fire with effectiveness. American ships will be escorted through danger zone by U. S. S. *Guam*, now at Ichang.

PERKINS

²⁸ The U.S.S. *Tulsa* was ordered to Nanking (893.22/19).

893.00/10653 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 8, 1929—4 p. m.

[Received 7:41 p. m.]

1107. Following is being sent the commander in chief:

“Legation’s December 8, 11 a. m. Reports from principal centers continue to interpret seriousness of revolt against Nanking threatening the stability of the present government. Should the situation in the Yangtze region result in local disorders with attendant inability of the Chinese local authorities to give adequate protection to foreigners, it appears best to advise the withdrawal of American citizens from affected areas to places where they can be protected or from which they may be evacuated in an emergency. Apart however from the reports regarding relief at Nanking and at Ichang consular officers have not as yet advised me that there are American citizens in their respective districts.”

PERKINS

893.00/10654 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 9, 1929—11 a. m.

[Received December 9—1:25 a. m.]

1110. Following telegrams from the American Consul at Nanking:

“December 8, 3 p. m. I have today advised that all American women and children leave Nanking by the first available transportation. A number are leaving by the steamship *Shingking* this evening. Nanking is at present quiet. Railway service between Nanking and Shanghai has been restored.”

“December 8, 10 p. m. Seventy-three American[s], out of a total of one hundred and twenty, sailed tonight for Shanghai.”

“December 8, 11 p. m. U. S. S. *Tulsa* arrived Nanking tonight.”

The foregoing is being repeated to the commander in chief.

PERKINS

893.00/10657 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 9, 1929—1 p. m.

[Received 5:21 p. m.]

1112. Legation’s 1107, December 8, 4 p. m. Commander in chief telegraphed December 8th that he will leave Manila for Shanghai December 11th and that, until present confused political conditions are clarified, a division of destroyers, less those undergoing overhaul, will be assigned to Chinese ports. Destroyers leave Manila December 9th.

PERKINS

893.00/10631

The Secretary of State to the Chargé in China (Perkins)

No. 1420

WASHINGTON, December 9, 1929.

SIR: The Department has received the Legation's despatch No. 2397 of October 25, 1929,²⁹ regarding a communication from the Commander of the Yangtze Patrol to the Consul General at Shanghai, stating that protection will not be afforded to any American vessel which contracts to carry members of the military forces of China, or arms, ammunition or other non-commercial articles, such as opium.

As you are aware, Article XXXIII of the Sino-American Treaty of 1844³⁰ provides *inter alia* that citizens of the United States trading in opium shall not be entitled to protection from the Government of the United States. Article II of the Sino-American Treaty of 1880³¹ prohibits American citizens and vessels from importing or transporting opium in China, and in order to execute the provisions of this latter Article, Congress has enacted legislation making it a misdemeanor for citizens of the United States to traffic in opium in China (see Act approved February 23, 1887, Section 3³²). The Department believes that the decision of the American naval authorities that American vessels contracting to carry opium shall not be afforded naval protection is in conformity with the treaty provisions and the legislation referred to above.

With regard to contracts entered into by American shipping companies to carry arms and ammunition, your attention is invited to the Department's telegram No. 333 of October 14, 1929. The transportation of munitions of war by American merchant vessels would appear to entail great risk of involving such vessels in Chinese military operations and the Department would see no objection in principle to the withholding of American naval protection from vessels engaged in the business of transporting such munitions.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

393.11/1040 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 10, 1929—1 p. m.
[Received December 12—10:30 a. m.]

1119. My 1110, December 9, 11 a. m. Following from American Consul General at Shanghai:

²⁹ See footnote 5, p. 483.

³⁰ Miller, *Treaties*, vol. 4, pp. 559, 570.

³¹ Malloy, *Treaties*, vol. I, p. 239.

³² 24 Stat. 409.

"December 9, 4 p. m. Some eighty refugees, chiefly Americans, being women and children, arrived [from] Nanking by the Socony and [the] Butterfield [and] Swire boats today. Several inquiries have been received from local missions as to whether I am advising Americans to proceed to Shanghai from Soochow, Wusih and other interior ports. I am advising that the conditions throughout China are unsettled and that, while I know of no concrete instance that would justify advising the withdrawal from Soochow and Wusih to Shanghai, I should dislike to accept the responsibility of being the authority for retaining at these places of women and children."

PERKINS

393.11/1035

The Secretary of State to the British Ambassador (Howard)

WASHINGTON, December 11, 1929.

EXCELLENCY: Replying to your communication of December 10, 1929,³³ inquiring whether the United States Government is taking or contemplating any measures for the protection of its nationals in China in view of the present situation there, I have the honor to inform you that in situations such as the one now obtaining in China, it is the policy of the American Government to evacuate American citizens from places of danger to places where they may be adequately protected. In accordance with this policy, on the night of December 8, seventy-three American citizens, chiefly women and children, were evacuated from Nanking to Shanghai.

The Commander-in-Chief of the United States Asiatic Fleet left Manila on December 9 on board his flagship, the U. S. S. *Pittsburgh*, en route for Shanghai, where he is due to arrive on December 15.

No steps have been taken to add materially to the armed forces of the United States which have been for some time maintained in China. With a view to the possible necessity for the evacuation and protection of American citizens, United States naval vessels have been distributed to places which are thought to be convenient points of embarkation in case of need or where there may arise need for local protection.

The distribution of American military and naval forces in China at the present juncture is indicated on the enclosed memorandum.

Accept [etc.]

HENRY L. STIMSON

³³ Not printed.

[Enclosure]

Memorandum Showing the Distribution of American Armed Forces in China

LAND FORCES

Eight hundred thirty infantry stationed at Tientsin.

Five hundred seventeen marines stationed at Peiping (Legation Guard).

One thousand forty-nine marines stationed at Shanghai.

NAVAL FORCES

U. S. S. *Pittsburgh* (cruiser) due to arrive at Shanghai on December 15, from Manila.

U. S. S. *Bulmer*, *Edsall* and *McCormick* (destroyers) due to arrive at Shanghai on December 13, from Manila.

U. S. S. *McLeish* (destroyer) due to arrive at Swatow on December 11, from Manila.

U. S. S. *Parrott* (destroyer) due to arrive at Amoy on December 11, from Manila.

U. S. S. *Tulsa* (gunboat) at Nanking.

U. S. S. *Isabel* (gunboat) at Shanghai.

U. S. S. *Luzon* (gunboat) at Hankow.

U. S. S. *Monocacy & Palos* (gunboats) at Shanghai in reserve with twenty-five per cent of personnel.

U. S. S. *Panay* (gunboat) at Shanghai.

U. S. S. *Tutuila* at Chinkiang (gunboat)

U. S. S. *Oahu* (gunboat) at Kiukiang.

U. S. S. *Guam* (gunboat) at Ichang.

U. S. S. *Mindanao* (gunboat) at Canton.

U. S. S. *Helena* (gunboat) at Canton (reduced personnel).

125.643/89 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 12, 1929—1 p. m.

[Received December 12—9:30 a. m.]

1130. Following from American Consul at Nanking:

“December 11, 8 p. m. British and Japanese authorities are making careful plans to defend their Consulates and not evacuate them. I understand that armed naval forces will not be landed except in the event of emergency for defense purposes. My own present plan is to evacuate the Consulate in the event of necessity and withdraw all Americans.”

I am replying as follows:

"December 12, 1 p. m. Your December 11, 8 p. m.

1. Legation approves your plan.
2. Your telegram and this reply are being repeated to the Department for any further instructions which it may desire to give in the matter.³⁴
3. Commander in chief is being informed."

PERKINS

893.00/10678 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

[Extract]

CANTON, December 13, 1929—4 p. m.

[Received 6 p. m.]

. . . There is no intimation as yet of reopening navigation on West River. British gunboat *Sea Mew* is now en route to Wuchow with food supplies for foreigners, including Americans if needed.

.

JENKINS

393.11/1044 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 14, 1929—4 p. m.

[Received December 14—3: 15 a. m.]

1147. 1. Following from American Consul [General] at Shanghai:

"December 11, 4 p. m. The following letter has been forwarded to the senior American naval officer at Shanghai. Legation's approval is solicited and it is hoped that the commander in chief will be informed of the Legation's attitude:

"The assistant general manager of the Shanghai Power Company has requested that, due to the extensive communistic agitation in and around Shanghai, as a precautionary measure an American destroyer should be anchored in front of the Shanghai Power Company, an American concern. The berthing of a vessel at this place would not only be a precautionary measure in the event of a disturbance but will have a very salutary effect upon Communists or other agitators. The request of the Shanghai Power Company, as above indicated, has the endorsement of this Consulate General. The assistant general manager has been informed that it will be impossible to take any action on his request earlier than tomorrow or the following day unless an emergency arises making it an urgent matter."

The protection of the Shanghai Power Company as a public utility concerns the entire community. However, the passing of the company

³⁴The Department replied, in telegram No. 412, December 12: "Department approves plan to evacuate the Consulate at Nanking in the event of necessity and to advise all Americans to withdraw." (125.643/89)

to American ownership transfers the responsibility of guarding the light and power from an international to a single power responsibility. This adds greatly to America's local responsibility. In 1925 it will be remembered that light and power supply was continued only because of the protection and partial operation by British and American Navy and Marines."

"December 12, 11 a. m. Supplementing my 210, December 11, 4 p. m., I may add that the proposed berthing would not be unusual since frequently men-of-war have anchored there even during normal times."

2. I am telegraphing the commander in chief. I concur in the views of the Consul General and support his request for the presence of a naval vessel as indicated in his telegram provided that from a naval point of view there are no cogent reasons to the contrary.

PERKINS

393.11/1046

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 14, 1929.

The Japanese Ambassador, in the course of a conversation today, stated that his Government had been approached by the British Government with a query as to whether they were prepared to send land forces to China for the purpose of protecting their citizens in the present crisis.

He said that his Government had replied to the British Government stating that the present crisis did not seem to require such a step, that Japanese destroyers were stationed at various points prepared to give any protection that an emergency might require, but that it had not seemed to the Japanese Government that the present emergency required anything further to be done. The Ambassador asked whether the British Government had made a similar approach to us.

I stated to the Ambassador that the British Government had not asked us if we would be prepared to send land forces to China. They made a general inquiry as to what steps might be taken to protect our citizens in China and that we had replied to this stating that the present crisis did not seem to require any unusual steps; that we already had American marines in China stationed at Shanghai and Peking and certain forces at Tientsin and that in addition the flagship of the Asiatic Fleet with certain destroyers had returned to China from Manila for the purpose of being available in case of an emergency.

N[ELSON] T[RUSLER] J[OHNSON]

393.11/1044 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 18, 1929—7 p. m.

419. Your 1147, December 14, 4 p. m. If, in the opinion of the responsible authorities, danger threatens the Shanghai Power Company property, the Department does not disapprove of the suggestion made to the Senior American Naval Officer at Shanghai that an American naval vessel be anchored near that property. However, the Department dissents from the statement in this case, and it does not concur in the view of principle implied that "the passing of the Company to American ownership transfers the responsibility of guarding the light and power from an international to a single power responsibility." The Department does not hold or adopt the view that other nations jointly concerned in the welfare of the Settlement are absolved, by virtue of the nationality of ownership of a particular piece of property from responsibility for the protection of that property. The Department conceives that the duty of protecting the light and power plant along with other properties within the Settlement from "communistic agitation" or other incitement to violence and such violence as may result within the Settlement rests first and primarily upon the Administration, particularly the Police Department, of the Settlement. The American Government is concerned, as is well known, in the first instance with the protection of American life and property in China when and where Chinese or other local agencies of protection have broken down or are manifestly inadequate, and it desires to perform its proper and proportionate share in the task of supplementing the efforts of local agencies, but it does not admit nor does it desire to be forced into a position of sole responsibility where the persons and interests involved are of several nationalities and the problem of protection is of general concern rather than of exclusively American concern.

STIMSON

893.00/10689 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, December 19, 1929—4 p. m.

[Received 11:12 p. m.]

A telegram just received from the British gunboat *Sea Mew* states that Cantonese naval and military forces occupied Wuchow without resistance at 2 o'clock this afternoon. There is no longer any danger to foreigners, and West River has been reopened to traffic.

Legation and Department informed.

JENKINS

393.11/1048 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 23, 1929—3 p. m.

[Received 6:20 p. m.³⁵]

1181. Department's 419, December 18, 6 [7] p. m.

1. The Legation's telegram to the commander in chief December 24 [14], 1 p. m., concurred in the view and supported the request of the Consul General in the terms of his letter to the senior American naval officer. The Department states that it does not disapprove of the Consul General's suggestion made in the letter and the Legation understands that the observations made in the remaining portion of the Department's telegram called for to [*sic*] the Consul General's comment as contained in the final paragraph of his telegram to the Legation.

2. Although the Consul General's comment is somewhat ambiguous I did not, in view of his statement that "the protection of the Shanghai Power Company as a public utility concerns the entire community," construe the context of his remarks as in any sense indicating that there was not a definite international obligation to participate when necessary in the protection of the light and power plant as a public utility. I interpreted his meaning to be that the American Consul General now had a particular responsibility of his own especially when approached by the American owners to see to it that whenever necessary appropriate protective action be taken, exercising his own discretion according to the degree of the emergency in each case as to what protective agencies—municipal, national, or international—should be requested to give assistance. Since the situation described in this case did not apparently present an/or [*sic*] grave emergency the Legation assumed that in addition to the ordinary police protection the Consul General did not think it necessary at that time to seek other assistance than the precautionary presence of an American naval vessel.

3. The following telegram from commander in chief:

"0016. The Consul General has been informed that I consider it inadvisable to establish a precedent that the United States Navy was primarily responsible for the protection of any public works as such. It seems to me that this matter is broader than the question of protection of American property which would be afforded by such American forces as the senior United States naval officer present at the moment considered necessary and when such protection could not be afforded by the local authorities. I have suggested that the senior member of the consular body write to the senior naval officer present requesting protection for the power plant.

³⁵ Telegram in three sections.

Such action would then be taken by the latter as would set a precedent that public utilities, international in character, were to receive protection from the naval forces at all times without regard to the nationality of the senior naval officer present. The ranking member of the consular body and the senior officer afloat, it now so happens, are both American citizens. 2105."

4. The Legation agrees with the commander in chief's opinion that the protection of the light and power plant is a broader question than that of the protection of American property as such. I find it difficult, however, to accept his view that the presence of an American naval vessel as requested in this instance would "establish a precedent that the United States Navy was primarily responsible for the protection of any public works as such." It seems to me on the other hand that the course suggested by him might possibly create a precedent that American consular officers were to be precluded from directly calling upon the American naval authorities for the protection of American property if by chance that property were a public utility and that they must, in the event of the protection afforded by the local authorities being considered inadequate, apply through international channels for joint international naval protection. There seems to me an element of evasion [*danger?*] in such a position since the American naval authorities would have a certain correlative obligation to participate in joint action for the protection of [*sic*] perhaps even in minor cases of non-American foreign-owned properties having the character of public utility with the ever possible risk of our cooperation being exploited for ulterior purposes. While there can be no question of an international obligation to supplement the local authorities in the protection of such public utility when actually necessary, I cannot but feel somewhat apprehensive of a position which emphasizes the international phase of this problem lest we may find ourselves embarrassed at times by requests from a senior naval officer for the proportionate assistance of our naval and marine forces in joint action for the protection of such British corporations as the Shanghai Water Works, Shanghai Gas Company, Shanghai Tramways or other non-American-owned public utilities at that port. It therefore seems to me on the whole that the nature of the action to be taken should depend upon the character of the emergency and that it is hardly advisable to lay down in advance a hard and fast rule in matters of this kind (as the commander in chief seems to me to do in taking the position that the only correct procedure is for the senior consul to approach the senior naval officer present) and that it is preferable to deal with each case as it arises after a consideration of the particular circumstances involved.

5. Shall I repeat to Consul General at Shanghai the Department's telegram under reference?

PERKINS

893.00/10723

*The Consul General at Hankow (Lockhart) to the Chargé in China (Perkins)*³⁶

L. No. 890

HANKOW, December 27, 1929.

SIR: I have the honor to enclose herewith, for the information of the Legation, a copy of a letter addressed to me under date of December 17, 1929, by the Standard Oil Company³⁷ reporting the attack by brigands with rifle and machine gun fire at Hwa Yung on the Motor Vessel *Mei Yun* belonging to the Standard Oil Company. Following the receipt of this report, I lodged a protest with the local Commissioner of Foreign Affairs. A copy of my letter dated December 19, 1929, to the Commissioner is also enclosed.³⁷

On December 19, 1929, I received a copy of a radio from the U.S.S. *Guam* to the Commander of the Yangtze Patrol Force, reading as follows:

“On fourteen December the *Chi Ping* and *I Ping* who were bound down river were fired upon heavily by about two hundred unidentified soldiers on left bank at Kueichow forty-seven miles above Ichang each ship received approximately fifty hits seven of the Chinese crew of *Chi Ping* were wounded no other casualties the captain of the *Chi Ping* is of the opinion that the soldiers were attempting to commandeer the ship.”

I also lodged a strong protest with the Commissioner of Foreign Affairs for Hupeh against this attack. A copy of the letter, dated December 19, 1929, is enclosed for the information of the Legation.³⁷

No reply has been received from the Commissioner of Foreign Affairs to either of the above mentioned protests.

I have [etc.]

F. P. LOCKHART

393.11/1048: Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 30, 1929—7 p. m.

434. Your 1181, December 23, 3 p. m. Repeat to the Consul General at Shanghai Department's 419, December 18 and the following:

The Department concurs in the view of the Commander-in-Chief that this matter is broader than the question of protection of American property.

A more detailed statement of the Department's views will follow.³⁸

STIMSON

³⁶ Copy transmitted to the Department by the Consul General in his despatch No. 1293, December 27; received January 28, 1930.

³⁷ Not printed.

³⁸ The Department's views were further stated in its telegrams No. 39, January 29, 1930, and No. 47, February 5, 1930 (393.11/1048).

393.1163Am3/97

*The Consul General at Hankow (Lockhart) to the Chargé in China (Perkins)*³⁹

L. No. 891

HANKOW, December 30, 1929.

SIR: I have the honor to enclose herewith a copy of a letter which the Consulate General has received from the Very Right Reverend J. A. O'Shea of Kanchow, Kiangsi Province, together with a copy of this office's reply,⁴⁰ informing Bishop O'Shea that a copy of his letter has been forwarded to the American Legation at Peiping for appropriate action.

It will be noted from a perusal of Bishop O'Shea's letter that he feels very strongly that the National Government of the Republic of China has done little in south Kiangsi to justify its declarations to protect foreign lives and property and that he states that his mission has borne at heavy cost "the inefficiency and culpable neglect of the young government". The Legation's attention is particularly invited to paragraphs five and six of the letter, wherein Bishop O'Shea requests that the Nanking Government be informed that his mission will demand the right of indemnification for damages inflicted on its property and further requests that that government be urged to send reinforcements to south Kiangsi. In connection with the matter of sending reinforcements please refer to my telegram No. 170 of December 9, 3 p. m.

I have [etc.]

F. P. LOCKHART

MURDER OF THREE AMERICAN CATHOLIC MISSIONARIES BY CHINESE BANDITS

393.1123 Coveyou, Walter/1: Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 27, 1929—11 p. m.

[Received April 27—9:06 p. m.]

34. The following telegram has been sent to the Legation:

"66, April 27, 10 p. m. Passionist Procuration have been informed tonight that Fathers Walter Coveyou of Petoskey, Michigan, Clement Seybold of Dunkirk, New York, and Godfrey Holbein of Baltimore, Maryland, were killed by bandits at Chenki, Hunan, on April 24th. Have taken matter up with the Chinese authorities. Repeated to the Department."

LOCKHART

³⁹ Copy transmitted to the Department by the Chargé in China in his despatch No. 2540, January 16, 1930; received February 13, 1930.

⁴⁰ Neither printed.

393.1123 Coveyou, Walter/2 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, April 29, 1929—1 p. m.
[Received 5:10 p. m.]

35. My 34, April 27, 11 a. m. [*p. m.*] The following telegram has been sent to the Legation:

“68, April 29, noon. My 66, April 27, 10 p. m. No further details have been received regarding killing of three Catholic Fathers except that Father Anthony [Maloney] at Chenki has reported that he has recovered the bodies.

I have requested Ho Chien ⁴¹ to use every possible effort to apprehend the bandits and adequately punish them. Repeated to the Department.”

LOCKHART

393.1123 Coveyou, Walter/3 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 30, 1929—5 p. m.
[Received 8:55 p. m.]

330. Hankow's April 27, 10 p. m., and April 29, noon, which were repeated directly to Department by Hankow, relative to killing of three American priests at Chenki, Hunan, have been repeated to Nanking with following instructions:

“Please bring matter to attention of Minister Foreign Affairs and request that appropriate instructions be issued in accordance with Hankow Consulate's request to Ho Chien.”

MACMURRAY

393.1123 Coveyou, Walter/5 : Telegram

The Consul General at Hankow (Lockhart) to the Secretary of State

HANKOW, May 3, 1929—4 p. m.
[Received May 4—10 a. m.]

37. Following details have been received concerning the killing of the three Catholic missionaries referred to in my telegrams Nos. 34, April 27, 11 p. m., and 35, April 29, 1 p. m.: The three Catholic [Fathers] were taken by 30 bandit soldiers at Hwachiao, Hunan, near Chenki. The army to which these soldiers formerly belonged is not known. The three priests were marched into the hills about five miles away to the mouth of a mine pit 50 feet deep. After stripping all clothing from them, Reverend Walter Coveyou was shot first, then

⁴¹ Chairman of the Hunan Provincial Government.

Reverend Clement Seybold and finally Reverend Godfrey Holbein. The three bodies were then thrown into the pit. The motive for the inhuman killing is unknown. Servants accompanying the missionaries were released and returned to Chenki. Reverend Anthony Maloney and Miles McCarthy with a bodyguard of 90 soldiers from Chenki found the pit on April 26 and on following day recovered the bodies and arrived with them in Chenki on April 28. The magistrate held an inquest at Chenki, after which the bodies were taken to Shenchow, Hunan, and arrived there on April 30. Burial will take place at Shenchow on May 4. Please inform Very Reverend Stanislaus Grennan, Provincial of [Community of] Passionist [Fathers], Union City, New Jersey. Repeated to Legation.⁴²

LOCKHART

393.1123 Coveyou, Walter/10 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 13, 1929—noon.

[Received May 13—10 a. m.]

379. My 356, May 7, 3 p. m.⁴³ Following from American Consul General at Hankow:

"May 11, 9 a. m. Concerning murder of three Catholic Fathers, General Ho Chien telegraphs me that two brigands, Chu Chia-tsai and Chu Chang-nan, have been arrested and that further search is being made for remaining brigands."

MACMURRAY

393.1123 Coveyou, Walter/12 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 19, 1929—1 p. m.

[Received May 19—11:45 a. m.]

402. My 379, May 13, noon. Following from American Consul General at Hankow:

"May 18, 1 p. m. My May 11, 9 a. m. Chief officer Hwang Tze-yun,⁴⁴ who refused to afford protection to priests before their murder, has been executed together with bandit named Liu and the wife of the innkeeper Nieh and still two others whose names not obtainable.

⁴² In his telegram No. 350, May 4, the Minister in China informed the Department that telegram No. 37 had been repeated to Nanking "with instructions to make immediate representations to the Ministry of Foreign Affairs for the apprehension and punishment of the guilty parties, Hankow Consul urgently to renew representations to Ho Chien." (393.1123 Coveyou, Walter/6)

⁴³ Not printed.

⁴⁴ Chief of the Hwachiao, Hunan, Defense Corps.

Five in all have been executed and other suspects are being held in custody. The military are still searching town and surrounding country where crime was committed.”⁴⁵

MACMURRAY

393.1123 Coveyou, Walter/29

*The Consul General at Hankow (Lockhart) to the Chinese Commissioner of Foreign Affairs for Hunan (Kung Tehpeh)*⁴⁶

HANKOW, July 19, 1929.

SIR: I have the honor to refer to your letter of June 3, 1929,⁴⁷ in which you state that Chen Tsu-ming, the leader of the bandit gang that murdered the three American missionaries in western Hunan a few weeks ago, had been killed, and to state that I am now in receipt of first hand information from Shenchow stating that Chen Tsu-ming has not been executed nor has he been apprehended. Reliable evidence is at hand indicating that he was at large as late as July 9 at Tswei Nieh Yuan, a place about 40 li distant from Hwai Hwa. The Magistrate's statement that Chen Tsu-ming had been apprehended and executed is erroneous, according to my informant at Hwa Chiao.

It also appears that the two bandits said to have been executed for the crime were members of the Hwa Chiao Home Guards and were not implicated in the murder. A letter has been received from a person who was sent to Hwa Chiao immediately after the murder of the three missionaries, and this investigator states definitely that the bandits have not been apprehended. In view of the information in my possession at this time I am compelled to come to the following conclusions, namely:

1. The bandit leader has not been executed.
2. None of the bandits who killed the three missionaries have been executed.
3. The location of the bandit leader on July 9, 1929, must have been known to the local officials.
4. General Tsen Yu-mo of Fenghwang captured a man in possession of articles of the murdered men, but refused to punish him.
5. The Yuanchow Magistrate who reported the death of the bandit leader cannot give proof of the execution.

⁴⁵ In telegram No. 468, June 12, the Minister repeated to the Department a telegram of June 10, from the Consul General at Hankow stating that "Commissioner of Foreign Affairs at Changsha has informed me that Chen Tsu-ming, the leader of the bandit gang that murdered the three priests in Hunan, has been killed by soldiers sent to exterminate the gang." (393.1123 Coveyou, Walter/15).

⁴⁶ Copy transmitted to the Department by the Consul General in his despatch No. 1174, July 19; received August 19, 1929.

⁴⁷ Not transmitted to the Department of State.

I beg to request that this case be given your further attention and that all members of the gang implicated in the heinous crime be immediately brought to justice.

Accept [etc.]

F. P. LOCKHART

393.1123 Coveyou, Walter/26

The Secretary of State to the Minister in China (MacMurray)

No. 1320

WASHINGTON, August 12, 1929.

SIR: The Department has received your despatch No. 2134 dated June 12, 1929,⁴⁸ in which you refer to previous reports regarding the murder of Fathers Walter Coveyou, Clement Seybold and Godfrey Holbein in Hunan Province on April 24, 1929. You request the instructions of the Department in reference to the question of whether the American Government should demand an indemnity in this case, if only as a means of assuring more adequate protection of other Americans in the future.

The Department has followed with close attention the representations made at the instance of the Legation and the action taken by the Chinese authorities following this brutal murder. The Department has transmitted to the Reverend Mr. John J. Burke, General Secretary of the National Catholic Welfare Conference, the information contained in the reports received from the Consul General at Hankow and from the Legation. By him the information has been sent to the Community of Passionist Fathers at Union City, New Jersey. If the information in the Department's files is to be relied upon the victims of the outrage, although they had made inquiries concerning possible danger along their route of travel, were not in possession of travel certificates, had not notified the local Chinese authorities of their intended journey and, in fact, made no request for an armed guard until they had arrived at Hwa Chiao, when they asked for protection from a local military organization, the Hwa Chiao Defense Corps, and were refused. It would appear from the Department's records that the Reverend Mr. Walter Coveyou was in possession of a passport issued July 28, 1928, but that his two associates possessed no passports still in force. The record indicates that as soon as they were informed of the crime the Chinese local and provincial authorities made prompt and apparently sincere efforts to apprehend the guilty persons⁴⁹ and inflicted the death penalty on the following:

⁴⁸ Not printed.

⁴⁹ The Consul at Nanking on July 11 reported his receipt of information from the Chinese Foreign Office concerning the death of another guilty "bandit" named Mao Chi-yung during fighting in Hunan, presumably in June (393.1123 Coveyou, Walter/27).

Lu Sheng-lung	Head of the United Guard of the Chen-Chih District.
Hwang Tze-yuan	Chief of the Hwa Chiao Defense Corps, who refused to give protection.
Ho Ching-chiang	Chief of the Hwai-Hwa Defense Corps.
Nieh Yi-shih	The inn-keeper.
Mrs. Nieh	The wife of the inn-keeper.
Chu Chia-tsai	Member of the Hwa Chiao Defense Corps.
Chu Chang-nan	Member of the Hwa Chiao Defense Corps.
Chen Tze-ming	A brigand leader (killed while resisting arrest).

The Department believes that if the circumstances of the murder and the subsequent action taken by the Chinese authorities were as indicated above, the provincial authorities can hardly be accused of culpable negligence before the fact, although it remains to be proved that they were exerting their utmost endeavors to maintain general conditions of peace and order. The utility of a demand for exemplary damages from the province, or from the National Government, therefore, seems doubtful. If, on the other hand, exemplary damages were to be demanded and assessed on the local community in which the murder occurred, it seems debatable whether the demand would reinforce, in any useful way, the warning already given to the community by the execution of a number of its members. If the Legation entertains views different from those expressed herein, the Department desires to be informed thereof.

You are requested to indicate to the American Consulate General at Hankow and the American Consulate at Nanking the Department's satisfaction with the manner in which those offices have acted in reference to this regrettable occurrence.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

393.1123 Coveyou, Walter/32

*The American Minister in China (MacMurray) to the Chinese Minister for Foreign Affairs (C. T. Wang)*⁵⁰

No. 835

PEKING, August 16, 1929.

EXCELLENCY: I have the honor to refer to the murder, on April 24, 1929, at Chenki, Hunan, of three American citizens, the Reverends Clement Seybold, Walter Coveyou, and Godfrey Holbein, which matter was first brought to the attention of Your Excellency's Ministry on May 1, 1929, by the American Consul at Nanking. So far as I am aware, the last communication received by the American Consul in

⁵⁰ Copy transmitted to the Department by the Minister in his despatch No. 2268, August 16; received September 13, 1929.

regard to the case was a note dated June 21st from the Division of American and European Affairs of Your Excellency's Ministry.

I am now in receipt of a communication from the American Consul General at Hankow in regard to surprising information which he has recently received and which clearly indicates that the Hunan authorities charged with investigating the case and punishing the guilty parties have apparently as yet not apprehended or punished a single one of the actual participants in the atrocious murder of these three American citizens. It further appears that such investigating officials in Hunan have also misinformed the higher Chinese authorities who transmitted such misinformation to the American Consul General at Hankow. A copy of his note of July 19th to the Commissioner of Foreign Affairs for Hunan calling attention to the above facts is enclosed herewith for Your Excellency's information.⁵¹

I accordingly have the honor to request that Your Excellency will take steps to insure that the actual murderers of these three American citizens are duly apprehended and punished in accordance with the law.

I avail myself [etc.]

J. V. A. MACMURRAY

393.1123 Coveyou, Walter/35

*The Consul General at Hankow (Lockhart) to the Minister in China (MacMurray)*⁵²

L. No. 828

HANKOW, September 13, 1929.

SIR: I have the honor to refer to my despatch No. 769 of July 19, 1929,⁵³ regarding the execution of Chen Tsu-ming, a brigand leader alleged to have been implicated in the murder of the three American Catholic missionaries at Chenki, Hunan, and to enclose herewith, for the information of the Legation, the Chinese text and a translation of a letter addressed to me under date of September 5, 1929, by the Commissioner of Foreign Affairs for Hunan⁵³ on this subject. The Commissioner's letter explains itself.

While the enclosed letter definitely states that Chen Tsu-ming is a brigand leader and has been executed, it does not state that he was implicated in the killing of the three missionaries. The letter does state, however, that Chang Liu Lao Ko who has been arrested, is implicated in the case and will be tried with another suspect Yang

⁵¹ *Ante*, p. 507.

⁵² Copy transmitted to the Department by the Consul General in his despatch No. 1215, September 13; received October 12, 1929.

⁵³ Not printed.

Ta-fong. I shall inform the Legation of the outcome of this trial. The statement that Chen Tsu-ming has been executed is at variance with information in possession of the Passionist Procurator at Hankow. I have requested this missionary organization to give me further information on the subject.

I have [etc.]

F. P. LOCKHART

393.1123 Coveyou, Walter/37

*The Consul General at Hankow (Lockhart) to the Minister in China (MacMurray)*⁵⁴

L. No. 854

HANKOW, October 17, 1929.

SIR: I have the honor to refer to my despatch No. 828 of September 18 [13], 1929, and to previous correspondence, and also to the Legation's instruction of September 19, 1929, on the above mentioned subject, and to enclose herewith a memorandum recently furnished me, at my request, by the Reverend Timothy McDermott,⁵⁵ giving detailed information regarding the efforts put forth by the Chinese authorities to apprehend the persons guilty of the murder of the three missionaries. The Reverend Father McDermott's memorandum explains itself. The information contained therein is at variance in some respects with information furnished me by the Chinese authorities in Hunan. It seems fairly well established that none of the five persons executed on account of this crime had any actual direct participation in it. While some of those executed may have been indirectly implicated or may have had prior knowledge, it seems clear from the Reverend McDermott's statement that the bandits who actually committed the crime have not yet been apprehended. In this connection, I beg to enclose herewith a copy of a telegram addressed by me on September 19 to General Ho Chien at Changsha⁵⁵ requesting specific information as to whether any persons suspected of committing the crime have been apprehended, and if so, whether they have been tried and found guilty and what punishment, if any, was meted out to them. It will be observed that I requested the names of such persons and any other details available showing efforts put forth by the Chinese authorities to bring to justice all persons guilty of the crime. A copy of General Ho Chien's telegraphic reply of September 21, 1929, is enclosed herewith.⁵⁵ The two brigands, Chu Chia-tsai and Chu Chang-nan, were undoubtedly executed as claimed, but no evidence has been adduced showing that they directly participated in the crime. The other three persons who were executed, namely, Lou Sen-lung, Mrs. Yun *née* Nien,

⁵⁴ Copy transmitted to the Department by the Consul General in his despatch No. 1246, October 17; received November 23, 1929.

⁵⁵ Not printed.

(keeper of the inn) and Hwang Tse-yun, commanding officer of a volunteer corps, were merely suspected of having some connection with the unfortunate affair. It appears that Chen Tse-ming and Mao Chi-ying who are also suspected of having had more direct connection with the crime than any others, are still at large. The main difference of opinion between the Chinese authorities and the missionaries resident in the area in which the crime was committed is whether the bandit leader, Chen Tse-ming, and Mao Chi-ying, are still alive. The missionaries interested in the case state that they are still at large and that until they are captured and punished it cannot be said that the crime has been atoned.

There is also enclosed herewith a letter (in Chinese text and English translation) addressed to me by the Commissioner of Foreign Affairs at Changsha under date of September 21, 1929,⁵⁹ showing that one Chang Liu Lao Ko was arrested, tried, found guilty, and executed in connection with the above mentioned case. It will be observed in the Reverend Father McDermott's memorandum enclosed herewith that Father Anthony Maloney of Chenki wrote under date of August 26, 1929, that "Chang Liu Lao Ko, a former officer of Chang Hsien Lo, executed here yesterday. Opinion around here though seem[s] to make him innocent of the murder of the priests which was the first item on his condemnation."

I have instructed Consul Butrick who is now in Changsha engaged in closing the Consulate at that place, to call on General Ho Chien and urge him to renew efforts towards capturing the brigand chief, Chen Tse-ming, and also Mao Chi-ying. Until definite information is at hand showing that these two brigands have been apprehended, tried and adequately punished I do not consider that the case can be regarded as closed.

I have [etc.]

F. P. LOCKHART

393.1123 Coveyou, Walter/39

*The American Chargé in China (Perkins) to the Chinese Minister for Foreign Affairs (C. T. Wang)*⁶⁰

No. 932

PEIPING, November 30, 1929.

EXCELLENCY: I have the honor to refer to Your Excellency's note of September 30, 1929,⁵⁹ regarding the apprehension and punishment of the bandits responsible for the murder of three American missionaries at Chenki, Hunan, and to state that since Your Excellency's note under acknowledgment was written, missionaries at Chenki have written that the Magistrate at Chenki admits that Ch'en Tzu-ming

⁵⁹ Not printed.

⁶⁰ Copy transmitted to the Department by the Chargé in his despatch No. 2459, December 5; received January 3, 1930.

has not yet been killed, which is also the opinion generally held at Chenki, and that the Magistrate at Süp'u also admits this to be a fact. The other leader, Mao Lien-ch'ang, is reported to be still alive, and several people at Chenki have reported having seen him at Chang-teh recently.

In view of the foregoing, I must request that Your Excellency have stringent orders issued to General Ho Chien to take vigorous action to apprehend and punish these two leaders as well as the others of the murderers still at large.⁶¹

I avail myself [etc.]

MAHLON F. PERKINS

DUAL NATIONALITY OF UNITED STATES CITIZENS OF CHINESE
DESCENT⁶²

893.012/35

*The Consul General at Shanghai (Cunningham) to the Secretary
of State*

No. 6178

SHANGHAI, May 17, 1929.

[Received June 10.]

SIR: I have the honor to enclose herewith a copy of a self-explanatory letter addressed by the Shanghai Consulate General to the Commissioner of Foreign Affairs⁶³ concerning the citizenship of Mr. Char Wei Yuen (W. Y. Char),⁶⁴ a citizen of the United States, born in the Hawaiian Islands of Chinese parents. While the statements contained in the enclosure herewith explain the citizenship status of Mr. Char as interpreted by this office, there are still other facts which should be reported in order that the Department may have a fuller knowledge of the case upon which to base its instructions in this and other similar cases which may arise from time to time.

On the afternoon of June 4, 1927, at the close of a baseball game, Mr. Char Wei Yuen is said to have assaulted a Chinese citizen named Jui Hsoh-hsien. The assault was apparently a serious one, since the injured party is reported to be still confined to his bed after a lapse of almost two years, although there is some question as to the genuineness of the allegations of his relatives on this point. The complaint against Mr. Char was filed, not in the United States Court for China but in the Provisional Court, the complainant alleging that Mr. Char was a citizen of China. Shortly after the filing of the com-

⁶¹ Reports to the Department in May 1930 indicated that Ch'en Tzu-ming was alive and continuing bandit activities; and in April 1931 it was reported that he had been received into the Chinese Army (393.1123 Coveyou, Walter/42, 43, 44).

⁶² Continued from *Foreign Relations*, 1928, vol. II. pp. 581-587.

⁶³ Not printed.

⁶⁴ Also known as Zia Wei Nyoen.

plaint, the question of citizenship arose and the Commissioner of Foreign Affairs was informed by this office that Mr. Char was an American citizen. Mr. Char, however, voluntarily submitted to the jurisdiction of the Provisional Court, because foreign lawyers are not allowed to appear in the Provisional Court on behalf of Chinese citizens in purely Chinese cases and because Mr. Char apparently desired to take advantage of the fact that as a lawyer of Chinese race he might appear on behalf of Chinese citizens. It is also believed that he, as well as his American partner, Mr. H. D. Rodger, thought that the case would be treated lightly and had no idea that at a later date complications such as have arisen would arise. The case finally came on for trial and Mr. Char was fined \$300.00 on October 12, 1928. The complainant, however, was not satisfied and filed an appeal. The Appellate Court apparently considered the matter more serious and changed the sentence, on February 8, 1929, to three months imprisonment. Just prior to the judgment of the Appeal Court, but after it had ordered his detention, Mr. Char appealed to this Consulate General for assistance on the ground that he was an American citizen. Before, however, taking any steps to protect Mr. Char, he was required to execute an affidavit, a copy of which is attached hereto,⁶⁵ to the effect that he had done nothing to expatriate himself. Although this office realized that Mr. Char had been trying to take advantage of his dual nationality, it did not feel that these facts, in the absence of any proof that he had actually taken an oath of allegiance to China, could relieve it of extending protection. There were several reasons why this stand was taken. In the first place, the Commissioner of Foreign Affairs was informed on May 22, 1928, while the case against Mr. Char was pending in the Provisional Court, that he was an American citizen. In the second place, Mr. Char was residing in the International Settlement of Shanghai, where the complainants could easily have brought action in the United States Court for China. In the third place, to have withdrawn protection from Mr. Char would have created a precedent which could in the future be cited by the Chinese authorities as our recognition of the right of the Chinese Government to assume jurisdiction over all persons of Chinese race who might be American citizens. Every opportunity was given to the Commissioner of Foreign Affairs and to the President of the Appeal Court to produce proof of the fact that Mr. Char had committed an act of expatriation under American Law, but they failed to take advantage of the opportunity. It was also suggested to the President of the Appeal Court that Mr. Char be granted bail pending some agree-

⁶⁵ Not printed.

ment as to his citizenship status but this suggestion was also refused. Under the circumstances, this office had no alternative but to request the Police authorities of the International Settlement to release Mr. Char, since he was an American citizen. This request the police complied with as is the usual custom in Shanghai when a Consul of an extraterritorial power makes such a request.

I am also enclosing herewith, for the Department's information, copies of two letters dated March 18, 1929, and April 11, 1929, which were received by this office from Dr. George Sellett, the United States District Attorney,⁶⁶ in which he sets forth his views on this case. The gist of Dr. Sellett's views is that the United States Court for China and the Provisional Court have concurrent jurisdiction over Mr. Char and that, since the Provisional Court first took jurisdiction, it should be the Court to try the accused. This office, however, disagrees with Dr. Sellett's views principally on the ground that, under the system of extraterritoriality existing in China, every American citizen, regardless of the question of dual nationality, is subject only to the jurisdiction of the Courts of the United States functioning in China so long as the citizen has not expatriated himself and so long as he resides in a place set aside by the treaties as places of residence and trade in China.

Although Dr. Sellett held a contrary opinion to that of this office, he agreed to prosecute Mr. Char, but so far has been prevented from doing so because of the refusal of the aggrieved Chinese party to cooperate in the prosecution. As can be seen from the letter addressed to the Commissioner of Foreign Affairs, a copy of which was mentioned above as an enclosure herewith, the Chinese authorities are again being requested to instruct the complainant to cooperate with Dr. Sellett in order that Mr. Char can be prosecuted. It is doubtful, however, if they will do so and the question arises as to what should be done in the premises. Two alternatives present themselves, either to let the matter drop entirely as far as the American authorities are concerned, since the Chinese complainant refused to come forward to assist in the prosecution, or to hand Mr. Char over to the Provisional Court to be dealt with by that Court as a Chinese citizen.

Since the citizenship status of all American citizens of Chinese race who reside in China is involved in this case, the instructions of the Department are requested for future guidance.

I have [etc.]

EDWIN S. CUNNINGHAM

⁶⁶ Neither printed.

893.012/38 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 16, 1929—5 p. m.
[Received July 17—9:45 a. m.⁶⁷]

576. Reference my despatch 2117 of May 31, 1929.⁶⁸ Following from Shanghai:

“July 12, 11 a. m. Char Wai Yuen having disregarded the warning of this office to refrain from going into Chinese-controlled territory until all jurisdictional dispute in connection with his case had been settled was arrested in the office of the Commissioner of Foreign Affairs where he had gone to discuss matters of interest to some of his clients. He was allowed to telephone this office and requested its assistance in securing his release, which request was made, but the Chinese authorities refused to release him. It appears that they intend to compel him to serve in a Chinese jail the three months' sentence inflicted by the appellate branch of the Provisional Court. Aside from the question of removal, such imprisonment is contrary to the Mixed Court rendition agreement⁶⁹ since prisoners given jail sentences by the Provisional Court are incarcerated in the municipal prison attached to that court. It is requested that the Legation refer this matter with its comments to the Department for instructions, and/or file a protest with the Minister for Foreign Affairs at Nanking. In this connection reference is made to section 2000 of the Revised Statutes under the title ‘Release of citizens imprisoned by foreign governments.’”

[Garbled group] following received from Shanghai:

“123, July 15, 3 p. m. No reply has yet been received to my 122, July 12, 11 a. m., but the suggestion is ventured that the Legation request the Minister for Foreign Affairs to instruct the Chinese judicial authorities at Shanghai to release Char on substantial security pending a settlement of his citizenship status. The Commissioner of Foreign Affairs has refused to entertain such a request but it is believed the judicial authorities may take such action if the Ministry of Foreign Affairs directs.

The case is attracting considerable attention locally because it appears that Char was tricked into making his visit to the Bureau of Foreign Affairs. It appears that Char and the Commissioner have been friends for some years and when the Commissioner asked Char to come to the Bureau of Foreign Affairs to discuss certain matters concerning some of Char's clients which were being discussed over the telephone, Char proceeded there, not thinking that his friend would betray him.”

Since reply to Legation's despatch No. 2117 of May 31, 1929, has not been received, Department's telegraphic instructions are requested.

⁶⁷ Telegram in three sections.

⁶⁸ Not printed; it refers to despatch No. 6178, May 17, from the Consul General at Shanghai, *supra*.

⁶⁹ *Foreign Relations*, 1926, vol. I, p. 1035.

In the event Department rules Char has expatriated himself as American citizen by actions described in Shanghai's despatch No. 6178 of May 17th, the matter appears to be one for action by consular body as violation Mixed Court rendition agreement in reference to Chinese citizen.

MACMURRAY

893.012/40 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 30, 1929—2 p. m.

[Received 10:45 p. m.⁷⁰]

652. My 576, July 16, 5 p. m.

1. Following urgent telegram received from American Consul General at Shanghai:

"July 29, 11 a. m. Permit me to urge early action in this case. There is an important principle involved which will affect large number of Sino-American citizens if the Chinese authorities are permitted without prejudice to arrest and arbitrarily detain Char without judicial authority. It would [not?] be unreasonable to presume that it will be cited as a precedent affecting American citizens having no consanguineous relations with China. I have no sympathy with Char, who has been endeavoring to carry water on both shoulders, but it is hoped this case will be dealt with definitely and expeditiously by the Department.

As having a bearing on my 5978 of May 17th, the following sketch of Char was furnished this office by the Commissioner of Foreign Affairs on July 15th as having been filed by Char with the Ministry of Railways: 'Char Wai-yuan, 36, is a native of Chungshan, Kwangtung, having graduated from the law school of the Southern California University, United States of America. He has hitherto practiced law in Shanghai and has acted as a legal adviser to the Currency Supervision Bureau of the Ministry of Finance.'

This biographical sketch does not preclude his having been born in the United States but it would appear under Chinese interpretation to mean that he is by consanguinity of Kwangtung Province.

Copies of Char's applications to the Ministry of Railways and other National Government branches were solicited from the Chinese authorities early this year but without previous success."

2. Shanghai Chinese press and other Chinese opinion quoted in a despatch from Cunningham dated July 25th admit Char's dual nationality but hold that when legal issues arise the courts of the country of domicile are in accordance with international law and usage to have jurisdiction and that Char is accordingly obviously subject to orders of the Chinese courts.

3. Legation awaits instructions of Department.

MACMURRAY

⁷⁰ Telegram in three sections.

893.012/40 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 15, 1929—8 p. m.

272. Your 652, July 30; 576, July 16; and Shanghai's despatch 6178, May 17. After careful consideration of applicable laws and facts, the Department is of the following opinion: First, Char is a citizen of China and a citizen of the United States. Second, the Provisional Court having first assumed jurisdiction over him as a Chinese citizen, there exists no legal basis for questioning that jurisdiction. Third, Char had previously so conducted himself as to emphasize his Chinese citizenship. His statement filed with the Ministry of Railways that he is a native of Kwangtung appears purposely misleading and he has been closely associated and officially connected with the Government of China. These facts, while perhaps not legally sufficient to effect his expatriation, nevertheless warrant and justify refusal on the part of the American Government to intervene in his behalf as an American citizen.

Accordingly no action looking to Char's release from the custody of the Chinese authorities should be taken by the Legation or the Consulate General. If the Consular Body should decide to protest the case on the ground of alleged violation of the Rendition Agreement, Department has no objection to Cunningham's participation therein.

STIMSON

893.012/42 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 14, 1929—3 p. m.

[Received 6:20 p. m.]

826. Department's 272, August 15, 8 p. m. Following from American Consul General at Shanghai:

"September 12, 10 a. m. Referring to the Legation's 145, August 19, 10 a. m., concerning the Char case. I propose, subject to the Legation's approval, to inform the Commissioner of Foreign Affairs that the American Government considers Char to be both a citizen of China and of the United States, but on account of his past conduct in emphasizing his Chinese citizenship no further request will be made for his release.

It is believed that such a communication should be sent to the Commissioner of Foreign Affairs in order to make it clear to the Chinese authorities that our reason for not extending any further protection to Char in this case is due to his business. Otherwise silence on our part may be interpreted to mean that we acquiesce in the Chinese view on the question of jurisdiction over persons of dual Chinese and American nationality."

I have replied approving the recommendation in his first paragraph.

MACMURRAY

893.012/43 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 3, 1929—10 a. m.
[Received October 4—9:30 a. m.⁷¹]

853. Department's 272, August 15, 8 p. m. Following from American Consulate General at Shanghai :

"Referring to this Consulate General's despatch number 6156, September 25, 1929. Another American-born Chinese, Fong Koon Look, registered at this Consulate General since 1922, approved by the Department and without any proof of having held himself out to be a Chinese citizen, has been sued in the Shanghai District Court. He was given a letter by this office in regard to his registration, which letter together with his Hawaiian passport was taken up by the District Court on September 19th. He has now been again summoned to appear on October 3rd at 2 p. m., failing which judgment by default will be given against him. A protest is being lodged with the Commissioner of Foreign Affairs but it is believed that a protest to the Ministry of Foreign Affairs in this and similar cases will have more effect."

2. Cunningham's despatch referred to informed the Legation that another case similar to that of W. Y. Char had arisen in Shanghai and requested definite instructions as to how such cases were to be handled by consular officer in whose districts they arise. The particular case at issue arose over a criminal action filed in the Provisional Court against Dr. T. C. Lieu, and a summons was issued for him by that court which was not served, however, because the municipal police ascertained that Dr. Lieu was registered at the Shanghai Consulate General as an American citizen. The charge against Dr. Lieu was that of negligence causing death, a charge which the United States District Attorney after investigation does not feel should be prosecuted. Mr. Cunningham states that this case is quite different from the Char case because Lieu, as far as Consulate is aware, has never identified himself in any way with the Chinese Government or held himself out to be a Chinese citizen. He was born in San Francisco and has been living in the International Settlement for almost ten years. He was first registered at the Consulate General on August 18, 1920, and his registration was approved by the Department under serial number 35,769. He has kept his passport valid to date and states that he intends to return to the United States to reside possibly within the next year. The Consulate General feels that the Chinese authorities may apprehend Lieu in the event he visits his patients in Chinese territory and requests instructions as to what arrangement should be made to protect him in this event.

⁷¹ Telegram in three sections.

3. In view of the strong probability that there will be a number of cases of this kind, the Department's instructions in this regard are urgently requested by telegraph.

MACMURRAY

893.012/43 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 11, 1929—7 p. m.

332. Your 853, October 3, 10 a. m. If it is true that Fong Koon Look and Doctor T. C. Lieu were born on American soil and are registered at the Shanghai Consulate General as American citizens and have done nothing to emphasize their Chinese citizenship, you may accord them such protection as is possible and proper by virtue of the provisions of the treaties which establish and prescribe concerning extraterritorial jurisdiction over American citizens.

STIMSON

893.012/48

*The Consul General at Shanghai (Cunningham) to the Minister in China (MacMurray)*⁷²

No. 6231

SHANGHAI, October 30, 1929.

SIR: Referring to the suit filed in the Shanghai District Court against Mr. Fong Koon Look, a Chinese-American citizen, which was reported to the Legation in this Consulate General's telegram No. 170 of October 1, 3 p. m. and in despatch No. 6168 dated October 3, 1929, and which was referred to in the Legation's telegraphic instruction No. 163 of October 14, 5 p. m., I have the honor to inform the Legation that the Chinese authorities have refused to admit the contention of this office that Mr. Fong should be tried in the United States Court for China. A copy of the Commissioner's letter, dated October 22, 1929, giving the Chinese argument in regard to Mr. Fong's citizenship is enclosed herewith.⁷³ From that letter it will be noted that the Chinese authorities contend that Mr. Fong is a Chinese citizen because he had not secured a denaturalization certificate from the Ministry of Interior.

For the further information of the Legation in regard to the contention of the Chinese authorities in connection with this case and the matter of dual nationality of Chinese-American citizens, there is enclosed herewith a copy of the decision handed down in this case on October 7, 1929.⁷³ As stated in the Commissioner's letter, the court

⁷² Copy transmitted to the Department by the Minister in his despatch No. 2437, November 20; received December 21, 1929. The Department's reply was dated January 18, 1930 (803.012/48).

⁷³ Not printed.

holds that it has jurisdiction since Mr. Fong has failed to secure a denaturalization certificate.

The decision of the Chinese authorities now places Mr. Fong in a peculiar position. As long as he remains in the International Settlement or French Concession he can be protected but if he should enter into territory adjoining these areas he may be arrested by the Chinese authorities as in the case of Mr. W. Y. Char. If such a contingency should arise, this office is at a loss to understand in what manner it can afford protection to Mr. Fong in accordance with the Department's instruction quoted in the Legation's telegram to this office, No. 163 of October 14, 5 p. m.

It will not be of any use at the present time to advise Mr. Fong to secure a denaturalization certificate since the issuance of such a certificate would be refused by the Chinese authorities in accordance with Sections 3 and 4 of Article 13 of the Chinese Nationality Law which prescribe that a Chinese citizen cannot be denaturalized as long as he is the defendant in a civil suit and has a judgment outstanding against him.

It is the opinion of this Consulate General that, in view of the frequency with which cases of dual nationality have arisen recently, this matter should be made the subject of negotiations between the Legation and the Ministry of Foreign Affairs in order that some mutual agreement can be arrived at in regard to the status of persons of dual American and Chinese nationality. In this connection reference is made to this Consulate General's despatch No. 6133 of September 13, 1929,⁷⁴ suggesting that all such persons already registered at consulates in China or registering in future be advised to secure denaturalization certificates, which suggestion was transmitted by the Legation to the Department with its despatch No. 2343 of September 20, 1929.⁷⁴

I have [etc.]

EDWIN S. CUNNINGHAM

893.012/45

The Secretary of State to the Chargé in China (Perkins)

No. 1415

WASHINGTON, December 3, 1929.

SIR: The Department has received your despatch No. 2343, dated September 20, 1929, enclosing a copy of despatch No. 6133, dated September 13, 1929, from the Consul General at Shanghai⁷⁵ setting forth the view that American citizens of the Chinese race should be advised by American consular officers to obtain certificates of expatriation from the Chinese Ministry of the Interior. The Consul General also suggests that, in this event, the Legation should inform the Minister for Foreign Affairs that such persons are being advised to apply for

⁷⁴ Not printed.

⁷⁵ Neither printed.

these certificates in accordance with the Chinese Nationality Law promulgated on February 5, 1929.

It is noted that, according to the translation supplied by the Consul General of Article 12 of the Chinese Nationality Law, among those classes of persons who are not allowed to renounce their citizenship are those who have attained military age, who are not relieved of military service or who have not served in the Army. It is also noted that the translation of Article 14 of the Law states as follows:

“Whoever loses his or her citizenship loses such rights and privileges as are enjoyable by no one other than a Chinese citizen. If the loser of Chinese citizenship has enjoyed such rights and privileges prior to the loss thereof, the rights and privileges in respect to property shall revert to the State Treasury unless they are assigned to a Chinese citizen within one year after their loss.”

It would appear to the Department that if the provision of Article 12 referred to above were strictly enforced it would prevent numbers of American citizens of the Chinese race from renouncing their Chinese citizenship. Article 14, quoted above, would appear to place persons who have renounced their Chinese citizenship under certain disabilities with regard to the property which they may hold in China. In these circumstances the Department is of the opinion that consular officers should exercise caution in advising American citizens of the Chinese race to apply for certificates of expatriation. It is believed that when advice on this subject is requested consular officers should confine themselves to pointing out the pertinent provisions of the law, leaving it to the persons concerned to decide for themselves whether or not to apply for these certificates.

The Department concurs in your view that no notification should be sent by the Legation to the Minister for Foreign Affairs of the sort suggested by the Consul General. It concurs, also, in your opinion that applications for certificates of expatriation should be filed directly by the persons concerned with the appropriate Chinese authorities, and not through the Legation.

In this connection, you are referred to the Department's instruction No. 973 of August 31, 1928,⁷⁷ enclosing a copy of the Department's instruction of May 22, 1928, to the Consul General at Canton,⁷⁸ to the effect that American citizens of the Chinese race, when applying for registration or passports at American consulates should be encouraged, although not required, to obtain and submit certificates of expatriation from the Chinese authorities. In the light of the provisions of the Nationality Law referred to above, the advisability of continuing this

⁷⁷ *Foreign Relations*, 1928, vol. II, p. 586.

⁷⁸ *Ibid.*

practice appears open to question. Unless therefore there are apparent to you reasons for not doing so, you are instructed to inform consular officers that they should not encourage American citizens of the Chinese race to apply for these certificates, but merely, if it appears advisable to discuss the subject, invite their attention to the pertinent portions of the Nationality Law.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

**CANCELATION OF THE EMBARGO ON SHIPMENTS OF ARMS TO CHINA
AND TERMINATION OF THE AGREEMENT TO REFRAIN FROM ASSISTING
CHINA IN NAVAL CONSTRUCTION**⁷⁹

893.113/1160 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 30, 1929—7 p. m.
[Received 10:04 p. m.]

68. My despatch No. 1787, December 5.⁸⁰

1. British Minister informs me that in view of the general recognition now given the Nanking administration as the Government of China, his Government is disposed to suggest cancellation of the arms embargo.

2. I am myself in favor of taking the opportunity to get rid of the embargo which has never worked well enough to accomplish anything of its purpose but has given unfair advantages to those capitalizing their disregard of it. I await however your early instructions as to the attitude I should assume on this question.

MACMURRAY

893.113/1160 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 31, 1929—11 a. m.

42. Your 68, January 30, 7 p. m. I am in favor of the cancellation of the arms embargo to China. The United States has to do that by a proclamation of the President which he can make at any time. Wire me if the Diplomatic Body are ready to cancel the agreement and I will have the President issue a proclamation.

KELLOGG

⁷⁹ For previous correspondence, see *Foreign Relations*, 1928, vol. II, pp. 292 ff., and *ibid.*, 1923, vol. I, pp. 617 ff.

⁸⁰ *Ibid.*, 1928, vol. II, p. 308.

893.113/1161 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 8, 1929—4 p. m.
 [Received February 8—11:20 a. m.]

94. Your telegram No. 42, January 31, 11 a. m.

1. Cancellation of the 1919 arms embargo⁸¹ and of the corollary agreement as to withholding naval assistance⁸² (see Department's telegram number 270, November 23 [22], 5 p. m., 1922⁸³) was yesterday the subject of informal preliminary discussion among the British, Dutch and Italian Ministers, French and Japanese Chargés and myself. British Minister stated position of his Government as described in my telegram number 68, January 30, 7 p. m. The others, although without instructions from their Governments, were inclined to favor cancellation of the embargo, although Japanese Chargé d'Affaires' assent was somewhat qualified by a doubt whether it would not be premature to take such action until the outcome of the recent disbandment conference at Nanking had demonstrated whether unity is likely to be maintained.

2. British Minister presented for consideration a draft of note to be addressed to the Nationalist Government by the Senior Minister in behalf of the representatives of the powers party to the 1919 agreement reviewing the status of the agreement and stating that:

"The Governments of the Netherlands, Belgium, Brazil, Denmark, Spain, the United States, France, Great Britain, its possessions, Japan and Portugal, having reviewed the arms embargo agreement of May 5, 1919, in the light of the changed situation resulting from the establishment of the National Government, consider that there is no longer any reason for the continuance of that agreement and have decided to regard it as canceled."

With regard to the naval agreement he suggested the following draft resolution:

"The representatives of Germany, Belgium, the British Empire, the United States of America, France, Italy, Japan, and the Netherlands, have decided in view of the establishment of the National Government of China to regard as canceled the understanding relative to the withholding of naval assistance from China which was proposed to the D[iplomatic] B[ody] by the United States Minister in a memorandum dated January 25, 1923,⁸⁴ and subsequently accepted on various dates by their respective Governments."

⁸¹ See note of May 5, 1919, from the Senior Minister in China to the Chinese Minister for Foreign Affairs, *Foreign Relations*, 1919, vol. I, p. 670.

⁸² *Ibid.*, 1922, vol. I, pp. 745 ff., and 1923, vol. I, pp. 617 ff.

⁸³ *Ibid.*, 1922, vol. I, p. 761.

⁸⁴ Not printed; but see telegrams No. 262, November 11, 1922, and No. 15, January 24, 1923, to the Minister in China, *Foreign Relations*, 1922, vol. I, p. 759, and *ibid.*, 1923, vol. I, p. 617.

3. In view of the present sensitiveness of public opinion in the various countries in regard to any appearance of naval rivalry, I offered my personal observations along the following line: With the doing away of the naval agreement it might be expected that there would again be competition among the various interested nationalities for the supply of ships to the Chinese Navy. It would appear regrettable if this competition were to give rise to such international jealousies, suspicions and intrigues for influence in the development of the Chinese Navy as had occurred during a period of some years following the Bethlehem contract.⁸⁵ The danger of such embitterment of competition might be minimized if there were no occasion for any nationality to suspect the existence of secret arrangements to the benefit of any other. Insofar as concerns the construction of ships, article No. 16 of the Washington Treaty limiting naval armament⁸⁶ provides for publicity which would tend to be reassuring. Insofar as concerns the furnishing of technical assistance through the sending of naval missions it might be thought worth while to consider whether it would be helpful to have an understanding among, at any rate, the principal naval powers that they would promptly inform each other upon the making of any such arrangement for the technical assistance to the Chinese Navy. Do you consider such an arrangement feasible and desirable?

MACMURRAY

893.113/1161 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 27, 1929—2 p. m.

76. Your 94, February 8, 4 p. m.

1. Department favors immediate cancellation of agreement concerning withholding of naval assistance as well as of arms embargo agreement of 1919 unless you and your colleague[s] consider present disturbances make such action for the moment inadvisable. Department has no objection to section of draft of note and to draft of resolution as given in your paragraph 2 and leaves to your discretion matter of phraseology to be adopted.

2. In view of Washington Conference Resolution No. XI⁸⁷ and the Washington treaties limiting naval armament and relating to principles and policies concerning China,⁸⁸ and for reasons of general

⁸⁵ Contract of 1911 not printed; see footnote 85, *Foreign Relations*, 1922, vol. 1, p. 746.

⁸⁶ *Ibid.*, pp. 247, 252.

⁸⁷ *Ibid.*, p. 296.

⁸⁸ *Ibid.*, pp. 247 and 276.

expediency, Department at present deems it undesirable to attempt to effect an understanding or arrangement as proposed in your paragraph 3.

KELLOGG

893.113/1183

The Minister in China (MacMurray) to the Secretary of State

No. 2025

PEKING, April 8, 1929.

[Received May 13.]

SIR: With reference to your telegram No. 116, of April 2, 6 p. m.,⁸⁹ and to previous correspondence respecting the cancellation of the Arms Embargo Agreement of 1919, I have the honor to enclose a copy of a minute of a conference on this subject between the British Minister, the Japanese Chargé d'Affaires ad interim, and myself on April 1st.⁸⁹ It will be observed that, subsequently to informing me that the British Government had had no word from the Nationalist authorities with regard to the lifting of the embargo, my British colleague received a telegram from the British Consul General at Nanking stating that the Minister for Foreign Affairs had urgently preferred through the Consul General a request for the raising of the embargo in view of the resumption of civil strife in China. I have myself received no such request as yet. It further appears in the minute that, my colleagues appearing in some doubt as to the course of action they should recommend to their respective governments at this juncture, I pointed out that the American Government, which desired in principle to terminate the embargo, might feel constrained to act independently in the matter. Both Sir Miles Lampson and Mr. Hori remarked that in that case other Powers would scarcely have any option but to follow the same line.

I have [etc.]

J. V. A. MACMURRAY

893.113/1166

Memorandum by the Secretary of State of a Conversation With the German Ambassador (Prittwitz)

[WASHINGTON,] April 8, 1929.

The Ambassador called to inquire as to the arms embargo in China. He said that the German government was anxious to follow our lead in the matter and he wondered if any change had taken place in our policy with regard to the maintenance of our embargo. I told him that so far as I was aware no change had yet taken place; that the embargo was originally agreed upon with general

⁸⁹ Not printed.

unanimity and that while some countries were beginning to feel in view of the fact that certain countries like Russia were left free and were furnishing the parties in China with arms that therefore the embargo was of little use, yet Japan was very strongly in favor of its maintenance and that therefore we had taken no step to abrogate it. He said that they had a law in Germany fixing the embargo which would expire pretty soon; but that if that expired the President might continue it. I suggested that the President if he continued it, might continue it subject to its being abrogated on short notice, say one month, which would leave Germany in so flexible a position as not to be interfered with in case the others should decide to abrogate. He agreed.

H[ENRY] L. S[TIMSON]

893.113/1167 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 9, 1929—4 p. m.

[Received April 9—9:30 a. m.]

271. My telegram No. 239, March 29, 9 p. m.⁹⁰ Your telegram No. 116, April 2, 6 p. m.⁹⁰

1. Japanese Chargé d'Affaires informs me that the Japanese Foreign Office concurs in the suggestion that the arms embargo be canceled but that before it can be made effective this question must be discussed with other interested ministries and approved by the Cabinet, which may require some weeks.

2. I assume we would not wish to force the issue unless there should be undue delay.

MACMURRAY

893.113/1169 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 16, 1929—5 p. m.

[Received April 16—2 p. m.]

287. My telegram No. 271, April 9, 4 p. m.

1. British Minister has received instructions to notify his colleagues that his Government desires to terminate the arms embargo and corollary agreement regarding naval equipment and that failing unanimity among the foreign representatives within one week after notification to them the British Government proposes to withdraw from the embargo agreement.

⁹⁰ Not printed.

2. British Minister has already privately discussed the matter with his principally interested colleagues and proposes to make formal notification at meeting of the diplomatic body to be held Friday, April 19th.

[3.] Japanese Chargé d'Affaires hopes in the near future to receive authorization to participate in declaring the embargo canceled.

4. I propose for my part to take the position that while preferring joint action in canceling the embargo we reserve the right to withdraw from the agreement and to rescind the executive order on the subject⁹¹ at any time after April 26th.

MACMURRAY

893.113/1169 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 18, 1929—5 p. m.

128. Your 287, April 16, 5 p. m., fourth paragraph. Approved.

STIMSON

893.113/1171

Memorandum by the Secretary of State

[WASHINGTON,] April 18, 1929.

The German Ambassador called to tell me that in reference to our previous conversation as to the embargo on China, his government had decided that it would be too complicated to continue the Act and that therefore they had decided to lift the embargo on the first of May. I explained to him that I had somewhat overstated our position in support of the embargo when I had last seen him; that as a matter of fact my predecessor had left the matter to our minister, Mr. MacMurray, for advice as to whether it should be lifted. Mr. Johnson was called in to confirm the situation and was present at the interview.

Mr. Johnson stated that the Department had received from the American Minister a telegram indicating that the British Government had notified its Minister at Peking that unless unanimity could be reached by the diplomatic body at Peking on this subject prior to April 26, the British Government for its part, and alone, would after that date consider itself free to cancel the embargo, in so far as Great Britain was concerned. The German Ambassador stated that he had also heard this and also that he had heard that the Japanese were disposed to agree to the cancellation of the embargo.

H[ENRY] L. S[TIMSON]

⁹¹ See proclamation No. 1621 by President Harding, March 4, 1922, *Foreign Relations, 1922*, vol. I, p. 726.

893.113/1172 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 19, 1929—6 p. m.
 [Received April 20—12:20 p. m.]

295. My telegram No. 287, April 16, 5 p. m.

1. At a meeting of the diplomatic body today by which it was agreed that the Senior Minister should address to the Minister for Foreign Affairs at Nanking on April 26 a note declaring on behalf of the participating governments the cancellation of the arms embargo as of that date, in terms as indicated in the second paragraph of my telegram number 94, February 8, 4 p. m., the fact of such cancellation is to be announced to the press at noon of that day.

2. The representatives of the powers participating in the corollary agreement as to naval assistance adopted a resolution (in substantially the terms set forth in my telegram cited above) terminating that agreement as from today's date. As the making of this agreement was never publicly announced, no publicity in regard to the present action seems necessary.

MACMURRAY

893.113/1172 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 25, 1929—noon.

137. Your 295, April 19, 6 p. m. Please telegraph what if any are the present Chinese Government restrictions on importation of arms.

STIMSON

701.0093M47

374

The Senior Minister in China (Oudendijk) to the Chinese Minister for Foreign Affairs (C. T. Wang)⁹²

MONSIEUR LE MINISTRE: Your Excellency is no doubt aware that on May 5th, 1919, Sir J. Jordan as Dean of the Diplomatic Body addressed a note to the Government then established in Peking stating that the Governments of Great Britain, Spain, Portugal, the United States, Russia, Brazil, France and Japan had agreed effectively to restrain their subjects and citizens from exporting to or importing into China arms and munitions of war and material destined exclusively for their manufacture, until the establishment of a government whose authority was recognised throughout the whole country.

⁹² Annexe 1 to the minutes of the 374th meeting of the Diplomatic Corps at Peking, April 19, 1929.

To this agreement, known as the Arms Embargo Agreement, the Governments of the Netherlands, Denmark, Belgium and Italy subsequently adhered.

The Dean's note, of which a copy is enclosed for convenience of reference, makes it clear that the Governments concerned were inspired with a desire to act in the best interests of China herself at a time when the country was unhappily torn by civil war.

The situation has now been reconsidered, and with the authority of the representatives in China of the Governments concerned, I have the honour to make to you the following communication.

The Governments of the Netherlands, Belgium, Brazil, Denmark, Spain, the United States, France, the United Kingdom of Great Britain and Northern Ireland, Italy, Japan and Portugal, having reviewed the Arms Embargo Agreement of May 5th 1919 in the light of the changed situation resulting from the establishment of the National Government, consider that there is no longer any reason for the continuance of that Agreement and have decided to regard it as cancelled as from to-day's date.

[No signature indicated]

[PEKING, April 26, 1929.]

893.113/1172 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 27, 1929—2 p. m.

139. Your 295, April 19, 6 p. m.

1. Presidential proclamation of March 4, 1922 regarding shipment of arms to China will be left undisturbed.

2. Exportation of arms and munitions of war for use of the Chinese Government will be authorized upon request by the Chinese Government through its representative here, prospective exporters being required to submit application for export license to be approved by this Department.

3. These facts may be communicated to your interested colleagues and the Nationalist Government and given such publicity as seems desirable. They will be published here April 28th.

STIMSON

893.113/1175

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] April 27, 1929.

The German Ambassador called to see me this morning and referred to his conversation with the Secretary of State of April 18,

concerning the question of the arms embargo in China. He said he understood that the powers had agreed to cancel the agreement regarding the embargo. I told him his understanding was correct, that the powers had agreed in Peking through their diplomatic representatives to cancel the agreement as among themselves and that as a result of that understanding, the powers were now individually free to conduct themselves in the matter of the shipment of arms to China as each power individually might decide and were no longer bound by any obligations among themselves. I said as for the United States it would be our practice to continue the proclamation of the President of March 4, 1922, under which the Department of State would issue permits for the shipment of arms and munitions of war to China.

The Ambassador stated that as regards Germany there would be complete freedom on the part of Germans to ship arms after the expiration of the German law which would occur on Tuesday, April 30. He said that after that time the German Government would have no authority to exercise control in any way over German shipments of arms. Conversation here ended.

N[ELSON] T. J[OHNSON]

893.113/1176 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 2, 1929—9 p. m.

[Received May 3—8:15 a. m.]

339. Your 137, undated [April 25], received April 26, 6 p. m.

1. In reply [to] a telegram to the Consul at Nanking, Price stated as follows:

“Wang informed me regulations governing the importation and subsequent use of arms and ammunition, exclusive of importations for individual use for hunting or/and for which regulations are already in existence, are now being prepared. He promised to furnish me with a copy or [of] draft thereof as soon as possible.”

2. According to the Customs regulations, certain limited quantities of arms and ammunition for hunting or self-defense may be imported by individual Chinese and foreigners. Permits to do so must be obtained from the Superintendent of Customs; in the case of foreigners, through their consuls.

MACMURRAY

893.113/1209 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 29, 1929—7 p. m.

313. Your despatch 2261, August 13.⁹⁴ Department will accept notification from Legation that an import permit has been issued by the appropriate organ at Nanking of the National Government as an alternative to the request for export to be made by that Government through its representative in Washington, as set forth in Department's 139 of April 27, 2 P. M. Prospective exporters will still be required to submit applications for export licenses to be approved by Department.

Ascertain and inform Department what organ of the National Government will issue import permits. Telegraph also the details of procedure recommended by you whereby the Legation will in each case ascertain and inform Department that proper permit has been issued.

STIMSON

893.113/1212 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 5, 1929—6 p. m.

327. Your 851, September 30, 6 p. m.,⁹⁴ and Department's 313, September 20, 7 p. m.

1. After carefully considering the procedure described in your paragraphs 1 and 2 and the comments contained in your paragraph 4 the Department is convinced that serious difficulties may in practice arise if there be authorized any alternative so far proposed to the requirement laid down in the Department's telegram 139, of April 27, 2 p. m., paragraph 2.

2. Reverting therefore to that requirement, you are requested to inform persons interested that as a condition precedent to the issuing of a license for the exportation of arms to China the Department will require that there be presented by the Chinese diplomatic representative at Washington a request on the part of his Government that the American Government authorize exportation.

STIMSON

⁹⁴ Not printed.

893.113/1212

The Secretary of State to the Minister in China (MacMurray)

No. 1378

WASHINGTON, October 14, 1929.

SIR: The Department refers to its telegram No. 327, dated October 5, 1929, 6 p. m., and to previous correspondence regarding a proposal to modify the requirement set forth in the Department's telegram No. 139 of April 27, 1929, 2 p. m., paragraph 2, that before the exportation of arms and munitions of war for the use of the Chinese Government shall be authorized, such exportation shall have been requested by the Chinese Government through its diplomatic representative at Washington. In the Department's telegram No. 327 of October 5, you were informed that this requirement would be continued.

In this connection, the Department directs your attention to Chapter II, Article 2 of the Convention for the Supervision of the International Trade in Arms and Ammunition and in Implements of War, which was signed at Geneva on June 17, 1925.⁹⁵ A copy of this Convention was sent you under cover of the Department's confidential instruction No. 10 of August 1, 1925.⁹⁶ For convenience of reference Article 2 of Chapter II is quoted below:

"The High Contracting Parties undertake not to export or permit the export of articles covered by Category I, except in accordance with the following conditions:

1. The export shall be for a direct supply to the Government of the importing State or, with the consent of such Government, to a public authority subordinate to it;

2. An order in writing, which shall be signed or endorsed by a representative of the importing Government duly authorized so to act, shall have been presented to the competent authorities of the exporting country. This order shall state that the articles to be exported are required for delivery to the importing Government or public authority as provided in paragraph 1."

You will observe that the requirement imposed as a condition precedent to the issuing of a license for the exportation of arms to China, as set forth in the Department's telegram No. 327 of October 5, 1929, is in substantial accord with the article of the Convention quoted above. The Department's decision with regard to the matter in question was arrived at independently of the existence of these provisions. It is understood that this Convention is not yet in force.

The Department is of the opinion that this procedure tends toward centralization of responsibility in so far as Chinese official action is

⁹⁵ *Foreign Relations*, 1925, vol. I, pp. 61, 64.

⁹⁶ Not printed.

concerned, will relieve the Department's officers in the field of what might become embarrassing responsibility, and will ensure the Department against the charge which might under some circumstances be made that it was interfering in China's internal politics.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

893.113/1215

The Secretary of State to the Minister in China (MacMurray)

No. 1400

WASHINGTON, November 15, 1929.

SIR: The Department has received your despatch No. 2349, dated September 24, 1929,⁹⁷ enclosing a copy of despatch No. 6126, dated September 11, 1929, from the American Consul General at Shanghai,⁹⁷ inquiring with regard to the legality of an American firm in China importing arms from Europe for the use of the National Government of China. A copy of your instruction in reply, dated September 24, 1929, was also enclosed,⁹⁷ in which you state that, so far as American law is concerned, American citizens are free to import arms into China from Europe.

Your views, as set forth in the instruction referred to above, are in substantial accord with the Department's understanding of the matter.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

ATTITUDE OF THE DEPARTMENT OF STATE IN REGARD TO THE PROMOTION OF SALES OF AMERICAN AIRCRAFT IN CHINA

893.796/46b

The Secretary of State to the Minister in China (MacMurray)

No. 1146

WASHINGTON, March 16, 1929.

SIR: As you are aware, there exists at the present time a keen interest in airplanes on the part of the Chinese authorities, and American consular officers in China have very properly used their good offices in attracting that interest to aircraft manufactured in the United States. The success of these efforts has been evidenced by a number of telegrams received by the Department during the past few months from certain consular officers in China, covering inquiries regarding various types of airplanes produced by American firms, emanating from official government sources. The consular officers concerned are to be commended for their alertness in this connection.

⁹⁷ Not printed.

However, having assisted in creating a demand for the American product, the Department emphasizes now the necessity for the observance by its consular officers in China of scrupulous impartiality in the assistance given by them to American competitors. The Chinese authorities naturally attach considerable weight to the recommendations of a consular officer in matters of this sort, and if he inadvertently were to advise that they deal with one firm, in preference to another, they might be guided entirely by his recommendation, which would have a most unhappy effect upon competing American firms.

With the foregoing in mind, it is requested that you issue a circular to all American consular officers in charge of posts in China, informing them that it is the Department's desire that consular officers in China refrain from such participation in commercial negotiations as might impute a character of agency or involve them in responsibility in relation to sales made or contracts entered into or compromise them in relation to the position of strict impartiality which, in view of their judicial and other special functions, it is absolutely necessary that they maintain. The letter and the spirit of paragraph 603 (*h*) of the Consular Regulations⁶⁸ should be scrupulously observed.

While the Department believes that cable messages exchanged between the interested Chinese authorities and American firms should, as a rule, be sent directly, objection will not be made, when the circumstances appear to warrant such action, to the transmission of such messages by consular officers. In such cases, however, it should be made clear to the senders that no responsibility whatever, as to the substance of the messages, is assumed by the consular officers transmitting them or by the Department of State.

It is requested that the Legation's circular include a statement that the Department does not desire, in any way, to discourage the efforts of the consular officers receiving it toward focusing the attention of prospective purchasers of commercial airplanes upon those of American manufacture. The Department is anxious, however, that the consular officers concerned avoid any action in that connection that may properly be criticized as an assumption of the role of business agent for particular concerns, which, as stated in paragraph 603 (*h*) of the regulations, is contrary to law.

I am [etc.]

For the Secretary of State:
WILBUR J. CARR

⁶⁸ Par. 603 (*h*) states that "consular officers are forbidden by law to assume in any way the role of business agent for particular concerns" (apparently based upon Executive Order dated March 27, 1922).

893.796 Curtiss/26 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 6, 1929—1 p. m.

121. Your 263, April 4, 8 p. m.⁹⁹ Department in conversations with representatives of Curtiss¹ project took the position that it had no objection to exportation of commercial planes and it informally approved in principle the Company's outlined intention to compete for a commercial contract. The Department and the Company did not enter into any agreement. The Department subsequently approved application for license to export four planes for "demonstration of airplanes in China." The proposal now presented amounts to a request that the Department expressly approve rental or sale of planes for what is obviously a military purpose. In view of the Agreement of 1919² and the Executive Order of 1922,³ the Department can give no approval and cannot allow itself to be associated with this particular proposed transaction. Department is so informing Curtiss Company. You will so inform its representatives.

STIMSON

893.796 Curtiss/43 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 15, 1929—6 p. m.

161. Your 365, May 9, 9 a. m.⁴

1. Department communicated to representative of Aviation Exploration, Incorporated, substance of report by the American Consul at Nanking and has received following written statement from C. M. Keys, Chairman of Board of that company:

"It is the intention of our group to use Chinese aviators to the fullest possible extent from the very beginning of this enterprise. We have already had a canvass made which indicates that there will be available a substantial number of such pilots, either completely or partially trained."

2. Transmit this statement to Price⁵ with instruction that he discreetly convey it as from the company to such Chinese authority as he sees fit, but that he is in no way to involve himself with an implication of agency or as a spokesman for the company.

STIMSON

⁹⁹ Not printed.

¹ The Curtiss Aeroplane Export Corporation, Garden City, L. I., and New York, and the Aviation Exploration, Inc. (Del.), New York.

² See note dated May 5, 1919, from the Senior Minister in China to the Chinese Minister for Foreign Affairs, *Foreign Relations*, 1919, vol. I, p. 670.

³ See proclamation No. 1621 by President Harding, March 4, 1922, *ibid.*, 1922, vol. I, p. 726.

⁴ Not printed.

⁵ Ernest B. Price, Consul at Nanking.

893.113 Chance Vought Corp./4

*The Secretary of State to the Consul at Nanking (Adams)*⁶

WASHINGTON, October 12, 1929.

SIR: The Department refers to your telegram of October 5, noon, and the Department's reply thereto of October 5, 6 p. m.,⁷ relating to the request of the Mayor of Nanking that you obtain from the Vought Chance [*sic*] Corporation price quotations for ten two-seated bombing planes.

In amplification of the Department's telegraphic instruction referred to above, you are informed that the Department commends you for your evident desire to promote the purchase in your district of goods of American manufacture, and that the reason for the Department's preference that messages of the sort involved in this case be sent by the agent of the American firm direct to his principals is to be found in the circumstance that the goods involved are munitions of war. The Department has announced that it will issue licenses for the exportation of arms and munitions of war from the United States to China upon the fulfillment of certain conditions, the basic one being that the Chinese Government shall communicate through its representative at Washington a request for such exportation,⁸ but the Department does not desire that the impression be created abroad that this Government is attempting, through its officers, to stimulate the purchase of munitions of war by the Chinese authorities. As you are aware, there is in force a proclamation by the President⁹ which forbids the exportation of arms and munitions of war to China, subject to such exceptions and limitations as shall be prescribed by the Secretary of State.

The procedure authorized by the Department as stated above constitutes an exception, prescribed under the authority of the proviso. It is as far as the Department is at this time prepared to go. The Department is of the opinion that active participation by its officers in efforts to promote or to effect purchases of arms or munitions of war by the Chinese Government would be inconsistent with the intent of the Proclamation; and the Department desires in no way to be associated with efforts of Chinese Provincial or Municipal authorities, except as these may have the express and properly indicated approval of the National Government, to purchase arms.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

⁶ By instruction No. 1380, October 16, the Minister in China was requested to inform American consular officers in China of the contents of this instruction (893.113 Chance Vought Corp. /5).

⁷ Neither printed.

⁸ See telegram No. 313, September 20, to the Minister in China, p. 532.

⁹ i.e., of March 4, 1922.

REDUCTION OF AMERICAN ARMED FORCES IN CHINA¹⁰

893.0146/97 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 2, 1929—6 p. m.

2. Your 894, December 24, 5 p. m.¹¹ On December 22 Commander-in-Chief Asiatic Fleet¹² was authorized to withdraw the marine forces from Tientsin on transport *Henderson* latter part of January, first transferring from those forces sufficient men to bring Shanghai regiment and Legation Guard to full strength. Department regrets that you were not informed in due course.

KELLOGG

893.0146/108

*The Minister in China (MacMurray) to Brigadier General Smedley D. Butler, Commanding Third Brigade, United States Marines, Tientsin*¹³

PEKING, January 8, 1929.

MY DEAR GENERAL BUTLER: It is with very keen regret that I regard the departure from Tientsin of you and of the regiments of the Third Brigade that have been on duty there. There has been at all times the fullest and most helpful cooperation with the Legation on your part; and I am convinced that the presence of the Brigade, particularly during the crises of 1927 and 1928 at Tientsin, was a decisive factor in averting dangers to American and other foreign lives and interests such as might otherwise have arisen in the acute situations existing during those two summers.

Not only have the Marines under your command maintained a standard of discipline surprising even to those familiar with the fine traditions of the Corps; but the friendly contacts they have cultivated with the Chinese authorities and people have been such as to make them an asset rather than a necessary liability to the work of the Legation in the maintenance of good relations with the Chinese. I am for my part heartily grateful, as well as proud of the splendid record the Marines under your command have made in the present difficult times in China; and I take this occasion to acknowledge my appreciation and to convey to you and to the Third Brigade my warmest good wishes for the future.

Yours, very sincerely,

J. V. A. MACMURRAY

¹⁰ For previous correspondence, see *Foreign Relations*, 1928, vol. II, pp. 309 ff.¹¹ Not printed.¹² Admiral Mark L. Bristol.¹³ Copy transmitted to the Department by the Minister in his despatch No. 1848, January 10; received February 16, 1929.

893.0146/107 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 7, 1929—8 p. m.

55. Navy Department gives advance information that, subject to there being no objection by the Department of State and subject to conditions in China, it plans to withdraw from China waters the three light cruisers on April 25 and not to replace them. Reply has been made that no objection is at present perceived.

KELLOGG

893.0146/117 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 24, 1929—5 p. m.

135. Department's #2, January 2, 6 p. m. Commander-in-Chief Asiatic Fleet is being asked by Secretary of Navy for his opinion as to advisability under present conditions of withdrawing all or part of marines now stationed in Shanghai. Department would like to have your opinion regarding this. Opinion here is that marines should be evacuated unless there is some controlling reason why they should remain.

STIMSON

893.0146/118

The Secretary of State to the Secretary of the Navy (Adams)

WASHINGTON, April 30, 1929.

SIR: I have the honor to refer to a conversation between Admiral Hughes, Mr. Jahncke, Assistant Secretary of the Navy, and Mr. Clark, Under Secretary of State, which took place on April 23, at which there was discussed the possibility of withdrawing the force of United States Marines now stationed at Shanghai, China.

In the course of that conversation the Department was informed that the Navy Department was asking the opinion of the Commander-in-Chief of the Asiatic Fleet and it was suggested that this Department should ask the opinion of the American Minister at Peking.

I telegraphed to the Minister, asking for his opinion, and I stated that it was felt here that the marines should be withdrawn unless there appeared some controlling reason why they should remain at Shanghai.

I have now received from the American Minister, under date April 26, a telegram¹⁴ in which he states that, in view of the

¹⁴ Not printed.

resurgence of internal disorder which threatens to become increasingly extensive, he feels that further reduction of the force of marines available for protection of American lives and property in China would involve grave risk. He states that the center of gravity of the situation has shifted to Shanghai and that general considerations which he advanced in a telegram of November 1, 1928, to the Commander-in-Chief (which telegram was in reply to the Commander-in-Chief's radio 0025-2300 and of which I assume that your Department has a copy) when the question of withdrawing marines from Tientsin was under discussion,^{14a} are at least equally applicable now.

I have received also a telegram, relayed, from the American Consul General at Canton, dated April 25,¹⁵ in which the Consul General states that the Commissioner of Foreign Affairs had on the previous evening stated to him confidentially that he considered the political situation in Canton critical.

In view of these expressions of opinion and statements of fact on the part of the Minister and the Consul General at Canton, and in view of the obvious uncertainty of the political and military situation in China as it has developed during recent weeks, I feel moved to express the opinion that at present the moment does not seem opportune for effecting the withdrawal of the marine force which remains at Shanghai.¹⁶

There are enclosed for your confidential information copies of Mr. MacMurray's telegrams No. 320, April 26, 5 p. m., and No. 322, April 26, 7 p. m.¹⁷ Mr. MacMurray has asked the Consul General at Shanghai for comment upon the local situation, and when the Consul General's views are received I shall further inform you.

I have [etc.]

HENRY L. STIMSON

893.0146/120 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 2, 1929—11 p. m.

[Received May 3—10:50 a. m. ¹⁸]

341. My No. 322, April 26, 7 p. m.¹⁹ The following received from American Consul General,²⁰ Shanghai:

^{14a} See telegram No. 805, November 1, 1928, from the Minister in China, *Foreign Relations*, 1928, vol. II, p. 316.

¹⁵ Not printed.

¹⁶ On March 4, 1930, the Department of State was informed by the Navy Department that the force of United States marines at Shanghai was diminished from about 3,700 to 1,100 men between June 1 and December 1, 1928, and had since been stabilized at about 1,200 men (893.0146/137).

¹⁷ Neither printed.

¹⁸ Telegram in three sections.

¹⁹ Not printed; it was reported by the Secretary of State to the Secretary of the Navy in letter of April 30, 1929, *supra*.

²⁰ Edwin S. Cunningham.

"May 1, noon. Referring to the Legation's 72, of April 25, 6 p. m. The marines are here to protect American lives against possible emergency. Six months ago the moral effect of their presence was adequate to prevent an emergency but today I am not convinced that only moral effect is adequate. The Kuomintang and its agencies—antiforeign—are better organized today than ever before and therefore more self-confident. Consequently any conceived antiforeign or anti-Shanghai Municipal Settlement movement would be more dangerous than previously because of the unity of larger forces. This unity of organization has been evidenced in many ways, notably by the movement against the Chinese General Chamber of Commerce because out of necessity it was compelled to close the doors of its building to the National Salvation Association and Merchants Cooperative Society as well as to small organization[s] with the result that the chairman of the Chamber of Commerce at the instance of purely Kuomintang organization was ordered to be placed under arrest. Difficulties arising out of the rending or revision of the Provisional Court agreement after December 31st²¹ may easily precipitate a disturbance that would jeopardize the existence of the Settlement and American lives. The unsettled state of the extra-Settlement of the [*sic*] road question which the Chinese now refuse to consider in a reasonable manner furnishes another dangerous element that might prove to be a cause of disturbance with danger to American lives. The Chinese authorities do not show any greater tendency to observe existing agreements and established precedents than formerly and seemingly prefer to secure modifications in these agreements by devious methods calculated to create friction between Chinese and foreigners. Official support of anti-Japanese boycott is an outstanding but not isolated example.

This attitude of Chinese officialdom confident of their greater unity with the Kuo[mintang] and other organizations does not inspire confidence as long as a decidedly antiforeign policy is part of the program and the withdrawal or even material reduction of marine forces is viewed by me with great concern, especially since it might be misinterpreted by Chinese as an endorsement of their methods and policies. Pending a more reasonable attitude on the part of Chinese towards a settlement of local questions which are causing friction, the removal of the marines would be attended by an emergency threatening American lives which might easily be averted by retention of the marines until a settlement of these questions has been reached. There are too many lives and too much property at stake to hastily remove marines before a greater desire and ability are shown by Chinese to protect them. . . . In addition the present National Government is not by any means in control of all China so that any ebullition between these rival factions are bound to have their repercussions here. The above are what I believe to be controlling reasons for continuance of marines in Shanghai."

MACMURRAY

²¹ See pp. 682 ff.

ATTITUDE OF THE DEPARTMENT OF STATE REGARDING CHINESE COMPLAINTS AGAINST MEMBERS OF THE AMERICAN ARMED FORCES IN CHINA

411.93 Yen Cheng-hsin, heirs of/15

The Secretary of State to the Chargé in China (Perkins)

No. 1417

WASHINGTON, December 5, 1929.

SIR: With further reference to the Legation's despatch No. 1086 of June 6, 1927,²⁵ regarding the possible transfer of jurisdiction to the United States Court for China of cases of importance involving charges by Chinese against members of the armed forces of the United States in China and the Department's instruction in reply No. 938, dated July 30, 1928,²⁵ the Department has noted the statement in the Legation's despatch No. 1857 of January 10, 1929,²⁵ regarding the Streinz case,²⁶ that until some such way is found out of the present unhappy situation, similar cases will continually arise which will further prejudice Chinese-American relations.

The Department has given further consideration to this general subject in connection with the Streinz case and your comments thereon. It considers that, while the transfer of jurisdiction in this and similar cases to the United States Court for China might possibly prove of advantage, such a transfer of jurisdiction does not seem to be the only method by which an amelioration of the situation may be effected. The Department believes that with greater attention and closer cooperation on the part of the American officials concerned many of the objections felt by the Chinese may be met, even though the present system of trial by courts martial be continued. It may be assumed that the American naval authorities will be glad, if the matter is called to their attention in each instance, to make special effort to afford the least possible ground for criticism by the Chinese of the conduct of trials of naval personnel or of the judgments rendered. To this end it is desirable that the consular officers in China cooperate promptly and fully with the naval authorities, especially in the matter of obtaining the presence of complainants and witnesses.

This and related subjects were discussed with Admiral McVay at the Department and it is hoped that you will go into the subject fully with him in order that he may clearly understand the attitude of the Department and the Legation in the matter and may take such steps as may be necessary to ensure the cooperation of American naval officers with the consular officers in China in an endeavor to meet the legitimate desires of the Chinese authorities with regard to the conduct of courts martial in which Chinese interests are involved.

²⁵ Not printed.

²⁶ Death of a Chinese sampan owner resulting from wounds received in altercation with an enlisted man of the U. S. Navy.

The Department believes, with reference to the United States Army Forces stationed in Tientsin, that it would be preferable to attempt to bring about an improvement of the practice under existing laws and regulations, where such improvement may be required, rather than to attempt to bring about a transfer of jurisdiction from the Army courts martial to the United States Court for China. The Department understands that there are attached to the headquarters of these forces officers trained in the Chinese language and in Chinese customs. Should you feel that desirable cooperation does not now take place between the American military and consular officers at Tientsin in connection with trials involving Chinese interests, it is suggested that you discuss the subject with the Consul General and the officer in command and, in case of necessity, report to the Department, in order that the matter may be taken up with the War Department.

With a view, therefore, to effecting a more satisfactory handling of cases involving complaints by Chinese against members of the armed forces of the United States in China, you are requested to issue instructions to all consular officers in China that they shall, in every way that may be possible and appropriate, endeavor to afford assistance and guidance to the officers of the Army, the Navy or the Marine Corps who may be charged with the responsibility for disposing of such cases.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

INSISTENCE BY CHINA UPON THE RELINQUISHMENT OF EXTRATERRITORIAL RIGHTS BY THE UNITED STATES AND OTHER POWERS ²⁷

711.933/29

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Chinese Special Representative (C. C. Wu)

[WASHINGTON,] January 5, 1929.

Dr. Wu called by appointment. Dr. Wu left with Mr. Hornbeck the two memoranda hereto attached, one relating to the annexes to the Italian-Chinese Treaty of November 27, 1928; ²⁸ the other containing Dr. Wu's suggestions with regard to what the Chinese Government might be willing to subscribe to in connection with a treaty providing for the abolition of extraterritoriality on January 1, 1930.

The conversation lasted for one hour and twenty minutes and consisted for the most part of a repetition of things which had been said

²⁷ For previous correspondence concerning extraterritorial rights, see *Foreign Relations*, 1928, vol. II, p. 398 ff.

²⁸ League of Nations Treaty Series, vol. XCIII, p. 173.

at previous conversations. Dr. Wu referred to Mr. Hornbeck's request made during the last previous conversation that Dr. Wu draw up for consideration an outline of a plan for the gradual relinquishment of extraterritorial rights and the gradual extension of Chinese jurisdiction over foreigners. He said that, since the last conversation, he had discussed the matter with his Government by cable. He wished to submit a proposal based on the precedent of the plan which had been adopted by Turkey. . . . What the Chinese wanted was a treaty which would abolish extraterritoriality definitely, conclusively, and promptly. He thought that this proposal with regard to "foreign legal counsellors" should suffice.

Mr. Hornbeck referred to the provisional and preliminary character of the provisions in the new Chinese-Belgian²⁹ and Chinese-Italian treaties, there being absent from those treaties any indication of what might be the nature of the plan which the contracting parties agree to work out. Dr. Wu said that he hoped to have a treaty in which the United States would simply give up its extraterritorial rights. Mr. Hornbeck inquired whether Dr. Wu meant by that a treaty under whose terms American interests and nationals would cease to enjoy their extraterritorialized status while that status continued to be enjoyed by nationals of other Powers. Dr. Wu said that such was his meaning. Mr. Hornbeck referred to the conversation held in the Secretary's office shortly after Dr. Wu's arrival in this country,³⁰ in the course of which the Secretary had stated that it would be impossible to consider a proposal of that sort and had explained why. Mr. Hornbeck went on to say that it could not be expected of this or any other government responsible for substantial interests and a large number of its nationals in China that it would agree to place those interests and nationals in a special position (in this case one which they at least would regard as a position of disadvantage) in China. The principle that this Government had been striving for a long time to see made effective in China was the principle of equal treatment and no special positions. It might be assumed that China seeks to have the same principle made effective. Dr. Wu said that certain countries no longer possess such extraterritorial rights. Mr. Hornbeck suggested that the status of German, Russian, Austrian and Hungarian interests and nationals in China had been made what it is by special circumstances and conditions. Suppose that the American or some other Government were to adopt the suggestion which Dr. Wu had just made, could it be assumed that other Powers would welcome the formula as affording a satisfactory solution of

²⁹ Signed at Nanking, November 22, 1928; League of Nations Treaty Series, vol. LXXXVII, p. 287.

³⁰ See telegram No. 338, October 6, 1928, to the Minister in China, *Foreign Relations*, 1928, vol. II, p. 433.

the problem; would they follow the example, thus making for uniformity? Dr. Wu said that they had done so in the case of Turkey and it might be assumed that they would do so in the case of China.

The substance of Dr. Wu's proposals up to date may be summarized as follows:

1. The United States and China to conclude a simple treaty containing a provision that extraterritorial jurisdiction on the part of the United States is to terminate on July 1, 1930.

2. An annex to be appended in which China shall declare that she will before January 1, 1930, put into force two new codes, making in force five major codes in all.

3. The Chinese Government to affirm that it will take into its service for a period of three years a number of foreign legal counsellors, who shall be officials of the Chinese Government serving under the Judicial Council and whose duties shall be "to observe, without power of interference," to report to the Judicial Council, to receive complaints regarding the administration of justice, and to make to the Judicial Council suggestions and recommendations.

S[TANLEY] K. H[ORNBECK]

[Annex 1]

The Chinese Legation to the Department of State

The Italian Treaty with China signed on 27th November, 1928, and annexes are similar to the Belgian with the exception of the following points:

1. If no agreement is arrived at regarding the detailed provisions before 1 January, 1930, extraterritoriality is to be abolished when all the powers signatory to the Washington Treaty have agreed to its abolition and China has fixed a date therefor;

2. No mention is made regarding the law of personal status.

[Annex 2]

The Chinese Legation to the Department of State

1. The Chinese Government to take into its service for a period of 3 years a member of foreign legal counsellors, nationals of countries not now enjoying consular jurisdiction in China.

2. These legal counsellors to be Chinese officials serving under the Judicial Council, and stationed at Shanghai, Canton, Hankow, Tientsin, and Harbin.

3. Their duties to be:

(a) To observe, without power of interference, the working of Chinese courts and report their observations to the Judicial Council;

(b) To receive complaints regarding the administration of justice with a view to bringing them to the notice of the Judicial Council in order to ensure the strict observance of the Chinese law;

(e) To make to the Judicial Council such suggestions and recommendations as they may think proper for the improvement of the laws and their administration.

711.933/30

The Assistant Secretary of State (Johnson) to the Chief of the Division of Far Eastern Affairs (Hornbeck)

[WASHINGTON,] January 8, 1929.

My comment upon the suggestion of Doctor Wu, with regard to the employment of a number of foreign legal counsellors, who apparently will have no powers other than that of observers, who are to report to the Judicial Council on the operation of the Chinese Court, is that this suggestion amounts merely to saying that they will appoint foreigners to serve as employes of the Chinese Government and to take over the duties ordinarily performed by the diplomatic representatives of the foreign countries involved. It will become the duty of our diplomatic representatives, if and when we make a treaty giving up absolutely or gradually our extraterritorial rights, to observe without power of interference the working of Chinese courts, receive complaints from our nationals regarding the administration of justice and bring them to the notice of the Chinese Government in order to insure a strict observance of the Chinese law and also to insure the rendering of strict justice to persons of American nationality. I do not see what advantage this suggestion is to us.

N[ELSON] T. J[OHNSON]

711.933/31

*Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Chinese Special Representative (C. C. Wu)*³¹

[WASHINGTON,] January 9, 1929.

Dr. Wu stated that there had developed at Nanking considerable discussion of the provisions of the newly signed Belgian-Chinese and Italian-Chinese treaties. He had information from a number of sources. There was a considerable amount of expressed dissatisfaction with the terms of these treaties. Under those circumstances it was probably a fortunate thing that a similar treaty had not been negotiated between China and the United States.

Mr. Hornbeck said that in view of what Dr. Wu had just said with regard to treaties, he would like to inject a remark with regard to the conversations which had been going on between Dr. Wu and himself, particularly the conversation of January 5. He said that

³¹ This memorandum is initialed by Assistant Secretary of State Johnson, who also participated in the conversation.

Dr. Wu had been endeavoring to persuade him that the United States should conclude with China a treaty under the provisions of which American interests and nationals in China would become divested of their extraterritorial rights regardless of the position of the interests and nationals of other Powers, that is, whether or not extraterritorial rights should continue in force in reference to other countries. Mr. Johnson said that it would seem that there was nothing to be gained by discussing such a proposal: he referred to the statement made by the Secretary, before the conversations in the Division of Far Eastern Affairs began, to the effect that we could not contemplate an agreement which would place American interests and nationals in a position of inferiority to that enjoyed by those of other foreign powers in China. Dr. Wu suggested that it was not a question of "inferiority". Mr. Hornbeck suggested that it need not be discussed in terms of inferiority or superiority but that it would be one of inequality. Mr. Johnson said that it had always been the policy of this Government to insist upon most-favored-nation treatment. Mr. Hornbeck said that, in conformity with that policy, the American Government had endeavored and is still endeavoring to bring about the termination or eradication of such features of unequal treatment or special privilege as survived in China and that he believed the Chinese were committed to the same objective. Dr. Wu said that the whole position of the foreigner in China was one of special privilege. Mr. Hornbeck suggested that, whether or not such was a fact as between foreigners and Chinese, it was necessary to distinguish between national treatment and most-favored-nation treatment; foreigners have never been given in China the rights enjoyed by Chinese; but as among and in reference to foreigners, the United States, at no time seeking special privileges for its own nationals, has always insisted on the enjoyment by its nationals of such rights as are accorded to other foreign nationals. Mr. Johnson reiterated that this Department could not consider a proposal which would provide for placing Americans in a position less favored than that of nationals of the "most-favored" nation.

711.933/33

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck) of a Conversation With the Chinese Special Representative
(C. C. Wu)*

[Extract]

[WASHINGTON,] January 10, 1929

Dr. Wu inquired concerning our reaction to the tentative proposal submitted by him during the conversation of January 5. Mr. Horn-

beck replied that he could indicate our reaction in a few words: we felt that the proposal could not be regarded as offering a basis for discussion: it offered nothing toward the solution of the major problem involved, namely, the problem of devising a procedure for a transition period. Dr. Wu said that it was what had been adopted in the case of Turkey. Mr. Hornbeck said that, reiterating the views which he had expressed in earlier conversations, the conditions and circumstances of the problem as presented in China bore out only a few points of a likeness or an analogy to the conditions and circumstances in the case of Turkey. Dr. Wu said that these proposals contemplated a transitional period. Mr. Hornbeck replied that it was felt in the Department that it provided nothing toward facilitating a gradual relinquishment of the extraterritorial rights now enjoyed by Americans in China and the gradual taking over of jurisdiction by the Chinese. He said that by this time it should be clear that, to make these discussions profitable, there must be presented from some source a working scheme such as that which had obviously been envisaged, though with no indication of the type to be adopted, by the makers of the new Belgian and Italian treaties with China, which they had agreed should yet be agreed upon before the abolition of extraterritoriality shall take place. Dr. Wu inquired what kind of provisions Mr. Hornbeck had in mind. Mr. Hornbeck replied that he had in mind provisions which would be designed to meet the situation reported upon by the Extraterritoriality Commission³² and which would take cognizance of the recommendations of things which needed to be done in order to make a satisfactory situation which were advanced by the Extraterritoriality Commission.

It was agreed that Dr. Wu should call for further discussion of that point.

S[TANLEY] K. H[ORNBECK]

711.933/34

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Chinese Special Representative (C. C. Wu)

[WASHINGTON,] January 11, 1929.

Dr. Wu called after urgent insistence upon an immediate appointment, his explanation being that he was leaving at noon for Montreal to be gone several days.

Dr. Wu said that he would like to have as much information as possible with regard to the Department's views concerning the pro-

³² Department of State, *Report of the Commission on Extraterritoriality in China, Peking, September 16, 1926* (Washington, Government Printing Office, 1926).

visions which would need to be considered in an arrangement to facilitate a gradual relinquishment of extraterritorial rights (the reference being to statements made by Mr. Hornbeck in the conversation of the preceding day). Mr. Hornbeck said that he was not prepared to state what those provisions would need to be, but that they should be conceived with due consideration of the situation in China and due study of the report upon that situation and the recommendations arrived at and presented by the Extraterritoriality Commission.

The conversation lasted for an hour, and toward the end Dr. Wu asked whether the Department would be willing to consider entering into a treaty similar to the recently signed Italian-Chinese Treaty. Mr. Hornbeck said that he could not commit the Department, but that if the substance of a group of provisions similar to but perhaps in some respects differing from those which appear in the Italian Treaty could be informally and unofficially reduced to writing, he would be willing to submit it to higher officers in the Department for consideration.

793.003/92

The Department of State to the Japanese Embassy

AIDE MÉMOIRE

The Government of the United States appreciates the spirit of friendly cooperation manifested by the Japanese Government in replying frankly through its Ambassador³³ to the request of the Secretary of State for an expression of its views with regard to the question of the revision of treaties with China.

The Japanese Ambassador, having presented the views of his Government, has requested an expression of the views of this Government. In response to this request, and in a spirit of reciprocity, the Secretary of State is happy to give expression to the views of the American Government.

The American Government is gratified to note that the Japanese Government in its negotiations with the National Government is animated by the spirit which characterized the cooperative efforts of the Powers at the Washington Conference,³⁴ at the Tariff Conference at Peking,³⁵ and in the work of the Extraterritoriality Commission,³⁶ to be of assistance toward the attainment by China of her

³³ See *aide-mémoire* from the Japanese Embassy, December 29, 1928, *Foreign Relations*, 1928, vol. II, p. 445.

³⁴ November 12, 1921–February 6, 1922, *ibid.*, 1922, vol. I, pp. 1 ff.

³⁵ Beginning October 26, 1925, *ibid.*, 1925, vol. I, pp. 833 ff., and *ibid.*, 1926, vol. I, pp. 743 ff.

³⁶ January 12–September 16, 1926, *ibid.*, 1925, vol. I, pp. 886 ff., and *ibid.*, 1926, vol. I, pp. 966 ff.

national aspirations. The American Government wishes to assure the Japanese Government that the same spirit animates its own attitude.

The American Government is impressed with the desirability of concerted effort by the Powers in reference to constructive measures of common interest, among the more important of which is that of devising a practicable and just method for the relinquishment by the Powers of rights of extraterritorial jurisdiction in China.

The position of the American Government on the question of the relinquishment of extraterritorial jurisdiction in China was indicated as early as the year 1903, when in a treaty negotiated at Shanghai it agreed to provisions envisaging assistance to China in the reform of her judicial system and the eventual relinquishment of extraterritorial rights. These provisions, contained in Article XV of the Treaty,³⁷ were substantially the same as the provisions of Article XI of the treaty concluded by Japan with China in the same year.³⁸ It will be remembered that these two treaties were signed on the same day. Similar provisions were contained in the British-Chinese treaty of the preceding year.³⁹

The sincere desire of the United States to further the aspirations of the Chinese people was evidenced by the efforts made by this Government in connection with the Washington Conference and, after the conclusion of that Conference, toward the putting into effect by the Powers of the measures provided for in the Resolution of Extraterritoriality.⁴⁰ When the treaties resulting from that Conference finally went into effect in August, 1925, after their ratification by the last of the signatory Powers, this Government took occasion to urge upon the Powers the appointment of the Commission to investigate extraterritoriality, with the understanding that the Commission should be authorized to include in its report recommendations for the gradual relinquishment of extraterritorial rights. When the Commission met, in China, the American commissioner took a leading part in the carrying on of its investigations and in the preparation of its report.⁴¹

Two years ago, in his statement made public on January 27, 1927, the Secretary of State declared ⁴² that the United States was prepared

³⁷ Commercial treaty of October 8, 1903, *Foreign Relations*, 1903, pp. 91, 98.

³⁸ Signed at Shanghai, October 8, 1903, *British and Foreign State Papers*, vol. xcvi, pp. 578, 582.

³⁹ Signed at Shanghai, September 5, 1902, *ibid.*, vol. xcv (art. xii), pp. 39, 49.

⁴⁰ *Foreign Relations*, 1922, vol. i, p. 289.

⁴¹ Department of State, *Report of the Commission on Extraterritoriality in China, Peking, September 16, 1926* (Washington, Government Printing Office, 1926).

⁴² See quotation in telegram No. 28, January 25, 1927, to the Chargé in China; *Foreign Relations*, 1927, vol. i, p. 350.

to put into force at once those of the recommendations of the Extraterritoriality Commission which could be put into force without a treaty and to negotiate concerning the relinquishment of extraterritorial rights as soon as China was prepared to provide protection by law and through her courts to American citizens, their rights and their property.

It is noted that the Japanese Government favors entering into discussions with China on the basis of the recommendations of the Commission on Extraterritoriality. The American Government for its part is convinced that the report of that Commission provides material which might be made a basis for discussions with China with a view to establishing a definite, practical and equitable plan for the relinquishment of extraterritorial rights. Conditions in China now appear to afford opportunity to open such discussions, as it appears that the National Government is gradually extending and consolidating its authority.

The American Government observes that the Extraterritoriality Commission made certain recommendations for action by the Powers, certain recommendations for action by China, and certain recommendations for action by China and the Powers. The American Government feels that, China now being united under one central authority, the Powers may reasonably look for evidences of effective effort by China to achieve reforms recommended by the Commission, and that, *pari passu* with progress on China's part toward those objectives, the Powers should seek to come to an agreement or agreements with China which will provide a satisfactory program for progressive relinquishment and ultimately complete abolition of extraterritorial rights.

It is the opinion of the American Government that frank conversations between representatives of the other Powers and representatives of China in regard to this question would serve to bring clearly to the attention of all concerned the importance attached by the other Powers to the carrying out by China of the juridical and administrative reforms which must of necessity accompany any steps taken toward abolishing extraterritoriality in order that there may be assurance of adequate protection for the lives and property of foreign nationals in China.

With regard to means of achieving action in this connection, this Government, while reserving the right to discuss the subject with the Chinese Government apart and recognizing the right of any other government to do likewise, would be glad to have its representatives hold informal conversations with representatives of the Japanese Government and those of other governments, with a view to ensuring thorough and sympathetic consideration of the many factors involved and the various possible courses of action which may be suggested.

In dealing with this and other questions wherein its interests and those of other Powers are involved, the American Government wishes at no time to be unmindful of the principles upon which the treaties and resolutions of the Washington Conference of 1922 were based, and likewise to have always in mind the objectives which were therein envisaged.

This Government has always viewed with satisfaction the declaration of the Powers party to the Treaty Relating to Principles and Policies Concerning China⁴³ that it is their desire "to adopt a policy designed to stabilize conditions in the Far East, to safeguard the rights and interests of China, and to promote intercourse between China and the other Powers on the basis of equality of opportunity". It has viewed with satisfaction the agreement, in that treaty, of the Powers other than China to respect the sovereignty, the independence, and the territorial and administrative integrity of China; to provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government; to use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China; to refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly states and to refrain from countenancing action inimical to the security of such states. It has viewed with satisfaction the agreement that, in certain situations "there shall be full and frank communication between the Contracting Powers concerned". It has viewed with satisfaction the resolution⁴⁴ in which the Powers declare it "desirable that there should hereafter be full publicity with respect to all matters affecting the political and other international obligations of China and of the several Powers in relation to China", together with the agreement therein that such publicity shall be given. It has viewed with satisfaction the resolution in which the Powers other than China declare themselves sympathetically disposed towards furthering the aspirations to which the Chinese delegation had given expression on the subject of the abolition of extraterritorial jurisdiction.

The provisions of those treaties and resolutions clearly indicate that the Powers, including China, were convinced of the desirability of cooperative effort for certain purposes. There is, it should be noted, no provision in any of the agreements which requires that in all particulars and at all times each of the Powers shall refrain from independent action or that in every situation there shall be inter-

⁴³ Signed February 6, 1922, *Foreign Relations*, 1922, vol. I, p. 276.

⁴⁴ No. XI, *ibid.*, p. 296.

national consultation. Nevertheless, in the opinion of the American Government, where interests common to all or to several Powers are involved, it is desirable that each of the Powers be solicitous not alone with regard to its own interests but also with regard to the interests of the others. In relation to certain situations it has been agreed that there shall be consultation. In relation both to these and to other matters, frequent and frank consultation may well be regarded as in order. Wherever cooperative or concurrent action may be expected usefully to serve a legitimate purpose, it would seem that due consideration should be given to that possibility. In accordance with this conception, when new situations arise and new problems are presented, no Power should hesitate to make or be unwilling to receive suggestions. When, however, there is proposed some new form of joint action not envisaged in the agreements, each Power, though ready to give the proposal consideration, must be free to make its own decision. And in situations where cooperative or concurrent action has not been agreed upon or has been attempted but has failed, each Power must have the right, limited only by the spirit and the letter of its outstanding commitments, to act independently.

These considerations have determined the course pursued by this Government with reference to the question of the Chinese customs tariff during the seven years since the Washington Conference, a course marked finally by the conclusion of a new treaty for the regulation of tariff relations between the United States and China.⁴⁵

With regard to the question of tariff relations it is the established policy of the United States neither to accord nor to ask for special privileges, and, consistently with that policy, the American Government, in concluding the treaty of July 25, 1928, neither sought from China nor was accorded by China any special concessions. The treaty calls simply for reciprocal non-discriminatory treatment in all that relates to the matters dealt with therein.

With regard to the question of navigation of inland waters and coasting or coastwise trade, the Government of the United States perceives no objection to the conclusion of new agreements with China, but, in the absence of information with regard to the details of a proposed reciprocal agreement, this Government is not in position to express its opinion with regard specifically to that proposal.

With regard to treatment to be accorded by the National Government of China in fulfilling China's commitments to foreign governments and obligations to nationals of foreign countries, the Government of the United States, believing that the National Government desires to conform its practices to the best standards of international

⁴⁵ Signed at Peking, July 25, 1928, *ibid.*, 1928, vol. II, p. 475.

practice, hopes that the National Government's acts will demonstrate that such is its intention.

The fundamental principles of American policy toward China have been repeatedly and consistently declared: in brief, the American Government seeks only that its citizens be given equal opportunity with the citizens of other Powers safely to reside in China and peacefully to pursue there their legitimate occupations, without special privileges, monopolies, or spheres of special interest or influence. At present this Government waits hopefully and with good will for the Chinese to achieve within China a condition of political stability and administrative effectiveness which will warrant and make possible a complete and satisfactory readjustment of the agreements which regulate intercourse between China and the foreign Powers.

WASHINGTON, February 19, 1929.

711.933/40: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 13, 1929—4 p. m.

[Received March 14—10 p. m.]

173. Reuter carries the following item under date of Nanking, March 12th:

“Dr. C. T. Wang⁴⁶ when interviewed informed the Kuo Min News Agency correspondent that he understands that the United States Government is exchanging views concerning abolition of consular jurisdiction with other Governments concerned, expects that foreign consular jurisdiction will be abolished before the beginning of next year.”

MACMURRAY

793.003/98

The Consul General at Shanghai (Cunningham) to the Secretary of State

No. 6036

SHANGHAI, March 15, 1929.

[Received April 16.]

SIR: I have the honor to enclose herewith a copy of a memorandum of interview given by Consul J. E. Jacobs⁴⁷ to Mr. Oliver C. Lockhart and Mr. Arthur N. Young of the Kemmerer Commission of Financial Advisers to the Chinese Government on certain phases of extraterritoriality. This interview was granted by Consul Jacobs

⁴⁶ Chinese Minister for Foreign Affairs.

⁴⁷ Technical adviser to the American Commissioner on the Commission on Extraterritoriality in China, 1926.

upon the request of the parties named after he had secured my permission. It appears that the above named members of the Kemmerer Commission are working on some new taxation scheme, the administration and enforcement of which would involve the phases of extraterritoriality discussed.

The latter part of Mr. Jacobs' memorandum under the heading of "Remarks" consists of his own comment on the phases of extraterritoriality discussed. These expressions of his opinion were not, however, communicated to Mr. Lockhart and Mr. Young.

I have [etc.]

EDWIN S. CUNNINGHAM

[Enclosure]

Memorandum by the Consul at Shanghai (Jacobs)

[Undated.]

On the afternoon of March 12, 1929, I was interviewed by Mr. Oliver C. Lockhart and Mr. Arthur N. Young, of the Kemmerer Commission of Financial Advisers to China, on certain phases of extraterritoriality bearing on the question of the enforcement of Chinese fiscal legislation. On their part the interview was carried on almost entirely by Mr. Lockhart, since Mr. Young was suffering from some eye trouble and had to leave before the interview was over, in order to consult a physician.

Exemption of Foreigners From Chinese Taxation:

The first phase of extraterritoriality on which information was sought by the parties named was the question of the specific treaty provisions which exempted foreigners in China from Chinese taxation. On this point I stated that, so far as I knew, the only specific provisions in any of the treaties were those to be found in Article 40 of the Sino-French Treaty of 1858,⁴⁸ which, while not being absolutely definite on the subject, does provide that every obligation not specifically expressed in that treaty shall not be enforceable against French citizens, and in Article 6 of the Sino-Japanese Treaty of April 17, 1895,⁴⁹ which provides for the temporary renting of warehouses in the interior by Japanese subjects without the payment of any taxes or exactions whatever.

Mr. Lockhart stated that his reason for desiring the above information was that certain Chinese had told him there were no specific provisions whatever in the treaties exempting foreigners from Chinese taxation. I then explained to Mr. Lockhart that the exemption of extraterritorial nationals in China from Chinese taxation, aside

⁴⁸ Signed at Tientsin, June 27, 1858; French text in *British and Foreign State Papers*, vol. LI, p. 637.

⁴⁹ Signed at Shimomoseki; *ibid.*, vol. LXXXVII, p. 799.

from the two specific provisions cited above, is based upon the system of extraterritoriality under which such nationals are subject only to the laws of their own countries administered by the judicial officials of their own governments. In other words, the only legal way to try to enforce a Chinese tax against an extraterritorial national would be to prosecute such a national in his own court, which would be compelled to dismiss the action unless the tax in question had been made applicable to the national by law or treaty. Hence, in general, extraterritorial nationals are exempt from Chinese fiscal legislation.

Exemption of Chinese Citizens and Firms in Treaty Ports, Settlements and Concessions From Chinese Taxation:

The next phase of extraterritoriality which Mr. Lockhart brought up for discussion was the immunity from Chinese taxation which Chinese citizens and firms secured by living within the Treaty Ports, Settlements and Concessions. He apparently desired information on this subject in order to enable him to work out some scheme whereby Chinese citizens residing in the areas named could be compelled to pay the taxes prescribed in the laws of China.

I informed Mr. Lockhart that so far as I knew about the only places remaining in China where such a condition could exist were Shanghai, the International Settlement of Kulangsu at Amoy, the French and Japanese Concessions at Hankow, and possibly certain of the foreign concessions in Tientsin. Thereupon Mr. Lockhart asked my opinion as to how Chinese fiscal legislation might be enforced against Chinese residing in these areas. I told him that in my opinion this was a matter which would have to be taken up by the Chinese Government and the foreign authorities exercising control over the special areas where such condition existed. I also stated that in my opinion the more important extraterritorial powers exercising control in these areas would probably be willing to negotiate with the Chinese authorities on this subject if some scheme for enforcing Chinese fiscal legislation therein could be worked out without the necessity for bringing into these areas a special corps of Chinese tax collectors and agents to use the high handed methods which are now being used by such collectors and agents in the collection of various forms of taxation now being levied in Chinese territory illegally against foreigners and foreign merchandise, and legally against Chinese. I laid particular emphasis upon this point and Mr. Lockhart appeared to agree with me that the Chinese must maintain civilized methods for the enforcement of their fiscal legislation before they can hope to persuade the foreigners to permit the functioning of tax collectors and agents within the Settlements and Concessions.

With regard to Shanghai, I pointed out to Mr. Lockhart that there was a Chinese court functioning in the Settlement, namely, the Provisional Court, in which the Chinese authorities might at any time prosecute any Chinese who failed or refused to pay taxes prescribed in the laws of China if the Diplomatic and Consular Bodies could be persuaded that such laws are applicable to Chinese living in the Settlement.

Incorporation of Chinese Capital Under the Laws of Extraterritorial Powers:

The third phase of extraterritoriality discussed was the practice of Chinese to invest their capital in corporations operating in China under the laws of some extraterritorial power, thereby securing the privileges and immunities which that system afforded. Mr. Lockhart stated that a considerable amount of Chinese capital was invested in companies operating under the British-Hongkong Ordinances and the United States-China Trade Act,⁵⁰ as well as under charters issued under the laws of a number of smaller extraterritorial powers. I informed Mr. Lockhart that it was possible, under the China Trade Act, for Chinese capital to invest in an American corporation but that at least 51% of the stock must be American owned before protection might be afforded by American diplomatic and consular officers in China. Mr. Lockhart stated that the Chinese authorities felt that this evasion of Chinese capital from the payment of Chinese taxes through investment in foreign concerns operating in China was a phase of extraterritoriality which should be abolished. I informed Mr. Lockhart that as far as the China Trade Act was concerned, the only way this practice could be stopped would be by the addition of an amendment prohibiting the incorporation of any but American capital under the Act.

Taxation of Foreigners:

The fourth phase of extraterritoriality discussed was the question of making Chinese fiscal legislation applicable to extraterritorial nationals residing anywhere in China (Treaty Ports, Concessions, Settlements or Interior). In this connection, I stated that the Extraterritoriality Commission in Subsection 5 of Recommendation IV of its report recommended that—

“Pending the abolition of extraterritoriality, the nationals of the powers concerned should be required to pay such taxes as may be prescribed in laws and regulations duly promulgated by the competent authorities of the Chinese Government and recognized by the powers concerned as applicable to their nationals.”

In addition, I pointed out that the American Government had already advised its nationals in China that they might pay, as volun-

⁵⁰ Approved September 19, 1922: 42 Stat. 849.

tary contributions, such local municipal taxes as were devoted to municipal purposes so long as there was no discrimination as between foreigners and Chinese, and that all the powers represented in Shanghai had agreed to the payment by their nationals of motor car license fees on foreign owned motor cars operating on Chinese roads outside the International Settlement and French Concession of Shanghai.

As regards the enforcement, however, of such taxes against Americans and other extraterritorial nationals, I pointed out that the enforcement of payment could only be effected by bringing action in the United States Court for China, in the case of Americans, and in the court of the nationality concerned in the case of other extraterritorial nationals. I expressed doubt, however, as to the efficacy of such a course, since I do not believe that the American or other extraterritoriality courts can apply the Chinese laws prescribing these taxes.

Remarks:

The phases of extraterritoriality which Mr. Lockhart and Mr. Young have discussed with me constitute, in my opinion, the gravest abuses of the extraterritoriality system which should have been remedied many years ago. Their continuance constitutes one of the weightiest arguments which the Chinese have for the abolition of the extraterritorial rights now enjoyed by the nationals of certain foreign powers in China. It is beyond comprehension that either the Chinese or foreign plenipotentiaries who negotiated the Sino-Foreign treaties of the 1840's and 50's ever contemplated the extension of the extraterritorial system to give immunity to citizens and subjects of China from the operation of the laws of their own country. It is almost beyond comprehension that these negotiators ever contemplated the complete immunity of foreigners under the extraterritorial system from all forms of Chinese taxation in cases where these foreigners enjoy the benefits of Chinese municipal government such as police protection, roads, light and water. Although I am strongly of the opinion that the day has not yet arrived when the entire extraterritorial system should be abolished, I am equally fixed in my belief that the American Government should disassociate itself from any continued support of those elements among the foreigners resident in China who desire to extend to Chinese citizens immunity from the operation of Chinese laws, fiscal or otherwise.

With regard to the exemption of Chinese living in Settlements and Concessions from Chinese taxation, the only places where the American Government is concerned are Shanghai and Amoy, since the representatives of American Government in nowise participate in the municipal governments of the Concessions at Hankow and Tientsin.

With regard to the International Settlement of Shanghai, it is my opinion that every Chinese residing therein should be subject to every law of the Republic of China, fiscal or otherwise, so long as the Chinese authorities content themselves with the enforcement of that law through the medium of the police of the Settlement and the Provisional Court, or such authorities as may from time to time be substituted for those authorities.

With regard to the matter of permitting Chinese capital to incorporate under the laws of the extraterritorial powers, this abuse should be ended. To do so will require not only an Act of Congress amending the existing China Trade Act, but also some treaty arrangement between China and the United States denying the right of American corporations incorporated under the various State laws to operate in China if the capital of such corporation is partially or entirely Chinese owned.

With regard to the enforcement of Chinese taxation against American citizens and firms in China, the provision contained in Recommendation IV of the Extraterritoriality Commission should be put into effect. To make this effective in China it will be necessary to secure an Act of Congress in general terms providing that all Chinese fiscal laws after due enactment and promulgation in some orderly manner shall be made applicable to all American citizens and firms in China after approval by the Minister and the Department of State and under such terms or modification as they may think necessary in each and every case.

J. E. JACOBS

711.933/45

The Chinese Minister (C. C. Wu) to the Secretary of State

WASHINGTON, May 2, 1929.

SIR: I have the honor to inform you that I am instructed by my Government to transmit to you the following note: ⁵¹

“It may be recalled that the Chinese Government, through its representatives, had had occasion to express at the Paris Peace Conference its strong desire for the removal of limitations on China’s jurisdictional sovereignty imposed upon her by the old treaties concluded between China and the Foreign Powers and that the Chinese Delegation emphatically reiterated the same desire at the Washington Conference, which placed on record its sympathetic disposition towards furthering the aspiration of China for the removal of restrictions on her political, jurisdictional and administrative freedom of action.

“With the unification of China and the establishment upon a firm foundation of the National Government, a new era has been happily

⁵¹ Similar note received by the Minister in China, was dated April 27, 1929; copy transmitted to the Department by the Minister in China in his despatch No. 2082, May 9, p. 565.

inaugurated in the relations between our two countries through the conclusion of the recent Tariff Treaty, and it is to be confidently hoped that the material wellbeing of our two countries will henceforth be greatly enhanced. But it is the belief and the conviction of the Chinese Government that the promotion of such material wellbeing will be accelerated by a readjustment of the relations between our two countries on a basis of friendly equality in matters of jurisdiction, and if the American Government could see its way to meet the wishes of the Chinese Government and people in this regard, it is certain that another obstacle to the full and frank cooperation, in trade or otherwise, between the Chinese people and Foreign nationals in this country would be happily removed and that the desire of the Chinese Government for promoting to the fullest extent the material interests of all who choose to associate themselves with our own people would find its early realization.

"It goes without saying that extraterritoriality in China is a legacy of the old regime, which has not only ceased to be adaptable to the present-day conditions, but has become so detrimental to the smooth working of the judicial and administrative machinery of China that her progress as a member of the family of Nations has been unnecessarily retarded. The inherent defects and inconveniences of the system of consular jurisdiction have been most clearly pointed out by the Chinese Government on various occasions and also by the jurists and publicists of other countries in their official utterances as well as in their academic discussions. It is a matter for sincere regret that, while many Governments which are playing an important role in international affairs are eager and persistent in their endeavors to promote genuine friendship and harmony among Nations, such anachronistic practices as only tend to mar the friendly relations between the Chinese people and Foreign Nations should be allowed to exist at a time when justice and equity are supposed to govern the relations of Nations.

"With the close contact between China and the Foreign Powers, the assimilation of western legal conceptions by Chinese jurists and the incorporation of western legal principles in Chinese jurisprudence have proceeded very rapidly. In addition to the numerous codes and laws now in force, the Civil Code and the Commercial Code have reached the final stage of preparation and will be ready for promulgation before January first, 1930. Courts and prisons, along modern lines, have been established, and are being established, throughout the whole country.

"Inasmuch as doubt has been entertained with regard to the advisability of relinquishing extraterritorial privileges at this juncture by the interested Powers, it may be pointed out that certain countries, having ceased to enjoy extraterritorial privileges in China, have found satisfaction in the protection given to their nationals by Chinese laws and have had no cause for complaint that their interests have been in any way prejudiced. The American Government may, therefore, rest assured that the legitimate rights and interests of American citizens in China will not be unfavorably affected in the least by the relinquishment of the extraterritorial privileges which they now possess.

"As the American Government has always maintained a friendly attitude towards China and has always shown its readiness in the adoption of measures for the removal of limitations on China's sovereignty, the Chinese Government is happy to express to the American Government the desire of China to have the restrictions on her jurisdictional sovereignty removed at the earliest possible date and confidently hopes that the American Government will take this desire of China into immediate and sympathetic consideration and favor it with an early reply so that steps may be taken to enable China, now unified and with a strong Central Government, to rightfully assume jurisdiction over all nationals within her domain."

Accept [etc.]

CHAO-CHU WU

711.933/45 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 3, 1929—2 p. m.

146. Chinese Minister left with me yesterday a note dated May 2, requesting United States to give "immediate and sympathetic consideration" to the desire of China "to have the restrictions on her jurisdictional sovereignty removed at the earliest possible date." Minister stated that similar notes had been addressed to Ministers of the United States, Great Britain, France, Brazil, Norway and Holland. Can you confirm?

Department is preparing a reply and would welcome any comments or suggestions that you may wish to make.

STIMSON

711.933/46 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 6, 1929—3 p. m.
[Received May 6—10:10 a. m.]

355. Your telegram No. 146, May 3, 2 p. m.

1. A note under date of April 27 of the character indicated in your telegram was received by mail today. I understand from my colleagues of the nationalities mentioned that they have received similar notes. The Senior (Dutch) Minister is proposing to call a meeting of the interested diplomatic representatives to exchange views on the subject in the near future.

2. My comments as requested in your second paragraph will follow in a confidential telegram.

MACMURRAY

711.933/47 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, May 7, 1929—7 p. m.

[Received May 7—1:25 p. m.]

360. Supplementing my 355, May 6, 3 p. m., in reply to the Department's 146, May 3, 2 p. m.

(1) The Chinese request for relinquishment of extraterritorial rights is based, as various previous telegrams have indicated, upon a series of assumptions which are contrary to fact. The ostensible unity of China, in my view, is really a truce which has resulted from a temporary balance of forces between various factions; their interests are, if indeed not irreconcilable, still unreconciled, and the stability of the central governmental authority, as established now, is altogether precarious. Since the report in 1926 of the Commission on Extraterritoriality, there has been no appreciable progress as regards either the system of law or the judiciary's organization; while the Shanghai Provisional Court's experiment,⁵² meanwhile, has proved such a disappointing experience as to compel a doubt whether even the judges who are selected to serve in posts of crucial importance may be expected, without at least the development of sound judicial traditions, either to grasp the concepts of justice which underlie the western legal system now being adopted by China or to apply such principles with no subservience to factional or personal influence, even if not under the direct compulsion of the military which still wield the real power in this country.

(2) As my telegram 620, June 6, 1927, 6 p. m.,⁵³ indicated, I consider that the experience of nationalities, including the Germans, who have lost their extraterritorial status does not support the claim that their situation at present is satisfactory, nor, in any case, would it warrant the hope that aliens of whatever nationality would be given justice by the Chinese authorities should they be relieved altogether from the inhibitions arising out of their aspiration to shake off all vestiges of the extraterritorial system.

(3) . . . The means or capacity to administer public justice, as this is understood in civilization of the western type, has not yet been developed by the Chinese; so that if they were put in a position again to exercise jurisdiction over aliens, prior to preparedness for satisfactory exercise of this responsibility, it is my own earnest belief that the result would be once more a progressive intensifying of ill feeling and misunderstanding between foreign nations and China. This, then, would lead to constantly growing tension, and sooner or later

⁵² See pp. 682 ff.

⁵³ Not printed.

a trivial incident even would precipitate a clash and intervention quite probably by one or more foreign powers.

(4) This morning the Netherlands, British, and French Ministers and I discussed the question of replying to the note from Dr. Wang. We were all agreed that it would be distinctly advantageous for the replies of the several interested Governments to be substantially identical, to the general effect that any modification is deemed to be premature pending further demonstration by Chinese judicial institutions of their capacity to deal with cases which affect foreign interests. I told my colleagues that the Secretary of State is already drafting a reply to China, but I said I should gladly submit for his consideration a draft for substantially identical replies by the Governments interested. This draft is now being elaborated. May I state I am personally convinced that this is a matter in which action concerted with the other chiefly interested powers can best safeguard important interests and trade in China of American citizens. In case the Department shares this view, it might deem it preferable for me to communicate to my colleagues the draft reply it is preparing, with a view to the possible adoption of this reply as a basis for substantially identical replies by the other governments.

MACMURRAY

711.933/48 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 9, 1929—5 p.m.
[Received May 9—1:05 p.m.]

368. Referring to fourth paragraph of my telegram No. 360, May 7, 7 p.m.

1. The following is the text which the British, Dutch and French Ministers and myself have elaborated for submission to our respective Governments as a basis for substantially identical replies:

“I have the honor to acknowledge the receipt of the note under date of April 27th in which you expressed the hope that the Government of (blank) would take into immediate and sympathetic consideration the desire of the Chinese Government to be enabled to assume jurisdiction over nationals within the domain of China.

Having carefully considered this request, my Government has instructed me to recall to Your Excellency that it was happy to participate in the resolution adopted on December 10, 1921, by the Washington Conference on Limitation of Armament⁵⁴ under which was established an international commission to inquire into the present practice of extraterritorial jurisdiction in China and into the laws and the judicial system and the method of judicial administration in

⁵⁴ Resolution V, *Foreign Relations*, 1922, vol. I, p. 289.

China. Your Excellency will not fail to recall that that Commission which rendered its report under date of September 16, 1926, laid down a variety of recommendations upon reasonable compliance with which it considered that the several powers would be warranted in relinquishing their respective rights of extraterritoriality. In view of the findings of fact of the Commission and of its recommendations (in which as will be recalled the Chinese member unreservedly concurred) my Government cannot but feel that as a condition precedent to the relinquishment of American extraterritorial rights (in accordance with article 15 of the commercial treaty of October 8, 1903) it is now incumbent upon the Chinese Government to carry the reform of its laws and judicial system and of its administration of justice to the point indicated as necessary by that Commission. My Government feel that it would be less than frank if it were not to acknowledge that its subsequent observation of the workings of the Chinese courts, and particularly of the Provisional Court established in the International Settlement at Shanghai by agreement between the Chinese and foreign authorities, has not tended to inspire its confidence either in their administrative functioning or in the independence of Chinese judicial institutions from outside influences.

My Government further instructs me to assure you that until such time as the relinquishment of extraterritorial rights may become necessary it will continue to observe with attentive and sympathetic interest such further progresses as may be effected in these matters, and such demonstration as may be made by the Chinese Government of its capacity and willingness to do justice in cases affecting foreign persons and interests and that it will continue to hope for opportunities of helpful cooperation with the Chinese authorities with a view to hastening a situation in which it would feel warranted in agreeing to modifications of the present juridical status of American citizens in China."

2. My colleagues and I feel it is necessary to include a direct statement as to the lack of confidence felt with respect to the administrative functioning and the judicial independence of the Chinese courts. However unwelcome such statement will be to the Chinese, their raising squarely the whole issue of extraterritoriality seems to compel us to meet that issue squarely by a direct statement of the present inadequacy of their judicial institutions. I am myself strongly impressed with the fact that the somewhat indefinite terms in which the interested foreign powers have hitherto given assurance of their hopes for the eventual abolition of extraterritoriality have produced in the minds of the Chinese an impression of insincerity in avoiding an issue which we dare not meet. A direct statement of the fact that we are not satisfied with what they have to offer therefore leave[s] us in a better position both as to their present request and as to dealing with any future developments of the question.

MACMURRAY

711.933/62

The Minister in China (MacMurray) to the Secretary of State

No. 2082

PEKING, May 9, 1929.

[Received June 10.]

SIR: I have the honor to enclose the Chinese text and English translation of a note from the Minister for Foreign Affairs, dated April 27th, and received May 6th,⁵⁵ requesting that the restrictions upon the jurisdictional sovereignty of China be removed at the earliest possible date. As stated in my telegram No. 360 of May 7, 7 p. m., it is my considered opinion that the request that we relinquish our extraterritorial rights is based upon a series of assumptions contrary to fact. Dr. Wang appears to have assumed as his major premise that, concurrently with the growth of the Nationalist Government and with the degree of political unity which that Government has now achieved, there has come about an improvement in the system and practice of jurisprudence in China which would fully warrant the relinquishment at the present time of extraterritorial rights by those Powers still in possession of such rights. This assumption, I believe, is wholly unwarranted. The primary desideratum—the creation of a judiciary which is in fact free from military and political interference—is as remote now as it was at the time of the conclusion of the Sino-American Treaty of 1903. . . . During the past two years, the Chinese have had a free and unrestricted opportunity in their administration of the Provisional Court in the International Settlement at Shanghai to demonstrate whether or not they are at the present time competent to administer justice in a manner which would in any degree approximate that kind of justice which the foreign Powers could rightfully expect for their nationals upon the relinquishment of their extraterritorial rights. Of this opportunity the Chinese have made a signal failure, and the result has been to create a distrust of Chinese justice more pronounced and more cynical than that existing hitherto. The particular cases and incidents from which this distrust has arisen have been fully reported to the Department in the numerous despatches on the subject from the Consulate General at Shanghai.

Progress has been made towards the completion of the new codes which are to comprise the principles of the modern Chinese jurisprudence. Whether or not there has been appreciable progress beyond the point recorded in the Report of the Commission on Extraterritoriality, 1926, I am not in a position definitely to state. As I need scarcely state, however, the essence of the problem is not a matter of codes and principles of law, but is purely a question whether in practice these codes and principles are respected and applied in a manner

⁵⁵ For text, see note of May 2 from the Chinese Minister, p. 559.

which will guarantee a reasonable degree of safety to persons and property of our nationals. I do not doubt that, within the next few years, the Chinese Government will have formulated and promulgated a complete set of legal codes to which little or no exception can be taken. This fact in itself, however, offers no guarantee whatsoever that foreign interests will in practice receive any sufficient degree of protection from Chinese courts. The situation with regard to German citizens remains, so far as I know, substantially the same as that reported in my telegram No. 620, of June 6, 1927.⁵⁶ The indirect protection received by Germany from the possession of extraterritorial rights by other Powers is of course a difficult matter to determine. Our attitude, however, should, I believe, be based upon general conditions affecting the administration of Chinese jurisprudence rather than upon the question whether Germans in China find their condition tolerable at a time when China is seeking to induce a general relinquishment of extraterritorial rights.

I have [etc.]

J. V. A. MACMURRAY

711.933/55 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 21, 1929—3 p. m.

[Received May 22—9:25 a. m.⁵⁷]

406. Following from American Consul General at Shanghai:

"May 20, 4 p. m. The following resolution passed at a meeting of representatives of American, British, French and Japanese Chambers of Commerce on May 10th and has been approved by Board of Directors of American, British, French and Japanese Chambers; and American Chamber requests it be forwarded to the Department of State. The bill for charges in connection therewith will be honored by the Chamber:

'WHEREAS, the National Government of China at Nanking has recently despatched a note to the various foreign powers whose nationals enjoy extraterritorial rights by virtue of treaties concluded between such powers and China, requesting the removal at the earliest possible date of foreign consular jurisdiction in China and requesting that such powers will give this desire of China immediate and favorable consideration, so that steps may be taken for the National Government of China to assume jurisdiction over all persons within her domain,

AND WHEREAS, in accordance with the decision taken at the Washington Conference a commission representing the United States of America, the British Empire, China, France, Japan and other powers was appointed, and after due investigation and consideration prepared and presented a report making definite recommendations with regard to the abolition of extraterritoriality and now is [*sic*] precedent to such abolition certain conditions should be fulfilled by China,

AND WHEREAS, although the Nanking Government has made progress, the conditions laid down by the Commission on Extraterritoriality in China have

⁵⁶ Not printed.

⁵⁷ Telegram in three sections.

not been fulfilled; civil war still continues; the judges of the Chinese courts are made subject to the control and authorities of a single political party, thus interfering with the administration of justice; the unification and stabilization has not been achieved and life and property, both Chinese and foreign, is inadequately protected by the law and its administration,

AND WHEREAS, these questions involve huge property interests and the safety of thousands of American, British, French and Japanese citizens and subjects,

Be it resolved, that the American, British, French and Japanese Chambers of Commerce in Shanghai represented at this meeting petition that the joint action of the powers as represented by the Commission on Extraterritoriality in China should be maintained by the Governments of the United States of America, the British [Empire?], and Japan as the basis for any consideration of the aforementioned request of the National Government, and that these powers refrain from modifying the existing status of foreigners in China until a further joint investigation shall have demonstrated China's fulfillment of the conditions indicated in the report of the Commission on Extraterritoriality in China.' "

MACMURRAY

711.933/58

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the First Secretary of the Japanese Embassy (Kato)

[WASHINGTON,] May 21, 1929.

Mr. Kato called and inquired whether the French Government had approached the American Government on the subject of the reply to be made to the Chinese Government's note of April 27.⁵⁸ He stated that the French Chargé in Tokyo had approached the Japanese Government and had expressed, for the French Government, the view that the Powers should make reply in common. However, he said, the Japanese Government is in a peculiar position in regard to this matter, for the reason that the Chinese Government had not addressed a note to the Japanese Government.

Mr. Hornbeck said that he supposed it might be assumed that the Chinese Government took the position that it was already negotiating with the Japanese Government on the subject of extraterritoriality, inasmuch as those two Governments are negotiating on the subject of a general treaty. Mr. Kato said that that assumption was sound; nevertheless, the Japanese Government was concerned along with the other Powers with regard to the action which should be taken on the subject of extraterritoriality. He asked again whether the French Government had approached the American Government. Mr. Hornbeck replied that, so far as he knew, the French Government had not made proposals or asked questions of this Government on this subject. Mr. Kato intimated that he thought the governments ought to work together. Mr. Hornbeck asked what the Japanese Government thought ought to be done about the matter. Mr. Kato replied that the Japanese Government had had in mind the

⁵⁸ See note of May 2 from the Chinese Minister, p. 559.

report of the Extraterritoriality Commission; it might be doubted, however, whether anyone should expect that the Chinese should be required to carry out all of the recommendations of the Commission. Mr. Kato asked whether the views of the American Government had changed since the delivery to the Japanese Ambassador of the Secretary of State's reply to the Ambassador's note last winter. Mr. Hornbeck replied that he believed it accurate to say that this Government's views had in no way changed.

Mr. Kato asked whether this Government was doing anything with the question of raising the Legations to and from China to the grade of Embassies.⁵⁹ Mr. Hornbeck stated that the question had been up when the Chinese made the suggestion a few months ago and that the American Government had been inclined to look with favor upon the idea of a change but had taken no action. Mr. Kato asked whether we had been approached again on the subject by the Chinese. Mr. Hornbeck replied that we had not. Mr. Kato stated that at the end of April the Chinese Government had definitely approached the Japanese Government on the subject. Mr. Hornbeck asked whether the Japanese Government had made any reply. Mr. Kato said that the Japanese Government was inclined to the feeling that the foreign governments should act together.

Mr. Kato asked what Mr. Hornbeck thought of the present situation in China. Mr. Hornbeck replied that the situation appeared again to be problematical; that there was unquestionably a big contest on for the possession of Canton and fighting appeared to be impending elsewhere. Mr. Kato said that the Japanese Embassy was informed that a break between Chiang Kai Shek and Feng Yu-hsiang is probably inevitable.

S[TANLEY] K. H[ORNBECK]

793.003/102 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 22, 1929—4 p. m.

[Received May 22—9 a. m.]

410. 1. I have received from the Acting Counselor in charge of the British Legation the text of a somewhat lengthy and argumentative draft note which the British Government proposes to despatch in reply to the Chinese note requesting the abolition of extraterritoriality. The draft will be considered at a meeting of the interested diplomatic representatives tomorrow morning. It is assumed that the text is also available to the Department, and I therefore shall not telegraph it unless so instructed.

⁵⁹ See *Foreign Relations*, 1928, vol. II, pp. 199 ff.

2. The French Government has authorized its Minister here to adopt as a basis for his reply to the Chinese note the draft submitted in first paragraph of my No. 368, May 9, 5 p. m.

MACMURRAY

793.003/103 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 23, 1929—6 p. m.
[Received May 23—10:55 a. m.]

413. Supplementing my No. 410, May 22, 4 p. m.

1. At this morning's meeting of interested diplomatic representatives, British Counselor explained that it is the intention of his government to despatch "in the reasonably near future" its reply to the Chinese note on extraterritoriality and that it suggests that other Governments may wish to adopt its arguments in whole or in part as a model for their replies. Although only French Minister has received instructions to that effect those present indicated a general preference for the draft submitted in my number 368, May 9, 5 p. m. For my own part I consider the British text falls between two stools in that it is too brusque in its conclusion, whereas the general effect conveyed by it is too apologetic. Japanese Chargé d'Affaires had been invited to participate in the discussions in view of the fact that Government maintains its extraterritorial rights and is about to undertake treaty negotiations in which those rights will be questioned by the Chinese. He said he had been authorized by his Government to inform us that it has no definite proposals in the matter since it has intrusted to Yoshizawa⁶⁰ a wide discretion in dealing with the matter in his treaty negotiations but that in general its position is to insist as a condition precedent to the relinquishment of extraterritoriality either throughout China or in any given territory upon the fulfillment of the recommendations of the Extraterritoriality Commission, particularly upon the freedom of residence and trade in the interior as a right correlative to the surrender of extraterritoriality.

MACMURRAY

793.003/105 : Telegram

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

LONDON, May 27, 1929—noon.
[Received May 27—11:35 a. m.⁶¹]

129. Department's 124, May 25, 5 p. m.⁶² The following is text of British draft reply which Foreign Office informs me has been tele-

⁶⁰ K. Yoshizawa, Japanese Minister in China.

⁶¹ Telegram in two sections.

⁶² Not printed.

graphed to Peking with instructions to British Chargé d'Affaires that he should communicate it to those of his colleagues who received the Chinese note with suggestions that they might incorporate in their own drafts so much of this British draft as they may consider suitable and applicable, but that Sir Austen Chamberlain⁶³ would deprecate the use of identic language in view of Chinese susceptibilities:

"Sir, I have the honor to acknowledge the receipt of your note of the 27th April in which you inform me of the desire of the National Government of the Republic of China that the restrictions imposed on the jurisdictional sovereignty of China by the system of extraterritoriality now in force should be removed at the earliest possible date with a view to the assumption of jurisdiction by China over all nationals within her domain.

2. I have communicated the contents of your letter to my Government and I am now instructed to transmit to you a reply in the following sense:

3. Animated by the friendly feelings which they have always entertained towards the Government and people of China, His Majesty's Government have given their sympathetic consideration to the request of the Chinese Government relating to the above-mentioned [*abolition of*] extraterritorial jurisdiction in China. The high importance of this subject in its bearing both on the political development of China and the future relations between China and Great Britain appears to demand that it should be closely examined from every aspect. In particular a just appreciation of the reasons for which and the manner in which the present system of extraterritoriality came into existence seems essential to a consideration of the proper method for dealing with the problem.

4. The system of extraterritoriality in force in China has its roots deep down in the past. For thousands of years before science had improved communications, the Chinese people were secluded from the rest of the world by deserts and ocean and they developed a civilization and a polity peculiar to themselves. A wide gulf was thus fixed between Europe and America on the one hand and China on the other hand.

5. In particular the conception of international relations as being the intercourse between equal and independent states—a conception which was woven into the very texture of the political ideas of the nations of the West—was entirely alien to Chinese modes of thought. When the traders of the West first found their way to the coasts of China, the Chinese Government found it difficult to allow them freely to enter into their country and mingle with their people nor did they recognize that the nations to which they belonged were the equals of China. These traders were therefore confined to a small section of a single city in one corner of the empire and while on the one hand they were subjected to many disabilities and to grave humiliations, on the other hand—by a species of amorphous and unregulated extraterritoriality, which was the natural outcome of these conditions—the responsibility of managing their own affairs and maintaining order among themselves was in some measure left to their own initiative.

⁶³ British Secretary of State for Foreign Affairs.

6. Relations continued for many years upon this insecure and unsatisfactory footing. Friction was often dangerously intense and conflicts not infrequently arose, generally out of demands that some innocent person should be surrendered for execution to expiate perhaps an accidental homicide or that foreign authority should assume responsibility for enforcing the revenue laws of China.

7. The object of the first treaties was to secure the recognition by China of Great Britain's equality with herself and to define and regulate the extraterritorial status of British subjects. Relations between the two countries having thus been placed upon a footing of equality and mutual respect, Great Britain was content that her nationals should continue to bear those responsibilities and to labor under those disabilities which respect for the sovereignty of China entailed upon them. Conditions did not permit the general opening of the interior of China, and the residence of foreigners has consequently continued down to the present day to be restricted to a limited number of cities known as treaty ports.

8. His Majesty's Government recognize the defects and inconveniences of the system of consular jurisdiction to which the Government of China have on various occasions drawn attention. In 1902 in article XII of the treaty of commerce between Great Britain and China signed in that year,⁶⁴ His Majesty's Government stated their readiness to relinquish their extraterritorial rights when they were satisfied that the state of Chinese laws, the arrangements for their administration and other considerations warranted them in so doing. They have since watched with appreciation the progress which China has made in the assimilation of western legal principles, to which reference is made in your note under reply, and they have observed with deep interest the facts set out and the recommendations made in the report of the Commission on Extraterritoriality in the year 1926.

9. More recently in the declaration which they published in December, 1926,⁶⁵ and the proposals which they made to the Chinese authorities in January, 1927,⁶⁶ His Majesty's Government have given concrete evidence of their desire to meet in a spirit of friendship and sympathy the legitimate aspirations of the Chinese people. They have already traveled some distance along the road marked out in those documents and they are willing to examine in collaboration with the Chinese Government the whole problem of extraterritorial jurisdiction with a view to ascertaining what further steps in the same direction it may be possible to take at the present time.

10. His Majesty's Government would, however, observe that the prolongation [*promulgation*] of codes embodying western legal principles represents only one portion of the task to be accomplished before it would be safe to abandon in their entirety the special arrangements which have hitherto regulated the residence of foreigners in China. In order that these reforms should become a living reality, it appears to His Majesty's Government to be necessary that western legal princi-

⁶⁴ Signed September 5, 1902; William M. Malloy (ed.) *Treaties, Conventions, etc. Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. I, pp. 343, 351.

⁶⁵ See note No. 816, December 13, 1926, from the British Ambassador, *Foreign Relations, 1926*, vol. I, p. 923.

⁶⁶ See note No. 41, January 19, 1927, from the British Ambassador, *ibid.*, 1927, vol. II, p. 344.

ples should be understood and be found acceptable by the people at large, no less than by their rulers, and that the courts which administer these laws should be free and [from] interference and dictation at the hands, not only of military chiefs, but, above all,⁶⁷ of groups and associations who either set up arbitrary and illegal tribunals of their own or attempt to use the legal courts for the furtherance of political objects rather than for the administration of equal justice between Chinese and Chinese and between Chinese and foreigners. Not until these conditions are fulfilled in far greater measure than appears to be the case today will it be practicable for British merchants to reside, trade and own property throughout the territories of China with the same equality [of] freedom and safety as these privileges are accorded to Chinese merchants in Great Britain. Any agreement purporting to accord such privileges to British merchants would remain for some time to come a mere paper agreement to which it would be impossible to give effect in practice. Any attempt prematurely to accord such privileges would not only be no benefit to British merchants but might be fraught with serious political and economic dangers to the Government and people of China.

11. So long as these conditions subsist there appears to be no practicable alternative to the treaty port system that has served for nearly a century to regulate the intercourse between China and the British subjects within her domain. Some system of extraterritoriality is the natural corollary to the maintenance of the treaty port system; and the problem as it presents itself to His Majesty's Government at the present moment is to discover what further modifications in that system, beyond those already made and alluded to above, it would be desirable and practicable to effect.

12. His Majesty's Government await the further proposals of the National Government as to the procedure now to be adopted for examining this question, and they instruct me to assure Your Excellency that they will continue to maintain towards any such proposals the same friendly and helpful attitude to which Your Excellency has paid so generous a tribute in the concluding paragraph of your note under reply."⁶⁸

ATHERTON

793.003/106 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, May 31, 1929—3 p. m.

[Received May 31—7:48 a. m.]

435. Following from the Minister at Nanking:

May 30, 9 p. m. Today the Japanese Minister informed several of his colleagues, myself included, that he had received a confidential intimation from a "fairly authoritative source" in the Chinese Govern-

⁶⁷ These two words erroneously inserted.

⁶⁸ This note, with slight modifications and dated August 10, 1929, was published; see *The China Year Book*, 1929-30, p. 908.

ment of its intention to declare the abolition next January 1 of all extraterritorial rights. The Belgian Minister said he, too, had received a somewhat less definite intimation from the Minister for Foreign Affairs to the same effect.

For the Minister:
PERKINS

793.003/111

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] June 8, 1929.

The British Ambassador called upon the Secretary this morning. He referred to the note of the Chinese Government to the Powers on the subject of extraterritoriality and to the draft reply which he stated had been prepared in Peking by Mr. MacMurray, the American Minister, at the request of the Powers. He stated that his own Government, while it had considered that this reply was usefully suggestive, had nevertheless felt that out of respect for Chinese sensibilities the Powers should write similar rather than identic replies to the Chinese note and that therefore the British Government has had prepared a draft which it had communicated to its minister at Peking and which, he understood, had been made available to us. He asked what steps we had taken in the matter.

The Secretary stated that he had seen the note drafted in Peking, although the information from our legation had not indicated that it was the draft of Mr. MacMurray alone. He said he had also read over the draft which the British Government had prepared and he felt that our attitude on the subject brought up by the Chinese Government was not different from that evidenced by the British Government's note. He stated that he had not had an opportunity to go over the draft reply which was being prepared in the Department, but that he expected to give consideration to the question as soon as the draft was ready. He said he felt sure that we should not prematurely give to the Chinese Government information as to what would be contained in our respective replies. He said his own opinion was that China was not in a position to permit of the relinquishment of extraterritorial rights. He said, however, that this was a matter he felt certain he should discuss very carefully with the President before any decision would be reached because he thought the President, with his own personal knowledge of China, would have ideas on the subject.

The Secretary asked the British Ambassador whether the British Government had considered the possibility that the Chinese Government might denounce the extraterritorial provisions of the treaties without further ado and he said he understood that such a policy had even been threatened by the Chinese at one time. The British Am-

bassador stated that he did not know whether his Government had any policy prepared for such an event. He said he would be very glad to ask his Government about this matter.

N[ELSON] T. J[OHNSON]

793.003/116

The Minister in the Netherlands (Tobin) to the Secretary of State

No. 1922

THE HAGUE, June 11, 1929.

[Received June 24.]

SIR: With reference to my despatches Nos. 1901, of March [May] 22, and 1909, of March [May] 28, 1929,⁶⁹ I have the honor to report that the Dutch Government's reply to the recent Chinese Note on extra-territoriality has been sent to Peking but has not yet been handed to the Chinese Government. The Note states, in conciliatory terms, that Holland cannot accept the Chinese demand for immediate abrogation of these rights because a reasonable protection of Dutch interests is still deemed necessary.

The Dutch reply contains no concrete proposal but it points out that while the Netherland Government is not opposed to the eventual satisfaction of the Chinese aspirations, it is not prepared to grant all at once and that it continues to subscribe to the findings of the Extra-territoriality Commission that the abandonment of such rights should be gradual.

Judging from the pertinent portions of the Note which were read its tone, though friendly, is firm. It tends to confirm the Legation's impression that the Foreign Office is not quite as sympathetic to China's appeal as was the case last year.

I have [etc.]

RICHARD M. TOBIN

793.003/112

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] June 13, 1929.

The Dutch Minister came to see me this morning. He asked whether there was any change in the situation regarding China. I told him there was not. I said we had received a note from the Chinese asking us to relinquish our extraterritorial rights in China similar to the one which I understood his Government had received. I stated that we were considering our reply to this note and that we had not completed our reply and probably would not complete it for some days. I told him we had received a despatch from The Hague⁷⁰ reporting that the Dutch Minister for Foreign Affairs had spoken to our Min-

⁶⁹ Neither printed.

⁷⁰ Not printed.

ister regarding the note and had expressed a view that the powers having similar views on the subject in replying to the Chinese note should express their views in words that were not identic. I stated that it was our understanding that the British also held this view and I thought that we would also feel this way about the matter. The Minister said he thought that this was a very wise viewpoint as it would do away with the old idea that the powers were merely acting in concert. He stated that he hoped, however, that nothing would be done to give up the guarantees which we now had in China as to do so at this time meant that we were lost.

N[ELSON] T. J[OHNSON]

711.933/65 : Telegram

*The American Chamber of Commerce at Hankow to President Hoover*⁷¹

SHANGHAI, June 17, 1929.

With reference to recent Chinese request for abolition of extra-territorial rights we earnestly request fullest consideration following views derived from past and present experiences. Chinese courts powerless before arbitrary action dictated by military who are subject to no civil control. Widespread lawlessness and radicalism now exist and progress toward unification extremely uncertain and entirely subordinate to will of individual militarists. Under these circumstances Chinese Government unable fulfill guarantees and while in hearty sympathy with Chinese national aspirations we are strongly opposed to any definite commitment by American Government tending to modify at this time extraterritorial status of Americans and American-vested interests in China.

AMERICAN CHAMBER OF COMMERCE OF HANKOW, CHINA

893.00/10497

Memorandum by the Assistant Secretary of State (Johnson) of a Conversation With Mr. Thomas F. Millard, Adviser to the Chinese Government

[WASHINGTON,] June 21, 1929.

Mr. Thomas F. Millard called upon me this afternoon and stated that yesterday he had been to see the President and had had an opportunity to say to him certain things and that the President had asked him whether he had seen the Secretary. Mr. Millard spoke up and said he had not seen the Secretary and did not expect to see him on this visit but that he had seen me. Mr. Millard stated that

⁷¹ Received in the Department on June 19, 1929.

the President asked him to say to the Department the things which he had said to the President.

Mr. Millard stated he had endeavored to mention three points to the President during the short period that he had to talk with him. The first one was that Nanking is and is to be the permanent seat of government in China. Mr. Millard stated he felt that this decision on the part of the Chinese was not only of benefit to them but also of benefit to foreigners as it brought the Government closer to the center of business and the center of Chinese population where foreigners came in contact with the Chinese. He stated he felt that our Legation at Peking was isolated from Nanking and that arrangements should be made to move the Legation to Nanking. He said it was entirely possible for us to rent a house in Shanghai for the Minister in order to enable him to maintain contacts with Nanking during the period while there was a house shortage in Nanking as Nanking was in close contact with Shanghai by rail and by telephone and also as the Minister for Foreign Affairs maintained a permanent establishment in Shanghai where Mr. Millard had an office.

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Point no. 3 was the question of treaty revision. Mr. Millard stated that this was a question to which we must give serious thought, that it was not an impending question in any sense that must necessarily come up within the next few weeks but that it must and would come up within the next few months. He said the Chinese were bending every effort to be ready on the first of January, 1930, to go to the governments and state that they had now prepared certain codes and they had established certain courts and that now they expected the powers to give up their extraterritorial rights. He said he told the President that in this connection there was no question of any retreat so far as the Chinese were concerned; that while the present government might be considered a moderate government, whatever government might succeed it must of necessity take this stand on the question of extraterritoriality as there was plenty of sentiment in China among those actively interested in such matters to force any spokesman for China to take this stand. He stated that there was a large radical element in China which was using this as a whip to beat the present government with; that they were constantly being charged with bowing down to the will of the foreign powers in these matters and that whatever our desires might be or whatever moderate desires there might exist among individual Chinese minds, no government could expect to stand or carry on successfully in its work of stabilization that did not press this question at this time or at any future time. He said he felt we might just as well recognize this now as later as it was

something we must decide. He pointed out that we could only follow two paths in this matter; one was the path of yielding to the Chinese and getting whatever credit there was to be gotten for such action; the other would be to refuse to yield and to use force for the purpose of making our refusal good. He did not believe that we could or would use force in the premises and therefore felt that our only road could be the first. He stated that the Chinese were very anxious to find out some method of approaching us on this question, that they were very anxious to find some basis for negotiation with us as they felt that they could get a squarer deal on this question from us than from any other power because we had no territorial or political ambitions in that direction.

Mr. Millard stated that he had given a great deal of consideration to this question in the past; that he believed there had been a time, some two or three years ago, when the Chinese might have been willing to agree to some method of gradual abandonment of ex[tra]territorial privileges, but that now the Chinese would no longer agree to any gradual steps and that C. T. Wang, or any other foreign minister, could not obtain the approval of the Executive committee of the Government of any plan of that sort; that they would demand and must demand immediate and unconditional surrender of extraterritorial rights.

Mr. Millard stated that the above represented the substance of what he had said to the President; that he expected to be in Washington at some future time but was going to New York this afternoon. He said his permanent address in New York was care of the Lambs Club.

N[ELSON] T. J[OHNSON]

711.933/63 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, June 25, 1929—2 p. m.

213. Reference your 459, June 10, 5 p. m.² With care and great interest I have read the account of the conversation between you and Dr. Wang Chung-hui, Minister of Justice, particularly in view of the consideration being given now to the nature of our reply to the note on the subject of extraterritorial rights from the Chinese Government.

In assuming that Dr. Wang Chung-hui's statements lend confirmation to apprehensions regarding the difficulties enveloping American citizens and their interests should extraterritorial jurisdiction over

² Not printed.

them be relinquished at the present time and, therefore, that the Department should adopt the text you recommend in your telegram 368, May 9, 5 p. m., or another drafted along similar lines, I desire to have your telegraphic opinion concerning the form the situation then will take and the nature of efforts the United States should make either in guiding events or in meeting them.

I should like to have your opinion all the more because Dr. Wang Chung-hui's statements to you may be considered to be evidence of the Chinese authorities seriously contemplating the forcing of the extraterritorial rights issue by precipitating a crisis on the question no later than January 1, 1930. (I refer, in this connection, to his statements in your 459, paragraphs (9), (10), and (11).) By negotiating treaties with the Governments of Belgium, Italy, Denmark, Portugal, and Spain, which countries have accepted that date for conditionally relinquishing their extraterritorial rights, the Chinese have already prepared the way for such a step. It is even likely that the Chinese may intend taking drastic steps in denouncing their treaty with the United States, unless the latter voluntarily relinquishes its extraterritorial rights by next January.

STIMSON

711.933/72 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 5, 1929—7 p. m.

[Received 10 p. m.⁷³]

541. Reference your 213, June 25, 2 p. m.

(1) I have no doubt that the Chinese do plan to force the extraterritoriality issue by January 1, 1930. They are emboldened to try this because they are convinced that the principal powers concerned (namely, the United States, Great Britain, and, in lesser degree, France, Japan, and the Netherlands) will not be able to agree on common action to maintain their rights and separately will yield the substance of their position in order to placate the Nationalist Government of China, thereby avoiding the sort of agitation which the Chinese Government can bring to bear against them. Should the Chinese be correct in this estimate, the fact may as well be faced that American and other foreign interests will be subjected in China to such treatment as will tend to drive them out and also to create ever-increasing tension in relations with China.

(2) However, should the principal powers interested be resolutely determined to do what they can in retaining rights they still need,

⁷³ Telegram in two sections.

instead of the preservation of normal politico-economic relations with a country which is not yet in a position, as regards the administration of justice, to exercise the responsibilities of sovereignty, my firm belief is that it is quite possible for these powers successfully to resist the present Chinese effort to deprive them of their existing rights. Knowing the will of the powers is the fundamental matter involved, and I do not believe the Chinese would risk proceeding against that will if they were convinced it was shared by the four mentioned Governments or even by three of them, the United States, Great Britain, and France, with a sympathetic Japan. In fact, I am of the belief that the Chinese would not even try to force the issue if it were realized beyond peradventure by them that this step would antagonize the United States Government and jeopardize both the moral support now given them and the financial support they hope our people will give them. . . . Therefore, I feel it is entirely feasible for the United States, particularly in cooperation with Great Britain, France, and Japan, to prevent this issue being forced upon us by the Chinese.

(3) The first step to that end would be to dispatch notes along the lines suggested in my 368, May 9, 5 p. m. However, it is, of course, to be anticipated that the Chinese will doubt whether we mean what the notes say or whether we are merely, for the sake of the record, entering *pro forma* protests pending readiness to yield our position. For our intention to be convincing, it would be necessary for the United States, in regard to the concrete case of the Provisional Court at Shanghai (see my 520, June 29, noon),⁷⁴ to make unequivocally clear that repudiation of the 1926 rendition agreement would be regarded by us as restoring the *status quo ante*, thus forcing the reestablishment and maintenance by us of the Mixed Court as it existed prior to the Provisional Court's institution. Further, it would be of the utmost value if the Secretary of State should impress upon the Chinese Minister that the continual presumption upon American goodwill and evading of obligations to the United States Government and people are not merely remote incidents (concerning which our interest is exhausted by routine representations of the Legation in China.) but fundamentally concern our Government in determination of its attitude to the régime now seeking to be established as the Government of China. Should we make known, with sufficient firmness and definiteness, our unwillingness to tolerate any further disregard of our rights, I am certain in my own mind that we may expect not only to avert a premature forcing of the extra-territoriality issue, but also to find a greater Chinese disposition to respect American rights in other matters. I would make one proviso,

⁷⁴ *Post*, p. 684.

namely, that the manifestation of our intention should occur soon enough to obviate the initiation and publicity for plans by the Chinese which would commit them to such an extent that a graceful withdrawal would not be possible.

(4) . . .

(5) From the indications I have received from my colleagues representing Great Britain, France, Japan, and the Netherlands, their Governments would appear to be disposed toward cooperation with the United States in making a stand upon extraterritoriality as a fundamental issue. My earnest hope is that the Secretary of State may see fit to assume the leadership and, supported by the other interested powers, to take a definite and prompt position in what seems to me to be the vital point in our China relations.

MACMURRAY

793.003/122 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 9, 1929—9 a. m.

[Received 11:15 a. m.⁷⁵]

551. My 368, May 9, 5 p. m., and second paragraph of 410, May 22, 4 p. m. The following is the translation of the French reply to Dr. Wang's note of April 27⁷⁶ which however Count de Martel will not despatch as agreed upon at Nanking until all his colleagues are in a position to reply.⁷⁷

"I have the honor to acknowledge the receipt of the note dated the 27th of last April in which you expressed the hope that the French Government would give immediate and friendly consideration to the desire of the Chinese Government to be enabled to exercise its jurisdictional authority over all residents of China.

After having taken cognizance of this communication, which was the object, on its part, of careful consideration, the French Government has charged me to remind Your Excellency that during the course of the Washington Conference it gladly gave its approval to the resolution of December 10, 1921, by the terms of which was established an International Commission charged with the study of extraterritoriality in China.

In its report of September 16, 1926, this Commission formulated recommendations the application of which would permit the powers to renounce extraterritoriality.

⁷⁵ Telegram in three sections.

⁷⁶ See note of May 2 from the Chinese Minister, p. 559.

⁷⁷ The note delivered to the Chinese Minister for Foreign Affairs was dated August 10, 1929. Bracketed corrections based on French text transmitted to the Department by the Minister in China in his despatch No. 2290, August 28; received September 27 (793.003/162).

Taking into consideration the fact[s] revealed by the said Commission, the French Government feels that, for the realization of conditions favorable to the abandonment of extraterritorial rights which its nationals enjoy by virtue of the treaty of 1858, it is indispensable that the Government of China proceed to the reformation of its laws, its judicial institutions and its method of the administration of justice [*judicial administration*], in conformity with the recommendations of the Commission, [recommendations] in which the Chinese delegate concurred. When [*It is when*] these reforms shall have been effected and shall actually have been put into practice [that] the rights of residence and of the possession of immovable property and the right to engage in commerce throughout all China, a necessary counterpart to the abandonment of extraterritoriality, may constitute for French residents a real benefit equivalent to that enjoyed by the Chinese in France.

The Government of France, animated by the sentiments of friendship which it has always manifested towards the Chinese people and of which it gave a further proof last year upon the occasion of the signing of the treaty relating to tariff autonomy,⁷⁸ does not doubt but that the Chinese Government will make every effort to fulfill the conditions necessary to the examination of the problem of extraterritoriality.

It is in this spirit that, faithful to its liberal traditions, it has empowered me to assure you that it will continue to take an attentive interest in the reforms which remain to be accomplished toward the [*this*] end and that it will take note of all facts capable of demonstrating that these reforms have effectively entered into the administrative and judicial practice of the authorities and the population of China.

It will not fail likewise to take advantage of occasions which present themselves for effective collaboration with the Chinese authorities, striving thereby to bring about most promptly a state of affairs which would permit it to modify with the necessary guaranties the present juridical status of French residents in China."

MACMURRAY

711.933/72 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, July 9, 1929—5 p. m.

226. (1) I have been led to study with care your important telegram 541, July 5, 7 p. m., owing to the importance of the views and recommendations therein set down, and I find that there remain certain matters about which I would like you to telegraph your views in greater detail. I should like, for instance, to have a somewhat clearer idea as to what evaded obligations you mean, before I discuss with the Chinese Minister the question of the Chinese presuming upon our good will and their evasion of obligations.

⁷⁸ Signed December 22, 1928; League of Nations Treaty Series, vol. xii, p. 267.
323423—43—vol. II—46

(2) Your recommendation in paragraph (5) is, as I understand it, that this country take the leadership in organizing what would amount to an anti-China international bloc. Of course, such a step would involve my substituting for the independent policy followed hitherto, a policy of international cooperation. This is of such moment that I would appreciate, before a decision is made in the matter, having your views regarding the very obvious dangers which are involved, such as the certain defection, when its national interests can be better served by some other policy, of any member of the group, in which event the United States would be left isolated; and also the undoubted probability that such a reversal of policy would mean losing the country's support, which the Coolidge administration had for its independent China policy. I feel that this Government would be justified to take such risks only in facing some supreme emergency. Although I have not failed in noting your belief that, unless there is adopted such a policy of international cooperation led by the United States, "the fact may as well be faced that American and other foreign interests will be subjected in China to such treatment as will tend to drive them out and also to create ever-increasing tension in relations with China," this is so contrary to the beliefs and the information current here that I am anxious to have your reasons in some detail for holding this view.

(3) The very fact that you condition the success of international joint action upon its being taken soon enough in order to forestall the Chinese in initiating and publishing plans which would commit them so far that their withdrawal without loss of face would be impossible, raises the question as to whether the hour may perhaps have already passed when anything can be accomplished by the powers through such means as suggested by you. As evidence that the Chinese Government would seem to have gone far in making its plans and in announcing them, it may be recalled that the American press some time ago reported a public statement, said to have been made by President Chiang Kai-shek, guaranteeing that the National Government would do away by January 1, 1930, with the extraterritorial privileges of foreign countries. The treaties I cited in my telegram 213, June 25, 2 p. m., clearly seem to be based on some such plan. The statement which Minister of Justice Wang Chung-hui made to you (see your telegram 459, June 10, 5 p. m.),⁷⁹ and which he publicly repeated the other day to press representatives in New York, would seem to confirm this view, as do also the Chinese demands on the British, as reported in your telegram 510, June 26, noon.⁸⁰

STIMSON

⁷⁹ Not printed.

⁸⁰ *Post*, p. 823.

793.003/105 : Telegram

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

[Paraphrase]

WASHINGTON, July 10, 1929—5 p. m.

172. Reference your 129, May 27, noon. The pressure which the National Government of China is bringing upon the powers on the question of extraterritoriality is receiving my very careful and anxious attention. From evidence available to me it seems clear that the recommendations made and reported in 1926 by the Commission on Extraterritoriality sent to China in 1925, have not been put into effect by the Chinese. Particularly I refer to the reforms which that Commission deemed to be necessary in the Chinese administration of justice prior to the relinquishment of consular courts. The assumption might be warranted from these circumstances that acceding at this time to Chinese pressure would jeopardize the interests of foreigners who reside and do business in China and that endeavoring to hold back and persuade the Chinese to adopt a plan for gradually relinquishing extraterritorial rights would be the better policy. From such information as I have from France and other powers concerned, it is indicated that they are of this opinion.

However, the National Government and leaders connected therewith apparently are preparing for denunciation of the treaties which contain extraterritorial provisions, or, at least, for bringing on a crisis not later than January 1, 1930, as regards extraterritoriality, thereby precipitating a situation making such a better policy possibly doubtful of accomplishment.

The British draft reply to the Chinese note of April 27 on extraterritoriality was communicated to me in your 129, May 27, noon; and I have very carefully studied the draft replies to China as prepared by Great Britain and France. The Legation in China has informed the Department that the British Minister, acting on instructions from his Government, during a recent visit in Nanking presented to the Chinese Minister for Foreign Affairs a draft commercial treaty which studiously omitted all clauses in any way touching upon extraterritoriality, but that on its side the Chinese Government had prepared a draft which contained provisions concerning British abandonment of extraterritorial rights. Having requested instructions, Sir Miles Lampson was informed by the British Government that the Chinese proposals were so sweeping that it would not be possible to formulate other instructions prior to the Minister's return to Peking. Negotiations with the Chinese had therefore been suspended.

Since the recent change in the British Government may involve a change in the China policy of Great Britain, I wish you to make discreet inquiries and to give me your opinion concerning this matter, specifically as regards the extraterritoriality question. In the inquiries which you make, I do not object to your use of information from me as given above, but I would wish you to avoid implying in any way that the United States Government desires to invite the British Government's support for any particular policy.

STIMSON

793.003/125 : Telegram

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

[Paraphrase]

LONDON, July 15, 1929—6 p. m.

[Received July 15—2:40 p. m.]

191. Reference the Embassy's despatch No. 59, July 8,⁸¹ due to reach the Department July 16. Its enclosure 3 contains an important statement by the Secretary of State for Foreign Affairs on China.⁸² While discussing this statement today in connection with the Department's 172, July 10, 5 p. m., the Foreign Office stated that the proposed commercial treaty had been drafted last winter in an attempt to embody in the form of a treaty all the problems which relate solely to China and Great Britain, in the hope that thereby Anglo-Chinese trade relations would be improved; hence the international question of extraterritoriality was not mentioned in this proposed draft. In reply to the proposed commercial treaty, the Chinese submitted the draft of a text which evidently was based on the 1926 Austro-Chinese treaty.⁸³ As yet, however, no date has been set for the tributary conference which the Foreign Secretary mentioned in his remarks. The Foreign Office states that Sir Miles Lampson also discussed the subject of extraterritorial rights and, referring to the four points Dr. Wang raised, said that the British attitude remained unchanged on the subject and was based on the recommendations in the 1926 report of the Extraterritoriality Commission.

After further discussion I shall again telegraph a report.

DAWES

⁸¹ Not printed.

⁸² See Great Britain, *Parliamentary Debates*, 5th series, vol. 229, pp. 411 ff.

⁸³ See treaty of commerce signed at Vienna on October 19, 1925; League of Nations Treaty Series, vol. LV. p. 9.

711.933/76 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, July 15, 1929—7 p. m.⁸⁴

[Received July 16—5:34 p. m.]

573. For the Secretary of State: Reference your 226, July 9, 5 p. m.

(1) Reference your paragraph (1). What follows here relates to the events and conditions of the last 4 years only, with no differentiation between the various regimes which were established in Peking and the Nationalist regime which is now established in Nanking, because the objectives pursued by these regimes and (to an extent greater than is commonly realized) the personnel actually dealing with foreign relations have coincided to a large degree, the difference between the two groups having been chiefly one of degree instead of kind.

In regard to the so-called "unequal treaties" which China has claimed were forced upon it in the period of subjection, the principle of action which has prevailed is that no obligation binds China if it is found to be irksome. Not only have political agitators proclaimed this principle, but even the more well-disposed and sober political leaders have accepted it as axiomatic. The clearest examples of its application are, perhaps, in the case of matters concerning the Customs. Some two years ago, admittedly in violation of treaties and despite protests, the so-called 2½ percent interim surtax was put into force. When the treaty powers, other than Japan, had acquiesced, the Chinese authorities ignored their correlative undertaking that likin would be done away with. Again, after various powers, including the United States, had concluded tariff treaties, in which the treaty restrictions upon China's tariff autonomy were relinquished as from a given date, the Chinese authorities availed themselves, prior to the coming into effect of the United States and various of the other treaties, of this renunciation. Furthermore, in subsequent negotiations it was disclosed by others that the Chinese had adopted and were endeavoring to give effect, in the case of other powers, to a construction of the text of the American treaty which would largely have nullified the non-discriminatory treatment principle.⁸⁵

(2) Not only in regard to treaties allegedly concluded under duress, but also in regard to treaties to which China at the Washington Conference was a voluntary and even a solicitous party, the Chinese have adopted and have acted upon the view that China would be bound only by provisions which were deemed to be favorable to Chinese

⁸⁴ Completed July 16, 1929, at 4 p.m.

⁸⁵ See pp. 773 ff.

interests. A direct statement to this effect was made to me by Dr. C. T. Wang, now Minister for Foreign Affairs, on the eve of the Special Tariff Conference in 1925 at Peking when he was chairman of the Chinese delegation. An attentive examination of the Washington Conference treaties and resolutions reveals that hardly an obligation therein assumed by China has not been evaded, ignored, or repudiated. Related closely to the question of the Washington Conference treaties is the question of the Federal Telegraph contract; by an understanding between the then Chinese Minister Sze and the then Secretary of State Hughes this had been made a test case of the open-door policy. My personal efforts to have this contract carried out during the autumn of 1925 merely resulted in an exchange of notes⁸⁶ which professed to pave the way for action, but the Chinese refused thereafter to take it. . . .

(3) When, going behind the terms of the treaties, the American oil and tobacco companies had drawn up definite contracts with the Ministry of Finance, by which the companies, by paying fixed special taxes, would commute other taxation upon their respective products, they were shortly told by the Finance Ministry that it was in need of more funds, that the trade could stand it, and that, therefore, the contracts would have to be replaced by new contracts which would greatly increase the special taxes. Only an insignificant fraction of the very considerable financial obligations of the Chinese Government to Americans has been or is being paid, even as to interest. Transfers of provincial revenues have not met the defaults in payment of the Hukuang loan, as stipulated by article 9 of the loan contract, and despite protests various other loans, in disregard of the apparently clear equity which the Hukuang loan contract establishes, have been made first charges on the increase in Customs revenues. The Chicago bank and the Pacific Development Company loans continue completely in default, and the refusal to put their provisions for security into effect continues. Unpaid and ignored are the large accounts to supply railways and other government services with American equipment; and in cases such as the car-accounting agreement on the Peking-Suiyuan Railway the carrying into effect of definite arrangements to liquidate the accounts has not been permitted by the authorities. Americans who were employed as technical experts and advisers under contract by the regimes which preceded establishment of the Nanking Government, not only are unpaid but cannot obtain a clarification of their status by having their resignations accepted.

(4) The greatest difficulty is constantly met in inducing the Government in China to take an adequate view of their obligations under international law to afford the usual protection to the persons and

⁸⁶ Dated October 6, 8, 1925; see *Foreign Relations*, 1925, vol. I, pp. 930-932.

property of resident aliens. In the Department files are numerous claims arising from torts for which Chinese Government agents have been held responsible; and for years the Chinese Government has evinced toward such claims either little or no interest providing adequate compensation.

(5) Even in a matter such as the gift to China by the United States in the shape of the indemnity remission of 1924,⁸⁷ a diversion of the funds from the agreed object was attempted and unquestionably would have been carried through had the United States not been in a position to retain the installments when due.

(6) Some of the principal evasions of general obligations are cited above. The individual evasions by provincial and local officials in China of particular responsibilities are so numerous and occur so constantly that it would be idle in a telegram of this character to attempt recapitulating or describing what may, in fact, be said to constitute the daily routine in China of every diplomatic and consular official; namely, the effort to induce the Chinese authorities even moderately to carry out their express agreements or in other circumstances to do simple equity.

(7) Reference your paragraph (2). According to my understanding, the acts of the Washington Conference were intended to establish among the interested nations, including China, the principle of cooperation in working out the problems arising from China's particular conditions; they took cognizance of existing treaties as essential elements in said conditions, and provided, in the case of extraterritoriality, for means which might make possible an orderly and legal adaptation to improved conditions such as China might succeed in bringing about. If China, which sought eagerly the establishment of these arrangements, were now to withdraw from the afforded international cooperation, repudiate the arrangement to deal with extraterritoriality, and defy the powers which have not yielded such rights, it is rather China electing to place itself in opposition to the powers having common interests in this regard and not we who are organizing an international bloc against China.

(8) The Coolidge administration's independent policy in China I have hitherto persisted in and tried to carry out, on the assumption that it, like its predecessor, still recognized international cooperation concerning Chinese affairs as a desideratum, while liberty of action was reserved to it in those cases in which American interests and policies might be found irreconcilable with those of other nations; but, as I understand it, it has not placed the United States under any necessity to pursue a different course from that of other governments. Therefore, I should not have inferred, from either the

⁸⁷ See *ibid.*, 1924, vol. I, pp. 551 ff., and *ibid.*, 1925, vol. I, pp. 935 ff.

instructions heretofore sent me or my actual experience in the last four years, that the fact of cooperation by the United States with other nations in protecting common interests or in preserving identical rights would have involved any reversal of policy.

(9) Regarding the danger of any nation thus associated with the United States dropping out, my own view is that the danger of the United States being "let down" by the most vitally affected nations would be negligible in proportion to the definite understanding of the objective of American cooperation. . . .

(10) As to the tendencies of American public opinion, I am, of course, not competent to advise. However, may I offer the query whether the knowledge that the Hoover administration proposes resolutely to discountenance the forcing upon the United States by China of an issue involving the flagrant and open repudiation of treaty obligations would jeopardize the support by home opinion of the administration's policy. Further it may be asked whether in that case any danger of immediate popular reaction compares with what seems to me to be the certainty that, if Chinese-American relations continue taking the course indicated now by China's present political leaders, American public opinion will suffer within a few years such disillusionment and violent revulsion of feeling as were characteristic of Japanese-American relations in the period immediately after the Russo-Japanese War.

(11) Even if the risks of betrayal by the associates of the United States and of alienation from its China policy of home opinion were as great as feared, still I should urge that the proposed denunciation of extraterritoriality by China threatens so vital an emergency as to justify the United States in taking such risks. . . .

(12) It is not easy to make a detailed statement of the reasons for believing that American and other foreign interests, in such a contingency as is contemplated, would tend to be driven out of China. This is sensed in the temper and attitude among the Chinese, even of one's personal friends, and is also apparent in incidents, in themselves trivial, which constantly recur and convey in their total the inevitable impression that a desire is widespread and easily aroused to humiliate and be rid of foreigners as such. Confirmed indirectly by the occasional comments of officials, the most far-reaching and significant was that of Dr. Wang Chung-hui, Minister of Justice, as reported in my 459, June 10, 5 p. m.⁸⁸ I believe this conviction prevails generally among the best-informed Americans resident in China. While it has been expressed more freely by members of the business community, even among missionary institutions officially proclaiming their hope that adaptation to new conditions will succeed, there

⁸⁸ Not printed.

is, I have reason to believe, a very impressive proportion of local workers who are skeptical, if they are not indeed persuaded that they are now gallantly fighting for a lost cause. The results of past developments appear in the very considerable personnel reductions and retrenchments adopted by both business and missionary organizations which maintain fixed staffs in China and, more generally, in the evident diminution during the last three years of American residents. Although at Shanghai, it is true, there is a considerable influx of new individuals and firms which have arrived in the hope that relations may be established with what is understood to be a new order here, with a sound economic and political basis, the fact remains that there has been, on the whole, a conspicuous exodus of Americans from all other ports and from the interior, many of whom have informed me that they were departing from China because of the feeling that the Chinese were making it more and more impossible for them and other foreigners to live here.

(13) In the absence of extraterritoriality, it seems to me that the expected intensified harassment of foreigners and their interests would lead inevitably to a year-after-year embitterment of relations. The contention that a premature concession on the part of the United States would ease the situation is, in my opinion, entirely without foundation. No one who is familiar with Chinese temperament and traditions can suppose that any yielding on an issue will dissuade the Chinese from raising further issues. In 1908 the United States remitted a portion of the Boxer indemnity; the Chinese then asked remission of the remainder, this being agreed to in 1924; and now the fact of such remission of the American indemnity is made the basis of their claim that the United States has abandoned all its rights under the Boxer Protocol of 1901⁸⁹ and ought to be forced to recognize the latter as obsolete. At the Washington Conference the United States agreed to an increased Chinese customs tariff, following abolition of likin, but the Chinese thereupon demanded that complete tariff autonomy be given in exchange for likin abolition; the United States accepted the principle of Chinese tariff autonomy subject to likin abolition and the funding of China's unsecured debts, then waived its insistence on the latter condition during the Peking Conference; the Chinese, however, insisted that tariff autonomy be granted without any condition whatsoever; the United States signed a treaty granting China tariff autonomy without condition, although on the understanding that American trade should not be discriminated against; and the Chinese then tried to pare down the meaning of the nondiscrimination clause in the treaty. In negotiations by

⁸⁹ Signed at Peking on September 7, 1901, *Foreign Relations*, 1901, appendix (Affairs in China), p. 312.

the United States or by other powers with the Chinese, every example I know evidences similarly that the Chinese make a new demand on the basis of each demand already granted. It is possible for the United States either to contend for any given right or else to abandon the same; but it would be deceiving ourselves to assume that we would gain any assurance of better treatment for American citizens in other respects by giving up any right.

(14) Reference your paragraph (3). Announcements that the Nanking Government intends to abolish extraterritoriality on January 1 have become increasingly frequent; on July 12 one was made in Peking by the Minister for Foreign Affairs in an interview given representatives of the native and foreign press. So far as I am aware, however, all these statements have been made orally; and, judging from my experience of the adroitness with which Chinese gracefully retire from a difficult position, I am inclined to regard these statements still as in the nature of *ballons d'essai* rather than of binding pronouncements. It is not too late, I believe, to avert a forcing of the issue (as was recommended in my 541, July 5, 7 p. m.), but the possibility of doing this or of avoiding friction by so doing will decrease rapidly, as such statements become both more frequent and more confident.

MACMURRAY

793.003/130 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 15, 1929—8 p. m.

[Received July 17—9:40 a. m.⁹⁰]

574. Referring to my telegram No. 410, May 22, 4 p. m., and my No. 551, July 9, 9 p. m. [*a. m.*]

1. The following is the substantive portion of the Netherlands Minister's draft reply⁹¹ to the note of the Minister for Foreign Affairs on extraterritoriality dated April 27th.⁹²

"Her Majesty's Government has given this request its most careful consideration, and now instructs me to inform Your Excellency that, in the same way as it was happy to join the other powers in bringing about the resolution adopted on the 10th December, 1921 by the Washington Conference on the Limitation of Armament, which placed on record its systematic [*sympathetic*] disposition towards China's aspiration, it will be pleased to cooperate with these powers and with China for the realization and fulfillment of China's desire with regard to the question of jurisdiction.

⁹⁰ Telegram in three sections.

⁹¹ The note delivered to the Chinese Minister for Foreign Affairs was dated August 10, 1929.

⁹² See note of May 2 from the Chinese Minister, p. 559.

It may here be recalled that with this end in view her Majesty's Government wholeheartedly participated in the work of the International Commission which was instituted as a result of the above-mentioned resolution and which drew up a number of valuable recommendations for the benefit of the Chinese Government.

It cannot be gainsaid that there exists a close relationship between the internal situation of China and the guarantees which the laws and their administration in the whole of China offered to foreign rights and interests on the one hand and the measure of progress which it will be possible to make on the road to abolition of the special arrangement[s] now in force with regard to foreigners on the other. The possibility for Netherlands subjects to enjoy liberty of trade, of residence and of the exercise of civil rights, including that of owning property throughout the whole of China, is in the same way closely connected with the degree of security existing in the interior of the country and with the safeguards which the Chinese judicial institutions offer with a view to their independence and their immunity from interference by military and political authorities.

In conclusion I am desired by Her Majesty's Government to assure Your Excellency that its sympathetic attitude towards China with regard to the above questions remains unchanged and that therefore when the introduction and the effective acceptance by the country of modern institutions guaranteeing the administration of just laws by an independent and unassailable judiciary will have rendered useful reforms possible in the matter of jurisdiction over Netherlands nationals, it will be found ready to act in unison with the governments of the powers who were represented at the Conference of Washington with the object of examining the possibility of meeting the aspiration to which the Chinese delegation at the said Conference gave expression and which is reiterated in Your Excellency's note under reply."

3. The British, French and Netherlands Legations are still holding their replies in the hope of its proving possible to dispatch [them] simultaneously with ours.

MACMURRAY

793.003/128 : Telegram

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

[Paraphrase]

LONDON, July 16, 1929—5 p. m.

[Received 6:55 p. m.]

195. Reference the Embassy's 192, July 16, 11 a. m.,⁹³ and 191, July 15, 6 p. m. This morning the Foreign Office confirmed the fact that the Shanghai negotiations had begun July 5 and added that the Ministers of Great Britain, Japan, and the United States in Peking also were discussing extraterritoriality.

⁹³ Not printed.

The Counselor of Embassy this morning saw Wellesley of the Foreign Office and was told definitely that the present British Government is so concerned with various important questions that it has no time for consideration of China policy; Wellesley is personally satisfied that there will not be any deviation from the Baldwin Government's general policy. He said he had conversed recently with the Japanese Ambassador Matsudaira regarding what appears to be a difference in Anglo-Japanese proposals on extraterritoriality; and Atherton gathered that the immediate policies of Great Britain and Japan in China are based actually on trade extension possibilities. Japanese policy on extraterritoriality, as outlined by Wellesley, envisages shortly a soothing statement to the Chinese, intimating that, if there is even an "academic" fulfillment of the recommendations made in 1926 by the Extraterritoriality Commission, Japan will be willing to contemplate taking steps to waive its extraterritorial rights. The British, he said, felt, on the other hand, that any mention of the Commission on Extraterritoriality was anathema to the Chinese, and instead favored stating to the Chinese Government that, if China advances any confirmed evidence of improved conditions warranting a gradual abolition of extraterritoriality, the British would be sympathetic. He stated that both the British and the Japanese envisage the resumption by their nationals of life and trade in the interior of China, but the Japanese can exist there under conditions which are impossible for Europeans. Consequently, the British cannot contemplate surrendering extraterritoriality so soon as do the Japanese. Wellesley is anxious lest a situation develop in which foreigners might penetrate China in competition for trade privileges, and, without any proper administration of justice, outrages might occur, and this might lead to hostile gestures by certain governments toward the Chinese Government in order to obtain satisfaction for the insults to their nationals.

DAWES

793.003/129 : Telegram

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

[Paraphrase]

LONDON, July 17, 1929—1 p. m.

[Received July 17—8:55 a. m.]

196. Yesterday, in an informal meeting with the British Foreign Secretary, I asked Henderson for an expression of his China policy, particularly in regard to extraterritoriality. At present, he said, the Labor Government had no change of policy in mind. He added,

however, that the Chinese situation was in a state of such flux that the possibility must be borne in mind of new considerations arising and modifying the present attitude of Great Britain. Except for this statement, there was nothing he said to contravene in any way the Embassy's previous two telegrams.

DAWES

793.003/133½

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] July 18, 1929.

The Japanese Ambassador, in the course of a conversation today, asked how the situation was with regard to our reply to the Chinese note on extraterritoriality. I told him that no decision had been reached and the matter was still under consideration.

The Japanese Ambassador stated that he understood that the Japanese Minister in China was keeping Mr. MacMurray informed of the plans of the Japanese Government. I said I understood that to be so and that it was also my understanding that the Japanese Government was apparently willing to make some concessions with regard to extraterritoriality, at least in Manchuria, in the negotiations now proceeding. The Ambassador assented to this and said that of course the crux of the situation in the Chinese negotiations lay in the question of China's willingness to open China to foreigners, if extraterritorial rights were given up. I asked him if the Japanese Government had received any reaction from the Chinese Government on this question. He said they had not as the matter had not been broached, but he said he was quite certain that the Chinese would be very reluctant to make a concession in this matter. He recalled the difficulties attendant upon the giving up of extraterritorial rights in Japan when loud protestations had been received from Japanese people and Japanese statesmen against the opening of Japan to foreign residents and trade and the giving up of extraterritorial rights. He said he felt quite certain a similar outburst would take place in China. He said, however, his Government would naturally insist upon this. He referred to the memorandum which Secretary Kellogg had handed to him⁹⁴ on the subject of extraterritorial privileges in China and stated that of course Japan understood quite well the American point of view and his belief that we would doubtless not change from that outlined in the memorandum. I told him I had no reason to believe we had changed our point of view.

⁹⁴ *Ante*, p. 549.

The Ambassador said his Government understood that the British Government was very much averse to making any definite reference to the recommendations of the Extraterritorial Commission in the British reply to the Chinese note as the British believed that the Chinese were very sensitive on this subject and objected to the recommendations of the Extraterritorial Commission. He said his Government felt we had nothing to be ashamed of in that report. He pointed out that the Chinese had participated in the workings of the Commission and the Chinese Commissioners had signed the recommendations without reservation. He said, however, he had no doubt that the Chinese were sensitive about this matter and that Wang Chung Hui, who was the Chinese Commissioner, would be very glad to forget the recommendations. He said that the Japanese Government believed there should be some gradual relinquishment of extraterritorial rights.

N[ELSON] T. J[OHNSON]

711.933/82

Memorandum by the Secretary of State

[WASHINGTON,] July 23, 1929.

The British Ambassador called and said that his Government had sent him a long telegram about a conference between Sir Miles Lampson, Mr. MacMurray and the Japanese Minister in China which took place on the 12th of July. They are very much troubled over the fear that China will unilaterally denounce the extraterritoriality treaties. As a result of their telegram which they have transmitted to Sir Esme Howard they want to ask me three questions:

1. How soon can our reply to China on extraterritoriality be sent in?
2. Is its nature similar with that of the other five powers?
3. What are our plans in case China denounces the treaty unilaterally?

They think that these six notes should be sent in as promptly as possible and that they should be alike in tenor. I reminded the Ambassador that I had already told him that I believed in sending in the notes simultaneously and that ours would be substantially similar to theirs and that I would get it finished as quickly as possible. I told him the draft was already before me and that unless I changed it it would be generally similar to theirs. If I did change it I would let him know.

711.933/84

Memorandum by the Secretary of State

[WASHINGTON,] July 29, 1929.

The French Ambassador called and handed to me the enclosed memorandum on the subject of extraterritoriality. I told him that I was hard at work on my reply in regard to extraterritoriality and expected to have it finished in two or three days and that I would let him know. His memorandum reads as follows:

"The Counselor of the Japanese Embassy in Paris informed the Ministry of Foreign Affairs on July 25th., that the Japanese Government was dissatisfied by the supposed intention of the Chinese Government to proceed by unilateral act to the pure and simple abolition of Treaties before January 1st, 1930. He asked whether, in those conditions, it would not be better, for the interested powers, to send a special identical note to the Chinese Government explaining the reasons against such procedure.

"It was replied to the Japanese diplomat that the French Government thinks that an answer upon the basis of the recommendations made in 1926 should be given as soon as possible by the Governments which received the Chinese note of April 1927 [*April 27*] concerning extraterritoriality.

"The French Government would see only advantages in sending a note signed by the principal interested powers. Such a note would make known the emotion created by some Chinese declarations in favor of the unilateral abrogation of Treaties.

"Such a note would also call the attention of the Nanking Government upon the duties imposed to China as well as to all civilized powers, not to try to settle by force questions of right, especially problems of a definite juridical character dealing with a statute of persons and properties.

"Such an identical note would meet with the approval of the French Government which is ready to give instructions to the French Minister in China to come to an agreement with his colleagues for the settlement of the question.

"The French Government would be pleased if the American Government would take a similar step.

"Furthermore, an identical note by the main powers would, in the opinion of the French Government, moderate activities of the nationalists who would be disposed to employ force in order to bring to an end Treaties of extraterritoriality.

"The note might also make easier the task of those of the Chinese political men who are willing to see the question settled by legal means.

"Washington, July 29th, 1929."

711.933/48 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 1, 1929—11 a. m.

254. Your 368, May 9, 5 p. m. I desire that you submit to the colleagues who cooperated with you, for their confidential consideration, the following draft of a reply to the Chinese Government's note of April 27. This draft appears to meet the various requirements from the viewpoint of the United States more satisfactorily than that submitted in your telegram. The Department understands from London's 129, May 27, noon, that the British Government is of the opinion that identic notes should be avoided in view of Chinese susceptibilities, an opinion in which the Department concurs. The Department believes therefore that in discussing the matter with your colleagues you should state that your Government is inclined to make this the text of its reply and would be prepared to forward it to the Chinese Government simultaneously with the forwarding of replies in similar tenor by the representatives of the other Governments concerned if a time can be agreed upon. The Department believes that early action is desirable. For convenience of reference, the paragraphs in the text herewith are numbered.

1. I have the honor to acknowledge the receipt of the Chinese Government's note of April 27 in which there are expressed the desire that the United States should relinquish the further exercise of extraterritorial jurisdiction over its citizens in China and the hope that the American Government will take this desire into immediate and sympathetic consideration.

2. I am directed by my Government to state that it is prepared to give sympathetic consideration to the desires expressed by the Chinese Government, giving at the same time, as it must, due consideration to the responsibilities which rest upon the Government of the United States in connection with the problem of jurisdiction over the persons and property of American citizens in China. My Government has in fact for some time past given constant and sympathetic consideration to the national aspirations of the people of China and it has repeatedly given concrete evidence of its desire to promote the realization of those aspirations in so far as action of the United States may contribute to that result. As long ago as the year 1903, in Article 15 of the Treaty concluded in that year between the United States and China, the American Government agreed that it would be prepared to relinquish the jurisdiction which it exercised over its nationals in China "when satisfied that the state of the Chinese laws, the arrangements for their administration, and other considerations warrant it in so doing." As recently as last year, the American Government gave very definite evidence of its desire to promote the realization of China's aspirations by concluding with the Government of China on July 25, 1928, a treaty by which the two countries agreed to the cancellation of provisions in earlier treaties whereby China's author-

ity in reference to customs duties on goods imported into China by American nationals had been restricted.

3. The exercise by the United States of jurisdiction over its citizens in China had its genesis in an early agreement that, because of differences between the customs of the two countries and peoples and differences between their judicial systems, it would be wise to place upon the American Government the duty of extending to American nationals in China the restraints and the benefits of the system of jurisprudence to which they and their fellow nationals were accustomed in the United States.

4. My Government deems it proper at this point to remind the Government of China that this system of American jurisdiction, as administered by the extraterritorial courts, has never been extended by the United States beyond the purposes to which it was by the treaties originally limited. Those purposes were the lawful control and protection of the persons and property of American citizens who have established themselves in China in good faith, in accordance with the terms of the treaties and with the knowledge and consent of China, in the normal development of the commercial and cultural relations between the two countries. The United States has never sought to extend its sovereignty over any portion of the territory of China.

5. Under the provisions of the Treaty of 1844⁹⁵ and other agreements concluded thereafter which established that system, American citizens have lived and have carried on their legitimate enterprises in China with benefit both to the Chinese and to themselves. They have engaged extensively in cultural and in commercial enterprises involving large sums of money and extensive properties, and, as your Government has so graciously indicated in the note under acknowledgement, there has grown up and existed between the peoples and the governments of the two countries a friendship that has endured. The American Government believes that this condition of affairs has been due in large part to the manner in which the relations between the two peoples have been regulated under the provisions of these agreements the existence of which has assured to the lives and property of American citizens in China the security so necessary to their growth and development.

6. For the safety of life and property, the development and continuance of legitimate and beneficial business depend in the last resort, in China as elsewhere, upon the certainty of protection from injury or confiscation, by a system of known law consistently interpreted and faithfully enforced by an independent judiciary. Where such protection fails, the life and liberty of the individual become subject to the constant threat of unlawful attack while his property suffers the ever-present danger of confiscation in whole or in part through arbitrary administrative action. To exchange an assured and tried system of administration of justice, under which it is acknowledged that life and property have been protected and commerce has grown and prospered, for uncertainties in the absence of an adequate body of law and of an experienced and independent judiciary would be fraught with danger in both of the foregoing respects.

⁹⁵ Miller, *Treaties*, vol. 4, p. 559.

7. My Government has instructed me to say that the statement of the Minister of Foreign Affairs of China, telegraphed to the Press of the United States on July 26, to the effect that "all foreign interests in China purely for legitimate purposes will be duly respected," has been noted by it with pleasure as indicating that the Government of China has not failed to appreciate the value to its foreign relations of the factors above-mentioned. My Government bids me add that it is therefore persuaded that the Government of China will concur in its belief, based as it is upon the facts set forth in succeeding paragraphs, that the sudden abolition of the system of protection by its extraterritorial courts in the face of conditions prevailing in China today would in effect expose the property of American citizens to danger of unlawful seizure and place in jeopardy the liberty of the persons of American citizens.

8. The Chinese Government has on several occasions during recent years expressed the desire that the Powers relinquish the exercise of extraterritorial jurisdiction over their citizens. In the note under acknowledgment reference is made to the position taken at the Washington Conference. It will be recalled that in pursuance of the Resolution adopted at that Conference, there was created a commission to inquire into the present practice of extraterritorial jurisdiction in China and into the laws and the judicial system and the methods of judicial administration of China, and that, under date of September 16, 1926, that commission made its report. This report contained an account of the conditions then prevailing in the judicial system of China as well as a number of recommendations carefully suggested as indicating the changes and improvements which would be necessary before there would be adequately developed a system of known law and an independent judiciary capable of justly controlling and protecting the lives and property of the citizens of foreign countries doing business in China. Your Government will recall that the Commission on Extraterritoriality which made these recommendations was composed of representatives from thirteen countries including both China and the United States, and that its recommendations, thoughtfully and reasonably conceived, were unanimously adopted and were signed by all of the Commissioners.

9. Because of its friendship for the Chinese people and its desire, to which allusion has been already made, to relinquish as soon as possible, extraterritorial jurisdiction over its own citizens in China, my Government has followed with attentive consideration this entire subject including particularly the progress which has been made in carrying out its recommendations since the rendition of this report. It fully appreciates the efforts which are being made in China to assimilate those western juridical principles to which your Government has referred in its note. But it would be lacking in sincerity and candor, as well as disregarding of its obligations towards its own nationals, if it did not frankly point out that the recommendations aforesaid have not been substantially carried out, and that there does not exist in China today a system of independent Chinese courts free from extraneous influences which is capable of adequately doing justice between Chinese and foreign litigants. My Govern-

ment believes that not until these recommendations are fulfilled in far greater measure than is the case today will it be possible for American citizens safely to live and do business in China and for their property adequately to be protected without the intervention of the Consular Courts.

10. In conclusion, my Government has directed me to state that it observes with attentive and sympathetic interest the changes which are taking place in China. Animated as it is by the most friendly motives, and wishing as far as lies within its power to be helpful, the American Government would be ready, if the suggestion should meet with the approval of the Chinese Government, to participate in negotiations which would have as their object the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence.⁹⁶

For your information, a copy of this text is being sent to the American Embassy, London, for communication to the British Foreign Office. A copy will also be made available to the French Government.

Please repeat to Toyko requesting Embassy to communicate copy of draft informally and confidentially to Foreign Office.

STIMSON

711.933/94 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 6, 1929—5 p. m.

[Received August 6—6:03 a. m.]

675. Your telegram No. 254, August 1, 11 a. m.

1. It has on consultation been arranged that the American, British, Dutch and French replies will be dated August 10th and delivered to Nationalist Foreign Office, August 12th. Brazilian and Norwegian Legations are being so informed with a view to their taking similar action.

2. It has all along been understood that the replies would not be identical although of similar tenor.

MACMURRAY

⁹⁶ On August 10, 1929, the Acting Secretary of State in a note to the Chinese Minister, in acknowledgment of his note dated May 2, stated that he was enclosing "a copy of a note in reply which is being sent to your Government by the American Minister to China under date August 10, 1929" (711.933/45). This note was the same as that telegraphed on August 1.

711.933/106

Memorandum by the Secretary of State

[WASHINGTON,] August 15, 1929.

The Chinese Minister called on me today and said he was disappointed with our extraterritoriality note. I replied that I was sorry for this but did not think he had any reason to be disappointed as we had made a constructive suggestion at the end relating to negotiations and a gradual termination of it. I explained to him the importance which the American people felt towards judicial protection and the anxiety of our Government not to have any set-back in the progress of giving up the consular courts. I pointed out that if there was a question of giving up any territorial rights it would be much more simple, but we had none, and the matter of the protection of American interests by proper judicial process is much more delicate and important. He asked me whether I was prepared to go on with discussions of these steps for gradually giving them up and called my attention to the appointment by China last year of himself as a special envoy to discuss this point. I told him frankly that I had not heard of that but I would be very glad to take it up with him.

793.003/142 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 19, 1929—7 p. m.

[Received August 19—1 p. m.]

736. Legation's 713, August 15, 3 p. m.⁹⁷ The reply of the Norwegian Government to the National Government's note of April 27 requesting the abolition of extraterritoriality was despatched August 15th. The note is brief, makes reference to the participation of a Norwegian delegate in the Extraterritoriality Commission of 1926 and concludes by stating that the Norwegian "Government has no desire to maintain the Consular Court longer than [considered] necessary and is prepared to abolish the same when all the other treaty powers will do so."

MACMURRAY

⁹⁷ Not printed.

711.933/123

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] August 27, 1929.

During a conversation today the Japanese Ambassador asked me what I knew about a proposal for a warning to be served by the several interested Powers upon China not to abrogate unilaterally her treaties.

I told the Ambassador what I knew about it, that I had supposed from what I saw that the matter originated with the Japanese. The Ambassador stated that it had not originated with the Japanese; that it had originated with MacMurray sometime ago but that recently Yoshizawa had revived the suggestion making certain recommendations as to form and time. He asked me whether we had decided about the matter, or not.

I told the Ambassador the Secretary had not made any decision; that all we had told MacMurray was that we were not prepared to decide it now; that the matter might be brought up later and discussed, if it was thought proper.

N[ELSON] T. J[OHNSON]

793.003/148

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With the Second Secretary of the French Embassy (Blanchetai)

[WASHINGTON,] August 29, 1929.

Mr. Blanchetai called and read to me a telegram which he had just received from his Government in which it was stated that the Japanese Chargé d'Affaires at Peking had informed the French Minister there that the Japanese Government proposed that representations be made orally at various capitals specified, to the Chinese representatives at those capitals, warning the Chinese against unilateral renunciation of treaty provisions. The telegram stated that the French, the British, the Netherland and the American Ministers had agreed to recommend this action to their respective governments. The French Minister pointed out to his Government that the present moment afforded an opportunity to take advantage of the nervousness of the Chinese in the apprehension of military action by Russia. The French Government instructed its Embassy here to give it information immediately whether the American Government had accepted the principle of a simultaneous action and if so what would be the substance (or sense), the form and the date.

I stated to Mr. Blanchetai that the American Government had not accepted the principle; that the Secretary of State had not as yet

made any decision or commitment with regard to it; that the American Minister at Peking had been so informed; that I would report on the substance of the French Government's present telegram; and that, if there took place in the near future any new developments concerning which I might properly inform him, I would do so.⁹⁹

S[TANLEY] K. H[ORNBECK]

711.933/144

Memorandum by the Chief of the Division of Far Eastern Affairs (Hornbeck) of a Conversation With Mr. Thomas F. Millard, Adviser to the Chinese Government

[Extract]

[WASHINGTON,] September 3, 1929.

Mr. Millard asked whether the American Government's reply to the Chinese Government's note on extraterritoriality had been made public yet. I stated that it had not been made public from official sources but that the contents appeared to have been disclosed somewhere in China and newspapers there had published what purported to be the text. Mr. Millard said that he had read the note and that he observed that the American Government declined to accede to the Chinese Government's request. He then talked at length about the desirability of close and friendly relations between China and the United States. He said that he had for fifteen years told the Chinese that their relations with the United States were the most important in the field of their foreign relations. He thought that the American Government should do everything possible to encourage and strengthen the present Nanking Government. He said that if the Powers, particularly the United States, persisted in refusing to give up extraterritoriality, the radical element in China would be strengthened in its effort to overthrow the present Nanking administration, and if the radicals, some of whom he said were highly intelligent men, were to get into the saddle, there is no telling to what length they would go; there might come a violent anti-foreign demonstration in China. I inquired whether he thought that either the granting or the withholding of assent to the abolition of extraterritoriality would materially affect the course of events in China's domestic politics. He said that he thought it would; that every victory which the present administration gained in the field of foreign relations tended by just so much to strengthen its position. I said

⁹⁹ On August 30, 1929, the Chief of the Division of Far Eastern Affairs added a note to the effect that he had shown the memorandum, together with a letter from Mr. Blanchetel, to Assistant Secretary of State Johnson and had then telephoned "that the matter stands as 'No commitment'".

that this Government had long made it a point to preserve a position of neutrality as among the contending Chinese factions and parties, and that, while we wished to deal fairly and justly and in a friendly manner with any administration which might be in power in China, it was probably a fact that each of the more important of the foreign governments was inclined now more than ever before to pursue a policy of "hands off" with regard to China's domestic struggles.

Mr. Millard said that extraterritoriality was not doing any one any good. I stated that some American citizens make to us statements to the contrary. Mr. Millard said that it was going to have to be given up sooner or later and he thought the American Government should take the lead in giving it up sooner; he did not think that it should wait until the expiration of the present treaty. I stated that the American Government had repeatedly made it known to the Chinese Government that it was willing to discuss, without waiting for the period of the expiration of the treaty, the question of concluding a new treaty. Mr. Millard said that two or three years ago and earlier he had suggested to the Chinese various schemes for a gradual graduated abolition, but that the time for that sort of thing had gone by; he thought that no Chinese Government today could propose, and he wondered whether it could discuss anything short of abolition. He said that public opinion had developed very strongly in China, and, if the Powers were obstinate, public opinion might force the hand of the Government. I remarked that in the past public opinion in China had usually been inspired from official sources. Mr. Millard said that the bolsheviks had had a good deal to do with the creation of public opinion with regard to the treaties; that the present Government had ridden into power on the idea of regaining lost rights, and that no matter who did the inspiring, the present public opinion was a fact which must be faced. I stated that, so far as the American Government was concerned, we would be glad to give up extraterritorial rights at the earliest practicable moment, but that, by way of arriving at that moment, it was to be hoped that the Chinese would concentrate upon the problem of perfecting their administration so that they would be ready effectively to assume and exercise complete jurisdiction. Mr. Millard said that they were ready.

Mr. Millard said that there were a number of questions which he would like to talk over, such as the rendition of the foreign settlements and concessions, the removal of the legations to Nanking, etc. I stated that, so far as the foreign settlements and concessions were concerned, the United States had little if anything to do with the question—at least so far as the question of rendition is concerned. I said that I would be glad to talk over any questions.

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711.933/133 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 10, 1929—7 p. m.
 [Received September 11—2:50 p. m.¹]

811. The following has been received from Nanking as the English translation of a rejoinder under date of September 5 to our note of August 10 re extraterritoriality. An examination of the Chinese text, however, seems to indicate that the English is the original text of which a somewhat inexpert translation was made into Chinese (paragraphs lettered for reference):²

(a) "I have the honor to acknowledge the receipt of Your Excellency's note of August 10 in which you are good enough to transmit to me the views of your Government in regard to the request of the Chinese Government, contained in my note of April 27th, for the removal of restrictions on Chinese jurisdictional sovereignty.

(b) The Chinese Government is pleased to be reminded by the American Government that it has, for some time past, given constant and sympathetic consideration to the national aspirations of the people of China and that it has repeatedly given concrete evidence of its desire to promote the reason [*realization*] of those aspirations. The traditional friendship between China and America has not only a common material basis, but is also deeply rooted in the idealism which is common to the Chinese and the American people. The American people, with their love of liberty, [their] zeal for justice, their desire to further [the] advance of civilization and their sympathy for the aspiration[s] of nations in their spiritual rebirth, all of which reveals unmistakably the noble attitude of the American mind, have aroused the admiration and won the love of the Chinese people. This idealism has manifested itself in the abolition of slavery, the growth of democracy, and the endeavor to establish a regime [*reign*] of universal peace, which has given a new hope to the human race. It is this idealism that accounts for the steadfastness of the American Government and people in their friendship for China through all the vicissitudes of her fortune. It is again this idealism that has prompted the American Government to give sympathetic consideration to the desire of the Chinese Government in connection with the question of jurisdiction and to decide to enter into negotiations for the devising of a method leading to the eventual abolition of extraterritorial privileges.

(c) It seems to me, however, from a careful consideration of your note that the American Government is not yet free from misgivings as to the safety of American life and property after the abolition of extraterritoriality. The American Government is undoubtedly aware of the fact that the liberty of American citizens and the security of their property rights do not so much depend upon the

¹ Telegram in thirteen sections.

² Bracketed corrections made on basis of English translation accompanying the Chinese text which was transmitted to the Department by the Minister in China in his despatch No. 2332, September 19; received October 25, 1929 (711.933/158).

continued exercise of jurisdiction by their own consular courts, as upon the timely removal of hindrances to the free and full assertion of China's sovereign rights. Extraterritorial privileges, while apparently beneficial to foreigners in China in giving them the impression of security and safety, have really had the most injurious effect on their relations with the Chinese by producing in the latter [the] feeling of humiliation and the sense [of] resentment which have always caused mutual suspicion and the consequent loss of mutual confidence, thus undermining the very foundations of friendly relations and not infrequently giving rise to complications and conflicts. Such conflicts and complications could be easily avoided were there none of those special privileges. In this connection, it may be pointed out that towards nationals of certain countries who have lost their extraterritorial privileges and have submitted to the jurisdiction of China, the Chinese people entertaining [*entertain*] the mostly [*most*] friendly feelings and repose in them great confidence, a valuable asset, it will be admitted, in the intercourse, commercial or otherwise, of any two peoples. Such marked difference in the relations between the Chinese and the nationals of extraterritorial powers on the one hand and those between the Chinese and the nationals of non-extraterritorial powers on the other will, as long as the extraterritorial system is retained, become more and more pronounced, and much as the Chinese Government may try to discountenance this difference of attitude on the part of its citizens, it will not be within its power to control the natural expression of their feelings.

(d) In the event, however, of American citizens relinquishing their extraterritorial privilege[s], they may rest assured that they will enjoy the same confidence of the Chinese people and hence the same material benefit as the nationals of nonextraterritorial powers. Moreover, the Chinese Government will continue to exercise, in accordance with the well-established principles of international law, due diligence in preventing any possible violation[s] of the private rights of American citizens and perform its duty, in the fullest possible measure, in all matters relating to the redress of wrongs.

(e) In your note under acknowledgment reference is made to the report of the Commission on Extraterritoriality submitted to the interested Governments pursuant to a resolution adopted at the Washington Conference. The American Government must be aware of the fact that since the completion of that report conditions in China have greatly changed, and in particular both the political and judicial systems have assumed a new aspect. To pass judgment on the present state of laws and judicial administration in China in the light of what is contained in the report of 1926 is doing no justice to the steadfast policy of the National Government.

(f) At this point, it may be worth while to recall the circumstances under which the American Government renounced its rights under the capitulations with Turkey. The Chinese judicial system, it will be admitted, does not suffer the least in comparison with that of Turkey at the time of the abolition of the capitulations. And yet the American Government, realizing that the Turkish people with legitimate aspirations and under the guidance of a new and strong government could accomplish great things in a short space of time, had the wisdom and foresight to relinquish its special privileges

similar to those enjoyed hitherto by its nation[als] in China and has had the satisfaction to find that the life and property of American citizens in Turkey have subsequently received full and adequate protection. The American Government which did full justice to the Turkish people in the matter of jurisdiction without any apprehension[s] and with satisfactory results will no doubt solve the problem of extraterritoriality in China in the same friendly and sympathetic spirit.

(g) It has been perhaps brought to the knowledge of the American Government that the Chinese Government has recently concluded treaties with several other powers which have agreed to relinquish extraterritorial privileges on January 1st, 1930. If it had appeared to the Governments of those powers, as it appears to the American Government, that there did not yet exist in this country a judiciary capable of rendering justice to their nationals and body of laws adequate to give protection to their lives and property, they would certainly have refused to give up their privileged position and enter into the engagements they have made. Now that many of the powers which participate[d] in the discussions of extraterritoriality at the Washington Conference have already shown by an overt act that that system has outlived its usefulness and should be replaced by one in harmony with the actual state of things, there is no reason why the United States, upon which fell the honor of initiating the labors of that conference, should not act in unison with those powers, thus removing the difficulty which the Chinese Government might otherwise encounter in extending jurisdiction over all foreign nationals.

(h) It is the hope of the Chinese Government that whatever misgiving[s] and apprehension[s] the American Government may have in considering the subject under discussion will be now dispelled, and that, in the further examinations of this subject, it will be actuated by much weightier considerations, namely, the enhancement of friendship between the Chinese and the American people, and hence the promotion of the material interests of both. It is with this last object in view that the Chinese Government [now] requests the American Government to enter into immediate discussions with [the] authorized representative of the Chinese Government for making the necessary arrangement[s] whereby extraterritoriality in China will be abolished to the mutual satisfaction of both Governments.

(i) I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration.

2. Chinese Secretaries inform me that the numerous differences in detail between English and Chinese texts represent assumptions of force and lapses into weakness to which no real significance can be assigned. Chinese text and variant translations follow by mail despatch.

MACMURRAY

793.003/155

*Memorandum by the Secretary of State of a Conversation With
the Japanese Ambassador (Debuchi)*

[WASHINGTON,] September 14, 1929.

When the Ambassador called I asked him if there was anything new in the China-Japan situation with regard to extraterritoriality. He told me that China claimed to have annulled the extraterritoriality rights of Japan but that Japan had not admitted it.

711.933/147 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 5, 1929—noon.

[Received October 6--12:35 p. m.]

861. My 831, September 17, 4 p. m.³ Following from American Consul General at Canton:

"October 4, 3 p.m. I had an interview with Sun Fo this morning. He said National Government had just considered abolition of extraterritoriality by mandate but preferred to negotiate with the powers for extraterritoriality cancellation over period of years. He referred to Wang's notes and said that they were designed to open negotiations for foreign abolition. General Wu Te-chen⁴ also assured me that abolition by mandate is not contemplated. Although I imagine Legation is already well informed on this subject I deem it best to pass this information on to you."

MACMURRAY

711.933/148 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 7, 1929—3 p.m.

[Received 8:43 p.m.⁵]

865. My telegram No. 811, September 10, 7 p.m.

1. At the instance of the interested chiefs of missions, the Senior Minister has drawn up for submission to their respective Governments, as a suggested basis for their individual notes, the following tentative draft of a reply to the Chinese note of September 5th with regard to extraterritoriality:

"On August 10th last I had the honor to acquaint Your Excellency with the views of my Government on the question of abolition of

³ Not printed.

⁴ Member of the Nationalist Party's central executive committee.

⁵ Telegram in three sections.

extraterritoriality raised by Your Excellency in your note of April 27th.

I now have the honor to acknowledge the receipt of Your Excellency's note of September 9th, [in which] it is requested that immediate discussions be opened with the Chinese Government for making the necessary arrangements whereby extraterritoriality in China will [may] be [abolished] to the mutual satisfaction of both Governments.

Your Excellency will remember that in my above-mentioned note of August 10th I transmitted at considerable length the opinion which my Government had formed on the subject after having given it its most serious and careful consideration.

It is therefore unnecessary to enter here again into the details connected with this complicated matter, although it seems to my Government not superfluous to draw the attention of the Chinese Government to the fact that certain events of the past few months cannot but strengthen the opinion that the legal and physical safeguarding of property and of life in China still leaves very much to be desired in spite of the altered circumstances on which Your Excellency lays so much stress in your note under reply.

However, my Government, as I did not fail to point out in my previous note, is prepared to give sympathetic consideration to the desires expressed by the Chinese Government in connection with extraterritoriality and if Your Excellency is in a position to submit any concrete proposals which take into consideration the main points of the said note, I will be pleased to transmit these to my Government."

2. The interested Ministers decided that in submitting this tentative draft to their Governments for consideration they should renew the suggestion that the respective Ministers for Foreign Affairs personally impress upon the Chinese Ministers at the various capitals the seriousness with which the Governments would regard a repudiation or impairment by China of their extraterritorial rights.

MACMURRAY

711.933/148 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, OCTOBER 11, 1929—11 a. m.

329. Your 865, October 7, 3 p. m.

1. The Department understands that the proposal is for individual and not for identic notes.

2. For the American note, I approve the substance of the draft submitted, with the exception of the last paragraph. I feel, however, that you might advantageously edit or rephrase this draft. I feel, for instance, that the clause "in spite of the claims on which Your Excellency lays so much stress in your note under reply" should be deleted.

With regard to the last paragraph, I offer for the American note the following:

“However, assuming that the Chinese Government has not failed to take into consideration the main points set forth in my note of August 10, and wishing as far as possible to meet the wishes of the Chinese Government, my Government is prepared to enter into negotiations directed toward the objective indicated in the last paragraph of that note.”

3. You may state in a separate communication that I feel moved to suggest that the negotiations be held in Washington; that I shall be willing to enter upon discussions whenever the Chinese Government finds it convenient; but that I should like to defer entering upon the formal stages of the negotiation until I shall have had the benefit of the presence here of the American Minister to China, yourself, who will soon be ordered to come to Washington for purposes of consultation.

STIMSON

711.933/156 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 17, 1929—9 p. m.
[Received October 18—8:55 a. m.]

900. Your telegram No. 329, October 11, 11 a. m.

1. The proposal set forth in my No. 860 [865] contemplated individual notes as in the case of the replies to the original Chinese note of April 27th.

2. British Minister has now proposed in lieu of the one previously suggested the following basis for such replies:

“I have the honor to acknowledge receipt of Your Excellency’s note of September 6th in which it is requested that immediate discussions be opened by His Majesty’s Government with the Chinese Government for making the necessary arrangements whereby extra-territoriality in China may be abolished to the mutual satisfaction of both Governments.

In reply I have the honor to refer Your Excellency to my note of August 10th in which case [note?], under instruction from my Government, I set forth at some length the views which they had formed on this subject after having given it the most serious and careful consideration. I am now further instructed to inform Your Excellency that His Majesty’s Government, as stated in my note above referred to, await the communication of any proposals which the Chinese Government may have to make failing a careful preliminary study of which no useful purpose would in their opinion be served by opening discussions on the matter.”

Would the Department find this more acceptable?

MACMURRAY

711.933/155 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEIPING, October 17, 1929—10 p. m.

[Received October 17—2:45 p. m.]

901. Supplementing my 900, October 17, 9 p. m., replying to your 329, October 11, 11 a. m.

(1) Apart even from the precarious political situation which meanwhile has arisen, the suggestions made in your 329, I venture to submit, would not, as a matter of tactics, strengthen the United States in the position it took in its note dated August 10, but, on the contrary, would render that position untenable in practice. I feel warranted, from our experience with "tariff autonomy", an analogous question, in believing that, if the United States should invite China to formal negotiations at Washington concerning extraterritoriality, on the sole assumption or condition that the Chinese have taken into consideration the views we set forth in our note dated August 10, the political, psychological, and practical effect of the invitation would be for the Chinese to consider that the United States Government had committed itself unconditionally to arrange, independently of the other powers interested, for the complete and early surrender of American extraterritorial rights. If the negotiations did not promptly lead to an abandonment of the previous American position (namely), that the United States must retain these rights pending evidence by China of its ability to administer justice in respect of American citizens), then the United States would seem to the Chinese to have failed in realizing the hopes held out to them by us; and the United States in such case would, by reason of its assumption of independent leadership in this matter, bear the entire odium of obstructing and disappointing Chinese aspirations regarding extraterritoriality.

(2) Before undertaking negotiations, the United States should, in my own judgment, require from the Chinese a statement of their proposals such as would enable the United States to avoid the dilemma either of surrendering its whole position or of placing itself in a conspicuously invidious light through breaking off the negotiations.

MACMURRAY

711.933/156 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, October 22, 1929—5 p. m.

342. Reference your 900, October 17, 9 p. m., and 901, October 17, 10 p. m. A comparison of the last paragraphs in your note dated August 10 to the Chinese Minister for Foreign Affairs and in the British Minister's note of the same date indicates that, though the last sentence in the British Minister's present proposal as a basis for the reply to Dr. C. T. Wang's note dated September 5 may suffice for the British reply, that sentence would not suffice for the American reply. In the American note of August 10, the United States did not predicate its willingness to take part in negotiations upon the condition that China should first communicate proposals to the United States.

I do not think any useful purpose will be served by the United States laying down such a condition. Complete abolition of extraterritorial jurisdiction has been asked by the Chinese Government. Proposals to modify this position cannot be expected to emanate from Chinese official sources. A demand that they make such proposals is the equivalent of declining to negotiate. The United States Government has declared its willingness and is willing to negotiate. If at all possible, I deem it desirable for negotiations to be in progress prior to January 1, 1930. It is, I think, highly desirable for the United States so to handle this matter that, should the Chinese denounce the treaties or parts of them, no charge can be made that the United States Government was unwilling or seemed to be unwilling for full cooperation with the Chinese with a view to disposal of this question by agreement.

The views you express in your 901 I have carefully considered. In the light thereof, and with reference to paragraph 2 of my 329, October 11, 11 a. m., I offer as a substitute for the last sentence the following:⁶

"However, assuming that the Chinese Government has not failed to take into consideration the main points set forth in my note of August 10, and desiring as far as possible to meet the wishes of the Chinese Government, my Government is prepared to enter into negotiations, when convenient to the Chinese Government, which shall have as their object, as indicated in the concluding paragraph of my note of August 10, 'the devising of a method for the gradual relinquishment of extraterritorial rights (and so forth, your note to quote to the end of note of August 10).'"

⁶ Quotation not paraphrased.

I withdraw my instruction regarding a separate communication, and I shall let the Chinese make the next move. However, when Dr. C. C. Wu returns, presumably soon, from Europe, I imagine he will request me to start negotiations; and I do not desire to decline. I wish, in fact, already to be on record with an express indication of the United States Government's willingness to proceed. In this matter I am not unwilling to cooperate with the other powers concerned. I would prefer cooperation. As to independent action, however, this has already been taken by several powers. A desire of the British and Dutch Governments to employ dilatory tactics is suggested by the tenor of the drafts which the Senior Minister and the British Minister have tentatively submitted. I have no wish for delay and am, therefore, obliged to indicate that I am willing to proceed independently. In the note dated August 10 from you, I not only made a commitment but also gave sufficient notice of this attitude. I do not intend encouraging the Chinese to expect my assent to unconditional and immediate abolition of extraterritoriality. If the action I take is thus misrepresented by the Chinese, I shall have the record to prove the facts.

This you may explain to your colleagues; and you will proceed to prepare your note. I should like you to reply to Dr. Wang at a reasonably early date.

STIMSON

711.933/159 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEIPING, October 25, 1929—5 p. m.

[Received October 25—2:50 p. m.]

927. My telegrams 900, October 17, 9 p. m., and 901, October 17, 10 p. m.

(1) Yesterday morning the British Minister conferred with his American, French, Japanese, and Netherland colleagues as a result of instructions from his Government to the effect that it wished to convey to the Chinese its willingness to discuss the possibilities regarding extraterritoriality with them so soon as they indicated the line along which they desire to proceed.

(2) This informal discussion revealed a complete concord among the Ministers in their personal views, to the effect that:

(a) The Chinese who are in control at Nanking for the time being do not desire our cooperation or negotiations meant to reach a friendly result; for they are counting on using negotiations either to compel a total surrender on extraterritoriality or to put the powers concerned in the wrong for not yielding it;

(b) The powers are in a position, in view of the terms of their notes dated August 10, to demand of the Chinese as a preliminary step that they make some proposal to justify negotiations on matters which otherwise are disposed of by the facts those notes set forth;

(c) Upon the showing made thus far, to consent to begin negotiations to abolish extraterritoriality in any degree or manner would, as a matter of practical fact, mean the beginning of the end of extraterritorial rights;

(d) The only prospect of proceeding, without forcing the pace to the advantage of the Chinese, to a disposal of the broad, general question of extraterritoriality would be through inaugurating the specific question of the Provisional Court at Shanghai, preferably according to scheme (a) (see my 876, October 10, 9 a. m.⁷); the French and Netherland Ministers are already considering authorization for its support, while the British Minister is still hoping to get his Government to approve it.

(3) Immediately following the above discussion, I received your 342, October 22, 5 p. m.

(4) At once I called on my British, French, and Netherland colleagues, informed them of the Secretary's views, and promised to give them copies today of the text of the note I have been instructed to despatch to Nanking. I offered, subject to your approval, to hold back until November 1 the note dictated for me, hoping to make possible cooperation to the extent implied in the despatch simultaneously of the several notes. Do I have your agreement to do this?

(5) Assuming the Chinese may not be expected to put forth a proposal, you may consider it desirable to take the initiative in the American note by proposing something concrete (analogous, perhaps, to scheme (a) for the Provisional Court at Shanghai), and this would at once form a basis for the negotiations proposed and a limitation on their scope.

MACMURRAY

711.933/159 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 26, 1929—4 p. m.

351. Your 927, October 25, 5 p. m., particularly paragraph 4.

1. The delay which you suggest is approved. I wish to be altogether considerate of the views and convenience of the other Powers. See Department's 342, October 22, 5 p. m., last paragraph.

2. Further reply to your telegram under reference will follow.

STIMSON

⁷ *Post*, p. 703.

711.933/159: Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, October 28, 1929—7 p. m.

354. Reference your 927, October 25, 5 p. m.

(1) Your telegram reached the Department at 2:50 p. m., October 25, and, before it was decoded, the Department was informed by a Secretary of the French Embassy, who called, that his Foreign Office had been informed regarding these discussions, including the explanation by you of my views and the offer by you to withhold until November 1 the note from the United States Government. The desirability of a simultaneous dispatch of the several notes, which should coincide in purport, was urged by the French Government.

It was explained to the French officer that the United States Government wished to cooperate as far as possible with the other governments; that the withholding by you of the American reply until November 1 is quite approved, as there is no desire to be precipitate; that the instructions sent you were based on the feeling that the formulae hitherto considered tentatively by you and your colleagues could not be regarded as applicable for adoption in the American reply, because, as is well known to all concerned, the United States Government's willingness to negotiate was affirmed expressly in its note dated August 10. A further explanation followed along the lines of my 342, October 22, 5 p. m., paragraph 2. The view was also advanced that the Department's readiness to delay sending the American note in reply is qualified because of the feeling that the sooner the powers reply the greater will be the advantage from having done so.

(2) Referring to your paragraph 2:

(a) To the unanimous views of the Ministers I am not indifferent.

(b) On this point my views remain as they were stated in the first two paragraphs of my 342.

(c) Developments in the past few years and the Nationalist movement's character and exigencies, I feel, make it inevitable for the present Chinese Government, or any other one, to insist upon abolition of extraterritorial jurisdiction. Therefore, an offer of negotiations, I feel, provides the sole possible means whereby denunciation of treaty-provisions may be delayed and the period of transition may be protracted and ameliorated so as to safeguard, through a graduated process of relinquishment as agreed upon, the position of American citizens hereafter in China.

(d) Though I do not desire to force the pace, yet I do not wish the Chinese to be able to contend that they were driven to take arbi-

trary unilateral action because of a refusal by the powers, the United States included, to face the issue with them. I believe, also, that an attempt to divert attention to the Provisional Court at Shanghai, a specific question, by sidetracking the general question of extraterritorial jurisdiction, would be difficult.

(3) Toward the views and the convenience of the other powers I wish to be altogether considerate. The manner of replying, the substance of the notes, and the time of their delivery I consider important. You may, as suggested, delay the American reply.

(4) The text which I have submitted in itself carries, I feel, a sufficiently concrete proposal, stating definitely, as it does, that the negotiations shall be directed to devise a method for relinquishing extraterritorial rights gradually, as to either designated territorial areas or particular kinds of jurisdiction, or both, provided, etc. It would be unwise technically, I feel, at this time to make a more restrictive proposal to the Chinese, enabling them thereby to contend that evidently there is no intention on the part of the United States to consider the entire problem, and this would afford the Chinese a specious pretext for a unilateral denunciation next January 1. What I have proposed offers, I believe, a sufficient safeguard against any Chinese expectation or representation of agreement by the United States Government to early and unconditional abolition of extraterritoriality, nor will it leave the Chinese with any possible excuse for declining an attempt to deal by agreement with the matter.

Finally, I feel that a demand of the Chinese first to make concrete proposals would, if responded to at all, which I do not expect it would be, enable them to proffer proposals not susceptible of acceptance. The makers of such a demand would thus be put in a very unfortunate position.

(5) Again, for what it may be worth, I invite attention to your 861, October 5, noon.

STIMSON

711.933/159 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, November 2, 1929—3 p. m.

359. Referring to the last sentence in paragraph 3, my 354, October 28, 7 p. m. Please immediately reply as to what action has been or is being taken.

STIMSON

711.933/163 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 4, 1929—5 p. m.

[Received 10:07 p. m.⁸]

958. 1. Following note dated November 1st has been sent to Minister for Foreign Affairs:⁹

“On August 10th last I had the honor to acquaint Your Excellency with the views of my Government on the question of abolition of extraterritoriality raised by Your Excellency in your note of April 27th.

I now have the honor to acknowledge the receipt of Your Excellency's note of September 5th, in which it is requested that immediate discussions be opened with the Chinese Government for making the necessary arrangements whereby extraterritoriality in China will be abolished to the mutual satisfaction of both Governments.

Your Excellency will remember that in my above-mentioned note of August 10th I transmitted at considerable length the opinion which my Government had formed on this subject after having given it its most serious and careful consideration.

It is therefore unnecessary to enter here again into all the details connected with this complicated matter, although it seems to my Government not superfluous to draw the attention of the Chinese Government to the fact that certain events of the past few months cannot but strengthen the opinion that the legal and physical safeguarding of property and of life in China still leaves very much to be desired.

However, assuming that the Chinese Government has not failed to take into consideration the main points set forth in my note of August 10th, and desiring as far as possible to meet the wishes of the Chinese Government, my Government is prepared to enter into negotiations when convenient to the Chinese Government which shall have as the [*their*] object, as indicated in the concluding paragraph of my note of August 10th, ‘the devising of a method for the gradual relinquishment of extraterritorial rights, either as to designated territorial areas, or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcing of laws based on modern concepts of jurisprudence.’

I avail myself, et cetera.”

2. In view of the present uncertainty of mails, I also telegraphically requested Adams¹⁰ November 1st to inform Wang that note had been despatched quoting the concluding paragraph.

MACMURRAY

⁸ Telegram in two sections.

⁹ Copy of this note was transmitted to the Chinese Minister by the Secretary of State in note dated November 8 (711.933/163a).

¹⁰ Walter A. Adams, Consul at Nanking.

711.933/164 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extract]

PEIFING, November 7, 1929—8 p. m.

[Received November 8—10:12 p. m.]

970. Department's 364, November 6, 2 p. m.¹¹

1. Dutch, French and British Ministers replied to the Chinese note on extraterritoriality November 1st. My Dutch colleague stated that he is now instructed to inform the Chinese Government that his Government, while referring to the statements in his note of August 10th and in accordance therewith, is now ready to examine and discuss the proposals which the Chinese Government may have to make. My French colleague similarly expressed the willingness of his Government to consider the wishes of the Chinese, declares most friendly spirit and states that upon the receipt of concrete proposals they will be forwarded to his Government for its consideration. My British colleague also urged the presentation on the part of the Chinese Government of some concrete plan for the abolition of extraterritoriality before the commencement of negotiations. . . .

MACMURRAY

793.003/217

*Memorandum by the Counselor of Legation in China (Perkins) of a Meeting at the American Legation, November 8, 1929*¹²

Present: American, British, Japanese, and Netherlands Ministers; Mr. Lépice for the French Minister, and Mr. Perkins.

The British Minister acquainted those present with certain instructions which he had received from his Government for his general guidance in any negotiations which he might undertake with a view to the gradual relinquishment of extraterritoriality. The principal feature of these instructions was the strong preference of the British Government for relinquishment by categories of jurisdiction rather than by the geographical method. The British plan contemplated relinquishment by three steps: first, civil; second, criminal; third, present [*personal?*] status. It also contemplated that, in the Chinese courts in the principal cities, there should be appointed foreign co-judges who would be the servants of the Chinese Government.

The British Minister invited discussion of the instructions. Mr. Lépice stated that the French were opposed to geographical relin-

¹¹ Not printed.

¹² Copy transmitted to the Department by the Minister in China in his despatch No. 2440, November 20; received December 21, 1929.

quishment of extraterritoriality, particularly in view of the fact that, in the provinces of Shansi and Yunnan, there were two railways in which French capital was largely invested. He suggested that, as a first step, it might be possible to adopt Chinese codes for application in the consular courts. The others present were all in agreement that such a suggestion would not at this time be acceptable to the Chinese.

Mr. MacMurray said that he could give merely his own personal view, which was a preference for relinquishment geographically. He read a memorandum setting forth his views in detail.¹³ Mr. Oudendijk agreed with the views of Mr. MacMurray. Mr. Saburi said that he had not as yet made up his mind on this question, but, if pressed for an expression of views, he would say at the moment he slightly favored geographical relinquishment.

There was complete agreement with regard to the necessity of requiring foreign co-judges. There was also substantial unanimity of opinion with regard to the various other minor items contained in the British instructions. The British Minister said that it was the intention of his Government to submit these instructions to the several foreign offices of the interested Governments and suggested that it would be helpful if each of the Ministers would report his own views thereon to his Government. The others expressed their willingness to do this.

MAHLON F. PERKINS

PEIPING, November 12, 1929.

793.003/217

*Memorandum by the Counselor of Legation in China (Perkins)*¹⁴

NOTES ON BRITISH MEMORANDUM REGARDING GRADUAL RELINQUISHMENT OF EXTRATERRITORIALITY

1. It seems that the principal criticism which may be made concerning the British instructions is that they fail to appreciate, from a practical point of view the importance to foreign interests of the "treaty port" as compared with the interior. There are three principal depots of trade, namely, Hongkong, Shanghai and Dairen. In the same category may be placed Tientsin and, to a lesser extent, Hankow. As long as the three places first named continue to remain protected bases for foreign residence and trade, it will be possible

¹³ *Infra.*

¹⁴ Copy transmitted to the Department by the Minister in China in his despatch No. 2440, November 20; received December 21, 1929. Copies of this memorandum were handed to the British, Japanese, and Netherlands Ministers in China and to the representative of the French Minister in China during the meeting held on November 8, 1929.

to maintain import and export trade with China without substantial loss. As Dairen and Hongkong are not within the scope of this discussion, our chief concern is with the status of Shanghai and, to a lesser extent, of that of Tientsin and Hankow. It therefore seems to me that it will be necessary to treat these places differently from other areas in China which are not comparatively of great importance to foreign interests, and that it will be necessary to do this irrespective of any desire for mere logical consistency in the procedure to be adopted for the gradual relinquishment of extraterritoriality.

2. If extraterritoriality is to be relinquished by a gradual process, I am of the opinion that it would be preferable to proceed by the "geographical" method rather than by that of "categories of jurisdiction". When foreigners first acquired extraterritoriality rights, they were limited in residence to certain treaty ports. Subsequently, and as a result of missionary pressure, the treaties were modified so as to permit of the residence of missionaries throughout the whole of China. These people carried their extraterritoriality rights with them and thus began a process of infiltration of the alien resident into every province and district of China. It seems very questionable whether this was wise or justifiable. For the legitimate purposes of general international contact, it would seem difficult to maintain that aliens should have the privilege of penetrating the interior, clothed with special rights, in this manner. It has had the effect, throughout the whole of China, of setting the foreigner apart as a person of special privilege and has thus tended to arouse a feeling of jealousy among the Chinese to an extent which would not have been likely, if the foreigner had been content to restrict his special privileges to the principal marts of trade. If we are now gradually to cede these rights, the natural method would appear to be one of retreat along the line by which the advance was originally made. Restricting our special privileges to the principal ports, we could, with much more justification, resist for a longer period the demands of the Chinese; and, such ports being situated in places where measures of defence can be availed of, it would be possible to maintain our position far more effectively than by any other method.

3. With regard to the geographical method, it is suggested that there is also the alternative plan of relinquishment by special areas as a matter of experiment, such areas to be extended in measure as the Chinese may live up to anticipated standards. In the way of a concrete example, it is suggested that extraterritoriality might be relinquished in the Provinces of Chekiang and Fukien. Here the number of foreigners and the extent of foreign interests is comparatively small, and the provinces in question border the seacoast, thus making naval protection more available in emergencies than would be possible in most other parts of China.

4. It would appear very dangerous to yield at the outset the whole civil jurisdiction over foreigners as suggested in the British memorandum. This would enable the Chinese to strike at and undermine the whole structure of foreign financial interests. The Chinese, if so minded, could so use their control of civil jurisdiction as completely to disrupt foreign trade with the specific object of bringing to an end the whole extraterritorial regime at an early date. It is a question if they would not be more likely to do this than they would if we yielded our extraterritorial rights *in toto*.

5. With regard to the readiness evidenced in the memorandum to place the foreigner under Chinese jurisdiction in petty criminal and police cases, I am of the opinion that this step in actual practice would be more irritating [than], if not actually as dangerous as, to yield jurisdiction in substantive crimes. I do not think the proposer of this measure can appreciate the degree of annoyance and persecution to which Chinese police and other petty officials would go in molesting the every day life of the foreign resident.

M. F. P[ERKINS]

793.003/182 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 9, 1929—4 p. m.

[Received 7:14 p. m.¹⁵]

977. 1. British Minister has received from his Government an outline of the basis upon which it considers negotiations should be held with a view to the gradual relinquishment of extraterritoriality. The essential features of this plan are:

(a) Its rejection of the suggestion of proceeding geographically in favor of proceeding by categories of jurisdiction in the order: First, civil; second, criminal; and third, personal status;

(b) Its insistence upon courts including judges of foreign nationality.

It is the intention of the British Government in the near future to lay this plan before the other interested Governments. Before doing so, however, it instructed its Minister to ascertain the views of his interested colleagues. An [*In*] informal discussion among them yesterday, the French Minister expressed his personal concurrence in the British proposal to proceed by categories of jurisdiction rather than by geographical areas. Dutch Minister and I would personally prefer to commence progress along the geographical line; Japanese Minister expressed himself as wholly undecided as yet but acknowledged a slight inclination to favor the latter plan.

¹⁵ Telegram in three sections.

No important difference of opinion was brought out in regard to the other phases of the British proposal. It was decided that each of us should report the discussion to his own Government for its consideration when the British proposal is presented.

2. The official Kou Wen [*Kuo Min?*] News Service reports from Nanking November 7th that: ["The Waichiaopu takes the view that these replies offer a definite way for the abolition of extraterritoriality and has decided to adhere to the original resolution to abolish consular jurisdiction on January 1st next. Separate negotiations will be started with the countries concerned, and, if the Foreign Ministers feel that the time at their disposal is too limited for them to seek instructions from their home Governments, the Waichiaopu is ready to instruct Chinese Ministers abroad to conduct negotiations with those Governments direct." I consider this as meaning that Nanking intends to enter into actual negotiations only upon condition of the recognition of the definite abolition of extraterritoriality as from January 1st and that such negotiations will be for the sole purpose of giving the several interested powers opportunity to seek by [*sic*] several provisional arrangements pending the coming into force of the regime of unqualified Chinese jurisdiction over foreign nationals.

MACMURRAY

593.05/181½ : Telegram

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

[Paraphrase]

LONDON, November 11, 1929—5 p. m.

[Received November 11—4:05 p. m.]

320. This afternoon I discussed with the British Foreign Office the meeting held November 8 at Peking and was informed that the British Government cannot accept the proposals for the abolition by geographic areas of extraterritoriality. The Foreign Office, however, feels that the Diplomatic Corps has, in any case, reached a general agreement as to the method of approach, discussing with the Chinese authorities: First, civil cases; second, criminal cases; and third, cases respecting personal status, with particular attention to arbitration cases which arise between Chinese and foreign nationals.

ATHERTON

711.933/167

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] November 11, 1929.

The Chinese Minister, Doctor Wu, called by appointment at 3 o'clock to say that he had received telegraphic instructions from his Gov-

ernment to inform the Secretary of State that he was prepared to take up the discussion of the abolishment of extraterritorial rights in China.

I referred to the American note of November 1, and stated that I took it for granted that in sending him these instructions his Government was prepared to accept the American proposal for the gradual abolishment of extraterritoriality. The Chinese Minister hesitated a moment and reminded me that his Government was anxious to have these rights done away with by the first of January. I said that we, of course, understood, that in our note we had stated what we were prepared to do.

I asked the Chinese Minister whether he had any formal or written communication to make. He asked me whether I expected them to make a reply to our last note. I said that I did not necessarily expect that, as long as we understood clearly the terms under which such discussions as we might have were to be conducted.

The Chinese Minister reminded me that in the last sentence of the Chinese note of September 5, the Chinese Government had made a very significant statement, as follows:

"It is with this last object in view that the Chinese Government [now] requests the American Government to enter into immediate discussions with [the] authorized representatives [*representative*] of the Chinese Government for making the necessary arrangement[s] whereby extraterritoriality in China will be abolished to the mutual satisfaction of both Governments."

He emphasized the fact that they were prepared to discuss a plan that would be mutually acceptable to the two Governments. I took it that he desired me to draw the inference from this that the Chinese Government was prepared to consider the matter on the basis of the American note.

I told the Chinese Minister that it would simplify matters very much for us and for him if his Government could furnish us with some plan or some proposal to this end. He said that they had no plan nor proposal to submit but would like to see any proposal that we might care to make. I told him I felt this was a matter that could be worked out if we discussed it with good intent and a serious desire to reach an agreement under which the two countries could feel that the question of extraterritoriality would settle itself.

The Minister asked me to convey this information to the Secretary and I promised that I would.

N[ELSON] T. J[OHNSON]

711.933/169

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] November 14, 1929.

The Chinese Minister called today and asked me when we could begin discussions on the question which he had referred to in his conversation with me of the eleventh when he had told me that his Government had instructed him to take up the question of extraterritoriality. I told him I could not tell him now as the Secretary was away and the matter required some thought and it would take a little time. He stated that he thought the discussions could take place after we had consented to commence them. I told him it would probably require quite a little discussion as it was a matter that needed a good deal of thought. He said that time was flying by. I assented to this but pointed out that it was a matter that had been under consideration for quite a long time, that the situation had existed for many years and that we could well afford to consider very carefully what we were going to do before reaching any definite conclusions.

I stated that I hoped there was no truth in the rumors and reports that were constantly being referred to in print that the Chinese Government intended by unilateral action to denounce extraterritorial privileges on January first of foreigners. The Minister stated he had no information as to what their plans are, but from newspaper statements and rumors which he had heard and personal letters, he believed there was a considerable body of influential opinion in favor of that. I stated that I thought it would be a grave mistake on the part of the Chinese to do this, that the American Government would not feel it was in any way hostile to China nor would it like the idea of even seeming to act under the lash of the Chinese Government; that if there was any danger of this it might seem better to consider the matter more carefully and more at leisure.

The Minister stated that neither his Government nor his people had any desire to give the impression that they were in any way hostile to the American people or to the American Government, but that naturally there was a large body of public opinion in China constantly pressing the Chinese Government to get rid of the extraterritorial rights of foreigners and that they were forced to take such steps as would seem possible to that end.

The Minister asked me when he might be informed as to our intentions with regard to extraterritoriality and I told him that just as soon as the Secretary returned and I could discuss the matter with him I would inform him.

N[ELSON] T. J[OHNSON]

711.933/172

Memorandum by the Assistant Secretary of State (Johnson) of a Conversation Between the Acting Secretary of State and the British Chargé (Campbell)

[WASHINGTON,] November 15, 1929.

Mr. Campbell called upon the Acting Secretary ¹⁶ to say that under instructions from his Government he desired to inform us that his Government hoped that we would not reach final conclusions with regard to instructions to Mr. MacMurray on the subject of Chinese extraterritoriality until his Government had an opportunity to present through him their reasons for the abolishment of extraterritorial rights by categories of cases rather than by geographical areas. He stated that he had in his possession these arguments and would like to present them at some convenient time.

The Acting Secretary asked me if I could see Mr. Campbell on the subject and I told Mr. Campbell at his convenience I would discuss the matter with him.

Mr. Campbell also stated that his Government had been approached by the Chinese Government to begin separate negotiations on this subject and his Government had replied that it could not agree to separate negotiations, that it thought negotiations should be undertaken in Peking and that it also felt that negotiations should be conducted jointly with the powers. Mr. Campbell stated that he had been instructed to ask whether we agreed with that point of view. Mr. Campbell was told that the matter had not been considered or settled yet but that we would be very glad to inform him on this matter before final instructions were sent.

N[ELESON] T. J[OHNSON]

711.933/187

Memorandum by the Assistant Secretary of State (Johnson) of a Conversation With the British Chargé (Campbell)

[WASHINGTON,] November 18, 1929.

Mr. Campbell of the British Embassy came in to see me and read to me from the attached document ¹⁷ setting forth the British point of view in regard to what might be done toward meeting the Chinese on the subject of extraterritoriality. Mr. Campbell stated that his Government was very anxious to find some common ground upon which we could work jointly in this matter and that it preferred that the negotiations take place in Nanking rather than in London for the British Government. I told Mr. Campbell that we had not

¹⁶ Joseph P. Cotton, Under Secretary of State.

¹⁷ Not printed.

reached any decision in the matter, that we were interested in the British point of view, and that personally I was attracted by the view set forth, namely, that extraterritoriality be extinguished by categories of cases rather than by a process involving geographic areas. I said that so far as negotiations were concerned we had in our last note told the Chinese we were prepared to discuss the matter with them at their convenience and that we might find it difficult to refuse to discuss the matter here in Washington if the Chinese insisted; that in any case we should be glad to find some program upon which we could jointly agree.

N[ELSON] T. J[OHNSON]

711.933/170 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 19, 1929—6 p. m.
[Received November 20—9:20 a. m.]

1009. Legation's 970, November 7, 8 p. m.

1. At a meeting of the interested Ministers today French Minister stated that in reply to his note of November 1, he had received from the Minister for Foreign Affairs a note dated November 9th, in which it was urged that the French Minister should proceed to Nanking as soon as possible to discuss the abolition of extraterritoriality. The French Minister proposed to answer that he was prepared to accept this proposal when the Chinese Government should have made a concrete proposal on the subject which might be transmitted to the French Government for its consideration and the issuance of appropriate instructions.

2. The Dutch Chargé d'Affaires stated that he had received a similar note from Nanking and that he would seek to obtain from his Government authority to make a reply similar to that outlined by the French Minister.

3. The British Minister and myself stated that we had as yet received no reply to our respective notes of November 1st but that we had inquired by telegraph of our Consuls at Nanking whether such reply had been received for transmission.

MACMURRAY

711.933/171 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 20, 1929—6 p. m.
[Received November 21—2:55 a. m.]

1014. My 1009, November 19, 6 p. m., last paragraph. Following from American Consul at Nanking:

"November 19, 12 p. m. Wang informed me tonight that, knowing that the American Minister was leaving Peiping, he had telegraphed his views, in reply to the American extraterritoriality note of November 1st, to Chinese Minister in Washington for communication to Department of State."

MACMURRAY

793.003/190 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 20, 1929—10 p. m.
[Received November 21—2:55 a. m.]

1018. Local press today carries article, pertinent portions of which follow:

"Determination to effect the abolition of extraterritoriality on January 1st next was reaffirmed by Dr. C. T. Wang, Monday²⁴ morning, according to Chinese telegraphic advices from Nanking. Touching on the subject of extraterritoriality, the Foreign Minister said that China was the only country in the world where this archaic system prevailed, and that the Chinese report says that the Nanking Government has decided not recognize the rendition agreement which was negotiated by Dr. V. C. [K.] Ting and the foreign consuls in Shanghai in 1926²⁵ when General Sun Chuan-fang was at the head of the Kiangsu provincial government."

MACMURRAY

711.933/174

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] November 21, 1929.

The Chinese Minister asked the Secretary in the course of conversation today whether he had reached any decision with regard to the question of extraterritoriality, on which subject he had spoken some time before. The Secretary stated that he thought he had made his position on this subject quite clear to the Chinese Government in the note which had been despatched on November 1, namely, that we were prepared to discuss the question with the Chinese at their convenience with a view to the gradual relinquishment of extraterritorial rights, such relinquishment to proceed with certain steps to be taken by the Chinese in the establishment of courts and the preparation of these agencies for the protection of American rights about to be turned over to them. The Secretary

²⁴ November 18.

²⁵ See *Foreign Relations*, 1926. vol. I, pp. 1023 ff.

stated that he supposed that the Chinese accepted this point of view; otherwise the Minister would not be proposing discussions. The Minister agreed, referring to the note of his Government stating that they desired to enter into discussions with a view to finding a method that would be mutually acceptable to the two countries. Naturally he realized that if it were just an expression on their side of what they wanted and an expression on our side that we would not give them what they wanted but would give them something else, that five minutes would be all that would be necessary to complete such discussion. The Secretary stated that naturally in this matter he wanted time to consider the various aspects of the question, that a number of propositions had been made. It had been proposed that relinquishment might be by geographic areas; it had also been proposed that relinquishment might be by categories of cases. He himself would naturally wish to keep himself informed of the attitude of other countries, particularly of the British with regard to this matter; also he would wish to consult the American representatives in the field who were acquainted with the situation. He told the Chinese Minister that he would have to bear with him at this time as he was very much occupied with various matters and hoped that he would discuss these matters with Mr. Johnson and bring him in whenever it might be necessary. The Chinese Minister stated that he would do this.

N[ELSON] T. J[OHNSON]

793.003/191 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 21, 1929—6 p. m.

[Received November 22—5:50 a. m.]

1024. My 1018, November 20, 10 p. m.

Under date line of Nanking, November 20, Reuter carries the following:

“It is learned in reliable quarters that the National Government has decided to issue a declaration on January 1 next announcing the abrogation of extraterritoriality in China.

A Foreign Office spokesman this afternoon stated that the step does not mean abrogation of China's treaties with the powers. Only the clauses pertaining to the exercise of extraterritorial rights in China will be abolished.”

MACMURRAY

793.003/195 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 26, 1929—6 p. m.
[Received November 27—6:30 a. m.²⁶]

1044. 1. At meeting yesterday of the interested Heads of Legation French Minister and Dutch Chargé distributed memoranda giving the views of their respective Governments concerning the outline of the basis upon which the British Government considers negotiations might be held with a view to the gradual relinquishment of extraterritoriality (Legation's 977, November 9, 4 p. m.). Both representatives said that they would request their home Governments to telegraph these views to the other interested capitals. I am therefore refraining from telegraphing the text of the memorandum.

2. British Minister stated that his Government had already given a warning to the Chinese Minister in London against the unilateral denunciation of extraterritoriality. At a meeting of the Anglo-American Association in Peiping November 22, Lord Hailsham, chief British delegate to the Kyoto conference of the Institute of Pacific Relations and former Lord Chancellor of Great Britain, stated that he had heard a "rumor" that the Chinese Government intended unilaterally to abolish "extraterritoriality" by the end of the present year but that he declined to believe it. He stated that China was trying quite rightly to impress upon the powers its fitness to take its place among them as a sovereign state but that he was convinced that Chinese would not regard treaties as scraps of paper. China was not going to give its detractors an excuse to say that it was capable of tearing up its obligations. He does not think that the Chinese Government would be so careless of their country's honesty. I have reason to believe that Hailsham was prompted by Lampson to make the foregoing remarks.

3. British Minister stated that his Government had refused a request from the Chinese Government to hold negotiations in London with regard to extraterritoriality. He also said that if the Chinese Government were to make a unilateral denunciation there would seem to be no advantage in his proceeding to Nanking to undertake negotiations upon this subject. Lampson also raised the question whether, in the event of unilateral denunciation, the interested powers might not be able to unite upon some common action in the matter. In this regard he expressed the belief that as a result of the general foreign reaction to the present Sino-Soviet controversy China was at the moment much more sensitive to world opinion than in the recent past.

PERKINS

²⁶ Telegram in three sections.

711.933/180 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 27, 1929—1 p. m.

[Received November 27—6:30 a. m.]

1047. Regarding Legation's 1044, November 26, 6 p. m. Following from the Kuo Wen News Agency, Nanking, November 25th:

"Waichiaopu has instructed Dr. Alfred Sze and Dr. C. C. Wu to request the British and American Governments to appoint delegates before January 1st to discuss a method for the settlement of the extraterritoriality question.

The Ministry says that the National Government has decided to abolish consular jurisdiction on January 1st as this is essential to the existence and development of China as an independent and sovereign nation and that, while recognizing that China's treaties with Great Britain and the United States still have several years to run, it shows that the two Governments will recognize the justice of Chinese demands and proceed to negotiate with the Chinese Government for a revision of the present anomalous situation.

According to reliable information Dr. Sze and Dr. Wu have been negotiating with the British and American Governments for some time and an early understanding is anticipated."

PERKINS

793.003/195 : Telegram

The Acting Secretary of State to the Chargé in China (Perkins)

[Paraphrase]

WASHINGTON, November 29, 1929—8 p. m.

398. Reference your 1044, November 26, 6 p. m. Regarding your paragraph 1: You are informed, for your discreet use if necessary, that the British Embassy has furnished the Department with a lengthy and detailed statement,^{26a} in rather general terms, of the principles the British Government believes should be followed to effect arrangements with China for the gradual relinquishing of extraterritoriality. The Department is studying these suggestions, and they have been discussed with a member of the British Embassy staff. As yet, however, the Department has not formulated its views in reply, nor has it committed itself either as regards a date to begin discussions or as regards any special plan.

CARR

711.933/213

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 2, 1929.

The Chinese Minister called upon me this morning, by arrangement, pursuant to the conversation which he had with the Secretary

^{26a} Not printed.

on November 21, to discuss the question of extraterritoriality. He brought with him Mr. Liang, a secretary of the Legation, whom he introduced to me and stated that he had brought him along as of possible assistance in answering any questions as Mr. Liang had been in the Provisional Court at Shanghai. . . .

After some conversation on extraneous subjects the Chinese Minister referred to the question of extraterritoriality and I handed to him, and gave a copy thereof to Mr. Liang, the attached statement. Upon reading it the Chinese Minister commented that it was the final paragraph of our note to the Chinese Government²⁷ in reply to their note asking for the abolishment of extraterritoriality.²⁸ I said that it was and that as it stated, it was the only basis upon which we were prepared to conduct the negotiations and I desired to give it to him and use it myself as the basis from which we would begin any discussion we might have. I pointed out to the Minister that this communication raised two questions which would have to be settled and I wished to propound to him now the first question, and I asked him whether he had any suggestion to offer, for his part, of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both.

The Chinese Minister said he had no suggestion to make, that as his Government desired the abolishment of extraterritoriality naturally they would have no suggestion to make.

I replied to him that that seemed to put the entire responsibility upon us of devising a means for the gradual abolishment of extraterritoriality and that discussions could only continue in case he would be willing to consider some method that we might propose, inasmuch as we were not prepared to accept the Chinese Government's only proposal, namely, that of immediate abolishment.

The Chinese Minister stated that he felt that if we could agree on abolishment that then it would be possible for them to discuss how that might be accomplished. I stated that it was obvious that we could not agree on sudden or immediate abolishment. The Minister stated that he felt that the abolishment, whether immediate, sudden or gradual was all the same thing. I stated that might be as it might be. I said that in view of the fact that his Government was placing upon us the entire responsibility for devising a method for the gradual abolishment of extraterritoriality it now remained for me to consider some method. I said that we had been unable as yet to determine on any particular method but were considering several lines of

²⁷ Dated August 10, 1929; for text, see telegram No. 254, August 1, to the Minister in China, p. 596.

²⁸ Dated April 27, 1929; for text, see note of May 2 from the Chinese Minister, p. 559.

thought. I said that one line we were considering contemplated the possibility of enforcing Chinese law through the instrumentality of American judicial tribunals now existing in China, but that before we could reach any definite conclusions as to the efficacy of such a method, I would need to have from him some information along the lines of the second question laid down in this communication which I had handed to him, namely, as to what steps had been taken and what improvements had been achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence. I asked him if he was prepared to give me any information with regard to that which we could have for study.

The Minister said he thought that he could give us some information. I asked him specifically for copies of laws which had been promulgated and which had been enforced. I pointed out that I already possessed a copy of the first book of the Civil Code of the Republic of China covering the general principles of the code promulgated by the National Government on the 23 of May, 1929. He asked me what I thought of it. I told him that in so far as I had been able to read it, it seemed a very interesting and valuable contribution, but the most important part remained to be seen, namely, the civil code of the laws and I asked him whether he had a copy of that and he told me he had not, that it was not yet finished and that it covered a range of subjects which would probably be the most difficult to codify and that it would probably be the last code that would be completed. I said this code was of profound interest to us in any discussion of this subject that we might have and that I would like to have any and all information that he could give me in regard to it and also in regard to the establishment and maintenance of courts for the enforcement of these laws.

The Chinese Minister promised to gather this information for me. The conversation here ended.

N[ELSON] T. J[OHNSON]

793.003/197 : Telegram

The Chargé in China (Perkins) to the Secretary of State

[Paraphrase]

PEIPING, December 3, 1929—7 p. m.

[Received December 3—1 p. m.]

1074. (1) The contents of the Department's 398, November 29, 8 p. m., were reported today by me in a conversation with the British Minister.

(2) He informed me that the Chinese Minister in London on November 25 told Wellesley of the Foreign Office that the Chinese Government had decided on abrogation next January 1 of extraterri-

torial rights and intends establishing at Harbin, Tientsin, Hankow, Shanghai, and Canton, modern courts in which foreign advisers are to be employed without the right to interfere in decisions. Civil suits between foreigners may be tried in courts outside China, while the judgments so found may be enforced in Chinese courts on the condition that they are not repugnant to the laws and customs of China. . . . Apparently the Chinese Minister simply made an oral statement, without handing in a written communication.

(3) I should welcome instructions at as early a date as possible from the Department regarding the attitude which the Legation and consular officers in China are to take in the event that the Chinese Government's purposes, as described above, should be carried out.

PERKINS

711.933/183

The Chinese Minister (C. C. Wu) to the Assistant Secretary of State (Johnson)

WASHINGTON, December 3, 1929.

DEAR MR. JOHNSON: Herewith the memorandum you wanted yesterday which I have been able to prepare with the present available material.

Will you let me know when you will be ready for the next Conference?

I thank you for your promptness in sending me copy of the American Government's communication last evening.²⁹

Yours very sincerely,

CHAO-CHU WU

[Enclosure]

The Chinese Legation to the Department of State

MEMORANDUM

In November 1928, Mr. Chao-Chu Wu submitted a memorandum on the Present Administration of Justice in China to the State Department.³⁰ The present memorandum is supplementary to it and brings it up to date.

During the last twelve months or so, the following principal points of progress may be noted.

1. Besides the revised Criminal Code promulgated on March 10, 1928, and effective on September 1, 1928, a Code of Criminal Pro-

²⁹ Presumably relating to the conflict between China and the Soviet Union; see the Secretary's statement of December 2, 1929, Department of State, *Press Releases*, December 7, 1929 (Publication No. 23), p. 83.

³⁰ Not printed.

cedure has been promulgated, which went into effect on September 1, 1928. These two codes, as far as their technique is concerned, compare favorably with the best modern codes of the world, and their workability has been sufficiently proved by more than one year of judicial application. As a consequence, the administration of criminal justice in China has been brought to a higher plane than at any time since the establishment of the Republic.

2. Definite and remarkable progress has been made in the difficult and important task of making the Civil Code.

(A) A portion, the most important portion of the Civil Code, was promulgated on May 23, 1929, and came into force on October 10, 1929. This is Book I of the Code, containing the General Provisions and consisting of 7 chapters and 152 articles.

(B) The Legislative Principles for the portion or Book of the Code dealing with Obligations have been determined. Its completion and promulgation may be expected in the very near future.

(C) It has been decided that there will be no separate Commercial Code, but that the Civil Code will comprise the Commercial Code as well, while separate laws will be devoted to such subjects as Companies, Negotiable Instruments, Insurance, etc. This decision has been dictated by the example of Anglo-Saxon countries and by the trend of modern thought.

3. A new Law of Nationality was promulgated on February 5, 1929.

4. Before a new law is framed or an old Law amended, the legislators have been adopting the practice of determining certain guiding principles in advance. When such "Legislative Principles", as they are called, have been laid down, subsequent effort is naturally much facilitated and the work is soon completed. Legislative Principles have been determined and announced *inter alia* for the following pieces of legislation of interest to aliens:

(A) Book of Obligations of the Civil Code, mentioned above.

(B) Land Law.

(C) Factory Law.

5. A general plan for establishing new courts and increasing the number of judges and procurators in the existing courts has been worked. For instance, the Supreme Court had originally two Divisions for civil cases and two Divisions for criminal cases. Recently two Divisions for civil cases and one Division for criminal cases were added and the number of judges and procurators were increased accordingly. More district courts and high courts are being established in accordance with a fixed scheme. Judicial power is being taken from the local magistrates and placed in the hands of those specially trained for performing judicial duties.

711.933/206

*The French Embassy to the Department of State*³¹

The French Government has been informed by a note of the Chinese Legation in Paris, dated November 26th, of the desire of the Chinese Government that the privileges of extraterritoriality be suppressed as from January 1st 1930. The Government of Nanking has requested the Government of the Republic to designate a plenipotentiary to negotiate on this subject. This step would seem to indicate that the favorable answers made by the interested Powers on November 1st to the Chinese note of September 7th did not have for effect, as was expected, to bring the Nationalist Government to renounce to his [*its*] project of arbitrary denunciation of the treaties on January 1st next.

Under these conditions, the French Government deems it advisable to remind the Chinese authorities of the obligation which befalls them to endeavor to solve only by pacific means and judicial methods such a question as extraterritoriality which involves in the first place a point of law and concerns the statutes of persons and property.

It is the intention of the French Government to reply shortly, in this direction, to the Chinese Minister, reminding him that the French Envoy in China has already entered into negotiations on this subject with the Chinese Government and also calling his attention to the attitude adopted following the French notes of October 9th 1928, and October [*August?*] 10th and November 1st 1929. In stating the impossibility in which it finds itself to accept for the solution of the question of extraterritoriality a date imperative and arbitrarily chosen, which is justified neither in fact nor by right, the Government of the Republic would specify that only an agreement established by mutual consent between France and China may intervene to that effect, adding that at all events its consent could not be given to the immediate total suppression of extraterritoriality, the guarantees accorded to the French citizens in China, particularly by the Treaty of 1858 containing dispositions which may be modified only by the process of gradual devolution and in conformity with article 40 of said Treaty. The French Government will conclude in stating that it does not doubt that the Chinese Government shares this point of view and agrees entirely with the Government of the Republic in its endeavor to solve exclusively by judicial methods and pacific means this important point of law.

³¹ Transmitted to the Secretary of State as an enclosure to a personal note dated December 3, 1929, from the French Ambassador; received December 4. The note said in part: "Please find enclosed a résumé of the instructions of M. Briand to our Minister in Peking about extraterritoriality. I should be pleased to have your point of view about this question."

The Ministry of Foreign Affairs of France is studying the suggestions made by the representatives of the various Powers at Peking to apply articles 13 and 15 of the League of Nations [Covenant] in the event of the denunciation of the treaties by the Chinese Government. It finds preferable however, for the present at least, to have recourse to the Permanent Court of Justice at the Hague.

M. Briand believes that the time has come to call the attention of the Government of Nanking upon the responsibility which befalls it in the event of its endeavor to solve the question of extraterritoriality by means other than judicial and pacific./.

WASHINGTON, December 3, 1929.

711.933/187

*The Assistant Secretary of State (Johnson) to the British Chargé
(Campbell)*

WASHINGTON, December 4, 1929.

MY DEAR MR. CAMPBELL: I have delayed somewhat overlong replying to your note of November eighteenth,³² chiefly because of the pressure of events.

I wish to thank you for your kindness in furnishing me with a copy of the proposals of His Majesty's Government for dealing with the question of extraterritoriality in China.³² I enclose, in the form of an *Aide Mémoire*, the comments which the Department has to make upon these proposals and which you will wish to communicate to your Government. Copies of both memoranda will be telegraphed to our Legation at Peking. As you will observe from this comment, we have informed the Government of China that we are prepared to enter into negotiations, "when convenient to the Chinese Government," which shall have as their object the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment of laws based on modern concepts of jurisprudence.

I may say that we desire to cooperate with and work with the other Governments in this matter and desire to be informed of progress made by the other Governments in any negotiations which they may undertake as we shall endeavor at all times to keep the other interested Governments informed of what progress we may make.

³² Not printed.

This Government has already had conversations with the Chinese Minister here in Washington on the subject, although no definite progress has been made. We therefore feel that we must continue such conversations here, if the Chinese Government so desires.

For the information of your Government, I enclose a copy of a draft of a proposal which we are considering for possible presentation to the Chinese Minister here in connection with these conversations.³⁴ You will note that the idea upon which it is based is that of applying Chinese law in American courts in China after such laws have been examined by a commission to be set up. This is one of several possible proposals which we have under consideration.

Very truly yours,

NELSON TRUSLER JOHNSON

[Enclosure]

The Department of State to the British Embassy

AIDE MÉMOIRE

Careful consideration has been given to the *Aide Mémoire* left by the British Chargé with Mr. Johnson on November 18, 1929, and the Department of State has the following comments to make in regard to the principles which in the opinion of His Majesty's Government should govern any attempt to discover a solution of the problem of the abolition of extraterritoriality.

1. The American Government is happy to find itself in agreement with His Majesty's Government in the view that "the abolition of extraterritoriality must be a gradual and evolutionary process, and the extent of the initial modifications that can be made in the present system and the rate of subsequent progress must be determined by the extent to which the Chinese Government accept this proposition and the nature of the safeguards that they may be willing to erect at each stage of the process."

In its note to the National Government of the Republic of China of August 10, 1929 the American Government stated that it would be ready "if the suggestion should meet with the approval of the Chinese Government, to participate in negotiations which would have as their object the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence." And again on Novem-

³⁴ For text of proposal, see annex 2 to Assistant Secretary Johnson's memorandum of December 21, 1929, p. 657.

ber 1, 1929 the American Government restated its position concluding with the following:

“However, assuming that the Chinese Government has not failed to take into consideration the main points set forth in my note of August 10, and desiring as far as possible to meet the wishes of the Chinese Government, my Government is prepared to enter into negotiations, when convenient to the Chinese Government, which shall have as their object, as indicated in the concluding paragraph of my note of August 10, ‘the devising of a method for the gradual relinquishment of extraterritorial rights either as to designated territorial areas or as to particular kinds of jurisdiction, or as to both, provided that such gradual relinquishment proceeds at the same time as steps are taken and improvements are achieved by the Chinese Government in the enactment and effective enforcement of laws based on modern concepts of jurisprudence.’”

2. The American Government finds itself disposed to concur in the objections raised by His Majesty’s Government to the proposal that extraterritorial jurisdiction be dealt with by geographic areas. It agrees that there is better chance of success in dealing with the matter by categories of cases but feels that it may be that in the course of any negotiations that may take place it may be desirable to discuss both principles.

In dealing with the question by categories of cases the American government concurs in the belief of His Majesty’s Government that the method of transfer of jurisdiction should be in the general order (1) civil cases, (2) criminal cases and (3) personal status matters.

3. The American Government is giving consideration to the question of the possibility of applying Chinese law progressively to controversies involving American citizens as defendants through the instrumentality of the American consular courts and the United States Court for China. This suggestion was made by the Commission on Extraterritoriality. The American Government agrees with His Majesty’s Government that this method would help to bring to the attention of the Chinese Government the necessity of adopting codes and of making them universally applicable throughout China.

4. The American Government agrees with the view of His Majesty’s Government that in applying the principle of transfer by categories of cases the most that can be envisaged as practicable in the near future is the transfer of jurisdiction in civil cases. This Government finds it somewhat difficult, however, to understand how this is to be accomplished and still pursue the policy outlined in paragraph eight of the *Aide Mémoire* of His Majesty’s Government, namely, that suits between British subjects should continue to be heard in British courts. The American Government since February 23, 1927 has not been insisting upon the right of American citizens

to be represented in Chinese courts by American consular officers thus putting into effect the recommendation of the Commission on Extraterritoriality on that point and is urging its citizens to take their cases into the modern courts of China. Thus if there is to be any further step in regard to American civil cases it must be in the direction of placing such cases within the jurisdiction of the modern Chinese courts.

5. The American Government concurs with the view of His Majesty's Government that if and when jurisdiction in any class or classes of civil cases is to be transferred to a Chinese Court it would appear to be more satisfactory that that court should be a modern court officially organized under the existing system of judicial administration and properly staffed, rather than a special court created to meet the situation.

6. The American Government agrees with the views of His Majesty's Government that it will be necessary to examine carefully the Chinese codes before any decision can be reached in regard to the transfer of any class of cases subject to such codes.

7. The American Government is happy to find itself generally in agreement with the views expressed by His Majesty's Government in regard to the question of safeguards. While it is not as yet prepared to commit itself to any particular view in regard to the employment by the Chinese Government of foreign judges, the question is being considered.

8. The views of His Majesty's Government in regard to suits between British subjects have been discussed in connection with paragraph four. The American Government would like to be further enlightened in regard to this question.

9. The American Government would be interested in any suggestions that His Majesty's Government may have to make looking to the protection of foreign shipping and the question of the enforcement of Chinese taxation.

10. The American Government feels doubt with regard to any attempt to distinguish between types of criminal cases feeling that abuses are likely to be perpetrated to as great an extent in petty cases as in others. Consideration is being given, however, to this suggestion.

11. The American Government agrees with His Majesty's Government that the administrative aspect of extraterritoriality will need careful consideration and would welcome any suggestions that His Majesty's Government may have to make as to the nature of the stipulations that should be included in any understanding intended to protect aliens against domiciliary visits and vexatious inspections made for the purpose of collecting taxes and enforcing regulations.

WASHINGTON, December 4, 1929.

711.933/214

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 5, 1929.

In the course of conversation today the Chinese Minister stated to the Secretary that he felt that he was not making any great progress in his conversations with Mr. Johnson on the subject of extraterritoriality. The Secretary stated to the Chinese Minister that he had been told by Mr. Johnson of his conversation with the Minister; that Mr. Johnson had explained that the Minister had stated that the Chinese Government was interested in abolishment of extraterritoriality and had no means short of that end to suggest. The Secretary stated that he felt sure that the Minister and also his Government understood quite clearly the basis on which we were ready to discuss the question, all of which has been very clearly outlined in his note to the Minister's Government, and he wondered whether the Minister was authorized to discuss on that basis. He said that he felt that if he was authorized to discuss on that basis it ought to be possible for him and for Mr. Johnson, as two men of good intentions and with a keen knowledge of the conditions in China, to reach some conclusions that might lead to results. The Minister stated that he was authorized to consider the abolishment of extraterritoriality according to some method that would be mutually acceptable to the two Governments; that he felt that Mr. Johnson was freer in this matter than he was and that he hoped that Mr. Johnson would be able to offer him something that could be discussed. The Secretary stated that he thought that the Minister ought to be able to forget the details and get down to the possibilities. The Secretary asked Mr. Johnson whether he had spoken to the Minister about the several ways that had been under consideration, whether by geographic areas or categories of cases and Mr. Johnson said that he had. The Secretary expressed the hope that the Chinese Minister and Mr. Johnson would find it possible to discuss frankly these questions and lead to some conclusion that they could work upon.

N[ELSON] T. J[OHNSON]

793.003/203 : Telegram

The Chargé in China (Perkins) to the Secretary of State

[Paraphrase]

PEIPING, December 7, 1929—4 p. m.

[Received December 7—3:35 p. m.]

1104. (1) At yesterday's meeting of the interested Legation heads, the British Minister gave his colleagues the information I reported in my 1074, December 3, 7 p. m., paragraph 2, and also the substance

of telegrams later received from London. Sir Miles Lampson has maintained, in his communications to the Foreign Office, that the Chinese threat to carry out unilaterally the abrogation of extraterritoriality directly cuts across the offer by the foreign governments to negotiate and that, until the Chinese attitude has been modified, it is, therefore, highly inadvisable to start negotiations. The position of the British Foreign Office, on the other hand, is that the opening of negotiations before January 1 is the best safeguard against Chinese unilateral action. The Foreign Office states also that the brief intervening period does not permit the interested Governments to give the question further mutual study and Lampson should warn his colleagues that the Chinese in calling for separate negotiations are quite within their rights because the treaties are not multilateral. The Foreign Office points out that, time being of the essence in the matter, Lampson should be ready immediately to proceed to Nanking. Again reaffirming the view that it is not advisable to yield to Chinese threats, Lampson, however, states in reply his readiness, if so directed by the Foreign Office, to proceed to Nanking. He expects final instructions at any moment.

(2) The French Minister said that the Chinese Minister in Paris, in a note dated November 26, communicated his Government's intention to abrogate the extraterritorial rights of France on January 1 and the request for negotiations to commence at once. The French Government purposes replying that the Chinese right to take such action cannot be recognized and only by juridical means can the question be determined. The death of Minister Saburi having interfered naturally for the time being with the progress of treaty revision, the Japanese Chargé had nothing to communicate on the subject.

(3) I informed my colleagues of the substance of the Department's 398, November 29, 6 p. m.

PERKINS

793.003/201 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 7, 1929—5 p. m.

[Received December 8—11:50 a. m.³⁵]

1103. Following from the American Consul at Nanking in reply to the Legation's request for an expression of his opinion as to the likelihood of the alleged reports unilaterally abrogating extraterritoriality January 1st:

"December 7, 7 p. m. Your December 5, 3 p. m.

1. I believe that prior to the October outbreak in Honan the Chinese Government was definitely shaping its course towards a unilateral

³⁵ Telegram in five sections.

declaration abolishing extraterritoriality on January 1st, 1930. This was evidenced by the abolition of Commissioners of Foreign Affairs, the appointment in September by the Judicial Yuan of preparatory committee to arrange for the assumption by Chinese courts of jurisdiction over foreigners, the hastening of efforts to complete the compilation of the new civil code, repeated and undenied press items purporting to be statements by responsible government officials that extraterritoriality would be abolished on January 1st and the deliberate creation by the Government of a public expectancy that extraterritoriality would be abolished on January 1st.

2. Now, however, I believe that the Chinese Government is uncertain as to its course with reference to extraterritoriality.

3. When Minister MacMurray was in Nanking he asked C. T. Wang whether the latter had made a statement that the Chinese Government would undertake to abolish extraterritoriality on January 1st. Wang's reply was an involved and indefinite explanation. I am reliably informed that Wang has just received from Thomas F. Millard a lengthy written analysis of the extraterritorial question and a strong recommendation that China refrain from attempting the abolition of extraterritoriality by unilateral action on the ground that there is a chance for a treaty with the United States on the subject early next year and that unilateral action would prejudice the chance for such a treaty.

4. China's course with reference to extraterritoriality will also be largely influenced by domestic development.

5. There is serious question as to whether the Government can outlast the year. Yesterday the Government Minister in whose intelligence, honesty, and sincerity I have confidence, told me that he thought that only some lucky accident could save the present government. He remarked that the Pukow mutiny was very serious and had utterly upset Chiang Kai-shek's plan of campaign in Kwangtung, that Wang Ching-wei is only awaiting the fall of Canton to set up an opposition government there, and that Eugene Chen will head the Ministry of Foreign Affairs new government. He further said that C. T. Wang has been handling negotiations in the Chinese Eastern Railway controversy very largely without reference to the Government and that the disastrous result thus far of these negotiations will most probably force Wang to resign. He said that this was the real reason for Wang's recent press statement about resignation. What Wang might do with respect to extraterritoriality, as a last official act before resignation, can only be a subject for speculation.

6. The Government is now quite nervous and some of the Ministers are arranging to place their families in places of safety. I saw Chiang Kai-shek yesterday in his home and he looked worried and ill at ease.

7. With reference to any steps which China would possibly take to make effective any declaration she may make undertaking to abolish extraterritoriality, I can only say that I believe from observation of the Government here that her course in this respect would be governed by circumspection and opportunism."

"December 6, 5 p. m. I saw J. B. Powell today and requested him on his own account to ask C. T. Wang what the intention of the Gov-

ernment is with respect to extraterritoriality. Powell tonight gave me the following statement as follows:

"Wang to Powell: If America, Great Britain and France come to some definite understanding with China before January 1st, with respect to negotiations extraterritoriality, China will not take unilateral action. If these nations do nothing in the matter, Chinese public opinion may force the Government unilaterally to declare extraterritoriality abolished. But the whole thing is uncertain because a radical government may be in power very shortly. In the [that] event there will be no question of any negotiations. I might myself be a prisoner now if the Pukow mutineers had shown a little more initiative. When they revolted there was nothing in Nanking to stop them crossing the river and taking possession of the city."

PERKINS

793.003/197: Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 7, 1929—6 p. m.

409. Your 1074, December 3, 7 p. m., paragraph 2. The Department has been informed that Chinese Minister at Paris informed Foreign Office that the Chinese Government "desires" to abrogate extraterritorial rights on January 1. French Ambassador here has informed Department that his Government intends to make reply sharply calling attention of the Chinese Government to the undesirability of a unilateral denunciation.

Should the Legation or the American consular officers in China receive any statement from the Chinese authorities that a procedure has been established in matters involving jurisdiction over American citizens in China which is not in accord with the treaties and understandings in force, an immediate report of the occurrence should be telegraphed by the Legation to the Department.

The Department is giving earnest consideration to this whole matter but cannot issue definite instructions regarding what is at present a hypothetical situation. No change in the present legal status of American citizens and their property and interests in China should be recognized by the Department's officers unless instructions to that effect have been received.

STIMSON

711.933/215

Memorandum, by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 9, 1929.

The Chinese Minister came to see me this afternoon, at my request, at 3:30.^{35a} After some discussion of conditions in China, from which

^{35a} Stanley K. Hornbeck was also present.

it appeared that the Minister either had very little information as to precise posture of affairs or was unwilling to be very definite on the subject, I thanked Doctor Wu for his letter of December third and for the enclosed memorandum attached thereto covering the various developments in the progress of judicial reform during the last twelve months. Referring to this memorandum I stated that it was very evident that the National Government of China was making strenuous efforts to put into effect new and modern codes of law and procedure but that it was equally evident that the progress in this matter was necessarily slow because of the magnitude of the task and that the codes were very new and untried. I expressed interest in the courts that were charged with the task of interpreting and enforcing these codes. The Minister handed to me the attached additional memorandum setting forth statistics as to the number of courts and their relation one to the other.

I told the Minister that I was not without some concern as to the freedom with which these courts were permitted to function and carry out their heavy responsibility of protecting property and property rights. I pointed out to him that information which was coming to us from China indicated to me that these courts were not only faced with the natural difficulties due to the unfamiliarity of the lawyers with the law and the functions of the court, but that apparently they were suffering from interference by the Government itself. I pointed out that during recent months our information was that in the area of Central China alone there had been nearly half a hundred instances where the private homes of American citizens and buildings owned by them had suffered from forced occupation by troops under orders of the Government itself without any apparent recourse on the part of the sufferers to any authorities that could give relief. I stated that the amount of destruction of property in these cases was very sad and very great, that in nearly every case the soldiers while occupying these buildings, not satisfied with peaceful occupation, had proceeded to remove first the contents of the house and then to remove the woodwork, windows, doors and even roofs. I said I brought the matter up at this time because I felt that it indicated only too clearly that there was little evidence of ability on the part of the Chinese to give adequate protection to American property through their courts and under codes when the military authorities acting under order of the Government were so regardless of the rights of the civilian population. I added that there was evidence that the civilian authorities of the Government desired to protect American citizens against such invasion of their rights but that there was also undisputable evidence that the military were not only contemptuous of civilian rights but were also contemptuous of the authority of the

civil administration over them, paying no attention whatever to proclamations, order[s] or promises given by the civil authorities.

The Minister stated that he was quite aware of this situation; that he himself had suffered in this regard because he had been present in Nanking and had given promises and orders but that his work was made difficult by the fact that the foreigners would be absent from their houses even after they were vacated and it was hardly possible for them to keep the military out of vacant houses.

I stated that it seemed to me that this was increased evidence of what I was saying, namely, that the military were not inclined to pay the slightest regard to the rights of a civilian. I said that it seemed to me that this was a new phase of life in China, that I recalled very distinctly that during a long stay in Hunan,³⁶ during which time the Chinese military were constantly moving here and there in the warfare that was then going on, that seldom, in fact I could not remember a case where the private property of American citizens had been occupied by the military, which fact led me to believe that a new spirit prevailed—a spirit that possibly was encouraged by those in authority. I said that we were very anxious to work out with the Chinese some process whereby these extraterritorial rights could be gradually done away with according to an arrangement involving progress on both sides. To begin with, we felt that we would like to see the new codes and the new courts in operation for a while in order that the Chinese people and American citizens living among them might become accustomed to this new regime that was beginning and acquire confidence in it and those putting it into operation.

The Minister stated that we had not been so anxious in the case of Turkey; that in that matter we had accepted the situation although even codes had not been perfected.

Doctor Hornbeck reminded the Minister that the situation in Turkey was not quite the same as the situation in China; that in Turkey there was a stabilized government, highly centralized, exercising its authority throughout the land; that at least there was confidence in the ability of this government to exert its authority wherever necessary, while in China at the present moment the Government was not stabilized nor was it able to exercise its authority over the military.

The Chinese Minister did not pursue this question further, but stated that, after all, each country had a right to make its laws to suit its own people; that it was not a question of making laws for aliens and that the alien came of his own volition and if he did not like what he found or the customs that prevailed, he could very properly go somewhere else.

³⁶ Assistant Secretary Johnson was Consul at Changsha, Hunan, from March 2, 1915, to April 12, 1918.

I reminded the Minister that American citizens had not gone to China under Chinese law, that they had gone there under the protection of their own law, which they understood and were accustomed to, and what the Chinese were asking Americans to do now was not to accept something they had known or they had voluntarily accepted, but something that was unknown to them—unknown even to the Chinese themselves, and that it was only reasonable that a transition period should be arranged for during which both peoples could prepare for the change. I pointed out to the Minister that for something like fifty or sixty years American citizens had lived in China and had done business in China without extraterritorial rights; that during this time the Chinese Government had isolated them in factories in Canton, had not permitted them to venture into the interior, had denied them any position of equality before the courts of the land under Chinese law and that numerous times had subjected them to mass attack in the attempt to hold the whole group of Americans responsible for the shortcomings of one individual, in accordance with ancient Chinese laws; that so contrary was this treatment to the usual treatment accorded to aliens that great dissatisfaction arose and constant conflict occurred and that extraterritoriality was arranged for in the first treaties with the Chinese as a means of settling these conflicts and making it possible for the two peoples in their legitimate relations of trade to live in peace and without disturbing one another. I pointed out that under this system of extraterritoriality, commerce and business had thrived; that Americans had gone to China to live and to carry on their trade, to invest money and to engage in cultural undertakings. I reminded him that during this period the friendship between the Chinese and Americans had grown and that not a little of this was due to the fact that the extraterritorial provisions of the treaties made it possible for these peoples to live in peace. I stated that in view of this situation, it was quite evident that American citizens had not gone to China to live under Chinese law and that now they were facing the necessity of a change and it was only fair to them and to the Chinese themselves that this change should be gradual, or brought about in such a way that there should be no interruption of this friendly intercourse.

I stated that Americans were disturbed in their minds and uncertain as to the ability of Chinese courts to take over the task of protecting them and their rights against injustice, not only because of the widespread disrespect for such rights on the part of the military, but also because of the occurrence of the Sheng³⁷ case in Shanghai, which indicated that the National authorities without any legal proc-

³⁷ The late Shêng Hsüan-huai (Shêng Kung-pao), a high official in China under the Manchu dynasty and retired in October 1911.

ess had determined to expropriate the private estate of a family that had been established in Shanghai as a family trust for the use of the family and also for charitable purposes.

The Minister stated he had very little information regarding the Sheng case, except what he had seen in the paper, and he understood from the press that the Government was proceeding on the ground that Sheng Kung Pao during the Manchu regime had acquired his fortune by speculation and that, therefore, this money should revert to the state. I told the Minister that it was not so much the reason why the state had acted in the matter that concerned me or concerned Americans in China, but the method that was pursued. In other words, the whole matter had been handled apparently as an administrative matter, without any process of law, even such as that which seemed to be required under the new codes which the Chinese were now so industriously promulgating.

I stated that this Government was very seriously interested in discussing some plan whereby it could proceed step by step with similar steps taken by the Chinese in relinquishing its jurisdiction over its citizens in China; that one of the first steps that should be undertaken, it seemed to me, was to accustom our citizens to the new codes and to their enforcement. I said that it occurred to me that a very proper and right contribution to this period would be for us to apply Chinese law to the adjudication and settlement of controversies among Americans through the instrumentality of existing American judicial tribunals in China. I said that such a step would result, in my mind, in bringing these codes definitely and concretely to the attention of American citizens. It would enable them to adjust their affairs to the new law that was coming into force. It would enable them to understand the spirit behind that law and all of this would be going on at the same time the Chinese people themselves were becoming accustomed to that law through the operation of their own courts. I stated that such a proposal recommended itself to me considerably further because it would enable our courts to cooperate with the Chinese courts more closely than they had been able to cooperate in the past, working as they were in the same medium.

The Chinese Minister asked me whether there was any similar case where foreign law had been enforced by a court alien to that law. I said I could not at the moment think of any. The Minister stated that so far as he knew, the only example of such enforcement by a court of an alien was to be found in the enforcement of municipal law by the courts. He said he thought such a proposition was impossible of fulfillment. He asked me whether this was not a proposal similar to that made by the British some three years ago to the Chinese Government. I said I thought it was. He said at that time he

had made up his mind that it could not be operated and pointed out that it would be very difficult, if not impossible, for an American judge who had no knowledge of Chinese to enforce and interpret a code in the Chinese language, especially where it was very difficult to make authoritative translations. He further pointed out the difficulty that American lawyers would have in understanding the law and stated that it appeared to him to be wellnigh impossible for American courts to inform themselves of the judgments of the Chinese courts. I said that naturally it would be a difficult proposition to handle, but that nevertheless I felt it was a procedure that could be taken on and tried. I asked him to give the matter further and sympathetic thought before he turned it down completely. This he promised to do.

N[ELSON] T. J[OHNSON]

[Annex]

The Chinese Legation to the Department of State

MEMORANDUM

Following are some further data on the administration of justice in China.

1. The Book of Obligations of the Civil Code has now been promulgated. The remaining parts of the Civil Code as well as the Commercial Laws will be promulgated very shortly according to latest reports.

2. There are at present 1 Supreme Court, 28 High Courts (5 more than in 1926), 32 Branch High Courts (6 more than in 1926), 106 District Courts (40 more than 1926), and 207 Branch District Courts and Hsien Courts (184 more than in 1926). The total number of new courts established since 1926 is 235, an increase of 70 percent.

3. There are at present 79 new prisons (16 more than in 1926).

793.003/209

The French Ambassador (Claudel) to the Secretary of State

[Translation]

WASHINGTON, December 10, 1929.

MR. SECRETARY OF STATE: Referring to the conversation which I had with you recently, relative to the question of extraterritoriality in China, I have the honor to send herewith to Your Excellency a résumé of the instructions which were sent by the Minister of Foreign Affairs of the Republic to the Minister of France in China [*French Ambassador in London*].

In addition, Your Excellency will also find enclosed a copy of a note addressed on November 25, 1929, by the Ministry of Foreign

Affairs to the Embassy of Great Britain at Paris, in reply to a memorandum from the latter. This note sums up the whole French viewpoint in the question of extraterritoriality.

Please accept [etc.]

CLAUDEL

[Enclosure 1]

Summary of Instructions Sent by the French Minister of Foreign Affairs to the French Ambassador in London

According to information received from the French Minister in China, the Chinese Minister in London sent, on November 25th, to the British Foreign Office, a note on extraterritoriality. When he made delivery of the note, the Chinese Minister let it be known that it was the intention of his Government to make an unilateral declaration on January 1st, proclaiming the suppression of extraterritoriality. It is understood that the British Government replied in the sense of the French note suggesting at the same time to his representative in China to enter upon negotiations with the Government of Nanking before the threat of the Chinese Government becomes an accomplished fact.

The British Minister in China has advised his Government against such step, and favors an energetic attitude similar to that of the American and French Governments. He made the suggestion that it would be wise to get ready now to notify the Chinese Government that they have no right to abrogate treaties by unilateral declarations and that the British Government reserves for itself the right to take all necessary measures in order to secure for its citizens the exercise of rights resulting from treaties as long as those treaties have not been modified by mutual agreement.

It is the opinion of the French Government that the concessions made up to date, in agreement with the English and American Governments, in view of a gradual revision of treaties upon the basis of mutual consent, have not had the effect which was expected. In its opinion, a firm attitude by the interested powers might compel the Chinese Government if not to give up entirely its idea of making a declaration on January 1st, at least to make a moderate declaration which would not carry practical application. Furthermore, at the time when the attention of the Russian and Chinese Governments has been called upon their conflict, the Chinese Government should not have the impression that the problem of extraterritoriality may be solved by means other than pacific means and usual legal proceedings.

Consequently the French Government is in favor of a project of note to the Chinese Government to be drafted by the Minister in Peking.

The French Ambassador in London is requested to ask that instructions in that sense be sent to the British Envoy in China. A similar action on the part of the American Government for gradual proceedings would be deeply appreciated./.

WASHINGTON, December 6, 1929.

[Enclosure 2—Translation]

*The French Ministry for Foreign Affairs to the British Embassy
in France*

Political Bureau

PARIS, November 25, 1929.

The Embassy of Great Britain at Paris was kind enough to transmit to the Ministry of Foreign Affairs, on November 15, a memorandum setting forth the general principles which, in the opinion of the British Government, appear to be those which should inspire any attempt to find a solution to the problem of the suppression of extraterritoriality in China.

In thanking the British Embassy for that communication, which it noted with interest, the Ministry of Foreign Affairs has the honor to inform it that the French Government, equally desirous of adopting a liberal and friendly attitude with respect to the legitimate aspirations of the Chinese people, is in entire agreement with the British Government in acknowledging the necessity of steadfastly preventing any Chinese demand to proceed to the total and immediate surrender of extraterritoriality. Because of the instability of the administration of China, and the rudimentary character of its legislation and its judicial institutions, in the functioning of which the military authorities are in the habit of interfering, the study of the actual suppression of extraterritoriality can be undertaken only if it is subject to the acceptance, by the Chinese Government, of the very principle of a process of gradual evolution, the rate of which will be determined by the efficacy of the guarantees which China will agree to furnish at each of the stages of the future régime of transition.

The method of progressive surrender by category of jurisdiction suggested by the British Government has the advantage of being inspired by juridical considerations and of preserving for the longest possible time the guarantees of national jurisdiction with respect to penal matters and matters having to do with personal status. On this account it seems to the Ministry of Foreign Affairs to deserve a most attentive examination, although its adoption might create a complicated situation as to jurisdiction. The progressive geographical surrender suggested by other Governments seems simpler at first glance, but it seems unlikely that the choice of geographical zones

would be decided unanimously by the Powers, whose interests are not equally developed in the various parts of China.

In order to permit the establishment of a line of conduct common in principle among the various Powers concerned, the Ministry of Foreign Affairs believes it preferable to combine the British idea of surrender by category of jurisdiction with that of geographical surrender. This method would permit the nature and location of the interests of each Power to be taken into account at the same time as the real improvements in Chinese justice in each region considered. The effect could be that, according to circumstances, extraterritoriality would be suppressed in a certain region for a certain category of jurisdiction in proportion as modern Chinese courts were created, for the institution of which the Powers would demand guarantees according to the importance of their interests in the region where these courts would have jurisdiction.

Whatever the method (geographical or jurisdictional) finally adopted to determine the process of evolution, the Ministry of Foreign Affairs believes that the Chinese courts designated, as they are organized, to be competent with respect to foreigners, would be modern Chinese courts with broad jurisdiction (*ratione materiae et ratione loci*). Foreign judges appointed by the Chinese Government should sit on these courts beside Chinese judges, and foreigners should have the right to be represented there by counsel of their nationality. The process of gradual evolution should, as the British Government suggests, first affect civil suits and, after experimentation in the functioning in this regard of modern Chinese courts defined as above, it should be extended progressively to misdemeanors, then to penal matters and leave matters concerning personal status out of the question. It also goes without saying that suits between French citizens should continue to be judged by French courts. Lastly, there should be reserved for later negotiations, the problems relative to the additional guarantees of extraterritoriality properly so-called, such as exemption from taxation, inviolability of property and vessels, right of coastwise trading, missions, territorial concessions, etc.

The Ministry of Foreign Affairs believes that it is upon these bases, and without prejudice to the other conditions contemplated in the notes transmitted by the Legations concerned August 12 and November 1, 1929, to the Chinese Government, that the quest of a project to solve the problem of the suppression of extraterritoriality should be conducted by the Ministers of the Powers at Peking.

The Ministry of Foreign Affairs adds that it does not consider that it is expedient to take the initiative now in making offers to the Chinese Government and that it is preferable to await the specific proposals which there may be to make.

*The Chinese Legation to the Department of State*³⁹

MEMORANDUM

The suggestion that American courts in China apply Chinese laws, a suggestion similar to the one made by the British Government some three years ago, is hardly practicable or acceptable. The following reasons may at once be noted.

1. The present Chinese legal system is a combination of indigenous customs and legal traditions dating back thousands of years ago and of the principles of Civil Law and is thus an entirely different institution from Anglo-American law. It is hardly to be expected that a judge trained in the principles of common law could master overnight laws which are entirely strange to him and apply them to cases which may be extremely complicated.

2. The American judge has no knowledge of the Chinese language and must depend upon translations for the text of the laws and previous judicial decisions, if indeed translations exist. The difficulty of depending upon translations is at once apparent.

3. American lawyers will have the same difficulty as the judge for the reason that they do not have the requisite knowledge of Chinese law. Chinese lawyers who do have such knowledge will have the difficulty of arguing in English which they may not know at all.

4. It is difficult to see why Chinese laws should be put to the test in the American courts. The administration of justice is for the millions of Chinese and not for a handful of foreigners. It is for the foreigners to conform themselves to the conditions of the country.

5. The suggestion is very far from meeting the desire of China for the complete abolition of extraterritoriality.

711.933/238

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 17, 1929.

The Chinese Minister called today. I told him I had read with interest his comments upon my proposal that one method for accustoming the peoples of our two countries to the change that was proposed would be for the two countries to agree to the enforcement of Chinese law through the instrumentality of American courts in China. I stated that I regretted that he seemed to think that this was impossible; that I for my part did not feel that it was as impossible as he stated.

³⁹ Apparently left with Assistant Secretary of State Johnson on December 12, 1929, "with the compliments of the Chinese Minister".

The Minister stated that he felt his arguments were quite conclusive. He referred to the fact that the time was getting short and that we had made little progress and to the fact that the Secretary had stated that he hoped we would find some basis for an understanding, and stated that although he had had no proposals to make in the beginning, he now had a proposal which he would like to offer me and he then read the attached memorandum to me, which he asked me to consider. I told him I would give it every consideration and try to give him my comments on it later.

I pointed out to him that there seemed to be some inconsistency between the first and second paragraphs as the first paragraph placed all American nationals in China under the jurisdiction of Chinese laws and courts after January 1, 1930, while the second paragraph provided for the establishment of certain special courts at Canton, Hankow, Shanghai, Tientsin and Harbin. I asked him what the purpose of these special courts was. He said his proposal was based on a proposal that had been made by the Dutch Minister at Peking. He said his idea was that the special courts at these places would have jurisdiction in those special places, that he had not considered that it was necessary to make similar provision in the other ports or in ports voluntarily opened for trade.

I remarked further that in the paragraph providing for a twenty-four-hour period within which suspected individuals should be handed over for investigation, that this seemed to apply to the special court area and not to other places in China. The Minister said he believed the law was universal in China. I said I did not think so as it had not been the case for those arrested in connection with the raid on the Soviet Consulate at Harbin.⁴⁰ They had been held for a considerable time before they were told of the charges against them or given an opportunity to prepare their case.

The Minister stated that he felt that paragraph 7 represented a great concession as it permitted the trial outside of China of cases between Americans and guaranteed the execution of the decisions of such trials in China.

The Minister was very much pleased with the idea of legal advisers rather than foreign judges in these courts, pointing out that the legal advisers would have a very real function to perform, whereas a foreign judge in the Chinese court would be a minority of one in a group and in case he was overruled, would have no record of his opinion.

I told the Minister I would give consideration to his proposals and let him know our attitude later.

N[ELSON] T. J[OHNSON]

⁴⁰ May 27, 1929; see pp. 192-197.

[Annex]

The Chinese Legation to the Department of State

MEMORANDUM

(1) Beginning with January 1, 1930, all American nationals in China to be subject to the jurisdiction of Chinese laws and courts.

(2) Special courts to be established at Canton, Hankow, Shanghai, Tientsin and Harbin. They are to have jurisdiction as courts of first and second instance over civil and criminal cases arising within their several jurisdictions with Americans as defendants. The Supreme Court shall be the final court of appeal.

(3) The Special Courts to be organized according to the Law for the Organisation of the Judiciary, and to have as Presidents, Presiding Judges, Judges, and Procurators persons possessing good knowledge and long experience of the law. The names, qualifications, and salaries of such officers to be announced publicly.

(4) The Chinese Government to appoint a certain number of well-known foreign jurists as Legal Advisers of whom one to three to be assigned to each of the Special Courts. The names and qualifications of such Advisers to be announced publicly.

(5) The Legal Adviser to have access, whenever desired, to all the documents and evidence of the case though he is not to participate in the trial. The Judge in charge of a case, before rendering judgment, to request the Legal Adviser to present a written opinion, to which due consideration is to be given by the Judge while retaining his independence of judgment.

(6) Where an American is arrested on suspicion of having committed a crime in the jurisdictional limits of a Special Court, he is to be delivered to the Special Court for investigation within twenty-four hours, exception being made only in the case of holidays.

(7) Civil cases in which both parties are Americans may, if desired, be tried by an American court situated outside Chinese territory and the judgments will be given effect to where execution through Chinese courts is needed, unless such judgments are inconsistent with the judgments of Chinese courts or are contrary to public policy.

(8) Except paragraph 1, the provisions of the above paragraphs may be revised or repealed at any time on and after January 1, 1932.

711.933/206

The Secretary of State to the French Ambassador (Claudel)

WASHINGTON, December 20, 1929.

MY DEAR MR. AMBASSADOR: I hasten to acknowledge the receipt of your personal letter of December third and its enclosure,⁴¹ a résumé

⁴¹ See memorandum from the French Embassy, p. 634, and footnote 31.

of the instructions sent by M. Briand to the Minister of France in Peiping on the subject of extraterritoriality.

Your words of congratulation and your expression of cordial approval in relation to the communication which this Government has made to China and Russia ⁴² are very gratifying to me. I wish to express, and I shall be glad if you will report, my very great appreciation of the prompt, cordial and complete cooperation of your Government and the assistance which it has rendered.

Referring to the résumé of instructions to your Minister in China and to your request for an expression of my view, I find it somewhat difficult to formulate a statement. Although I realize from statements which have appeared in the press that the Chinese officials have stated publicly that it is their Government's intention to denounce the treaties or the extraterritorial provisions thereof on January 1, 1930, the American Government has not received from the Chinese Government any formal notification of that Government's intention to make such a denunciation.

As you know, the American Government, in its notes of August tenth and November first to the Chinese Government, has affirmed its willingness to negotiate on the subject of extraterritoriality, on a basis specified of gradual relinquishment. Conversations have been held between officers of the American Government and the Chinese Minister in Washington, and, although nothing definite has come out of these conversations, I am committed to entering upon negotiations at the convenience of the Chinese Government. Believing that the Chinese will not themselves make any proposals short of the proposal that extraterritoriality be abolished immediately, I have been studying various projects of possible alternative courses.

As you also know, I have taken the position ever since the suggestion was first made that a warning be given the Chinese Government by the Powers jointly with a view to anticipating and discouraging unilateral action by the Chinese on January first, that it would be better not to take cognizance of the intimations which the Chinese officials have given, from time to time through the press, of such intention on their part. I have been unwilling, so far as my Government is concerned, to commit myself to that proposed action. Nevertheless, if your Government, in view of the note which it has received, feels that a useful purpose will be served by its giving such a warning I feel that it is not for me to suggest that it refrain from so doing.

I note with interest, and I shall give consideration to the view of your Government, that in the event of the denunciation of the treaties by the Chinese Government, recourse be had to the Permanent Court of Justice at the Hague.

⁴² See telegram No. 393, November 30, to the Chargé in France, p. 367.

I send you herewith a copy of a project of a proposal which I have under consideration, along with others, for possible presentation to the Chinese Minister here.⁴³

Sincerely yours,

HENRY L. STIMSON

711.933/239

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 21, 1929.

I told the Chinese Minister that I had given careful consideration to the proposal which he had left with me on December 17; that I found it unacceptable, first, for the reason that it proposed that American citizens should be placed under the jurisdiction of Chinese courts after January 1, 1930, which did not meet the terms which we laid down in our note of August 10. I handed to him the attached memorandum of comment. He asked me what specific objections I had to his proposal. I said the first specific objection was that which I had already named; that the second was that his proposal for the establishment of special courts at five ports did not amount to any more than saying what had been said in the first paragraph, namely, that American citizens should be placed under Chinese jurisdiction as these courts would be purely Chinese courts. I explained to him that all along I had tried to make clear to him that we could only discuss this matter on the basis of some plan that would provide for the gradual abolishment of extraterritoriality; that we felt very definitely that there should be some period and some method reached whereby Americans could become accustomed to the Chinese laws and courts and to the effect of those laws and courts upon their lives. I said that in order that we might do this thing I had a proposal to make to him which I thought represented a very definite step in the direction towards which I believed we were headed and I handed to him a proposal, copy of which is hereto attached.

The Minister read over this proposal and stated that it seemed to be nothing more than the proposal which had been made by the British some six years ago. I stated that that might be very well to him, but for the moment it was our proposal. We were not making it because the British had made it, and I felt that we must consider it as our proposal and not as theirs. He said it seemed to him that this proposal was a backward step as compared with the outline of the proposal which I had given to him in conversation the other day. I asked him how he felt about it. He said this proposal includes a provision for the establishment of a commission that is to

⁴³ For text, see annex 2 to Assistant Secretary Johnson's memorandum of December 21, 1929, *infra*.

pass upon their laws and to say whether these laws may be applied or may not be applied. The commission will say whether a law is a good law or a bad law. I read the sentence describing the duties of this commission and pointed out that the commission would not do as he suggested, but the commission was for the purpose of examining the laws and to determine whether the laws were being effectively applied in the Chinese Courts. I said that we were interested not so much in the goodness of the law[s], but in the effectiveness with which they were being applied. He stated that he felt that this proposal brought us back to the place where we were before. I said that I did not see how he could feel that away about it as I felt it brought us a long way along the road from our note of August 10 and I could hardly consider that this was not a step forward. He said that he would give consideration to the matter and in due course he would give me a reply.

N[ELSON] T. J[OHNSON]

[Annex 1]

The Department of State to the Chinese Legation

MEMORANDUM OF COMMENT

Due consideration has been given to the memorandum prepared by the Chinese Minister regarding the extraterritorial rights of American citizens in China.

1. The Government of the United States cannot accept the proposal that beginning with January 1, 1930, all American nationals in China should be subject to the jurisdiction of Chinese laws and courts. In this connection, attention is drawn to the notes of August 10, 1929 and November 1, 1929, addressed to the Chinese Government on this subject, copies of which are attached herewith.⁴⁴

2. The Government of the United States desires very much to find some way whereby extraterritorial rights may be gradually done away with. Such a method would have to envisage a means whereby the nationals of the two countries could accustom themselves to the situation that is coming into effect by some series of steps involving a progressive advancement on both sides. The proposal contained in the memorandum handed to Mr. Johnson on December 17, does not provide such a process.

⁴⁴ See telegrams No. 254, August 1, to the Minister in China and No. 958, November 4, from the Minister, pp. 596 and 616.

[Annex 2]

*The Department of State to the Chinese Legation*⁴⁵

PROPOSAL

The American Government, being desirous of facilitating the abolition of extraterritorial jurisdiction in China, is willing to conclude an agreement along the following lines:

I

Beginning on January 1, 1930, definite steps shall be taken toward effecting the relinquishment by the United States of the right of extraterritorial jurisdiction by the American Government over American citizens in China. A commission shall be established at the earliest possible moment, which shall consist of two commissioners chosen by the Chinese Government, two commissioners chosen by the American Government, and one commissioner chosen by these four who shall be a national of a third Power. This commission shall be appointed within two months after the exchange of ratifications of this agreement. This commission shall examine the laws and legal regulations which are in effect in China and shall recommend for application in the American courts in China such of these laws and regulations as it finds effectively applied in Chinese courts. American courts in China shall apply Chinese laws and regulations thus approved by this commission.

II

The present arrangements being designed to apply to a transitional period, a settlement of a more permanent nature shall be negotiated at the time provided for the revision of the treaty between the United States and China of October 8, 1903, as provided in Article XVII of that treaty.

III

Nationals of the United States in China shall enjoy rights and treatment not less favorable than the rights and treatment enjoyed in China by nationals of any other foreign country.

793.003/238

The British Ambassador (Howard) to the Secretary of State

No. 667

WASHINGTON, December 21, 1929.

SIR: I have the honour to transmit herewith under instructions from His Majesty's Principal Secretary of State for Foreign Affairs,

⁴⁵ This text was telegraphed in No. 425, December 21, 1929, to the Minister in China (711.933/194).

copy of an *aide-memoire* handed by Mr. Henderson on the 20th instant to the Chinese Minister in London regarding the abolition of extraterritoriality in China.

2. The object of His Majesty's Government in taking this step is to induce the Chinese Government to issue their threatened denunciation of extraterritoriality in an innocuous form.

3. The Chinese Minister in London on November 25th announced to the Deputy Under Secretary of State that his Government had decided (1) to decree the abolition of extraterritoriality on January 1st, next, (2) to establish modern courts at Harbin, Shanghai, Canton, Tientsin and Hankow, to which would be attached foreign legal advisers for purpose of consultation, but without right of interference, (3) to allow civil cases between foreigners to be tried by courts outside China, the judgment of such courts to be executed by a Chinese Court, if not repugnant to Chinese law and custom.

I have [etc.]

ESME HOWARD

[Enclosure]

AIDE-MÉMOIRE

His Majesty's Government in the United Kingdom have had under consideration the position which has arisen in consequence of the note addressed to them by the Chinese Government on April 27th last and subsequent correspondence on the subject of proposed modifications in the present system of extraterritoriality in China. His Majesty's Government are aware of official declarations on the part of the Chinese Government which they interpret as indicating the earnest desire of the Chinese Government that substantial progress should be made before January 1st, 1930, if not with the actual process of abolition of extraterritoriality, at any rate with serious negotiations having in view the initiation of that process in the immediate future.

2. His Majesty's Government, animated by a desire to meet the wishes of the Chinese Government in a liberal and sympathetic spirit, sought to elicit from them concrete proposals which might serve as a basis for detailed negotiations. When it became apparent that the Chinese Government felt some difficulty in putting forward concrete proposals for preliminary study, His Majesty's Government hoped that the common purpose which both Governments had in view might best be served if discussions could be initiated before the end of the year between His Majesty's Minister at Peking and the Chinese Minister for Foreign Affairs in Nanking. It was their intention that Sir M. Lampson should proceed to Nanking for the purpose, but unfortunately the outbreak of civil war over a wide area in China made it impossible to carry that intention into effect.

3. The intricate readjustments that will be necessary both in the legal and administrative spheres in a gradual and progressive solution of the problem of extraterritoriality, such as is contemplated by both Governments, can only be effected as the result of negotiations conducted in a friendly and unprejudiced atmosphere. It would be a grave misfortune were anything to occur to prevent such negotiations from being initiated or from being carried to a satisfactory conclusion. The Chinese Government themselves will realise that any attack on the legal rights of British subjects or the interests which they have built up with benefit to China as well as themselves in the course of nearly one hundred years on the faith of solemn treaty stipulations would confront His Majesty's Government with a serious responsibility, as such attack would be gravely prejudicial to the prospects of negotiating a friendly solution of an intricate problem.

4. His Majesty's Government desire to do their utmost to create a favourable atmosphere for negotiations. No responsibility attaches to them for political conditions in China which have prevented the commencement of serious discussions. They deplore the fact that this step has been prevented by such conditions and they appreciate the difficulties with which, in view of the prominence which has been given to the particular date January 1st, 1930, the Chinese Government may be faced should that date arrive without any visible progress having been made with detailed consideration of the problem of extraterritoriality. His Majesty's Government are therefore willing to agree that January 1st, 1930, should be treated as the date from which the process of gradual abolition of extraterritoriality should be regarded as having commenced in principle and would have no objection to any declaration conformable with that attitude which the Chinese Government may think it desirable to issue. His Majesty's Government are ready to enter into detailed negotiations as soon as political conditions in China render it possible to do so, with a view to agreeing on method and a programme for carrying the abolition of extraterritoriality into effect by gradual and progressive stages to the mutual satisfaction of both Governments.

WASHINGTON, 21 December, 1929.

711.933/199 : Telegram

The Chargé in China (Perkins) to the Secretary of State

[Paraphrase]

PEIPING, December 24, 1929—3 p. m.

[Received December 24—7:20 a. m.]

1188. The British Minister has supplied me with the British Foreign Office *aide-mémoire* regarding extraterritoriality, delivered on

December 20 to the Chinese Minister in London, the text of which, I understand, the Department has received. On receiving the text, Dr. C. T. Wang has now informed Sir Miles Lampson's representative in Nanking that the National Government is going to issue on December 31 a declaration to abrogate extraterritoriality, taking effect in six months.

PERKINS

711.933/240

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 26, 1929.

The Chinese Minister called upon me today and referred to the proposal with regard to extraterritoriality which I handed to him on December 21. He stated that he had a counter proposal to make to us and handed to me the attached copy. He asked me whether there was any comment I had to make and I said it seemed to me that this proposal did nothing but state that American citizens should come under the jurisdiction of Chinese laws. He pointed out that the provision in paragraph one did not stipulate as to the instrumentality that was to enforce the laws. I gathered from what he told me that he wanted this to read that we agreed somewhat as the British have done, that January 1 should mark the time from which in principle Chinese laws and regulations should apply to American citizens.

I asked him what was meant by paragraph two stating that we could not, of course, agree to any stipulation that at the end of three months, or any other particular period as short as that, we would turn American citizens over to the jurisdiction of Chinese courts. He said that the meaning of this provision was that during the period, which he himself thought should be longer than the three months stipulated, the two Governments would complete their negotiations for the relinquishment of extraterritorial privileges. He felt that this should be accomplished and that the entire relinquishment should take place before the end of the four years still remaining in the life of our present treaty.

With regard to paragraph three, he stated that of course American nationals were protected by their present treaty. He intimated that there was a great deal of prejudice in China against the ordinary most-favored-nation clause.

[Annex]

The Chinese Legation to the Department of State

COUNTER-PROPOSAL

The proposal of the American Government falls considerably short of the earnest desire of the Chinese Government and people to recover China's jurisdictional sovereignty. Anxious to meet as far as possible the wishes of the American Government, the Chinese Government makes the following counter-proposal.

I

The American Government agrees that the laws and regulations duly promulgated by the Chinese Government shall begin to be operative on American nationals on January 1, 1930.

II

Within three months from January 1, 1930, the two Governments shall complete arrangements for the relinquishment of extraterritorial privileges by the United States.

III

When American nationals in China are completely and unconditionally subject to the jurisdiction of Chinese courts, they shall enjoy the same treatment in jurisdictional matters as the nationals of any other foreign country who are similarly subject to Chinese jurisdiction.

711.933/207 : Telegram

The Chargé in China (Perkins) to the Secretary of State

[Paraphrase]

PEIPING, December 28, 1929—2 p. m.

[Received December 28—6:53 a. m.]

1197. Referring to the British *aide-mémoire* mentioned in my 1188, December 24, 3 p. m., I have been informed that the British Minister's present intention is to depart for Nanking on January 2, together with members of his Staff, in order to initiate negotiations having for their object the gradual relinquishing of British extraterritorial rights.

PERKINS

711.933/241

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck) of a Conversation With the Chinese Minister
(C. C. Wu)*

[WASHINGTON,] December 28, 1929.

Dr. Wu called by appointment. He had come to inquire concerning the Department's reaction to the counter-proposals which he had made to Mr. Johnson after the proposals made by Mr. Johnson in conversation with him on December 21.

Mr. Hornbeck stated that he was instructed to say that the proposals were not considered such as could be adopted. He explained, with regard to Article II, that it would be impossible to make a commitment that arrangements would be completed by a specified date, three months hence. This, for reasons which scarcely need elaboration. Expressing his own personal view, unofficially, he felt that it was unwise in such matters to attempt to specify any date where the setting of the date was not necessary. He said that the American Government had committed itself to the principle of negotiating and that it hoped to conclude an agreement on this subject, that conversations had been going on in good faith, but that experience of the past year had shown that these matters moved slowly and that unforeseen events, as well as considerations which are ponderable, interfere with getting a particular thing done within a particular and limited period of time.

With regard to Article III, it was felt in the Department that this was what might be called a "Least-favored-nation clause" rather than a "most-favored-nation clause".

With regard to Article I, it seemed too general: it might be construed as an authorization on the part of the American Government to the Chinese Government to go ahead and dispose of the question as it saw fit. But, although there might be differences of view upon one or all of these points, these proposals as a whole had not met with approval in the Department.

Dr. Wu said that with regard to Article III at least, he felt that there need be no great amount of trouble over the question of a most-favored-nation clause, provided that it was not made more broad than the subject matter of the agreement in question. There followed some discussion of uses and abuses of most-favored-nation clauses; and there seemed to be a community of view that there would be less difficulty with regard to that feature of an agreement than with regard to other features.

Mr. Hornbeck then said that he was authorized to submit, for consideration, a modification of the proposal which had been submitted by Mr. Johnson. He handed Dr. Wu a copy of a revised proposal,

of which a copy is attached hereto.⁴⁶ He explained that it had been understood that Dr. Wu did not like the idea of a commission to pass upon Chinese laws, and therefore it was suggested that the American court which undertook to apply these laws should itself decide what Chinese laws could be applied. He pointed out, also, that a different provision was suggested in place of or as an alternative to the most-favored-nation clause which had been proposed of Article III in the earlier project.

Upon reading over this proposal, Dr. Wu said that it seemed to him less satisfactory than the other proposal, for the reason that it left to the American courts the decision with regard to both the character and the application in effect in China of Chinese laws. Mr. Hornbeck said that if the points could be agreed upon in principle he thought that modifications with regard to the details might be worked out. There followed some discussion of this proposal as compared with the previous proposal.

Mr. Hornbeck then stated that he had a duty which he regretted to have to perform: he had been instructed to read a statement expressing the views of the American Government at this juncture in the presence of certain rumors. He referred to the good will which has prevailed between China and her people and the United States and the American people and he said that the American Government wished to be helpful to and did not wish to place obstacles in the way of the achievement by the Chinese of various objectives to which the latter aspire. He referred to the statements which have been made in the course of conversations between himself and Dr. Wu and Mr. Johnson and Dr. Wu in the course of the past year, and he said that this Government now felt it incumbent upon itself to reveal officially, though informally, its views with regard to principles of procedure which ought in its opinion at no time to be overlooked. Mr. Hornbeck then read the contents of the memorandum hereto attached⁴⁷ and gave to Dr. Wu an unaddressed, undated and unsigned copy.

Thereafter, Dr. Wu inquired whether Mr. Hornbeck had read the British Government's *aide-memoire* of December 21. Mr. Hornbeck stated that he had seen that *aide-memoire* but had not had an opportunity thoroughly to study its contents. He said that he remembered that it had in it a statement of the British Government's views. Dr. Wu said that it contained a statement that the British Government would have no objection to the making of a declaration by the Chinese Government on January 1, 1930. Mr. Hornbeck inquired whether there was not a proviso. Dr. Wu said that there was a proviso to

⁴⁶ *Infra.*

⁴⁷ *Post*, p. 665.

the effect that certain principles should be considered. Mr. Hornbeck said that that was his recollection and he stated that the American Government in the course of the proposal submitted by Mr. Johnson to Dr. Wu had indicated that it was not unwilling that January 1 be signalized as the date beginning from which definite steps should be taken toward effecting gradually the relinquishment of rights of extraterritoriality. Dr. Wu inquired whether the American Government would be willing to affirm, as the British Government had done, that it had no objection to the making by China of a declaration. Mr. Hornbeck said that he could not say anything on that point as the views of the American Government had been expressed in the document which, under instructions, he had read; that he considered that the statement itself was explicit and ample; and he did not feel at liberty to add to or amend or modify that statement. Dr. Wu asked whether Mr. Hornbeck would find out whether the American Government would be willing to give the assent which the British Government had given. Mr. Hornbeck said that it would be impossible to undertake to do this before Monday, December 30, but that on that day he would do the best he could with that inquiry.

There followed some conversation with regard to the situation in China.

S[TANLEY] K. H[ORNBECK]

711.933/224

*The Department of State to the Chinese Legation*⁴⁸

PROPOSAL

In order to meet so far as possible the objections which have been made to its previous proposals regarding the relinquishment of extraterritorial jurisdiction in China, the American Government makes herewith another proposal along the following lines.

I

Beginning January 1, 1930, definite steps will be taken toward effecting the relinquishment by the United States of its extraterritorial jurisdiction over American citizens in China. As a preliminary measure toward accomplishing this object, the American Government agrees that the necessary steps will be taken by it as soon as possible to the end that American courts in China shall apply to

⁴⁸ An attached memorandum dated December 30, 1929, by the Chief of the Division of Far Eastern Affairs reads: "A copy of the draft proposal hereto attached was handed to the Chinese Minister by Mr. Hornbeck on December 28, 1929."

American citizens and corporations those Chinese laws and regulations which have been duly promulgated by the Chinese Government or its administrative sub-divisions and which are effectively and regularly applied in Chinese courts, subject to the provision that if, in the opinion of the American court concerned, the Chinese law or regulation to be applied is contrary and repugnant to modern concepts of jurisprudence, the court shall in lieu thereof apply the law or regulation hitherto applied by it.

II

The present arrangement being designed to apply to a transitional period, a settlement of a more permanent nature shall be negotiated at the time provided for the revision of the treaty between the United States and China of October 8, 1903, as provided in Article XVII of that treaty.

III

Other than as modified by the terms of this agreement, the existing treaties between China and the United States remain in force.

(or)

Nationals of the United States in China shall enjoy rights and treatment not less favorable than the rights and treatment enjoyed in China by nationals of any other foreign country.

[WASHINGTON,] December 28, 1929.

711.933/224

*The Department of State to the Chinese Legation*⁴⁹

The American Government, believing that effective steps should be taken toward effecting the abolition of the extraterritorial rights which it exercises and which are enjoyed by American nationals in China under the provisions of treaties between the United States and China, is of the opinion, which it has repeatedly expressed, that the abolition of those rights should be accomplished by an agreed upon and gradual process. The rights were created by agreement; they rest upon agreement; and they should be abolished only by agreement. The American Government cannot as a matter of law and it is not willing as a matter of policy to assent to their abolition by

⁴⁹ An attached memorandum dated December 30, 1929, by the Chief of the Division of Far Eastern Affairs reads: "The statement hereto attached was read to the Chinese Minister by Mr. Hornbeck on December 28, 1929; and a copy, not addressed, not dated, and not initialed was given to the Minister."

any other process. At the request of the Chinese Government, officers of the American Government have for some time been engaged in conversations with officers of the Chinese Government in an effort to devise a plan which may be submitted to both Governments whereby the abolition of these rights may be effected by a process and in a manner satisfactory to the two Governments and the people of the two countries. The American Government has already indicated to the Chinese Minister in Washington that the American Government is willing to agree that beginning on January 1, 1930, definite steps shall be taken toward effecting gradually the relinquishment by the United States of the right of extraterritorial jurisdiction by the American Government over American citizens in China. The American Government would view with great regret and would seriously deprecate any action at this time in disregard of the principles stated above and indicative of indifference to the rights and the good will and the good opinion of the Government and people of the United States.

793.003/227 : Telegram

The Consul at Nanking (Meyer) to the Secretary of State

NANKING, December 28, 1929—10 p.m.

[Received December 28—7:33 p.m.]

Following is the English translation of a mandate issued by the National Government at 5 today and furnished to Bucknell by personal note from C. T. Wang:

“In every full sovereign state, foreigners, as well as its nationals, are equally amenable to its laws and to the jurisdiction of its tribunals. This is an essential attribute of state sovereignty and a well-established principle of international law.

For more than eighty years China has been bound by the system of extraterritoriality, which has prevented the Chinese Government from exercising its judicial power over foreigners within its territory. It is unnecessary to state here the defects and disadvantages of such a system. As long as extraterritoriality is not abolished, so long will China be unable to exercise her full sovereignty. For the purpose of restoring her inherent jurisdictional sovereignty, it is hereby decided and declared that on and after the first day of the first month of the nineteenth year of the Republic (January 1, 1930) all foreign nationals in the territory of China who are now enjoying extraterritorial privileges shall abide by the laws, ordinances, and regulations duly promulgated by the Central and Local Governments of China. The Executive Yuan and the Judicial Yuan are hereby ordered to instruct the individuals [*Ministries*] concerned to prepare as soon as possible a plan for the execution of this man-

date and to submit it to the Legislative Yuan for examination and deliberation with a view to its promulgation, fulfillment⁵⁰ and enforcement.”⁵¹

I am reliably informed that the plan referred to in the last sentence of the mandate will be promulgated on December 30th or 31st. The Legation, Shanghai, Hankow and Canton informed.

MEYER

793.003/230 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 29, 1929—2 p. m.
[Received December 29—7:55 a. m.]

1200. Legation's 1188, December 24, 3 p. m.

1. Legation has received a telegram from the American Consul at Nanking, December 28, 10 p. m., transmitting English translation of a mandate issued by the National Government on that date abrogating extraterritorial rights in China. Consul has repeated this telegram to the Department. I am replying to the effect that Bucknell (to whom Wang transmitted text of mandate by personal note) should of course make no acknowledgment thereto since he is the Legation's representative in Nanking only in connection with matters relating to the Provisional Court.⁵²

2. The Consul's telegram was accompanied by the following inquiry from Jacobs and Bucknell:

“In view of the above can you give us any indication as to what our attitude should be as regards continuance of our negotiations? The foreign delegates are preparing a joint telegram, but it will be delayed because of coding and transmission.”

I am replying that, pending receipt of any further instructions, they should maintain the same attitude as hitherto with regard to the continuance and progress of their negotiations.⁵³

PERKINS

⁵⁰ The word “fulfillment” was inserted erroneously.

⁵¹ The Chief of the Division of Far Eastern Affairs, Department of State, noted, on December 30, 1929, that “It is believed that this is a comparatively harmless declaration; that its comparative mildness is probably in part a result of the British effort; and that we may expect to find the plan rather elastic and indefinite in consequence of intimations which have been given regarding the attitude of other governments.”

⁵² See pp. 682 ff.

⁵³ The Secretary of State, in telegram No. 436, December 31, 1929, replied: “Department approves instructions you gave” (793.003/230).

793.003/235: Telegram

The Consul at Nanking (Meyer) to the Secretary of State

NANKING, December 30, 1929—3 a. m.

[Received 7:35 p. m.]

My December 28, 10 p. m. Following is text of the manifesto issued by the Minister of Foreign Affairs today:

"For more than eighty years China has been bound by the system of extraterritoriality, which has prevented the Chinese Government from exercising its judicial power over the foreigners within its territory. It is unnecessary to state here the defects and disadvantages of such a system; but the Chinese Government and people cannot leave this state of affairs without remedy.

Extraterritoriality is no ordinary diplomatic problem. It touches the life of the Chinese people in so many intimate ways that it must be considered by the Chinese Government as being likewise a domestic question of immediate moment. It is for this reason that the Chinese Government is compelled to declare that the year 1930 is the decisive time, and that the actual process of reestablishing Chinese sovereignty by the abolition of extraterritoriality begins on January 1st. With that in view it will undertake measures designed to release the sovereign rights of China from the trammels of extraterritoriality, and has accordingly ordered the Executive Yuan and the Judicial Yuan to instruct the Ministries concerned to prepare a plan for this purpose.

The Chinese Government, relying on the sympathy already shown and the assurances given by the powers concerned, believes that there is no difference of opinion between those powers and China regarding the principle involved; and it is prepared to consider and discuss within a reasonable time any representations made with reference to the plan now under preparation in Nanking. In this respect the issuance of the mandate on December 28th should be regarded as a step towards removing the cause of constant conflict and at the same time promoting the relations between Chinese and foreigners.

Nanking, 30 December, 529 [1929]."

I am reliably informed that the Minister of Foreign Affairs has stated in private conversation that promulgation of mandate of December 28 could not have been forced upon the Chinese Government but on three following considerations: (1) The party, (2) public opinion, (3) internal politics. It is also reported from a source hitherto found reliable that the plan now stated to be in preparation will be promulgated today. The above telegram is being sent to the Legation, Department, Shanghai, Hankow, and Canton.

MEYER

793.003/232 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 30, 1929—5 p. m.
[Received December 30—12:45 p. m.⁵⁴]

1204. Legation's 1200, December 29, 2 p. m.

1. At meeting today of interested Heads of Legation, British Minister stated that he had received the following telegram from the Minister of Foreign Affairs:

"I believe the time has arrived for our to [*two?*] Governments to enter into detailed negotiations with reference to agreeing on a plan for carrying the abolition of extraterritoriality into effect to our mutual satisfaction. I therefore request Your Excellency to proceed to Nanking at once for the purpose of initiating such negotiations and concluding them in a few days. Chengting T. Wang, December 29th."

French Minister and Dutch Chargé d'Affaires had received similar telegrams.

2. British Minister said that in view of the uncompromising character of the mandate issued by the Chinese Government, he was in some doubt whether he should leave for Nanking as planned but that he probably should do so. (Legation's 1197, December 28, 2 p. m.)

Dutch Chargé d'Affaires was of the opinion that his Government would not be inclined to send him to Nanking for this purpose in the near future.

French Minister stated that he could no longer postpone going to Nanking in connection with the conclusion of the treaty relating to Indochina, but that he had no intention of taking up extraterritoriality matters in response to this invitation as the position of the French Government was that the Chinese must first make concrete proposals.

Representative of Japanese Legation [stated?] he could not make any definite statement as to when his Government might be able to take up treaty matters: the Chinese were now attempting to bargain about the appointment of Obata as Japanese Minister, Chinese indicating their willingness to accept him provided that Japanese Mission was made an Embassy.

3. I have received no telegram from Wang regarding extraterritoriality matters.

PERKINS

⁵⁴ Telegram in two sections.

793.003/233 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 30, 1929—6 p.m.
[Received December 30—2:30 p.m.⁵⁵]

1205. Following from the American Consul General at Shanghai·

“December 28, 12 noon. *The China Press* carries the following from Shimbun Rengo, dated Nanking, December 27th, and published in slightly different form in other journals:

‘The Central Political Council which was held today, being presided over by General Chiang Kai-shek and attended by Dr. Wang Chung-hui who has recently returned to China from Europe, discussed the political measures for the abolition of extraterritoriality rights of foreigners and decided the following two points: (1) All foreigners residents living in China shall be subjected to Chinese laws promulgated by the Chinese Central Government or the Provincial Governments beginning from January 1st, 1930; and (2) the National Government shall promulgate procedure laws governing the foreign residents in relation to legal action.’

Regarding the above-mentioned decisions reached by the Central Political Council, a spokesman of the National Government is quoted as having stated:

‘As regarding [*regards*] the abolition of the extraterritoriality rights in China, there is an understanding to some extent between the United States Government and the Nanking Government and, under the circumstances, the Chinese can easily accomplish their legitimate aspirations should two or three other powers adopt a sympathetic attitude toward the Chinese. However, continued the Nanking spokesman, the abolition of extraterritoriality will be out of the question if the powers all unitedly oppose the Chinese aspirations. Be that as it may, we expect much from the understanding between the United States Government and the Nanking Government.’

Manifestly this has not been confirmed, though Reuter carries a very similar statement to the two points covered above.”

PERKINS

711.933/250

*The French Embassy to the Department of State*⁵⁶

The Chinese Minister in Paris called at the Ministry of Foreign Affairs on December 27th and announced that his Government intended to make a declaration on January 1st, upon extraterritoriality. He added that China had obtained from the British Government the promise that January 1st would be considered by them as the date of the starting point of negotiations in view of the suppression of that privilege and that the American Government had shown similar favorable dispositions. The French Minister of Foreign Affairs replied to the Chinese Minister as follows:

⁵⁵ Telegram in three sections.

⁵⁶ An attached memorandum dated December 31, 1929, by W. H. Beck, Assistant to the Secretary of State, reads: “The attached was handed to the Secretary by the French Ambassador at Woodley yesterday.”

1. The French Government had informed, on several occasions, the Chinese Government, that the desires of the latter were being considered with sympathy and had let known the conditions to which the question of the suppression of extraterritoriality should be subordinated. Up to this day the Chinese Government has not made any precise proposals to the French Government. Consequently the latter does not find it possible to admit that January 1st 1930, should be the starting point of negotiations. The numerous notes exchanged between the French and Chinese Governments constitute already an exchange of views that the French Government is disposed to continue upon the basis of previous notes.

2. Among the conditions required by the French Government, the necessity for both parties to come to an agreement upon the principle of a basis for gradual evolution, is the principal one. The Chinese Government has not replied, as yet, whether they are of that opinion.

3. Under no circumstances the French Government could consent to the suppression of extraterritoriality in the form attributed by press dispatches to the Central Committee of Kouomingtang. Should the Chinese Government proceed to the unilateral denunciation of the Franco-Chinese Treaty of 1858, the French Government would reserve its full liberty of action in the presence of such an obvious violation of rights conceded to French citizens by a treaty, the revision of which, at the request of the French Government, is provided for every 12 years, the next period due to end on October 25th, 1932.

The Chinese Minister gave the promise to the French Minister of Foreign Affairs to wire to his Government. M. Briand desires to bring the above-mentioned information to the attention of the Honorable Secretary of State./.

WASHINGTON, December 30, 1929.

793.003/232 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 31, 1929—noon.

435. Your 1200, December 29, 2 p. m., and 1204, December 30, 5 p. m. For your instruction and the guidance of American officials in China, the Department does not regard the declaration of the Chinese Government as having altered the legal *status quo*. You may so inform your colleagues.

STIMSON

711.933/242

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck) of a Conversation With the Chinese Minister
(C. C. Wu)*

[WASHINGTON,] December 31, 1929.

Dr. Wu called by appointment. He had asked by telephone whether the Department was prepared to reply to the inquiry which he had made during the conversation of December 28: He had asked whether this Government would be willing to do what the British Government had done, namely, assent to the issuing of a declaration by the Chinese Government on the subject of the abolition of extraterritoriality.

Mr. Hornbeck stated that it appeared that the Chinese Government had on December 28 issued a declaration. Dr. Wu said that this was true. Mr. Hornbeck said that it appeared that this declaration was issued in the form of an announcement to the world and he asked whether it had been addressed to any government or governments. Dr. Wu said that it was in the nature of a proclamation or decree and that it had not been addressed to any foreign government. Mr. Hornbeck said that it appeared also that the Chinese Government had issued another declaration on December 30 explaining or amplifying the declaration issued on December 28. Dr. Wu said that the statement of December 30 was not a declaration but was a statement made by the Minister for Foreign Affairs, Dr. Wang, in explanation of the Declaration. Mr. Hornbeck said that, in view of the fact that the Chinese Government had already issued a declaration and a statement in relation thereto, it would seem that there would be no need to go into the question which Dr. Wu had asked on December 28: "Would the American Government approve the issuing by the Chinese Government of a declaration?" Dr. Wu said that it might be regarded as belated but that nevertheless he would like to have it a matter of record that this Government approved as the British Government had approved. Mr. Hornbeck said that it was felt here that the statement of view which had been read to Dr. Wu on December 28, together with the proposals which had been made to Dr. Wu during the conversations of past weeks on the subject of an agreement, and together with the last paragraph of this Government's note of November 1 and its earlier note of August 10 sufficiently indicated this Government's attitude and view. He said that this Government had gone quite as far as the British Government went in its *aide-mémoire* of December 20 and that it had sufficiently indicated that it was willing that January 1, 1930, be looked upon as a date which might mark the beginning of a period in which effective steps should be taken toward

arriving at an agreement under the terms of which and in accordance with the provisions of which extraterritoriality might be, by a gradual process, abolished. Mr. Hornbeck laid before Dr. Wu the pertinent paragraph of the British *aide-mémoire* of December 20, and a copy of the draft proposal which Mr. Johnson had handed to Dr. Wu on December 21, and Dr. Wu admitted that the concrete proposal made by this Government went as far as or further than the British Government's statement in the way of indicating willingness that the date January 1, 1930, be signalized as an outstanding date in connection with the problem of extraterritoriality. Mr. Hornbeck then took occasion to reiterate that this Government feels that there is but one line of procedure practicable by way of effecting the relinquishment by this Government of its rights with relation to extraterritorial jurisdiction, namely, the method of agreement; and he stated that this Government regards the problem as one which must be dealt with on the basis of realities and with a view to effecting the transition from the present system of jurisdiction to a régime in which China's jurisdiction shall be exclusive in a manner which shall work the minimum of hardship to the persons and the interests most directly concerned and to be affected. He referred not alone to recent statements on that subject but to the statement made public by the Secretary of State, Mr. Kellogg, on January 27, 1927.^{56a} He said that it was known everywhere that the American Government wished to be helpful to China and had no desire to put any obstacles in the way of China's progress; that we had no selfish economic or political objectives in our China policy; that what we most desire is that the progress reported as being made in China be real progress rather than merely apparent or affirmed as assumed progress; that we are willing to go a little ahead of the facts of accomplishment; but that we cannot consent or assent to the abolition of treaty provisions by unilateral action on China's part. Mr. Hornbeck said that it would seem on the face of the declaration of December 28 and Dr. Wang's explanation of December 30 that the Chinese Government does not contemplate abolition in fact at this time; and he said that Dr. Wang had apparently reiterated that China wished to negotiate. Dr. Wu said that China of course wished to negotiate.

Mr. Hornbeck referred again to the fact that this Government has knowledge of the declaration and the statement on the basis of general information and not by virtue of any document addressed to this Government. Dr. Wu affirmed again that the declaration was in the nature of a general proclamation and Dr. Wang's statement was a

^{56a} See telegram No. 28, January 25, 1927, to the Chargé in China, *Foreign Relations*, 1927, vol. II, p. 350.

public statement. (Note: It is observed that the newspaper reports carry the statement that the Chinese Government has instructed its Ministers abroad to communicate these matters to the Government to which they are accredited. Dr. Wu gave no indication that he had received such an instruction.)

S[TANLEY] K. H[ORNBECK]

793.003/233 : Telegram

The Secretary of State to the Chargé in China (Perkins)

[Paraphrase]

WASHINGTON, December 31, 1929—7 p. m.

439. Reference your 1200, December 29, 2 p. m.; 1204, December 30, 5 p. m.; and 1205, December 30, 6 p. m.

(1) The Department does not regard sending of the text of the declaration to Bucknell by Dr. C. T. Wang's personal note as officially notifying the United States Government; and the Chinese Government has not previously formally notified this Government of the intention to issue a declaration. However, the Chinese Government's declaration having been made and published, the existence and contents thereof are noted by the United States Government. The personal note given Bucknell should receive no written acknowledgment.⁵⁷

(2) If you are confronted with inquiries, you may discreetly use the information that this Government has not entered into any agreement, nor given any encouragement to the idea, that the United States Government would assent to extraterritorial rights being abolished by the unilateral action of China. Officers of the Department have, on the contrary, explained on numerous occasions to the Chinese Minister that the United States Government can only by treaty processes surrender its treaty rights and stands on the statement which was made in the concluding paragraph of the American note dated November 1.⁵⁸ The Department is engaged in discussions with Dr. C. C. Wu looking toward ultimate conclusion of an agreement and anticipates these discussions continuing.

STIMSON

⁵⁷ In telegram No. 10, January 3, 1930, the Chargé in China quoted a telegram of December 29 from Bucknell saying: "A personal note enclosing translation of mandate was addressed to me informally and privately by Wang in his private capacity and was acknowledged without comment last night in same manner by a private note with personal signature and no title." (793.003/242)

⁵⁸ See telegram No. 958, November 4, from the Minister in China, p. 616.

ABOLITION BY CHINA OF OFFICES OF COMMISSIONERS OF FOREIGN AFFAIRS

711.933/135 : Telegram

*The Minister in China (MacMurray) to the Secretary of State*PEIPING, September 10, 1929—5 p.m.
[Received September 11—10:15 p. m.⁵⁹]809. Legation's 754, August 24, 11 a. m.⁶⁰

1. In a note dated August 17th Minister for Foreign Affairs⁶¹ states that he has received an instruction from the National Government that offices of Commissioners of Foreign Affairs at the several ports be abolished at the end of August and that offices of the Provincial Commissioners of Foreign Affairs will be abolished at the end of the year. Notes state that in accordance with the procedure establish[ed] all cases involving foreign intercourse shall thereafter be handled by the Central Government and ordinary affairs such as travel and trade of foreign residents shall be handled by the appropriate local offices.

2. The English translation of the procedure above referred [to] is as follows:

"(1) After the abolition of offices of Commissioners for Foreign Affairs, all cases in the several localities involving foreign intercourse shall be handled by the Central Government and local governments shall not be allowed to deal with foreigners directly or to establish any organs similar to offices of Commissioners for Foreign Affairs, in order to avoid confusion and nonuniformity.

(2) After the abolition of offices of Commissioners for Foreign Affairs, all matters involving foreigners except those restricted by laws and mandates shall be handled in the same way as Chinese cases.

(3) After the abolition of offices of Commissioners for Foreign Affairs, all matters involving foreigners which do not concern foreign relations such as trade, issuance of deeds for the lease of land, travel papers, naturalization, and other affairs concerning the protection and control of foreign residents, shall be handled by the special municipal governments in places where special municipalities are established and the several provinces by the several municipal governments or by Hsien⁶² governments where municipal governments have not yet been established. The appropriate special municipal, municipal and Hsien governments, respectively, shall assign these affairs in accordance with their nature to the respective appropriate bureaus and sections under their control for action.

(4) After the abolition of the offices of Commissioners for Foreign Affairs in case negotiations arise from the handling by the several special municipal, municipal or Hsien governments of the foreign

⁵⁹ Telegram in eight sections.

⁶⁰ Not printed.

⁶¹ C. T. Wang.

⁶² Meaning "district."

cases specified in the preceding article, the matter shall be transmitted to the Ministry of Foreign Affairs for action.

(5) In case it is deemed necessary, the Ministry of Foreign Affairs may directly command the several special municipal, municipal or Hsien government[s] in the handling of affairs concerning foreigners.

(6) After the abolition of the offices of Commissioners for Foreign Affairs at the several ports, all pending appeals in mixed cases shall be temporarily turned over to the offices of special appointed Commissioners for Foreign Affairs for the several appropriate provinces for continuance of action. After the abolition of the offices of special appointed Commissioners for Foreign Affairs all such cases shall be turned over to the proper courts for action.

(7) After the abolition of the offices of Commissioners for Foreign Affairs as regards passports for travel abroad, all diplomatic passports shall be issued by the Ministry of Foreign Affairs and ordinary passports shall be issued by the Ministry of Foreign Affairs to the special municipal or Hsien governments in commercial ports for issuance in accordance with regulations, monthly reports still to be submitted to the Ministry of Foreign Affairs for inspection.

(8) At the time of the abolition of the offices of Commissioners for Foreign Affairs, the Ministry of Foreign Affairs shall notify the Ministers of the several nations that in future all diplomatic cases shall be handled by the Central Government and that as to foreign cases which do not concern foreign relations, instructions should be issued to consuls at the several localities to order their respective nations [*nationals*] themselves directly to submit petition to the appropriate organizations for action.

(9) After the abolition of the offices of Commissioners for Foreign Affairs, the reemployment of all efficient officers and employees in the service shall be taken under consideration."

3. Following is an exchange of telegrams with regard to this subject between the American companies [*Consulate*], Nanking, and the Legation, copies of which are being circulated to the American consular offices in China for their personal guidance in the new situation created by this action on the part of the Chinese Government:

"August 29, 11 a. m. I have received formal notice from the Commissioner of Foreign Affairs at Chinkiang that his office will be abolished on the last day of August and that all pending protection cases have been handed over to the Ministry of Foreign Affairs for action.

I request the Legation's permission to ask the Ministry of Foreign Affairs for detailed information as to the method of handling many protection cases now pending in the Chinkiang district".

"September 3, 4 p. m. Your August 29, 11 a. m. The Legation believes that it would be inexpedient for you to inquire as to the method of handling pending protection cases, since the Chinese would be very likely to lay down a detailed procedure which consular officers could not, with a view either to the maintenance of our treaty provisions on the subject or to the obtaining of practical results, fully follow. It is suggested that you adopt a defensive attitude, seeking to protect

American interests by dealing if possible with the highest local territorial official and reporting to the Legation the situation as it develops.”

4. The action of the Chinese Government as above described appeared about to minimize the authority and prestige of foreign consular officials in China and thereby to impair their effectiveness in protecting the interests of their respective nationals. It would also appear from the text of the “procedure” that the Chinese intend no longer to regard the treaty provisions prescribing the rules of intercourse between foreign consular and Chinese officials. The Legation is therefore apprehensive that numerous difficulties will arise in the application of the new procedure and its instruction to the American company [*Consulate*], Nanking, was accordingly made in the guarded language quoted in paragraph 3.

The Legation requests the Department’s approval of the position which the Legation has taken and would be glad to receive an expression of its views on the various phases of the general question involved.

MACMURRAY

711.933/135 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 17, 1929—6 p. m.

309. Your 809 of September 10 and 754 of August 24, 11 a. m.⁶³

1. Department approves position taken by Legation in its telegram of September 3, 4 p. m. to the Consul at Nanking.

2. With regard to the general question of abolishment of offices of Commissioners of Foreign Affairs, Department does not feel that any protest to the Chinese Government is called for, as this matter appears to be one of internal administration. The establishment of these offices in 1913 was made a subject of protest by the Diplomatic Body to the Chinese Foreign Office (see Legation’s despatch to Department No. 1014 of September 18, 1913⁶⁴).

3. The Department suggests that in reply to Wang’s note on this matter, you inform him that this Government is prepared to cooperate with the Chinese authorities with a view to bringing the new procedure into operation with a minimum of inconvenience. You should at the same time make full reservation of American rights under the treaties, and inform Wang that this Government expects that the rights of American plaintiffs in appellate cases now pending before the Commissioners of Foreign Affairs will not be in any way preju-

⁶³ Latter not printed.

⁶⁴ Not printed.

diced by the new procedure. You may inform him that this Government expects, also, that under the new procedure its consular officers shall continue to have the right to communicate as occasion may demand on matters concerning their nationals with the highest provincial authorities as contemplated and expressly provided by existing treaties and in accordance with prevailing recognized usage.

4. In as much as this would appear to be a matter of general concern, it is believed that it would be well for you to discuss the question with your interested colleagues. If, after discussion with them, you feel that the Department's position as stated above should be altered, please refer the matter to the Department for further consideration with your comments and suggestions.

STIMSON

711.933/145 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 4, 1929—11 a. m.
[Received October 5—7: 50 p. m.⁶⁵]

856. Department's 309, September 18 [17], 6 p. m., paragraph 4. As a result of discussions among my interested colleagues, Senior Minister has prepared the following draft which it is proposed that he should forward to the Minister for Foreign Affairs in the name of the diplomatic body:

"On behalf of my colleagues I have the honor to acknowledge the receipt of the notes of 17th August last which Your Excellency addressed to the Heads of Legation informing them of a decision that offices of Commissioners for Foreign Affairs at the several ports be abolished at the end of August of this year and offices of the several specially appointed Commissioners for Foreign Affairs at the end of December of this year and in which you further informed them of the enactment of the regulative procedure for the abolition of these offices.

I am desired by my colleagues, the Heads of Legations, to inform Your Excellency that this Government [*their Governments*] are prepared, subject to full reservation of the rights under the treaties, to cooperate with the Chinese authorities with a view to bringing the new procedure into operation with a minimum of inconvenience.

Further I am desired to inform Your Excellency that it is expected that the rights of foreign plaintiffs in appellate cases now pending before the Commissioners for Foreign Affairs will not be in any way prejudiced by the new procedure and also that it must remain understood that the foreign consular officers shall continue to have the right at all times to address themselves on behalf of their nationals directly to the local territorial officials and also to the highest provincial authorities whenever occasion for doing so may arise.

⁶⁵ Telegram in two sections.

Finally the Heads of Legation trust that with the abolition of the Commissioners for Foreign Affairs no change is contemplated in the established rule that all documents or communications emanating from the Chinese authorities and destined for the information of foreigners will be transmitted to them through the intermediary of their respective consular officers unless it is a question of documents for which foreigners concerned have applied directly to the Chinese authorities."

2. Department's approval is requested by telegraph.

MACMURRAY

711.933/145 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 10, 1929—noon.

328. Your 856, October 4, 11 a. m.

1. The Department approves the substance of the draft note but feels that the language used is at some points unnecessarily peremptory in tone. You are instructed therefore to suggest to your colleagues the following alterations: In the phrase "Further I am desired" omit "Further"; replace "must remain" with "is"; after "arise" add ", in accordance with prevailing recognized usage"; omit "Finally".

2. If these alterations and/or others to the same effect prove acceptable the Department authorizes you to give your approval to the draft.

STIMSON

711.933/162 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 30, 1929—7 p. m.
[Received October 30—11:03 a. m.]

938. Department's 328, October 10, noon. Note dated October 28 was forwarded to Minister for Foreign Affairs by Senior Minister. This note embodies the changes suggested in Department's instruction mentioned and omits last paragraph of the draft contained in my 856, October 4, 11 a. m.

MACMURRAY

151.096/143 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, November 12, 1929—6 p. m.

372. Your 809, September 10. Since Commissioners of Foreign Affairs or officials in that capacity so far have been the only officials

authorized by the Chinese Government to issue Section Six certificates to Chinese citizens desiring to come to the United States the Department considers it to be advisable that in your discretion you suggest to the Foreign Office that upon the abolition of the offices of the Commissioners of Foreign Affairs other officials be specifically authorized to issue such certificates. In this connection you may point out the inconvenience which would be occasioned to Chinese citizens desiring to come to this country through a failure to authorize officials to issue Section Six certificates. The Department realizes the possibility of a repercussion to such a suggestion in the form of a revival of protests against the Chinese exclusion laws generally and therefore would appreciate being informed if, in your opinion, the present is not an opportune time to take up this matter with the Chinese Government.

STIMSON

151.096/144 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 14, 1929—3 p. m.

[Received November 15—9:05 a. m.]

997. Department's 372, November 12, 6 p. m. Pursuant to suggestion from Gauss,⁶⁶ a note along the lines indicated was sent to the Foreign Office October 22; it was tactfully worded and I do not apprehend that it will furnish occasion for repercussion. Copy of note was sent the American Consul under cover of my despatch Number 2412, November 1st.⁶⁷

MACMURRAY

151.096/145 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 13, 1929—1 p. m.

[Received 9:56 p. m.]

1140. Legation's number 997, November 14, 3 p. m. The Minister for Foreign Affairs in a note dated December 3 states that, after the abolition of the offices of Commissioners of Foreign Affairs, Section Six certificates will be issued by the local organizations charged with the issuance of passports in accordance with paragraph 7 of the "procedure" transmitted to the Department in Legation's 809, September 10, 5 p. m.

PERKINS

⁶⁶ Clarence E. Gauss, Consul General at Tientsin.

⁶⁷ Not printed.

151.096/145 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 20, 1929—7 p. m.

422. Legation's 1140, December 13, 1 p. m. The Department is of the opinion that Section Six certificates should be accepted only if issued by an official who is known to have specific authority from his government to issue such certificates.

Since the words "special municipal or Hsien Governments in commercial ports" seem to be too general and ambiguous the Department desires you to request from the Minister for Foreign Affairs a list of the officials in China authorized to issue Section Six certificates and a list of the places where these officials are stationed.

In this last connection reference is made to Legation's despatch No. 39, dated December 17, 1913,⁶⁸ transmitting list of officials authorized to issue Section Six certificates and Rule 11, Department of Labor's Rules Governing the Admission of Chinese dated October 1, 1926.

The Department considers question urgent and desires to be informed by telegraph of authorized officials when list is received from Foreign Office.

STIMSON

711.933/222 : Telegram

The Consul General at Canton (Jenkins) to the Secretary of State

CANTON, December 23, 1929—3 p. m.

[Received December 23—12:50 p. m.]

Referring to my telegrams of December 16, 4 p. m., and December 20, 11 a. m.,⁶⁹ I have just received formal notice from the Commissioner of Foreign Affairs that his office is to be closed on December 31, after which date all matters formerly handled by him will be under the direction of the "special municipal government of Canton." Unless otherwise instructed, I shall insist upon my right to correspond and deal with the Governor and other high officials as conditions may require. Not to do so would result in serious loss of consular dignity and prestige which, in my opinion, is exactly what the Chinese are endeavoring to accomplish.

According to a letter from American missionary in Toishan district, idea appears to be growing among uneducated classes that Chinese Government will take possession of all American property on January 1 and that Americans and other foreigners will then become subject to Chinese courts.

Department and Legation informed.

JENKINS

⁶⁸ Not printed.

⁶⁹ Neither printed.

711.933/222 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 27, 1929—3 p. m.

431. Legation's 938, October 30, 7 p. m., and Canton's December 23, 3 p. m. In regard to all dealings with Chinese authorities subsequent to abolition of offices of Commissioners of Foreign Affairs, Consular officers should be guided by principles enunciated in Diplomatic Body's note of October 28, 1929, to Minister for Foreign Affairs at Nanking, copy of which should be circularized to all consular officers with appropriate instructions.

STIMSON

151.096/145 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 30, 1929—5 p. m.

433. Department's 422, December 20, 7 p. m. It would appear from several precis of investigation lately received at Department that certain consular officers are accepting Section Six certificates signed by local officials such as mayors, magistrates, et cetera, although the Department has not been informed that these officials have been authorized by the Chinese Government to issue such certificates. Instruct consuls to decline to visa Section Six certificates unless they are issued by authorized officials whose names are included in the list mentioned in the Department's 422 of December 20, and until list has been approved by Department.⁷⁰

STIMSON

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NEGOTIATIONS REGARDING THE PROVISIONAL COURT IN THE INTERNATIONAL SETTLEMENT AT SHANGHAI⁷¹

893.05/148 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 18, 1929—3 p. m.
[Received May 18—2:30 p. m.⁷²]

399. 1. Following note has been received from the Minister for Foreign Affairs dated May 8th, 1929:

“With reference to the Mixed Court formerly established in the International Settlement, Shanghai, I have the honor to recall that

⁷⁰ The Chinese Government thereafter authorized duly designated officials to issue Section Six certificates.

⁷¹ For previous correspondence concerning the Provisional Court and the former Mixed Court at Shanghai, see *Foreign Relations*, 1926, vol. 1, pp. 1023 ff.

⁷² Telegram in five sections.

repeated protests have been lodged with the Ministers of the interested powers by the former Ministry of Foreign Affairs at Peking accompanied by demands for its restitution until in 1926 the parties concerned deputed officers to hold joint discussions from which however proper and complete results were unobtainable. Although at present the judicial municipality of the Settlement has undergone modification in the final result its nature is obscure and consequently it is discrepant from the national system and because of its inconveniences is reviled by the people. In point of fact this cannot be concealed.

At present the national friendship between China and the foreign powers is steadily becoming closer and on this basis reform is urgently to be hoped for in order to meet the needs of the present time.

I therefore have the honor, Mr. Minister, especially to lay this matter earnestly before you and, respecting the above-mentioned judicial organism, to request a frank and sincere conference and, as soon as possible, the satisfactory settlement of an appropriate and complete arrangement in order that a final solution may be contrived, thus upholding the rights of jurisdiction and strengthening the national friendship.

Aside from having addressed formal notes to the Ministers of the interested powers, I have the honor, Mr. Minister, to address this formal note for your information and to request a reply."

2. At meeting of the diplomatic body yesterday it was agreed that the matter was one of common concern for those participating in the Mixed Court rendition agreement of 1926, and the Senior Minister was authorized to [apparent omission] a reply for the consideration of his colleagues, the text of which is as follows:

[For text of note as submitted on June 7, see telegram No. 461, June 11, 8 p. m., from the Minister in China, printed *infra*.]

3. Text of note and draft reply are being repeated to Cunningham for comment as American Consul General.

MACMURRAY

893.05/149 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 11, 1929—8 p. m.
[Received June 12—4:15 p. m.⁷³]

461. Legation's 399, May 18, 3 p. m. Reply actually sent by Senior Minister, June 7, reads as follows:

"I had the honor together with some of my honorable colleagues to receive Your Excellency's note of May 8 containing the proposal to open negotiations in all sincerity to arrive at a proper and satisfactory arrangement concerning the question of the former Mixed Court at Shanghai.

As Your Excellency is aware the same [*said*] former Mixed Court was reconstituted by an agreement signed in 1926 by representatives

⁷³ Telegram in three sections.

of the provincial government of Kiangsu and—after approval of the Heads of Legations accredited in China—by the consular representatives at Shanghai of the powers enjoying extraterritorial rights. In consequence of this agreement a new judicial organization was established in Shanghai on January 1, 1927.

The contents of Your Excellency's note were discussed by all the Heads of the Legations concerned, who concurred [*comprised*], in view of the above, not only the six to whom the note was addressed (i.e., the diplomatic representatives of America, Brazil, Great Britain, France, the Netherlands and Norway), but also the diplomatic representatives of Belgium, Denmark, Italy, Japan, Portugal, Spain and Sweden.

As a result of this discussion I am deputed to inform Your Excellency that it is their unanimous opinion that, in view of the obtaining conditions and in order to reach a satisfactory decision in the speediest way possible, the question of the reorganization of the present court should be examined on behalf of the Heads of the Legations concerned by a commission chosen from among their local representatives together with representatives of the Chinese Government and that the conclusion[s] thus arrived at should in due course be submitted to the several Ministers and to the National Government of China. I am, however, desired by my colleagues to add in this connection that the Ministers concerned cannot disguise from themselves the fact that certain unsatisfactory features in the functioning of the court, under the said agreement of 1926, have been due [to] external political and administrative interference with its operation and that they regard it as essential that these external influences should be excluded in future.

My colleagues, whilst submitting to Your Excellency the above proposal for the examination of this question by a joint commission, express the sincere hope that by dealing with the matter in this practical way a final settlement will before long be effected, so that the peace and order of the International Settlement in Shanghai may be safeguarded and justice administered in accordance with existing rights and international good will increased."

MACMURRAY

893.05/152 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 29, 1929—noon.

[Received June 29—4:01 a.m.]

520. Legation's No. 459, June 20 [10], 5 p. m.⁷⁴ Following from American Consul General at Shanghai:

"June 28, 4 p.m. Senior Consul has received from Commissioner of Foreign Affairs a letter dated June 28, 1929, as follows:

"I have the honor to inform you of the receipt of the following instruction from the Kiangsu Provincial Government: "The provisional agreement for the rendition of the Shanghai Mixed Court, which has been in force since January 1, 1927, is deemed inapplicable under the present circumstances."

⁷⁴ Not printed.

In view of the above instruction, I have to transmit this order for your information in the name of the Kiangsu Provincial Government.'

Chinese characters for subquotation will be telegraphed shortly. I am submitting the Commissioner's letter to the consular body tomorrow."

The American Minister and the Senior Minister have been informed.

For the Minister:
HEWES

893.05/153 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 2, 1929—7 p.m.
[Received 11 p.m.]

532. My 520, June 29, noon. Following from Senior Consul, Shanghai, to Senior Minister in telegram dated June 29, noon.

"The following reply to the Commissioner of Foreign Affairs from the Senior Consul is approved by the consular body committee:

"I have the honor to acknowledge the receipt of your letter dated June 28, 1929, in which you quote an instruction from the Kiangsu Provincial Government as follows: "The provisional agreement for the rendition of the Shanghai Mixed Court which has been in force since January 1, 1927, is deemed inapplicable under the present circumstances." It is presumed that your letter communicating this instruction to me is intended to be the notice provided for in the final sentence of article 7 of the Mixed Court rendition agreement of August 31, 1926."

For the Minister:
HEWES

893.05/155 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 11, 1929—5 p. m.
[Received 11:45 p. m.⁷⁵]

558. My telegram No. 461, June 11, 8 p. m.

1. American, Brazilian, British, French, Netherlands, and Norwegian Legations have received from the Minister for Foreign Affairs notes dated July 3rd (of which the following is our translation) in reply to the Senior Minister's note of June 7th:

"Regarding the negotiation of an arrangement in connection with the judicial organ in the International Settlement at Shanghai, I have the honor to inform you that I have not failed to note the context of the formal note of June 7th from the Netherlands Minister.

⁷⁵ Telegram in six sections.

I have the honor to observe that this question is primarily not one of a sectional nature and that prior to the joint discussion at Peking in 1926 the Ministers of the several interested powers were already aware of the inappropriateness of relegating this matter to local representatives for deliberation, therefore, at that time the discussions were held directly between the Ministers of the several interested powers and the Ministry of Foreign Affairs and no local representatives participated therein.

Since it is now desired to arrive at a final settlement, it is of course proper and fitting to continue the joint discussions in all sincerity between the Central Government and the Ministers of the several interested powers.

This Ministry considers that complications would only be created and that no actual benefit would be derived from the proposal in the note under reply that the question should be examined by a commission chosen from among the Legations' local representatives together with representatives of my Government, their conclusions to be submitted for consideration and decision to the several Ministers and to the National Government of China, and I regret that I am unable to concur in this proposal.

Aside from addressing the Ministers of the several interested powers, I have the honor, Mr. Minister, to request that you will be good enough to note the foregoing and to express the hope that you will at once open negotiations directly with this Ministry for the sake of satisfaction and despatch.

I have the honor, further, to request a reply."

2. At a meeting of the diplomatic body today it was decided that the representatives of all countries party to the rendition agreement should submit to their Governments for approval a draft reply to be made in their behalf by the Senior Minister, of which the substantial portion is as follows:

"I am desired by my colleagues, the interested Heads of Legation, to point out that the above-mentioned proposal was made with a view to finding in the quickest way possible the most practical solution to the problem of effecting a final settlement of the Shanghai court questions.

In 1925 protracted discussions took place in Peking between representatives of the interested Legations and some Chinese officials delegated for the purpose; but it had to be recognized that these discussions could not lead to any tangible results, and, after the matter had been left in abeyance for some time, it was found that the only way of arriving at a workable solution was by negotiations in Shanghai itself.

It was with the object lesson before them that I was required by my colleagues to propose a similar way of procedure in the present instance, which seemed all the more desirable as circumstances have become more complicated since the former negotiations took place.

My colleagues regret that this very practical proposal does not meet with Your Excellency's approval, more especially as it seemed to them the only way to obtain speedy results in a question which can hardly brook delay.

I need not remind Your Excellency of the fact that the present agreement between the consular body in Shanghai and the Kiangsu Provincial Government holds good until December 31st and thereafter for a further period of three years unless in the meanwhile revised [by?] mutual consent of the parties to that agreement, or unless replaced by new agreement concluded between the interested heads of mission and the authorities of the Central Government. As Your Excellency is no doubt aware, however, the Commissioner for Foreign Affairs at Shanghai has communicated to the Senior Consul in behalf of the Kiangsu Provincial Government, under date of June 28th, a statement that the provisional agreement for the rendition of the Shanghai Mixed Court, which had been in force since January 1, 1927, is considered inapplicable under present circumstances. This has been construed by the consular body as the required notice preliminary to negotiations for revision at the instance of either of the parties as provided by article 7. In the light of Your Excellency's letter, however, there would appear to be a question whether the communication of the Kwangsi [*Kiangsu*] Provincial Government should not rather have been construed as a repudiation by it of further obligations under the agreement. Should that construction be correct and should the interested heads of mission have found it impossible in the meanwhile to bring to a conclusion negotiations with Your Excellency's Government for a new agreement, there would, of course, be no alternative for them but to accept, however little they desire to do so, the fact of a reversion to the *status quo ante* and to reestablish the Mixed Court before January 1, 1930, until such time as it might be possible to provide for the rendition of the court upon more satisfactory and workable terms mutually acceptable to the parties.

In view of the above, my colleagues and myself are still of opinion that the most satisfactory way of meeting the Chinese Government's wishes as expressed in Your Excellency's note of 8th May last and of obtaining speedy results would be through negotiating in the first instance by means of a joint commission in Shanghai as indicated in my note of June 7th, and I am therefore desirous to request Your Excellency to take this proposal once more into consideration. It was made in a spirit of good will and friendship and with a view to settling a question which during the last few years has proved to be unsatisfactory to all parties."

I beg to request your approval.

MACMURRAY

893.05/156 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 25, 1929—11 a. m.

[Received 12:15 p. m. ⁷⁶]

626. Reference paragraph No. 2, my 558, July 13 [11], 5 p. m. Upon the assumption (which, as reported in my telegram of June

⁷⁶ Telegram in three sections.

10,⁷⁷ we know to be incorrect) that the Nanking Government propose to negotiate with the interested foreign representatives an agreement for the rendition of the Shanghai Provincial [*Provisional*] Court upon more satisfactory and workable terms mutually acceptable to the parties, the British Government has instructed the British Minister that in replying to the Minister for Foreign Affairs it considers it premature to make any reference to possible reversion of the court to the *status quo ante*. The British Minister accordingly presented to the diplomatic body a text which omits any reference of this nature, and the diplomatic body this morning adopted such text which will be sent to the Minister for Foreign Affairs by the Senior Minister on behalf of his colleagues as soon as the Japanese Chargé d'Affaires receives the approval of his Government to which he has considered it necessary to refer the matter.⁷⁸

2. The following is the substantive portion of the text:⁷⁹

I am desired by my colleagues, the interested Heads of Legation, to point out that the above-mentioned proposal for preliminary examination on behalf of Heads of Legation concerned by a commission of their local representatives [together with representatives ?] of the Chinese Government was made in a spirit of entire good will and friendship with a view to finding in the quickest way promising [*possible?*] the most practical solution of a question which during the last few years has not ceased to cause difficulties. In this connection I need not remind Your Excellency of the fact that by its terms the present provisional agreement between the consular body in Shanghai and the Kiangsu Provincial Government holds good until December 31 next and thereafter for a further period of three years unless in the meantime revised by mutual consent of the parties to that agreement or unless replaced by new agreement concluded between the interested heads of Mission and the Central Government.

3. In the meanwhile my colleagues and I, while still of the opinion [that] the best, most satisfactory way of meeting the wishes of the Chinese Government as expressed in Your Excellency's note of May 8 last and of obtaining the most speedy results, would be through an examination in the first instance by a joint local commission, such as suggested in my note of June 7, with a view to the submission of recommendations to Your Excellency's Government and to the interested Heads of Legation, reaffirm their willingness to enter into negotiations with the Chinese Government in accordance with the provisions of article 7 of the agreement of 1926 and await the receipt from Your Excellency of such concrete proposals as might furnish a basis for the negotiations.

MACMURRAY

⁷⁷ Not printed.

⁷⁸ The Japanese Chargé in China in a note of August 1, 1929, notified the Senior Minister of his Government's concurrence in the proposed note to the Chinese Government (893.05/159).

⁷⁹ Text of note as sent was dated August 2.

893.05/156 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 27, 1929—noon.

251. Your 626, July 25, 11 a. m. The draft note quoted in your telegram is acceptable to the Department.

STIMSON

893.05/154 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, August 20, 1929—6 p. m.

277. Reference the Department's 251, July 27, noon. The Department at this time desires to make certain observations and to invite your comments in regard to methods of procedure and subject matter of the negotiations which it is assumed, in accordance with article 7 of the 1926 rendition agreement, will take place between the Chinese Government and the foreign diplomatic representatives interested.

(1) Discussions might be facilitated, in the opinion of the Department, if officers of the Legations were to have a preliminary meeting with the Chinese Foreign Office representatives in order to prepare an outline of matters for discussion, in which there might be included such specific proposals as the diplomatic representatives and the Chinese Minister for Foreign Affairs had agreed upon as appropriate for discussion. Should you consider this preliminary action as desirable, you are authorized to consult your interested colleagues concerning the matter, with a view to carrying it into effect.

(2) Copies of the recommendations which the Senior Consul's deputies at Shanghai made, in their letters dated April 30 and May 28 to the Senior Consul, regarding revising the Mixed Court rendition agreement of 1926, have been received by the Department.⁸⁰ If carried out, certain of these recommendations would in effect increase foreign authority in the Provisional Court, as, for instance, the provision for a Senior Consul's deputy to sit with the Chinese judge in watching proceedings in all criminal cases, with the Chinese judge's decision in no case to be regarded as a binding judgment without concurrence of the consular official or Senior Consul's deputy concerned. The Department does not believe that it will be possible to obtain the Chinese Government's assent to changes of this kind and, consequently, does not wish to force an issue thereon. A deadlock in the negotiations, with attendant consequences, should, the Department believes, be avoided if it is possible to do so without abandonment of

⁸⁰ Neither printed.

certain features of the court that may be regarded as essential in the period of international control of the International Settlement.

(3) American citizens in China who are outside of Shanghai have been encouraged for more than two years to take to the modern Chinese courts their litigation as plaintiffs and not to ask American officials to be present to watch the proceedings (see the Legation's telegram 212, March 12, 1927, 5 p. m., to the Department⁸¹). You are invited to comment on the question as to whether initiation of the same policy in Shanghai would now, all things considered, be advisable.

(4) Your comment is desired by the Department on the question as to whether, during the course of negotiations concerning the court, it might be advisable to treat other unsettled questions affecting the International Settlement and the Port of Shanghai, to include the extra-Settlement roads, the Whangpu conservancy, and even the Settlement's administration, should this subject come up. At present these questions either are drifting or are active irritants. It is obviously advisable to come to definite conclusions and to formulate a plan of procedure. The two questions are: (a) Whether it is likely that any satisfactory solution can be reached; (b) what would be the best method, or methods, of approach. Reference is made in this connection to the statement on February 4, 1927, by the Secretary of State to various Chinese leaders,⁸² namely, that "The American Government will be ready for its part to become a party to friendly and orderly negotiations properly instituted and conducted regarding the future status of the Settlement."⁸³

STIMSON

893.05/162 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, August 31, 1929—6 p. m.

[Received September 1—11 a. m.⁸⁴]

777. Senior Minister has furnished me the following memorandum of a conversation which he had on the 29th with Mr. Tsien Tai, Counselor of the Judicial Yuan, who called on him in behalf of the Minister for Foreign Affairs:

"He began by saying that the Minister for Foreign Affairs greatly regretted the delay in the negotiations about the Provisional Court caused by the interested Ministers who kept arguing about the way of procedure instead of mapping out these negotiations. Now only four

⁸¹ *Foreign Relations*, 1927, vol. II, p. 468.

⁸² See *ibid.*, pp. 59-75, *passim*.

⁸³ Quotation not paraphrased.

⁸⁴ Telegram in five sections.

months remained before the expiration of the Shanghai rendition agreement. Dr. C. T. Wang therefore proposed that the interested Ministers proceed to Nanking at their earliest convenience to start the negotiations at once or else appoint their personal representatives for that purpose, stating at the same time that the appointment as such of the Consuls General at Shanghai would not be acceptable. These could only accompany the Ministers or their diplomatic representatives in the capacity of technical experts.

Monsieur Oudendijk replied that the delay which unfortunately had occurred was due to the Minister for Foreign Affairs not accepting the very practical proposal of a joint commission in Shanghai for carrying on the preliminary discussions and drafting a new agreement. Had this idea been acted upon, the bulk of the labor would by now have been accomplished. But it was Dr. C. T. Wang who insisted upon arguing about the trifles and a great deal of valuable time had thus been lost.

Next, Monsieur Oudendijk pointed out that before the expiration of the rendition agreement, which the Kiangsu government had denounced, it was absolutely necessary that some kind of an understanding with the Central Government should be arrived at as it was clear that in the absence thereof a reversion to the *status quo ante* would be the only way to get out of an impasse embarrassing to all parties concerned.

It was, therefore, of the greatest importance that the Chinese Government, having refused the preliminary discussion in Shanghai, should now inform the interested Ministers, as soon as possible, of its intentions and proposals in order that negotiations thereon be commenced without further delay and the matter be settled before the end of the year.

Monsieur Oudendijk added that on receipt of these proposals the Ministers would be prepared to open the discussion immediately.

Monsieur Tsien Tai replied that it would be impossible for one party at the coming conference to make its proposals known before the opening of the conference and that therefore it was Dr. C. T. Wang's wish that the Ministers should first come to Nanking or appoint their representatives and there learn the ideas of the Chinese Government.

Monsieur Oudendijk said that there was here no question of an international conference but merely of an ordinary correspondence and an exchange of views between the Government and the accredited Ministers of the same nature as had been going on for years. He asked how it would be possible, now that the practical way of dealing with the question by preliminary discussions in Shanghai had been rejected, for the Ministers to appoint representatives before they even knew what these representatives would be called upon to discuss; how could they give them any instructions? Therefore, it was essential that Dr. C. T. Wang send a written reply to the note of August 2nd and make definite and concrete proposals. As to the question who could or could not be appointed as representatives of those Ministers who would be prevented from attending the coming discussions in person, this, Monsieur Oudendijk emphasized, was a matter for the interested [apparent omission] themselves to consider and decide and no rule thereanent could be laid down by the Minister for Foreign Affairs.

To a question from Monsieur Tsien Tai whether the Ministers would be ready to open negotiations at once whatever the nature of Dr. C. T. Wang's proposal concerning the Provisional Court might be, Monsieur Oudendijk replied that personally he would feel inclined to answer this in the affirmative.

Finally Monsieur Oudendijk made it clear to Monsieur Tsien Tai that whatever Dr. Wang's proposals might be it is inconceivable that the interested foreign powers would be found willing to acquiesce in an abolition pure and simple of the Provisional Court and a replacement thereof by an ordinary Chinese court without some sort of a guarantee."

MACMURRAY

893.05/174

*The Consul General at Shanghai (Cunningham) to the Minister in China (MacMurray)*⁸⁵

No. 6111

SHANGHAI, September 4, 1929.

SIR: I have the honor to refer to the Legation's telegram No. 148 of August 24, 6 p.m., concerning the proposed negotiations in connection with the Provisional Court and possibly other problems of the International Settlement of Shanghai, and to submit herewith my comments on the questions raised by the Department.

With regard to the matter of a preliminary meeting between the officers of the Legations and the representatives of the Chinese Foreign Office, it is not believed that such a meeting should be held since it is feared that a considerable delay would result in beginning the actual negotiations. The Provisional Court questions are pressing, and only four more months remain before January first when the three year period named in Article 7 of the Rendition Agreement will expire. No time should be lost, therefore, in beginning the actual negotiations. I am submitting the above, however, as my own personal view without desiring in any way to prejudice the Legation in deciding upon this point.

With regard to the recommendations of the Senior Consul's Deputies mentioned in paragraph two of the Legation's telegram, these were submitted to the Department and to the Legation as the views of the Deputies only and it has never been my belief that it would be desirable to press them one and all to such an extent as to deadlock negotiations. With regard to the example cited by the Department in respect to the recommendation that no decision of the Court in criminal cases be final without the consent of the Deputy, it is agreed that this recommendation should not be pressed to the extent of bringing negotiations to a deadlock although I do believe it im-

⁸⁵ Copy transmitted to the Department without covering despatch; received October 26, 1929.

perative that some provision for dealing with the protests of the Deputies be provided for or else the right of protest, as now provided in Section (iii), Article I, is nothing more than a fiction. This, however, is a matter of the interpretation of a clause in the Rendition Agreement rather than a matter of the increase of foreign authority in respect to the Provisional Court. In general, no increase of foreign authority should be sought but in many instances clarifying interpretations of the original intention could be decided upon in order to minimize disputes.

With regard, however, to civil and criminal cases in which foreigners having extraterritorial rights are plaintiffs or complainants, it is felt that unqualified provision should be made for joint hearings, which was really the original intention of the Mixed Court Rendition Agreement. If this is not done, American, British and Japanese nationals will be in a less favorable position than French nationals, for instance, who bring their suits in the French Mixed Court for joint hearings. In this connection, it ought also to be borne in mind that the administration of justice in the French Mixed Court to-day is to a much greater extent in the hands of the French authorities than is the administration of justice in the Provisional Court.

It is impossible and of little moment to discuss all the details of the recommendations of the Senior Consul's Deputies, since they can better be dealt with by the Sino-foreign Committee appointed for that purpose. However, in general, it is believed that our first line of defense should be that no rights which we enjoy under the present agreement should be surrendered, particularly in regard to the policing of the Settlement, while on the other hand it is not believed that foreign demands for additional rights should be allowed to deadlock negotiations.

With regard to the suggestion made by the Department that it might now be advisable to initiate in Shanghai the policy of advising American plaintiffs to file their suits in the modern Chinese Courts without asking for the presence of an American official to watch the proceeding, I consider such a step most undesirable. It would destroy the solidarity of policy among the representatives of the powers concerned with the judicial administration of the Settlement and place ourselves in the position of sympathizing with the extreme demands of the Chinese authorities. After the proposed negotiations have been concluded, it might be possible to make a beginning along this line by authorizing this Consulate General to refrain, at its discretion, from sending an American official to watch civil cases. There are at present a large number of such cases in connection with rent matters and in many instances the actual American interest involved is questionable since it is a known fact that large amounts of Chinese capital are invested in foreign real estate firms in Shanghai. The Ameri-

can authorities, therefore, on their own initiative might make a beginning along the line of the Department's suggestion by refraining from sending an official to watch such cases. Gradually this policy could be extended.

With regard to the question of the scope of the negotiations, raised by the Department in paragraph four of the Legation's telegram, I am firmly convinced that it should be confined primarily to the solution of the Provisional Court problems. These problems are by far the most pressing and are so fraught with dangerous possibilities that negotiations for their settlement should not be encumbered with other problems of a less pressing nature. Once, however, the Court problems have been solved, the Sino-foreign Committee might be authorized to undertake a settlement of other problems, such as the extra-Settlement roads, the Whangpoo Conservancy or even the administration of the Settlement, if these problems have not already been by that time otherwise settled. In answer, therefore, to the Department's first query relative to the likelihood of arriving at a satisfactory solution, it is believed that a solution can be reached, if the Powers concerned and the Chinese Government actually empower a joint committee to settle the question and do not burden that committee with a discussion of other questions in their entirety simultaneously.

With regard to the Department's second query relative to the best methods of approach, the view of this office has already been expressed in the preceding paragraph. A joint Sino-foreign Committee should be empowered to deal, first, with the Provisional Court problems and, following their satisfactory solution, the other problems might be taken up one at a time until all have been settled. In this way a semi-permanent committee would come into existence for dealing with all the problems of the Settlement until an ultimate solution for each and every one had been secured. It is possible, however, that the Chinese Government may decide to confine its efforts to the general question of extraterritoriality and refuse to join in the above proposal. In that event, the only recourse would be to demand that the *status quo* be maintained.

I have [etc.]

EDWIN S. CUNNINGHAM

893.05/164 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 10, 1929—5 p. m.

302. Your 777, August 31, 6 p. m., and 802, September 7, 6 p. m., third paragraph.⁸⁶

⁸⁶ Latter not printed.

1. I feel that the Powers should manifest a disposition to discuss this question promptly and not stand on technicalities of procedure. I desire that you inform your colleagues and Wang that you are ready to go or to send a representative to Nanking for this purpose.

2. Reference to Department's 277 August 20, 6 p. m., especially introductory paragraph and paragraph 4. Your views are again invited.

STIMSON

893.05/166: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 12, 1929—8 p.m.

[Received September 14—12:10 p.m.⁸⁷]

820. Reference Department's 302 of September 10, 5 p.m. Following is translation of note dated September 6th from Minister for Foreign Affairs:

"I have the honor to refer to the note of August 2nd last which was addressed to me by His Excellency the Netherlands Minister in reply to my communication on the subject of the method to be adopted for the discussion and settlement of the question of the judicial organ of the International Settlement in Shanghai.

This Ministry has taken grateful cognizance of the fact that the Ministers of the powers concerned are prepared to comply with the request in my note of May [8] last and speedily arrange a proper and completely satisfactory scheme by which the question may be settled definitely and that they express the wish to receive concrete proposals such as may serve as a basis for discussion. Although there is a difference of opinion concerning the form the discussions should take, the Ministry still consider that the most satisfactory plan will be for the Central Government to meet the Ministers concerned or their representatives and discuss the matter with them direct, and, with a view to advancing matters, to request Your Excellency to appoint a representative (or representatives) to proceed to Nanking before the 23d instant (September) and open discussions with the Ministry.

As regards proposals for the reform of the judicial organ of the International Settlement, a matter which in any case need not be governed by the agreement of 1926 between the Kiangsi [*Kiangsu*] Provincial Government and the consular body at Shanghai, the course that recommends itself to the Chinese Government is that the unsatisfactory judicial machinery which has hitherto existed in the Shanghai Settlement should all be done away with, and that endeavors be made to establish another court altogether, free from objectionable features and adapted to the judicial system of this country, the details of the scheme being left for discussion by the delegates when they meet in conference.

⁸⁷ Telegram in two sections.

I have the honor to request that Your Excellency will be good enough to inform me in advance of the name(s) and rank(s) of the officer(s) you are appointing, and avail, et cetera."

MACMURRAY

893.05/167 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEIPING, September 14, 1929—6. p. m.

[Received September 15—7:13 a. m.]

829. Reference your 277, August 20, 6 p. m.

(1) The suggestion made in your paragraph (1) was out of the question so long as the Chinese Government refused to give any intimation of the viewpoint from which the Chinese proposed approaching the subject until the representatives of the nations interested had been appointed and had proceeded to Nanking. The insistence of the interested Ministers has, within the past few days, caused the Chinese Minister for Foreign Affairs to indicate the basis upon which he intends conducting the negotiations. As I have a fairly substantial reason for believing that he intends confining the so-called negotiations to a bare, unqualified demand that the Provisional Court be abolished and that there be substituted such judicial arrangements as may be seen fit by the Chinese authorities, I myself do not see how it would be serving any good purpose to attempt having an agenda drawn up in advance by the representatives of both sides.

2. The recommendations of the deputies mentioned in your paragraph (2) of course constituted a formulation by those officers as a suggestion of maximum terms, with a view to facilitating the details of their work in the court, rather than an attempt by them to offer a solution of the question in its broader aspects.

This the Consuls in Shanghai and the Ministers in Peking well understand, nor need the Department apprehend any disposition of forcing issues with the Chinese authorities on the basis merely of recommendations which were formulated with so limited a purview.

(3) Regarding the suggestion in your paragraph (3) to the effect that the initiation in Shanghai of a policy to advise American plaintiffs that their suits be filed in modern Chinese courts without the presence of an American official being asked to watch the proceedings might now be advisable, I concur in the judgment of the Shanghai Consul General, whom I consulted in this connection, that so long as the present system exists such a step would be most undesirable, as it would destroy the solidarity of policy maintained by the representatives of the powers which are concerned with the judicial administration of the International Settlement.

(4) I agree also with the Consul General's judgment that the scope of negotiations mentioned in your paragraph (4) should be limited to solving Provisional Court problems; the latter are by far the most pressing and are so fraught with possibilities of danger that negotiations to settle them should not be encumbered by other problems of a nature less urgent. While the Chinese are in their present temper, I consider that bringing these other matters unnecessarily to a crisis would in any case be most inopportune.

5. It having now been made clear that the Chinese authorities seek the Provisional Court's abolition, not revision, certain of my colleagues and I, hoping to gain the adherence of the other Ministers interested, are endeavoring to formulate a plan of action along these lines:

(a) Attempting to establish any form of court upon the basis either of the old Mixed Court or of the present Provisional Court is useless because of the bitter feeling involved and the manifest Chinese determination to prevent them functioning efficiently and to make them the means for creating occasions of political attack on the so-called unequal treaties; and I submit most earnestly that attempting to institute negotiations along any such lines would result inevitably in forcing us, however unwillingly, to retreat to our technical rights in the matter and, by reestablishment of the Mixed Court, to revert to the *status quo ante*.

(b) The institution at Shanghai of a special judicial system along so-called Siamese lines is the only alternative which gives promise of being acceptable to both Chinese and foreign sides and of reasonably assuring judicial independence and integrity; this would involve a court of first instance and a court of final appeal subject to the Central Government's jurisdiction and consisting partially (say, to the extent of one-third) of Chinese judges who are of foreign nationality, appointed and paid by the Chinese Government, having the necessary guarantees as to tenure and salary payments; these courts having jurisdiction over all cases whatsoever which involve a Chinese or a nontreaty national as the defendant; one judge of foreign nationality at least sitting in each panel; and no judgment nor judicial act being valid without consent and signature thereto being unanimous.

(c) It might be well to hold out the hope to the Chinese authorities that the interested powers might consider the success of this experimental model court as eventually justifying the extension of its jurisdiction to the inclusion of cases which involve treaty nationals, at any rate in certain types of cases.

(d) Even if the Chinese were to reject a proposal along these lines, the mere fact of the foreign powers proposing it in a constructive effort would largely disarm the existing antagonism to the Inter-

national Settlement's administration of justice and to extraterritoriality in China at large.

(6) Your approval is requested for me to proceed, in consultation with my colleagues, along the general lines as indicated under paragraph (5).

(7) Owing to the direction in which the matter now is developing, I shall not venture to carry out the instruction contained in your 302, September 10, 5 p. m., paragraph (1), unless I am instructed specifically to do so. It will, perhaps, be realized by the Department that, considering the diversity of interest and status created by the differing treaty relationships among the several powers which jointly are responsible for maintaining peace and order in the International Settlement, at best it is a matter of the utmost delicacy and difficulty to bring about even the minimum amount of cooperative action required merely for the maintenance of our position and for the fulfillment of our responsibilities. If I am allowed free action within the scope of the general purposes, as I understand them, of the Department, I venture to submit that I shall be in a much better position to contribute to a constructive solution of this urgent problem than I would be if I were instructed from time to time to take particular action regarding some casual aspect of the matter, the relationship of which to the entire local development of the subject possibly may not have been clarified for the Department.

MACMURRAY

893.05/168 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, September 19, 1929—11 a. m.

[Received September 20—9 a. m.]

834. My telegram No. 820, September 12, 8 p. m. Senior Minister is today addressing, in behalf of his interested colleagues, to Minister for Foreign Affairs a reply of which the substantial portion is as follows:

"In reply, I am desired by my colleagues, the interested Heads of Legation, to inform Your Excellency that whilst they remain agreeable to the opening of the proposed discussions at Nanking at the earliest date at which such discussions can profitably be held, they must point out that the proposal outlined in the latter portion of Your Excellency's note opens fresh ground and requires, as Your Excellency will be the first to recognize, the fullest consideration by the interested Heads of Legation in consultation with their Governments before proceeding further. They do not therefore find it feasible to arrange for a beginning of the said discussions by the 23rd September next.

Your Excellency may, however, remain assured that the interested Heads of Legation are already examining the position in the light of Your Excellency's note and they expect to make a further communication on the subject in due course."

MACMURRAY

893.05/167 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, September 20, 1929—6 p. m.

312. Reference your No. 820, September 12, 8 p. m., and No. 829, September 14, 6 p. m.

(1) As to paragraph (5) of No. 829: The Department is now inclined to share this view and, by reference to your 820, notes that the Chinese Minister for Foreign Affairs appears to be thinking similarly. It seems advisable for an attempt to be made to substitute for the former and the present court something which is entirely new, at least in name, even though, when established, it may resemble in structure and function the institutions which already have existed.

(2) As to paragraph 5 (b) of No. 829: The Department cannot help doubting whether the plan you have outlined would stand much chance of being acceptable to the Chinese authorities, since, though embodying a provision of the Anglo-Siamese treaty of 1909⁸⁹ for the presence and authority of foreign judicial officers, apparently the other feature, granting jurisdiction over extraterritorial defendants to the courts thus organized, is not concurrently embodied. The Department authorizes you, however, to discuss the proposal outlined with your colleagues.

(3) As to paragraph (7) of No. 829: The Department cannot help feeling that, after approaching the interested powers as early as last May (see your 399, May 18, 3 p. m.), the Chinese Government at least has an equitable right for the exercise prior to December 31, 1929, of the right which article VII of the rendition agreement signed August 31, 1926, accorded to it, viz, to "negotiate with the foreign Ministers concerned in Peking for a final settlement", and that, in case the powers defer longer the negotiations which, it was agreed, should be entered into, the powers would be placed in an awkward tactical position by a failure to reach a settlement prior to December 31.

I have no wish to dictate regarding details of procedure or minutely to prescribe regarding agenda, steps, or the precise con-

⁸⁹Treaty and notes (annexes) signed at Bangkok, March 10, 1909; *British and Foreign State Papers*, vol. cii, pp. 126, 127, 129 (annex 2).

clusion to be arrived at in the course of negotiations. I am, however, of the impression that in its attitude toward the Nanking Government's overtures and efforts the diplomatic body is unduly meticulous, if not querulous; and, in view especially of Dr. Wang's note (reported in your No. 820), I believe that the American Government's wish to be responsive should be demonstrated both to your colleagues and to Dr. Wang in the position you take on behalf of this Government. While I do not desire to instruct you to act independently, I do wish you to make it clear that this Government believes it to be both diplomatically expedient and reasonable to discuss frankly and cordially with the Chinese Government the issues raised by that Government. Regarding the question of the solidarity of policy among the representatives of the affected powers, I hardly need to remind you of the complete disregard of that principle by each of several other powers whenever such disregard has suited their convenience. Referring to your paragraph (7), I share with you the view that the diversity of interest and status created by the differing treaty relationships does render it a matter of great delicacy and difficulty to bring about even the minimum amount of cooperative action required for the maintenance of our position and the fulfillment of our responsibilities. That being a fact, it nevertheless remains possible to choose, without taking a noncooperative position, between advocating an attitude which is responsive to the trend of affairs or accepting the views of governments or persons, which by comparison are reactionary, in order to determine our policy. When and where the principle of solidarity and cooperation among the powers is accomplished by the will to face realities and to deal constructively with them, I believe in it. When adherence to that principle results in either action or inaction along lines which are prescribed by governments or persons appearing to lack that will, I should not hesitate to disregard the principle.

STIMSON

893.05/173

The Minister in China (MacMurray) to the Secretary of State

No. 2354

PEIPING, September 28, 1929.

[Received October 25.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 312, September 20, 6 p. m.

While not wishing to make a telegraphic reply thereto which might appear to the Department to be merely contentious, I feel

that it is proper and necessary for me to make certain comment upon it.

I am heartily in accord with your views as to the desirability of cooperation among the interested Powers, and as to the limitations upon the possibility thereof, as set forth in the concluding two sentences of your telegram.

I nevertheless venture to dissent from the implied assumption that in this matter the purposes of our Government have been thwarted or perverted by cooperation along lines prescribed by Governments or persons with less realism and constructive purpose than our own. I accept for my own part full responsibility for having taken, with respect to the negotiations on the question of the Provisional Court at Shanghai, an attitude at least as meticulous (or querulous) as that of my Colleagues in dealing with the overtures and efforts of the Nanking Government. . . . All my Colleagues who have had to deal with the overtures of the Foreign Office have in fact proved very solicitous to meet the situation and very receptive towards any suggestion which seemed at once liberal and practical, such as that outlined in the fourth paragraph of my telegram No. 829 of September 14. Although it was a member of our own Legation staff who more or less concretely formulated that suggestion, it was at once welcomed and recommended to their respective Governments, as a possible solution of the problem, by the Netherlands, the British and the French Ministers. The Dutch and British Legations have indeed vied with each other in claiming credit for the original conception of the idea; and the French Minister has offered to request his Government to enable him to further the project by giving him authorization to offer to the Chinese authorities the same arrangement, as regards the French Concession at Shanghai, in the contingency that such an offer would serve to promote the adoption of the project in the International Settlement. So far as concerns the attitude of the respective home Governments, which are perhaps not unnaturally as cautious as our own in committing themselves to so novel a solution of the problem, we are none of us yet in a position to speak. But as regards the attitude of those who have thus far been dealing with the matter, I acknowledge that I cannot explain to myself the assumption, implicit in the Department's telegram, that in this matter the Legation has been diverted from the carrying out of the liberal intentions of the American Government by permitting itself to be dominated by reactionary influences.

I have [etc.]

J. V. A. MACMURRAY

893.05/179

*The Consul General at Shanghai (Cunningham) to the Minister in China (MacMurray)*⁹¹

No. 6164

SHANGHAI, September 30, 1929.

SIR: I have the honor to enclose herewith, for the Legation's information, a copy of a self-explanatory letter dated September 24, 1929, together with a copy of the Chinese text, which was sent by this office to the Commissioner of Foreign Affairs for Kiangsu,⁹² in connection with the delay in the hearing of American civil cases in the Appeal Court of the Bureau of Foreign Affairs.

On February 22, 1929, there occurred in this Appeal Court a dispute between Consul Stevens and Judge Sheng, the nature of which is described in the communication to the Commissioner above referred to. Since that date, or for almost seven months, not a single one of the ten American civil cases pending in the Appeal Court of the Bureau of Foreign Affairs has been set for hearing. While the Commissioner of Foreign Affairs has apparently attempted to stress an alleged insult to Judge Sheng as the cause of delaying these cases, the real reason, in the opinion of this office, is the refusal of the Commissioner to accord the American consular representative his proper place on the bench.

In accordance with Article 5 of the Mixed Court Rendition Agreement, these cases might be returned to the Provisional Court for re-trial and a request for such return was made in the last paragraph of this Consul General's letter to the Commissioner above mentioned. The Commissioner stated orally that he would discuss this entire matter with the appeal court judges and inform me at a later date of his decision. Upon receipt of further information, therefore, the Legation will be informed.

I have [etc.]

EDWIN S. CUNNINGHAM

893.05/169 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEIPING, October 9, 1929—8 p. m.

[Received October 9—4:50 p. m.]

875. (1) A detailed study regarding revision of the 1926 rendition agreement is being made by a committee which the interested Ministers appointed, consisting of representatives of the British, French, and United States Legation Chinese secretariats. A draft proposal, hereafter called "scheme A", has now been completed, to

⁹¹ Copy transmitted to the Department without covering despatch; received November 9, 1929.

⁹² Not printed.

be submitted to the interested Ministers, to establish a court along the lines which I indicated in my 829, September 14, 6 p. m., paragraph (5). The text of this proposal will follow in my next telegram.

(2) An alternative proposal has also been prepared by the committee in the form of instructions for the delegates who are designated to negotiate the revision of the existing agreement on the Provisional Court. Because these instructions, covering the ultimate concessions which may be made during the negotiations, are too confidential to be reported by radio, I shall not, unless so instructed by the Department, telegraph this long document; but if, after consulting the interested Ministers, they should be disposed to recommend such revision as therein indicated, I shall duly report.

(3) My British, Dutch, and French colleagues and I, as a matter of personal judgment, warmly approve scheme A as the most hopeful solution available for the Provisional Court question. I am informed by my British colleague, however, that the British Government, hitherto working along the lines of merely revising the existing agreement, has sent him instructions not to commit himself on the subject until there shall have been more time to consider scheme A. The Minister is hopeful that his Government will give its approval.

(4) The four Ministers who are principally concerned are strongly of the opinion that the attempt by the experts satisfactorily to revise the present Provisional Court system has made it clear that there is no possibility along that line of reaching a satisfactory and workable arrangement with the authorities of China; that such an arrangement could not be obtained if we wanted it and would not be wanted if it could be obtained.

(5) The six interested Legation heads and later the entire diplomatic body will shortly consider the two proposals mentioned. If I were able to state that I have your support for a plan along the lines of scheme A, the adoption of such would be greatly furthered and expedited.

MACMURRAY

893.05/170 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 10, 1929—9 a. m.
[Received October 11—9:15 a. m.⁸³]

876. Supplementing my 875, October 9, 8 p. m. Following is the text referred to:

It is proposed to establish in the International Settlement in place of the Provisional Court a Chinese court of justice composed of two divisions, namely, a Court of First Instance and a Court of Appeal.

⁸³ Telegram in eleven sections.

1. The court shall be composed of an adequate number of judges (the number to be decided upon in negotiation) one third of whom shall be of foreign nationality. All judges both Chinese and foreign to be appointed and maintained by the Chinese Government.

2. The court shall have jurisdiction over all cases both criminal and civil arising in the International Settlement in which a Chinese citizen or a foreign national subject to Chinese jurisdiction is a defendant.

3. Each panel of the court shall be composed of two Chinese judges and one foreign judge and no judgment, summons, warrant, order, application or other judicial process or action of the court shall be binding and valid without the unanimous consent as evidenced by the signature thereon of all of the three judges composing the panel who shall have equal rights and functions in the operation of the court from the inception to the termination of each case, it being further understood that all proceedings, testimony, and legal argument as well as the records of the court will be officially translated into English to enable the foreign judge sitting in each panel to carry out his duties.

4. The appeal division as well as the Court of First Instance referred to in the preamble shall be composed in an identic manner as described in paragraphs 1 and 3 above, each panel consisting of two of the Chinese judges and one of the foreign judges referred to therein. The appellate division shall be the final judicial organ having jurisdiction in any cause arising within the International Settlement in which Chinese or foreign nationals subject to Chinese jurisdiction are defendants.

5. The judges of the court both Chinese and foreign shall be appointed for a definite period and shall not be dismissed from office unless and until definite charges of malfeasance in office shall have been publicly proved against them; and further the Chinese Government and the Governments of the nationals concerned will guarantee that no external pressure of any character whatsoever will be brought to bear upon the judges of the court either officially or unofficially. The Chinese Government will guarantee the judges a fixed minimum annual salary.

6. The Chinese Government shall immediately upon the conclusion of the new agreement place at the order of the court in a bank or banks to be decided upon in negotiations a sum that will be sufficient to defray the expenses of the court including the salaries of the judges for one year; and an equal sum shall subsequently be placed in such bank or banks at the order of the court at the beginning of each fiscal year.

7. Any surplus which may accrue from the ordinary income of the court and from the yearly deposit subscribed by the Chinese Government shall be placed in a sinking fund to be used for the extension of the court including necessary buildings and repairs, such fund not to be drawn upon without the authorization of the Ministry of Finance, it being definitely agreed that this sum or any part of it can be used only for the purposes stated above.

8. The names of the foreign judges appointed by the Chinese Government shall be selected from a list presented to the Chinese Government by the Permanent Court of International Justice at The Hague.

9. Provision should be made in the negotiations for the following points:

(a) The jurisdiction referred to in paragraph 2 above should extend to vessels in the harbor and to extra-Settlement areas in which the municipal police of the Settlement function and foreigners reside.

(b) The prisons used for offenders convicted in the court should remain under the charge of the foreign municipal authorities; exception being made in the case of Chinese female prisoners who might be handed over to the extra-Settlement Chinese authorities.

(c) The decisions of the court where they concern action to be taken in the foreign-controlled areas will be carried out by the foreign municipal police who will also furnish the judicial police for the court itself.

(d) The land regulations and bylaws of the International Settlement should be specifically included amongst the laws and ordinances applicable in the courts.

(e) Duly qualified foreign lawyers should be permitted to appear in cases in which there is a foreign interest including that of the Municipal Council.

(f) It should further be provided that the respective jurisdictions of the courts of the French and International Settlements remain as defined in the agreement of June 28th, 1902.⁹⁴

(g) The present experienced foreign staff shall be retained to look after and be responsible for the finances of the court and its satisfactory and efficient operation, with particular reference to the keeping of the records of the setting of cases and applications for hearing and other matters of a routine character.

The following notes are submitted as additional suggestions for possible use in the negotiation of a new agreement with the Chinese authorities:

Note 1. It is understood that there are at present approximately twenty-five courts sitting each day in the Provisional Court and it may be necessary to discuss some means whereby the hearing of cases can be expedited and the number of daily courts decreased.

Note 2. The Ministers concerned may find it desirable to insist that foreign nationals subject to Chinese jurisdiction should be limited entirely to those foreign nationals whose governments have never exercised extraterritorial jurisdiction in China or have surrendered such jurisdiction by treaty.

Note 3. In order to expedite the hearing of cases of a minor character which it is estimated will constitute more than 75 per cent of the volume of work of the Court of First Instance, it is suggested that it might be desirable to institute a summary division of the Court of First Instance which shall be made up of panels consisting of one foreign judge and one Chinese judge or of the foreign judge sitting

⁹⁴ For text of "provisional rules defining the respective jurisdiction of the Mixed Courts of the International and French Settlements at Shanghai," as drawn up on June 10, 1902, see *British and Foreign State Papers*, vol. xciv, pp. 793 ff. (footnote to text of original rules dated April 20, 1869).

alone, as desired by the Chinese authorities, such court to have jurisdiction in all cases of infractions of the municipal bylaws, police offenses, code, and over all minor criminal cases under the criminal code where the maximum penalty is a fine of \$100, or detention for a maximum period of 60 days, this division also to have jurisdiction in civil cases where the amount involved does not exceed \$500. Such summary division also to hear applications for summons, warrants, et cetera, other than those connected with the execution of judgments which should in each case be heard by the panel trying the case.

Note 4. It should be provided for that in all cases in which a deadlock occurs and continues to exist for 3 months after the date of the final hearing, such case should automatically be placed before another panel of the particular division concerned.

Note 5. It is suggested that no mention be made of the institution in the court of the procurator system, in the event that this point is not raised by the Chinese authorities. Should it, however, be insisted upon by such authorities, it is suggested that the negotiators should proceed along the following lines: In the event of the Chinese Government desiring to introduce the procurator system, due consideration will be given in the negotiation as to how this may be effected without conflicting with the machinery of municipal administration in the Settlement, whether by arranging that the office procurator will be composed of one of the panels of the court as prescribed in paragraph 3 or by some other system under which the office of procurator will be composed of Chinese and foreign officers sitting jointly or by arranging that the police authorities of the Settlement will form part of the procuratorial panel of the court in the manner indicated in article 233 of the criminal procedure regulations of 1921 (see paragraph 135 of the Commission on Extraterritoriality⁹⁵).

Note 6. The negotiators might find it desirable to point out to the Chinese authorities, in the event a necessity therefor arises, that the present court buildings are totally inadequate for the purposes contemplated and that the negotiators would welcome the agreement of the Chinese authorities for the erection of new buildings for the new court.

Note 7. In the selection of the foreign judges for the court, whether this is made by nomination by the Permanent Court of International Justice at The Hague or by some other method, it is suggested that means should be found to ensure that the nations with preponderate vested interests in the Settlement should be adequately represented.

Note 8. The Ministers concerned might desire to suggest to the Chinese authorities that the jurisdiction of the court should be extended to all foreigners subject to Chinese jurisdiction residing in the municipality of Greater Shanghai.

Note 9. It might be suggested that male prisoners in the municipal prisons may be employed in prison factories and/or on public roads in order to relieve the congestion in the prisons, at least in the day time.

⁹⁵ Department of State, *Report of the Commission on Extraterritoriality in China, Peking, September 16, 1926*, etc. (Washington, Government Printing Office, 1926), p. 63.

Note 10. It should be definitely insisted upon by the negotiators that all judgments, decisions and orders of the court shall be recognized by the Chinese authorities, valid everywhere in China and that they will be executed when necessary.

Note 11. It may be possible for the negotiators to suggest that any duly qualified lawyer Chinese or foreign shall be entitled to appear in all cases coming before the court in the event that the parties to the action desire his presence provided that foreign lawyers must be accompanied in each case by suitable interpreters and further that all such lawyers foreign and Chinese shall be subject to all proper discipline of the court.

Note 12. It is suggested that provision should be made for the holding of inquests by a panel of the summary division of the courts.

MACMURRAY

893.05/170 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, October 15, 1929—5 p. m.

335. Reference your 876, October 10, 9 a. m., and 875, October 9, 8 p. m.

(1) While the Department does not desire being committed to the position that the only solution acceptable for the court question in the International Settlement would be Scheme A, you are authorized to join your interested colleagues in its proposal to the Chinese Government.

(2) Referring to your 876, the Department makes the following observations for your consideration :

As to paragraph 3: Because it might happen frequently that unanimous agreement would not be arrived at, it might be preferable to have a provision for decisions of the court to be by a majority of its three judges, with the foreign judge concurring therein.

As to note 2: It would appear advisable, in defining the court's jurisdiction, for claims to exemption from such jurisdiction to be based upon treaties in force, in doubtful cases with the presumption being in favor of Chinese jurisdiction.

As to note 4: The 3-month period, prior to which a case should be placed before another panel, seems to be too long, particularly if the unanimous-decision principle finally is adopted.

As to note 9: The question of employing prisoners appears to be irrelevant to the court's organization.

STIMSON

893.05/176 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 31, 1929—5 p. m.
[Received November 1—9: 45 a. m.⁹⁶]

942. Department's 335, October 15, 5 p. m.

1. British Minister recently informed interested colleagues that under instructions of his Government he suggest[s] Senior Minister's note of September 19th be now followed up

"by informing the Chinese Government that, having completed our preliminary study of the question, we are ready to open negotiations through our representatives appointed for the purpose at such time and place as the Chinese Government may designate.

I would further propose, again on the explicit instructions of my Government, that our negotiators should be provided with copies of both schemes A and B, not for presentation to the Chinese Government, but merely in order that they may have, for their guidance, statements of the tentative ideas of general principle which have resulted from our preliminary study of the subject. Our negotiators should then be given, as in 1926, as free a hand as possible in seeking a solution within the limits indicated in these schemes. It seems probable to my Government that the Chinese Government contemplate the abolition of the present court and the establishment in its place of a purely Chinese court fitting into the existing Chinese judicial system. It should, I am instructed to say, be the aim of our negotiators at the conference table, after calling upon the Chinese representatives to explain their desiderata, to seek to graft on to such proposals as the Chinese may have to make such of the recommendations in scheme A or B or some combination of the two as may seem best calculated to attain the objects which we had in view, namely, the introduction of the necessary safeguards for the maintenance of law and order and of the existing municipal authority in the International Settlement and the establishment of some machinery for the resolution of disputes between the Chinese judiciary and the foreign executive of the Settlement.

It will be seen from the above statement of the procedure which His Majesty's Government desire to see followed in the matter that while authorizing me to adopt schemes A and B as bases for our negotiators to work on, my Government do not approve of the presentation of my [*any*] cut-and-dried scheme, whether of the nature of A or B, to the Chinese Government. More particularly they consider it undesirable to assume at the present stage any direct responsibility for scheme A, since it appears to them very unlikely that the Chinese Government will consider any plan which actually increases the foreign control over and the foreign element in a Chinese court exercising jurisdiction over Chinese citizens. Should, therefore, any individual foreign representative in these negotiations desire to present a plan of the nature of scheme A to the Chinese Government,

⁹⁶ Telegram in five sections.

this should be done separately and apart from joint negotiations and without committing the British representative to any responsibility therefor."

2. At a consultation yesterday among American, British, Dutch, French and Japanese Ministers it was decided that since it is now no longer possible for the interested Ministers to take a concrete initiative in presenting scheme A as a joint proposal, it would be advisable for the Senior Minister now to inform the Minister for Foreign Affairs of our readiness to appoint delegates to negotiate on the question and in a subsequent note to give the names of the negotiators thus designated by the various Ministers concerned. Inasmuch as the British Minister made clear that his Government is not actually opposed to scheme A, the other Ministers (except the Japanese, who has no instructions in the matter but is personally disposed to favor that proposal) felt it might be possible at an opportune moment during the negotiations to present scheme A in the knowledge that it would receive the support of the American, Dutch and French delegations.

3. At a meeting of the whole diplomatic body this morning Senior Minister was authorized to send today in behalf of his interested colleagues the following note to the Minister for Foreign Affairs:

"I have the honor to refer Your Excellency to my note of September 19th on the subject [of] the proposed negotiations regarding the reform of the Provisional Court in the International Settlement at Shanghai in which I informed Your Excellency that the interested Heads of Legation were examining the position and stated they expected to make a further communication on the subject in due course.

I am desired by my colleagues, the interested Heads of Legation, to inform Your Excellency that having completed their preliminary study of the subject they are now ready to open the negotiations in question through their representatives to be appointed for the purpose at such time and place as may be convenient to the Chinese Government."

4. I beg to request the Department's authorization to designate as American delegates both Cunningham⁹⁷ and Jacobs⁹⁸ (in order to allow greater expenditure and less interference with the work of the Consulate General since it is probable that the presence of both would not be necessary during the whole of the negotiations) and Bucknell.⁹⁹ I further respectfully request authorization for necessary travel and per diem expenses for Cunningham, Jacobs and Bucknell and a reasonable allotment to enable the delegation to engage a competent stenographer.

⁹⁷ Edwin S. Cunningham, Consul General at Shanghai.

⁹⁸ Joseph E. Jacobs, Consul at Shanghai.

⁹⁹ Howard Bucknell, Jr., Second Secretary of Legation in China.

5. Since I feel strongly that it would be advantageous for the negotiators to propose a concrete plan along the lines suggested above in the second paragraph and anticipate neither the Dutch nor the French would be in a position to make such a proposal so appropriately or effectively, I further beg to request authorization for the American delegates to submit scheme A for consideration if and when a suitable opportunity is presented.

MACMURRAY

893.05/176: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, November 2, 1929—11 p. m.

360. Your 942, October 31, 5 p. m.

1. Department authorizes you to name as delegates any two or three of the following persons: Judge Purdy,¹ if available, Perkins,² Bucknell and Jacobs.

2. It is believed that Cunningham's relationship may most advantageously be that of authorized but undesignated adviser.

3. Travel allowances and per diem will be authorized.

4. With regard to submitting formulated proposals, such as Scheme A, it is my opinion that the American delegation should not at the outset or at any given moment submit a plan worked out and agreed upon among the principal foreign ministers. I approve in broad outline of Scheme A, but I feel that, rather than to take the responsibility for submitting it, with the likelihood that the Chinese, knowing or assuming that it represents a plan agreed upon by several legations or several governments, would reject it, it would be better to talk its provisions over, in outline but not in text, with the Chinese, and, if they come anywhere near to assenting to it, to offer them the opportunity to present as their own a scheme along its lines.

STIMSON

893.05/177: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEIPING, November 6, 1929—5 p. m.

[Received November 6—10:10 a. m.]

965. Reference your 360, November 2, 11 p. m.

(1) The Shanghai Consular Corps negotiated and signed the 1926 rendition agreement which now is under revision. As a matter of course, my interested colleagues are appointing as delegates their

¹ Milton D. Purdy, Judge of the United States Court for China.

² Mahlon F. Perkins, Counselor of Legation in China.

respective Consuls General at Shanghai for the purpose of the forthcoming negotiations. The omission from the American delegation of Consul General Cunningham, who is also the Senior Consul at Shanghai, would be very conspicuous, even apart from any question as to his invaluable capacity for these negotiations, and could not help leading to misunderstandings that would be detrimental to our purposes. I beg, therefore, to renew my request to be authorized to designate Cunningham as a delegate.

(2) The procedure which you suggest in your paragraph (4) may well prove to be found adaptable to a situation which is developed during the course of actual negotiations. However, I venture to submit that, judging from my own experience with Chinese negotiations, conditions for a successful settlement are much more favorable when the negotiator, though fully informed by his Government of its essential objectives, is left unencumbered by directions in detail regarding procedure and tactical methods and is permitted freedom of action to avail himself of the opportunities which are presented in the course of discussion. Accordingly I would urge that the American delegates be acquainted with the special apprehension which underlies your paragraph (4), but be clearly authorized to treat the matter at their discretion.

MACMURRAY

893.05/177 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, November 8, 1929—6 p. m.

366. Reference your 965, November 6, 5 p. m.

(1) As to your paragraph (1): As was pointed out in your 829, September 14, 6 p. m., paragraph (5), the Chinese are seeking the Provisional Court's abolition, not revision. It has been emphasized by the Legation that there exists no possibility to work out satisfactorily a revision of the present Provisional Court system (see your 875, October 9, 8 p. m., paragraph (4)). The Ministers, on the Chinese Foreign Office's insistence, have relinquished the idea of a joint commission, consisting of local representatives, for the examination of the question of reorganizing the present court (see your 461, June 11, 8 p. m.), and to the Chinese Minister for Foreign Affairs the Ministers have reaffirmed their willingness to start negotiations with the Chinese Government (see your 626, July 25, 11 a. m., paragraph 3). It is believed by the Department that appointing consular officials as delegates of the Ministers will be suggestive of an attempt at reverting to the commission consisting of local representatives and that the successful

outcome of the negotiations will be prejudiced by this fact. The Department, however, deferring to your views, consents to Cunningham's appointment, provided that Judge Purdy or Counselor Perkins is made the ranking delegate. As soon as you can, you should telegraph the names of the delegates.

(2) As to your paragraph (2): Paragraph 4 of the Department's 360, November 2, 11 p. m., may be communicated by you to the American delegates, authorizing them to depart from the course indicated therein should circumstances strongly point to its being advisable to do so.

STIMSON

893.05/178 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 9, 1929—3 p. m.

[Received 4:35 p. m.]

976. My 965, November 6, 5 p. m.

1. I received last night a telegram from Minister for Foreign Affairs to the effect that it had been decided to hold a conference at Nanking November 19th to negotiate the Provisional Court question and requesting that he be informed by telegraph of the names of the Legation staff representatives at such conference.

2. Senior Minister has just informed me that he was this morning approached by a local representative of the Foreign Office conveying a personal message from C. T. Wang to the effect that he did not wish to have any consular officers appointed as delegates of the interested Legations. Oudendijk asked this intermediary to convey in reply to Wang a personal message that as he and his colleagues must of course reserve the right to designate such representatives as they thought most suitable to carry on the negotiations competently and expeditiously he would strongly urge Wang not to stand upon so posterous and obstructive a suggestion.

MACMURRAY

893.05/180 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 12, 1929—1 p.m.

[Received November 12—9:03 a. m.]

983. Acting upon your No. 360, November 2, I have named Jacobs and Bucknell as delegates of the Legation for the negotiations in regard to the Provisional Court.

2. I am preparing to send Bucknell November 14th to Shanghai for consultation with Cunningham and Jacobs and request your approval therefor.³

MACMURRAY

893.05/181 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 14, 1929—8 p.m.
[Received November 15—10:23 a. m.⁴]

1000. Legation's No. 983, November 11 [12], 6 [1] p. m.

(a) On November 11th the Senior Minister informed the Minister of Foreign Affairs by telegraph of the names of the delegates who would participate in the negotiations relating to the Provisional Court, the nationalities represented including American, British, French, Japanese and Dutch. The telegram also stated that upon receipt of notification of the names of the Chinese delegates the interested Legations would instruct their delegates to proceed to Nanking.

(b) Yesterday the following telegram in reply was received by the Senior Minister from the Minister for Foreign Affairs:

"1. Our treaty with Japan⁵ has expired and she has not been invited to participate in the negotiations concerned.

2. Delegates from Great Britain and the United States are acceptable on the condition that their respective Legation official[s] should be the ranking members.

3. Regarding Netherlands and France, I beg to request that either Legation officials are to be appointed in place of the gentlemen you communicated to me or in addition to them on the same condition that they should be respectively ranking member[s].

4. The names of Chinese delegates will be duly communicated to you later."

(c) At a meeting of the interested Heads of Legations today it was agreed that it would be virtually impossible to reach any workable agreement without Japanese participation. The Japanese Chargé d'Affaires undertook to ascertain as soon as possible whether his Government proposed to insist upon participation in the negotiations. Upon the assumption that the Japanese Government would so insist, the interested Ministers agreed to submit for the approval of their respective home Governments the following draft telegram

³The Acting Secretary, in telegram No. 374, November 13, replied, "Your action approved." (893.05/180)

⁴Telegram in three sections.

⁵Signed at Shanghai, October 8, 1903, *British and Foreign State Papers*, vol. xcvi, p. 578.

to be despatched to the Minister of Foreign Affairs in the event that the Japanese Chargé d'Affaires should receive an affirmative reply:

"As regards the first point in Your Excellency's telegram, I have to point out that the interested Ministers [apparent omission] the participation of Japanese representatives in the negotiations, without regard to the question whether or not the treaty between China and Japan remains in force, by reason of the fact that under existing arrangements determining the state of the International Settlement at Shanghai, Japan does in fact share in the responsibility of the administration of the Settlement so that no practically satisfactory arrangement could be expected to result from negotiations which ignored the actual situation in that respect.

With respect to your second point, I am requested by my colleagues to bring to Your Excellency's attention the fact that the several representatives previously named to you already bear a diplomatic character by reason of their appointment as special representatives of their respective Legations and would sign as such any agreement which may be reached."

I beg leave to request the Department's approval of my concurrence in the despatch of the foregoing in the contingency above described.⁶

(d) The above repeated to Shanghai for information.

(e) Bucknell left for Shanghai today.

MACMURRAY

893.05/181 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, November 16, 1929—6 p. m.

377. Your 1000, November 14, 8 p. m.

1. If the Japanese Government indicates its desire to participate in the forthcoming negotiations you may join with your interested colleagues in the proposed note. The Department refers, however, to paragraph 1 of its telegram 366, November 8, 6 p. m. The Department hopes that arrangements will be made to conduct negotiations under circumstances favorable to a successful result. . . .

2. The Department considers that the interest held in common in the matter of setting up a satisfactory court in the International Settlement is to be found in the fact that the court necessarily must function as an auxiliary to the international administration of the Settlement. This international administration rests upon the international arrangements and practice relating to the Settlement, and not upon the general provisions of the treaties. It would appear to the Department that, China and Japan being at the present time in diplomatic relations, the participation of the Japanese Govern-

⁶ In telegram No. 1029, November 22, the Chargé in China informed the Department that the note was sent on November 22 (893.05/187).

ment in the conduct of the International Settlement continues as a matter of course. The question of general treaty provisions is irrelevant.

COTTON

893.05/182 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 18, 1929—4 p. m.

[Received 9:20 p. m.]

1004. Legation's 1000, November 14, 8 p. m. Following telegram has been received from Jacobs and Bucknell: "Pending further instructions from Legation, we shall not proceed to Nanking. Similar action is being taken by other delegates", which I have telegraphically approved.

MACMURRAY

893.05/183 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 18, 1929—6 p. m.

[Received November 19—2:37 a. m.⁷]

1005. Shanghai's despatch No. 6164 of September 30th. Following has now been received from Cunningham enclosing copies of a reply from Commissioner to enclosure of [*sic*] despatch under reference and of the Consulate General's reply thereto, the latter having been delivered to Commissioner during an interview on the subject:⁸

"... At this interview an unsuccessful effort was made to convince the Commissioner that the American consular official had the right to try cases jointly with the Chinese judge. The Commissioner even refused to return pending cases to the Provisional Court for retrial.

Inasmuch as the particular circumstances which gave rise to this issue was the Chinese judge's refusal in open court to permit Mr. Stevens to put relevant questions to the appellant's representative or to put such questions for him at his request, the Legation will realize the very weak position in which American interests would be placed if this right, which is apparently provided for in both the Sino-American treaties and the Josselyn protocol of 1917,⁹ is aban-

⁷ Telegram in three sections.

⁸ Omissions throughout as indicated in the original telegram.

⁹ Protocol of agreement between the Consul General at Tientsin and the Chinese Commissioner for Foreign Affairs for Chihli Province, October 24, 1917. The Legation in China and the Chinese Foreign Office subsequently confirmed the protocol, with modifications, and it was applied to other parts of China as a result (893.102 T/12). The agreement dealt with the right of an American assessor to sit in a Chinese court in cases where the plaintiff is an American.

done. It is believed therefore that this question should be referred to the Department by telegraph if possible in order to ascertain if it desires this office to continue to maintain the attitude it has taken or to concede the Chinese contention.

. . . On October 29, 1929, the consular body[']s Provisional Court committee decided that the Senior Consul should send a protest to the Commissioner for Foreign Affairs against his refusal to permit the consular representatives of the several powers to sit jointly with the Chinese judges of the Appeal Court of his bureau. It is not believed however that this protest will cause the Commissioner to withdraw from the position he has taken.

The pertinent part of the Mixed Court rendition agreement on the question at issue is article 5 of that agreement . . .

The crux of the dispute lies in the interpretation of the phrase 'Acting with the consul concerned according to the treaties,' that is, does the consul sit in accordance with the pertinent clauses of the treaty between his Government and China or does he have the right through the most-favored clause to evoke the most-favored-nation treatment? This office has all along tried, though unsuccessfully, to maintain the latter interpretation which I am sure is the correct one since I participated in the drafting of that article.

While, on account of the ambiguous phraseology of article 3, there may be some grounds for conflicting interpretations as to the position of the consular representative in the Appeal Court there can be none in that part of the article which provides for the return of cases to the Provisional Court for retrial. The Legation therefore might deem it advisable, pending receipt of the Department's instruction, to protest to the Ministry of Foreign Affairs on account of the refusal of the Commissioner to return them and thus permit the interests of justice to be served."

Telegraphic instructions respectfully requested.

MACMURRAY

893.05/184 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 19, 1929—7 p. m.
[Received November 20—10:30 a. m.]

1010. Your 377, November 16, 6 p. m.

1. Following communication has been received from the Peiping Bureau of the Minister of Foreign Affairs:

"We have the honor to inform you that a telegram dated the 18th has been received from the Waichiaopu reading as follows:

You will please deliver the following telegraphic message to each of these six Legations: British, American, French, Netherlands, Norwegian and Brazilian—telegram follows:

The Chinese Government has appointed as its delegates to the commission for discussion and settlement of the question of the judicial organ in the Shanghai International Settlement: Hsu Mo, chief of Department of the Waichiaopu; Chien Tai, counselor of the Judicial Yuan; Wu Kun-wu, counselor

of the Judicial Yuan; Chi Ching, chief of department of Waichiaopu; Liang Ching-tun, judge, Supreme Court; Liu Shih-shun, acting counselor of the Waichiaopu."

It will be noted that no communication has been addressed to the Japanese Legation.

2. At a meeting of the interested heads of missions today it was decided that as soon as the British Minister received instructions, the draft telegram quoted in my 1000, November 14, 8 p. m., paragraph (c) would be transmitted to the Minister for Foreign Affairs.

3. Following has been received from Shanghai:

"November 19, 11 a. m. Japanese Consul General left last night for Nanking under instructions from his Government to discuss personally with Wang the question of Japanese participation in the Provisional Court negotiations."

MACMURRAY

893.05/185 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 20, 1929—4 p. m.

[Received November 21—2:55 a. m.]

1012. My 1010, November 19, 7 p. m., paragraph 3. Following from American Consul at Nanking:

"November 19, 8 p. m. Japanese Consul General at Shanghai has just informed me that he had a conversation today with Minister for Foreign Affairs urging latter to permit Japanese representatives to participate in Provisional Court negotiations but that Wang declined to do so."

MACMURRAY

893.05/182 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, November 21, 1929—2 p. m.

382. Your 1004, November 18, 4 p. m. The Department considers it desirable in the interest of all concerned that negotiations be begun and an agreement be arrived at ensuring the creation and maintenance of a competent court in the International Settlement. The Department's views with regard to participation by Japanese delegates in the negotiations were sufficiently set forth in its 377 of November 16, 6 p. m. However, the Department's principal concern is that an agreement be reached with the Chinese authorities at an early date. It would appear that, with American, British, Dutch and French delegates, negotiations might be begun. The Department wishes to receive your comments; also to be informed with regard to the position

taken by the Japanese Government and with regard to the reasons for the action reported in your 1004. You may, of course, consult with your colleagues. You should inform them of the Department's views. It is desired that you let it be understood that your Government, although it deprecates the attitude manifested by the Chinese Foreign Office, sees no advantage to be gained from like insistence by the representatives of the Powers upon points relating to the machinery of the proposed negotiations. The essential things would seem to be (1) to get the negotiations going and (2) the subject matter.

STIMSON

893.05/186 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 21, 1929—4 p. m.
[Received November 21—11:30 a. m.]

1022. My 1012, November 20, 4 p. m. Following from Shanghai:

"November 20, 4 p. m. From Bucknell and Jacobs: Japanese Consul General upon his return from Nanking informs us that the Minister for Foreign Affairs, while professing his entire willingness to conduct separate negotiations on Provisional Court with Japanese, flatly refused to admit Japanese representatives to joint negotiations. Japanese Consul General added that he was referring matter to his Government for instructions."

MACMURRAY

893.05/188 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 24, 1929—1 p. m.
[Received November 24—11:20 a. m.¹⁰]

1037. Department's 382, November 21, 2 p. m.

1. I shall inform the interested Heads of Legation of the Department's views at a meeting to be held tomorrow, the 25th. I have already discussed the matter with the Japanese Chargé d'Affaires ad interim who states that he has not yet received instructions as to the attitude of his Government toward the refusal of the Chinese to permit Japanese participation in the joint negotiations. (See Legation's 1022, November 21, 4 p. m.) On account of the extensive Japanese interests in the International Settlement, the Japanese regard the question of their participation in reaching an agreement as one of great importance. The Chargé d'Affaires expressed himself as hopeful that some form of compromise could be found which would meet Japanese requirements.

¹⁰ Telegram in two sections.

2. Since the draft note quoted in the Legation's 1000, paragraph (c),¹¹ was despatched only day before yesterday (see Legation's 1029, November 22, 9 p. m.¹²), I am of the opinion that it would not be advisable to make any decision with regard to further action pending a reply from the Minister for Foreign Affairs, thus affording an opportunity for the Japanese to make further efforts to adjust the matter. I shall be able to comment in more detail after tomorrow's meeting.

3. The American delegates as well as those of the other nationalities remained in Shanghai where all except Bucknell are regularly stationed because of the questions raised by the Minister for Foreign Affairs in his note to the Senior Minister quoted in the Legation's 1000, paragraph (b). The Legation approved this course because it seemed preferable that the delegates should not suffer any possible loss of prestige by marking time in Nanking pending a solution of these questions and because it seemed that the presence in Nanking of the delegates other than the Japanese would have tended to defeat the object of the draft note quoted in the Legation's 1000, paragraph (c).

PERKINS

893.05/189 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 25, 1929—10 p. m.

[Received 10:05 p. m.]

1041. Legation's 1037, November 24, 1 p. m.

1. At today's meeting I informed the interested Heads of Legations of the Department's views as set forth in the Department's 382, November 21, 2 p. m. Japanese Chargé d'Affaires stated that his Government intended to press the Chinese in regard to Japanese participation. The Japanese Government, however, appreciative of the sympathetic attitude of the other interested powers but fearing that some time might elapse before an adjustment could be made, did not wish to be a hindrance to the negotiations. Should therefore the Chinese Government persist in its present attitude, the Japanese Government desired to interpose no objection to the negotiations being undertaken by the American, British, Dutch and French delegates.

2. Other Heads of Legation accordingly agreed that this course should be followed but were of the opinion that a reply should first be awaited to the note sent Minister for Foreign Affairs on November 22nd. (Legation's 1027 [1037], November 24, 1 p. m., paragraph 2.)

¹¹ *Ante*, p. 713.

¹² See footnote 6, p. 714.

It was understood that in case the Japanese were able at any time to reach an agreement with regard to their participation, they would, then, as a precaution, enter the negotiations.

3. It was also suggested and agreed to in principle that should the Chinese persist in refusing to permit Japanese participation, it would be both fitting and advisable to despatch a further note of protest of a tenor similar to the former notes, while at the same time commencing negotiations without the presence of the Japanese delegates. I purpose, therefore, unless the Department disapproves, to concur in the despatch of such a note if there be occasion therefor.

4. Bucknell and Jacobs are being informed of the substance of the foregoing.

PERKINS

893.05/190 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 26, 1929—1 p. m.
[Received November 26—6 : 30 a. m.]

1043. Following from Shanghai :

“November 25, 4 p. m. The following is translation of express letter received from Kiangsu Provincial Government directed to the Shanghai Provisional Court, dated November 1929, received November 22nd :

‘Instruction Number 1241 from the Kiangsu Provincial Government in lieu of a telegram. From January 1, 1930 (19th year) the Shanghai Provisional Court shall be directly subordinate to the Central Government. There will not be many more days left in the year. Apart from telegraphically requesting the Judicial Yuan to make preparations for the taking over of the court, to cite [*sic*], the Shanghai Provisional Court, are hereby informed accordingly.’

This was received privately by Senior Consul’s deputy who furnished this Consulate General a copy.”

PERKINS

893.05/183 : Telegram

The Acting Secretary of State to the Chargé in China (Perkins)

WASHINGTON, November 27, 1929—1 p. m.

389. Your 1005, November 18, 6 p. m. Department believes that in appeals under Article V of Rendition Agreement, Consul is clearly entitled to rights set forth in Article IV of Sino-American Treaty of 1880,¹³ including examination of witnesses. In the light of the information given, however, Department believes that it would be preferable to rely on the rendition agreement rather than

¹³ Signed at Peking, November 17, 1880; Malloy, *Treaties, 1776-1909*, vol. I, p. 239.

on the treaty and that present difficulty may best be overcome either by endeavoring to have cases returned to Provisional Court for retrial before a different judge and consular officer or by designating a different consular representative in appeal court.

COTTON

893.05/192 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, November 28, 1929—8 p. m.

[Received November 28—5:15 p. m.¹⁴]

1052. Legation's 1041, November 25, 10 p. m.

1. Interested Heads of Legation this morning discussed reply from the Minister for Foreign Affairs, dated November 26th, to the note sent him November 22nd (Legation's 1037, November 24, 1 p. m.). Wang party [*flatly?*] refuse [*refuses?*] to permit Japanese participation in the joint negotiations, but, with regard to the question of the rank of certain delegates, Wang states that, since it has been declared that they have the character of diplomatic representatives with the same title as those chosen from the members of the Legations, he consents not to maintain his former point of view on this subject. (Legation's 1000, November 14, 8 p. m., last portion of telegram quoted in paragraph (c).)

2. Interested Heads of Legation agreed upon draft telegram to the Minister for Foreign Affairs reaffirming position previously taken with regard to Japanese participation but stating that, since the Japanese Government was reluctant to delay negotiations pending the result of discussions, interested Heads of Legation were instructing their delegates to get into touch with Chinese delegates with a view to opening negotiations on such date as the Minister for Foreign Affairs might name. At the request of the Japanese Chargé d'Affaires it was agreed to withhold temporarily the despatch of this telegram pending the receipt of more detailed instructions momentarily expected by him from Tokyo.

3. Wang has apparently for all practical purposes receded from the position hitherto maintained by him regarding the rank of delegates not members of the Legations, thus obviating the difficulty hitherto confronting us in this regard. . . .

A reply by cable is requested.

PERKINS

¹⁴ Telegram in two sections.

893.05/193 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 2, 1929—5 p. m.

[Received 7:55 p. m.]

1066. The Japanese Government having authorized concurrence in telegram outlined Legation's 1052, November 28, 5 [8] p. m., second paragraph, the message was despatched to the Minister for Foreign Affairs on November 30th. American delegates are being appropriately instructed.¹⁵

PERKINS

893.05/196

Memorandum by the Assistant Chief of the Division of Far Eastern Affairs (Peck)

[WASHINGTON,] December 3, 1929.

The Far Eastern Division received from the Navy Department a copy of a telegram from China, dated November 30, to the following effect:

The Chinese Minister for Foreign Affairs, while conversing with Mr. Bucknell, said that he hoped that some solution of the question of the Provisional Court in the International Settlement could be reached through early negotiations, since it would not be desired by either China or the United States that there should be a repetition of the incident of May 30, 1925.¹⁶ This telegram was sent at the request of Mr. MacMurray.

W. R. P[ECK]

893.05/200 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 10, 1929—4 p. m.

[Received 9:27 p. m.¹⁷]

1122. Following from Jacobs and Bucknell at Nanking, dated December 9, 3 p. m.:

"At a meeting this morning opened by C. T. Wang, but later presided over by Hsu Mo, the Chinese delegation proposed the following draft agreement for the establishment of a judicial system in the International Settlement in Shanghai:

¹⁵The Chargé in China, in telegram No. 1079, December 4, reported that December 9 had been set by the Chinese Minister for Foreign Affairs to begin negotiations in Nanking (893.05/195).

¹⁶Disturbances at Shanghai; see *Foreign Relations, 1925*, vol. I, pp. 647 ff.

¹⁷Telegram in three sections.

Article Number 1. From the date of the signing of the present agreement, all the former rules, agreements, exchanges of notes, et cetera, relating to the judicial system in the International Settlement at Shanghai shall be abolished.

Article Number 2. The Chinese Government shall establish on the premises of the court now in existence in the International Settlement at Shanghai a court to be designated as the District Court for the Special District of Shanghai, which shall, in accordance with Chinese laws and rules of procedure, exercise jurisdiction over all civil and criminal cases as well as police offenses in the International Settlement at Shanghai. The organization of the aforesaid court and the procedure for appeal shall be governed by Chinese laws and regulations.

Article Number 3. The former practice of consular deputies or any consular officials appearing in the court to watch the proceedings or sit jointly with the judge shall be abolished.

Article Number 4. All criminal cases and cases involving police offenses arising in the International Settlement shall, within 24 hours after the arrest of the offender, be directly handed over in writing by the Municipal Council to the District Court for the Special District of Shanghai for adjudication.

Article Number 5. All summonses, warrants and orders issued by the District Court for the Special District of Shanghai and [are?] valid after they have been signed by a judge or a procurator of the court, and shall be executed by the process servers or judicial police [of the?] court. Whenever necessary, the Municipal Council shall render all the assistance within its power.

Article Number 6. All prisons and detention houses now situated in the International Settlement at Shanghai shall be taken over by the District Court for the Special District of Shanghai, which shall take charge of them in accordance with Chinese laws and regulations.

Article Number 7. The present agreement shall enter into force from the date of its signature.

At a subsequent meeting of the foreign delegates it was agreed that the Chinese proposal was an attack upon the integrity of the Settlement, and could not be considered in its present form. It was decided that at tomorrow's meeting the following procedure would be [apparent omission] for a Chinese-controlled area, it is evidently unworkable for the International Settlement in Shanghai, and will be requested to modify their proposed draft so as to ensure the necessary safeguards for the orderly and peaceful administration of the Settlement.

2. In the event of a refusal, it will be proposed: (a) That we discuss a modification of the present agreement with some form of consular representation in the court; or (b) that we discuss the organization of a purely Chinese court in the Settlement in which foreign judicial personnel on the bench are employed by the Chinese Government."

PERKINS

893.05/201 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 11, 1929—10 a. m.

[Received December 11—1:15 a. m.]

1124. My 1122, December 10, 4 p. m. Following from Jacobs and Bucknell, December 10, 8 p. m.:

“Two joint meetings were held today, the results of which were as follows:

1. The Chinese delegates stated that a discussion of a scheme for a purely Chinese court with foreign judicial personnel employed by the Chinese Government would only be acceptable in the event that the jurisdiction of the court was extended to include extraterritorial nationals within the Settlement. The foreign delegates replied that they could not discuss this scheme under such terms but that it would be referred to their respective Legations for further instructions, which are respectfully solicited by telegraph.

2. The Chinese delegates were not prepared to discuss a modification of the present agreement with some form of consular representation unless the foreign delegates presented concrete proposals. A meeting of the foreign delegates will take place tomorrow morning to draft a proposal in accordance with scheme B, upon presentation of which Chinese will inform us whether or not they are prepared to discuss such a solution.”

Legation's comment will follow.

PERKINS

893.05/202 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 12, 1929—3 p. m.

[Received December 12—10:45 a. m.]

1132. Following from Jacobs and Bucknell:

“December 11, 7 p. m. (1) At a joint meeting this afternoon the foreign delegates presented to the Chinese delegates amendment to the Chinese proposal which attempted to graft on to the Chinese draft the general outline of scheme B which they promised to consider and inform us tomorrow afternoon whether they are prepared to accept these amendments as a basis of discussion.

(2) While we are proceeding with the negotiations as rapidly as possible we desire to invite the Legation's attention to the fact that from all local indications we are dealing with representatives of a government which may disappear shortly, in all probability nullifying any arrangements we may be able to make.”

PERKINS

893.05/206 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 13, 1929—7 p. m.
 [Received December 14—5:25 a. m.¹⁹]

1144. Legation's 1124, December 11, 10 a. m.

1. At meeting today of interested Heads of Legations (Japanese Chargé d'Affaires present) it was decided to refer to our respective Governments the Chinese proposal that a court with foreign judicial personnel employed by the Chinese Government would be acceptable only in the event that the jurisdiction of the court was extended to include extraterritorial nationals within the Settlement. Heads of Legations informally discussed question whether it might not be advisable to have our delegates inform the Chinese that although extraterritorial matters were not within the scope of the present negotiations nevertheless the foreign Governments concerned would view with sympathy the idea of a later extension of the jurisdiction of the court to include extraterritorial nationals if the new court should function successfully as contemplated under scheme A.

2. French Minister stated that he was prepared to recommend this course.²⁰ British Minister felt that it was hardly safe to make such a proposal. Netherlands Chargé d'Affaires was opposed. I expressed as my own personal view the opinion that it would not be safe to make such a commitment however indefinite; for experience had shown that the Chinese would unquestionably interpret a contingent commitment of this kind as a specific promise, as they had previously done with respect to contingent commitment concerning tariff in China.²¹

3. For the Department's information. I am furthermore of the opinion that when [*the ?*] position taken by the Chinese delegates, as described in paragraph 1 of the American delegates' telegram of December 10, 8 p. m.,²² indicated that the Chinese are primarily interested in extending the scope of the present negotiations so as to embrace the whole question of extraterritoriality. Should the interested foreign Governments consent, the result would be (a) to prejudice any future negotiations which the interested Governments may be contemplating through accredited plenipotentiaries and (b) to place the Chinese Government in a position to exploit the situation politically by confusing the issue in the eyes of the Chinese people through making it appear that the interested powers had all unre-

¹⁹ Telegram in three sections.

²⁰ In telegram No. 1162, December 13, the Chargé in China reported that the French Government did not approve the recommendation (893.05/211).

²¹ For the contingent commitment, see *Foreign Relations*, 1925, vol. I, pp. 831 ff.

²² See telegram No. 1124, December 11, from the Chargé in China, p. 724.

servedly conceded the Chinese demand for the commencement of negotiations which had as their aim the abolition of extraterritoriality on January 1st.

4. With respect to the intrinsic merits of the Chinese proposal which means that all foreigners as well as Chinese in Shanghai would be brought within the jurisdiction of the new court, I venture to express my own personal view that, in connection with any plans which the interested Governments may have for the gradual abolition of extraterritoriality, the abandonment of, or any fundamental change in, the present status of foreigners within the International Settlement of Shanghai should be not the first but one of the last stages of any such graduated process. The primacy of Shanghai in the structure of Chinese foreign trade and the complicated nature of its municipal constitution led me to the view that any first experimental steps toward an abolition of extraterritorial rights should not be taken at a place so extremely important to the comity of our China trade.

5. The Department's instructions are solicited at the earliest moment possible with regard to attitude to be taken by the American delegates towards the Chinese Government proposal as outlined and discussed in paragraphs 1 and 2.

6. Foregoing repeated to American delegates for their information.

PERKINS

893.05/207 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 15, 1929—11 a. m.

[Received December 15—4: 32 a. m.]

1150. Legation's 1145, December 14, 1 p. m.²³ Following from Kuo Wen News Agency, Nanking, December 13:

"Concerning the Provisional Court conference, Dr. Wang said today that in addition to the Chinese plan, the foreign [delegates] had submitted counterproposals [to the Chinese] delegates. The Government would not agree to the continuance of the present system which permits the presence of the Senior Consul's deputy at purely Chinese cases. As regards Sino-foreign cases, foreign consuls might watch the proceedings on behalf of their nationals as provided for in the treaties but they would have no right to sit on the bench with Chinese judges. 'In short, the object of the Government is to make the Shanghai Provisional Court a part of the Chinese judicial system.'

Dr. Wang indicated that the Conference outlook is far from bright and that many difficulties have to be overcome before an agreement is reached."

PERKINS

²³ Not printed.

893.05/208 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 15, 1929—11 a. m.
[Received December 16—8:40 a. m.²⁴]

1152. Following from Jacobs and Bucknell dated December 14, 11 p. m.:

"Following is text of the remarks of foreign delegates handed to the Chinese delegates today which constitute a summary of the Chinese position in regard to the court in Shanghai as well as the position of the Legations' delegates which, pending further instructions, we do not feel able to depart from.

"Our detailed comments with particular regard to those points which are beyond the scope of our existing instructions will be telegraphed tomorrow.

"The foreign delegates have taken careful note of the objections brought forward by the Chinese delegates to their amendments to the Chinese proposal and have carefully discussed them with a view to discovering how far they could meet them after due consideration of their own instructions. The result of this meeting of the foreign delegates is that they are now prepared to state their final position in regard to the Chinese objections which they cannot depart from in any of the major issues without further instructions from their respective Legations. It is perhaps unnecessary to go into all the various grounds [apparent omission] this position is based, it being sufficient to state that it has been arrived at as a result of a study of the present constitution of the International Settlement at Shanghai including its capital regulations and bylaws, as well as the fact that they are not, under their instructions, authorized to discuss or in any way to alter existing treaty obligations.

1. *Land Regulations and Bylaws.*

The Chinese delegates have stated that they could not apply the land regulations and bylaws of the International Settlement until they were regularized by promulgation of a Chinese law embodying their principles.

The regulations and their bylaws constitute the charter of the International Settlement at Shanghai to which the Chinese Government has agreed, and the foreign delegates are not prepared to consider any proposal that would allow the validity of such land regulations and bylaws of the International Settlement in any way to be called into question.

2. *Scope of Jurisdiction.*

The Chinese delegates have stated that they consider the scope of the proposal of the foreign delegates in respect to territorial jurisdiction too wide, particularly as regards the inclusion of municipal roads.

The foreign delegates are not prepared to decrease the jurisdiction of any court to be established in the International Settlement as compared with the jurisdiction of the present Provisional Court.

²⁴ Telegram in twelve sections.

3. *Appealing.*

The Chinese delegates stated that they desire to introduce the regulation for appealing provided for by Chinese law and that they were prepared to recommend the establishment of a branch High Court in the Settlement provided that the Supreme Court would be the final Court of Appeal. The Chinese [*foreign?*] delegates are prepared to recommend to their respective Legations that there be a branch of the High Court in Shanghai which will act as an appeal court, final appeal, at least in cases in which no foreign representative is entitled to sit, being [apparent omission] to the Supreme Court at Nanking in accordance with existing Chinese law and procedure, provided always that there will be consular representation in both the District Court and in the High Court from the inception through all the stages of hearing to the final execution of all cases falling within the categories mentioned in their amendments including mixed cases, and further provided that there will be [apparent omission] with the object of adjusting possible friction between the exemplification [*sic*] and the judging in the Settlement.

4. *Procurator system.*

The Chinese delegates have insisted upon the introduction of the procurator system in the Settlement as a part of the judicial system of China.

The foreign delegates are not prepared under any circumstances to admit introduction into the International Settlement of the procurator system since this would in fact lead to a conflict of authority which it is their object to avoid.

5. *Future Laws and Regulations of China.*

The Chinese delegates have refused to consider the suggestion of the foreign delegates that future laws and regulations be communicated to the diplomatic body.

The foreign delegates consider it vital for the successful functioning of the court that notice of two months be given to the diplomatic body of any laws and regulations before such laws and regulations can become applicable in the District Court in Shanghai.

6. *Consular Representatives.*

The Chinese delegates have stated that they are opposed in principle to any foreign officials participating in the proceedings of the court and will not agree to such participation except possibly in cases in which the Municipal Council is itself the complainant. They have specifically refused to admit such representatives in mixed cases, either criminal or civil.

The foreign delegates are compelled to insist that there must be a specified list of cases involving the peace and order of the Settlement in which the consular authorities must reserve the right to send a representative, as well as in cases in which the extra-Settlement authorities are concerned with persons residing or found in the International Settlement; in cases in which the Municipal Council is plaintiff or complainant; and finally in cases in which foreigners in accordance with their treaty rights may be so represented.

7. *Form of Consular Representation.*

The Chinese delegates have stated that they could not under any circumstances agree to any consular representation unless the judges' [platform] was reserved for the judges themselves.

The foreign delegates must insist that a consular representative be present in the court to sit with the judge in the general category of cases under discussion and that he must be accorded a position due his rank which must be on the same [platform] within reasonable distance of the judge.

8. *Scope of Consular Representation.*

The Chinese delegates have stated that the scope of the powers of the consular representatives as proposed by the foreign delegates is most destructive to the Chinese character of the court.

The foreign delegates must insist that the consular representatives have the right to watch proceedings at every stage of the case from its inception to its close on appeal, including execution, and in mixed cases to examine and cross-examine witnesses with the consent of the judge and in all such cases to record in the record their objections on any irregularities and matters of jurisdiction. In order to avoid friction and to settle any difficulties that may arise, they must insist upon some method by which complaints from the president of the court and the police or those embodied in protests contained in the record from the cases may be effectively dealt with.

9. *Judicial Police.*

The Chinese delegates have proposed the introduction into the Settlement of judicial police apart from the municipal police. The foreign delegates cannot agree to the introduction into the Settlement of a separate body of police, and must insist that the judicial police assigned pressure [*sic*] be detailed by the municipal police to serve under the direction of and be responsible to the president of the court since any other system would in fact lead to a conflict of authority which it is their object to avoid.

10. *Duplication of Court Processes.*

The Chinese delegates insist that all [*sic*] processes of the court those for service on foreign property must be transferred immediately without recourse or reference to any other authority.

The foreign delegates are unable, in view of existing treaty provisions, to acquiesce in the suggestion of the Chinese delegates that the procedure for countersigning processes of the court for service on foreign premises be abolished.

11. *Prisons.*

The Chinese delegates proposed the appointment by the Chinese Government of a Chinese superintendent of prisons in the Settlement responsible solely to the Chinese Government.

Because of the conflict of authority in the Settlement which would thus be created, the foreign delegates cannot agree to the appointment of a Chinese superintendent of prisons.

12. *Clerical Staff.*

The Chinese delegates insist that the Chinese Government shall appoint as clerk a Chinese without reference to the consular or municipal authorities of the Settlement but agree that the funds of the court shall be deposited in a Chinese bank or banks within the Settlement and that any surplus after the expenses of the court are met will be used for judicial purpose, not necessarily confined to the District Court.

The foreign delegates must insist that some form of foreign representation on the clerical staff of the court be devised in order to insure the proper administration of finances and to facilitate the access of foreign litigants to the court.

13. *Judgements of Former Mixed Courts.*

The Chinese delegates have taken the position that the present Provisional Court agreement was never recognized as binding by the National Government and, therefore, refuse to provide that judgements of the former Mixed Court validated by that agreement shall be recognized as valid and executed if necessary by other Chinese courts.

The foreign delegate[s] must insist upon the recognition of the validity of judgements of the former Mixed Court, since without such a provision not only would it be impossible to execute those judgements, but all judgements of the former Mixed Court extending over a period of sixteen years would become capable of being set aside and reopened.

14. *Foreign Lawyers.*

The Chinese delegates stated that they would be unwilling to admit foreign lawyers to practice in the court under any circumstances, except in criminal cases in which the Municipal Council itself is the complainant, since they desired [to] protect the Chinese legal profession.

The foreign delegates must insist that foreign lawyers shall enjoy at least the same rights as under the present agreement, except that such lawyers should be subject to the Chinese regulations governing the disciplinary punishment of lawyers.

15. *Rules of 1902 Defining Respective Jurisdictions.*

The Chinese delegates have objected to the recognition in the new agreement of the provisions of the rules of 1902 defining the jurisdictions of the Mixed Court of the International and French Settlements.

The foreign delegation [*delegates?*] insist that the new agreement must contain some definition of the respective jurisdictions as provided in the 1902 agreement.'

Text of foreign delegates' amendments to the Chinese proposal referred to in document above quoted will be telegraphed as soon as possible."

PERKINS

893.05/209 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 18, 1929—noon.

[Received December 19—4:20 a. m.²⁵]

1161. 1. Following from Jacobs and Bucknell, Nanking:

"December 16, 5 p. m. The following is a joint telegram of the foreign delegates to the interested Ministers at Peiping:

'At joint meeting of the foreign and Chinese delegates at 5 p. m. on December 14, the chief of the Chinese delegation made the following summary of the Chinese position in regard to the negotiations:

"Of the above points (see text of fifteen points presented to the Chinese delegation on December 14th at 11 a. m., and telegraphed to the American Legation by its delegation on the same date²⁶) we must point out those which

²⁵ Telegram in ten sections.

²⁶ See telegram No. 1152, December 15, from the Chargé in China, *supra*.

we consider of prime importance, and, failing a settlement of which, we do not see how there can be any result to these negotiations.

First. *Appeals.*

We maintain that every case must go through three trials and; in all other respects must be in strict accord with the usual Chinese procedure.

Second. *Consular Representation.*

No form of consular representation will be allowed in any mixed cases, civil or criminal, or in those cases in which the extra-Settlement authorities are concerned.

Third. *Form of Consular Representation and Its Scope.*

We have presented to you our plan today in regard to this question which is the extreme limit to which we can go and which is strictly confidential. This plan (which we consider totally unacceptable) is as follows:

The consular body may send a legal expert who is well versed in Chinese law to the District Court to observe the trial; the observer will be assigned by the court a special seat where lawyers are usually seated. He shall not interrogate witnesses or prisoners, and shall abide by the rules applicable to visitors to the [court.] Where the observer discovers what he believes to be irregularities in procedure or in matters of jurisdiction in respect to the judgments of the court, and where an appeal has been duly filed by the parties concerned, he, the observer, may bring the case to the attention of another legal expert representing the consular body, who, if he deems fit, may present his opinions in writing to the president of the court who shall forward them to the Court of Second Instance. If the observer thinks that the judgment of the Court of Second Instance still leaves room for discussion within the scope as above provided, the legal representative of the consular body, if he deems it fit, may discuss the case with a representative to be appointed by the judicial authorities of the Chinese Government, and the two representatives shall, if they agree, present a written statement of their opinions to the Court of Second Instance for record. Neither the observer nor the legal representative of the consular body shall be allowed to cause his opinions to be known in the open court or to be published outside the court. Should the observer act in any way contrary to the provisions of this agreement, the court may refuse to allow him to observe any trial.

The opinions of the observer and of the legal representative of the consular body do not in any way affect the validity of the judgments of the court which shall be executed as soon as they become final.

Fourth. *Future Laws and Regulations.*

We cannot allow ourselves to give notice of laws to be promulgated in the future.

Fifth. *Chief Clerk.*

The Chief Clerk must be appointed and selected by the Chinese Government of its own accord."

In addition to the above five points of the Chinese delegates, the foreign delegates feel that there are still other points of equal importance that require reference to their appropriate authorities before negotiations can be continued and they, this morning at 10 o'clock, so informed the Chinese delegation. These points are as follows:

First. The introduction of the procurator system even if confined to inquests and cases affecting the security of the Settlement which was the extreme concession of the Chinese on this point.

Second. Any failure expressly to recognize the land regulations and bylaws of the Settlement in the agreement.

Third. Any restriction of the jurisdiction exercised by the existing Provisional Court, especially as regards extra-Settlement municipal roads.

Fourth. Countersignature of court processes for service on the property of extraterritorial nationals.

Fifth. Prisons which must be under the complete control of the Settlement authorities.

Sixth. Judgments of the former Mixed Court and the existing Provisional Court which must be recognized as valid and executable by other Chinese courts.

Seventh. Rules in 1902 defining respective jurisdictions between the courts of the French and International Settlements, provision for which must be made.

In regard to the remaining points the Chinese delegates have stated that they might be willing to attempt to meet our views.

A comparison of the original proposal of the Chinese delegation, telegraphed to the American Legation on December 9, 3 p. m.,²⁷ which the foreign delegates informed the Chinese was beyond the scope of their instructions and thus unacceptable for discussion, with the present position of the Chinese delegates, shows clearly that they have come back to their original proposal with slight modifications.

It is evident that the foreign delegates cannot continue negotiations within the scope of their negotiations [*instructions?*], since the type of court which Chinese are now proposing strikes at the very foundation of the Settlement and certain of the existing treaty rights.

Aside from the question of the scope of their instructions, the foreign delegates feel sure it is highly desirable that they be authorized to discuss with the municipal authorities at Shanghai in a private and confidential manner at least those points which directly affect them.

The chief of the Chinese delegates pointed out in today's meeting that the agreement would expire on December 31st and alluded to difficulties that might arise in the event no agreement was reached. Since it is clearly impossible to reach and sign an agreement before December 31st, whether the interested Ministers find it expedient to enlarge the scope of their instructions to their delegates or not, those delegates feel that it is impossible to avoid facing the fact that some means should be devised to secure the consent of the Chinese authorities to the continuance of the present agreement without prejudice to the automatic renewal in article 7 thereof.

Pending receipt of instructions, further meetings have been suspended until Thursday, December 19, at 3 p. m.'"

And following dated December 16, 10 p. m. :

"In addition to being in hearty accord with the views expressed in the joint telegram of the foreign delegates of December 16, 10 [5] p. m., we venture to submit our own further views as follows:

1. In view of the attitude of the Chinese delegates in attempting from the beginning of the negotiations to bring questions which are beyond the scope of our present instructions and which in some instances involve a surrender or direct modification of existing treaty rights and agreements other than the Mixed Court rendition agreement in respect to consular representation, immunity of foreign property from search by Chinese authorities without consular consent, the Settlement land regulations and bylaws, the 1902 rules determin-

²⁷ See telegram No. 1122, December 10, from the Chargé in China, p. 722.

ing jurisdiction as well as long-established procedure arising therefrom upon which the peace and order of the Settlement depend, we believe that, if our Government intends to discuss the general question of extraterritoriality in the near future, any agreement embodying the surrender or modifications desired by the Chinese on these points cannot but weaken our position in such negotiations by eliminating valuable trading points and place the Chinese in a position to exploit the situation. We further respectfully submit that a surrender on our part in regard to treaty rights might entail the necessity of legislative action before such agreement could become effective for our citizens and thus delay the conclusion of such an agreement.

2. We feel that the situation has become so complicated that, if it were at all possible, we might have the opportunity of discussing personally with the Legation and, since this is evidently impossible at present, we feel that this opportunity should be given us if the negotiations are for reason postponed for a period sufficient to enable us to come to Peiping and return by rail.

3. We shall leave for Shanghai tonight to consult with Cunningham and shall return here Wednesday night.²⁸ Since the other delegates are also leaving for Shanghai any reply to the joint telegram in regard to discussing matters with the municipal authorities can be sent there up to and including Wednesday."

PERKINS

893.05/206 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 18, 1929—4 p. m.

418. Your 1144, December 13, 7 p. m. The Department concurs in your view that it would be unwise in the present situation to assent to a plan that would result in the creation within the International Settlement of a Chinese court exercising jurisdiction over all persons in the Settlement. The Department feels that the exercise under existing circumstances of such jurisdiction by a Chinese tribunal would negative the present efforts to safeguard the personal rights and the vast economic interests centered in the International Settlement against involvement in the complications of Chinese national and local politics and wars. In the event that the question of establishing a court with such jurisdiction should become a part of the question of extending the sphere of jurisdiction of Chinese courts in general, the whole question may, of course, have to be considered further, in a different perspective.

STIMSON

²⁸ December 18, 1929.

893.05/210 : Telegram

The Chargé in China (Perkins) to the Secretary of State

[Paraphrase]

PEIPING, December 18, 1929—5 p. m.
[Received December 18—11:20 a. m.]

1165. My 1161, December 18, noon. Following from Jacobs and Bucknell at Shanghai, December 17, 1 p. m. :

"We have been confidentially informed by the British delegate, Aveling, that he had privately and unofficially discussed with Dr. C. T. Wang at his request a suggestion for avoidance of difficulties which our insistence on consular representation presented, as follows: All foreign representatives or deputies of the Shanghai Municipal Council or of the consular body to be eliminated. The Chinese Government to employ foreign jurists in the court, as legal advisers to the bench. These jurists to take no part in court proceedings, but the Chinese judge to render no judgment without discussing the case with the particular foreign jurist concerned. If judge and foreign jurist disagree on the judgment, the judge's decision to be rendered nevertheless. On going to appeal the case to be considered in the same way as previously in the Court of First Instance. If the Appeal Court judge and the foreign jurist disagree on the judgment, the latter to be suspended until a committee of jurists, composed of the Appeal Court judge who tried the case, his foreign legal adviser, and a high judicial authority of Chinese nationality appointed by the Central Government, should decide. The three members on this committee to have equal vote, a majority decision to be binding. Regarding the legal adviser's court position, presumably he is not to sit on the bench, though this point may be discussed and adjusted. He is to have his own interpreter but not to be able to question witnesses or in any way to participate in the proceedings, nor to talk over matters with the judge during court proceedings. The very doubtful feature is if the Judicial Yuan will accept the principle of three jurists, one of them a foreigner. Neither judge nor jurists would desire, perhaps, to attend all cases, for example, minor cases, but important cases would of course be attended.

The idea seems to have pleased the chief Chinese delegate, also in his private capacity, although this cannot be considered as in any way having weight at the moment. Something of this sort, it is believed, may at least be proposed at the next meeting on December 19. The above, we understand, constitutes a part, at least, of one of the plans to be proposed by the Chinese in subsequent negotiations."

PERKINS

893.05/215 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 19, 1929—11 a. m.
[Received December 20—6:11 p. m.²⁹]

1168. My 1161, December 18, noon. Following telegram has been sent Senior interested Minister by Senior Consul, December 18, 11 a. m.:

"1. Yesterday one of the Provisional Court judges, Ying Shih, announced from the bench that as the court would cease to function at the end of this month and as it was not known what would happen next year, no cases would be set down for hearing next year in the absence of instructions from Nanking. Actually no cases have been set for hearing next year.

2. In view of this state of affairs, it would appear to be highly important for the Senior Minister to endeavor to obtain from the Chinese Government an assurance that the court would be instructed to continue the *status quo* without prejudice to the rights of the powers concerned to claim automatic renewal of the rendition agreement under clause 7 thereof, until the rendition agreement is superseded by a new agreement in accordance with the clause mentioned.

3. The diplomatic body can envisage the dangers which would beset the Settlement should the functions of the Shanghai Provisional Court be terminated abruptly. The view held generally by members of the consular body is that if such a situation developed the consular body would have no alternative but to adopt such measures as it might deem appropriate to insure that the administering of justice in the Settlement be continued."

Following from Cunningham dated December 18, 6 p. m.:

"Jacobs and Bucknell have shown me the various statements and counterstatements made by the Chinese and foreign negotiators in reference to the Provisional Court and I am particularly referring to the joint telegram of December 16, 5 p. m.,³⁰ and in general agree with the statement therein. However, I desire to emphasize that the matter of greatest importance is that some means should be devised immediately for the continuance of the present agreement without prejudice to terminate automatic rendition provided in article 7 of the rendition agreement. There remains but 12 days for the present agreement to continue before it is automatically extended 3 years. The Chinese action places the municipality in a very grave position and unless an agreement is reached as above indicated the entire structure of foreign trade and law and order in the municipality will be threatened. I venture to urge in the strongest possible manner that the most important thing is to secure without prejudice an extension of the present agreement until the conclusion of negotiations."

PERKINS

²⁹ Telegram in three sections.

³⁰ See telegram No. 1161, December 18, from the Chargé in China, p. 730.

893.05/212 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 20, 1929—noon.
[Received December 20—2:47 a. m.]

1172. Legation's 1152, December 16 [15], 11 a. m., and 1168, December 19, 11 a. m. In view of the urgency of the situation as described in the telegram from the Senior Consul to the Senior interested Minister, the interested Heads of Legation are despatching a joint telegram to their delegates at Nanking containing a statement of recommendations to the interested home Governments, which the delegates are to act upon as definite instructions, unless objections from the home Governments are received by December 24, noon. This statement has been prepared after careful deliberation, and I earnestly request the Department's approval thereof *in toto*. The statement is now being encoded and will follow this telegram as soon as possible. Should the Department have any objection to make, it is suggested that the reply should be addressed both to the Legation and also direct to the American delegates at Nanking. It is deemed advisable to take this course in order to avoid any possible charge by the Chinese that the foreign delegates are seeking to delay the negotiations beyond January 1 on the pretext of the necessity to refer the questions involved to their higher authorities.

PERKINS

893.05/213 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 20, 1929—3 p. m.
[Received December 20—2:40 p. m.³¹]

1173. My 1172, December 20, noon. The following is the joint telegram mentioned in my telegram under reference:

"The following is the joint view of the interested Heads of Legation on the fifteen points contained in the statement handed by the foreign delegates to the Chinese delegates on December 14th and the Chinese reply thereto:

1. *Land Regulations and Bylaws.*

The foreign delegates should seek to find a formula under which the Chinese Government would undertake to reenact the land regulations and bylaws by some blanket legislation, it being understood that the present regulations and bylaws continue valid in the meantime.

2. *Scope of Jurisdiction.*

The heads of Legation understand this point is still open to discussion.

³¹ Telegram in eight sections.

3. *Appeals.*

The Heads of Legation are of the opinion that every effort should still be made to arrange that cases in which there is consular representation should be finally disposed of in the Settlement courts. Should a deadlock on this point continue, they reserve their final decision for later consideration. They suggest that it might be possible to place some limitation on the nature of the cases which can be appealed to Nanking, i. e., by limiting such cases to those involving a certain sum or penalty or involving some important new judicial principle.

4. *Procurator System.*

The Heads of Legation are prepared in the last resort to agree to the Chinese proposal subject to the general observations: The political cases in which the procurator is to function must be clearly defined and it must be understood that at least a preliminary hearing will be held in the Settlement court before the arrested person is handed over to provincial authorities outside. It is understood that the powers of the procurator to issue warrants do not extend to extraterritorial nations. The above views are subject to any further arguments that the municipal authorities may submit against the proposal.

5. *Future Laws and Regulations.*

The interested Heads of Legation are prepared to accept an undertaking that no new legislation will be enforced until the lapse of a specified period, say two months, after its promulgation in the government *Gazette*. The foreign authorities would in practice have to reserve to themselves in some form the right to object to the enforcement of any legislation prejudicial to the maintenance of peace and order.

6, 7, and 8. *Consular Representation, Its Form and Scope.*

The interested Heads of Legation understand that while the foreign delegates insist on consular representation in (a) law and order cases, (b) extradition cases, (c) Municipal Council cases, (d) mixed cases, the Chinese object to (b) and (d). As regards (b), the Heads of Legation consider that every effort should be made to retain these but as the matter mainly concerns the protection of Chinese against their own authorities they are not prepared to insist on it in the last resort. As regards (d), the British and Netherlands representatives are prepared to give up mixed cases; the American representative is prepared to give them up in practice, while, for technical treaty reasons, retaining in theory the right to send an observer; the French representative is unable without specific instructions to abandon this treaty right and will have to make a reservation on the question of principle. As regards the form of consular representation, it is agreed that Chinese proposal is unacceptable. It is, however, suggested that compromise should be sought along the lines of giving the observer a special place in court apart from the bench and not in the body of the court and stipulating that, while he would not have the right to examine witnesses or interfere actively in the proceedings, he should be empowered to hand in written remarks to the judge before judgment is delivered and to ask for and secure adjournments, during which he may confer with the judge. It is also essential that there should

be some machinery for recording of protests (which need not necessarily be made public in open court or in the press) against judgments and for the solution of any possible conflict between judiciary and executive which might result.

9. *Judicial Police.*

The Heads of Legation regard insistence on the views of the foreign delegates as essential but they understand that an impasse has not yet been reached on this point.

10. *Countersigning of Court Processes.*

The Heads of Legation understand that this point is still open. On the assumption that there is no interference with the present system by which municipal police furnish the judicial police, they are prepared in the last resort to make concessions on this point provided the principle of immunity of extraterritorial premises from entry by Chinese officers, except under countersigned warrants, is safeguarded.

11. *Prisons.*

The Heads of Legation understand that this point is still open, but they consider that it should, if necessary, be possible to devise some face-saving forms under which there would be a nominal Chinese superintendent or inspector of prisons, say, by accepting the appointment of the president of the court concurrently to such a post.

12. *Clerical Staff.*

The Heads of Legation endorse the views of the foreign delegates, but consider that some formula might be found under which there would be Chinese and foreign representation on the clerical staff working side by side on the lines of the Customs, Postal, and Salt offices.

13. *Judgments of Former Courts.*

The Heads of Legation regard insistence on views of foreign delegates as essential.

14. *Foreign Lawyers.*

The Heads of Legation approve the views of the foreign delegates and consider that foreign litigants should have the right to employ foreign lawyers on the terms proposed.

15. *Rules Defining Jurisdictions.*

The Heads of Legation consider that the respective jurisdictions of the courts of the French and International Settlements should remain as defined in the rules of June 28, 1902, in view of the shortness of time and the danger of unilateral action by the Chinese on January 1st (see telegram from Shanghai Senior Consul to Senior Minister [of] December 18th³²). The interested Heads of Legation are instructing their respective delegates to act on the above recommendations as though they were instructions unless they are informed of objection on the part of their respective Governments before midnight December 24th (Tuesday)."

PERKINS

³² See telegram No. 1168, December 19, from the Chargé in China, p. 735.

893.05/216 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 21, 1929—10 a. m.
[Received December 21—6:45 a. m.]

1177. My 1168, December 19, 11 a. m. Following joint telegram was sent yesterday by the interested Heads of Legation to the foreign delegates. Shanghai has been informed.

“You should inform the Chinese representatives that, as, in view of the delay entailed by the necessity of references to the Legations and Governments concerned, it is possible that the negotiations may not be concluded before the end of the year, we assume that nothing will be done to disturb the *status quo* in the meanwhile. You may also at your discretion give the Chinese representatives clearly to understand that any attempt at the unilateral cancellation of the existing system will not only prejudice the prospects of an early settlement but may entail serious results and precipitate the very deadlock which we are all anxious to avoid.”

PERKINS

893.05/214 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 21, 1929—11 a. m.
[Received December 21—6:45 a. m.]

1178. My 1165, December 18, 5 p. m. Following from Jacobs and Bucknell:

“December 20, 10 a. m. Referring to the alternative proposal of the Chinese delegation for consular representation on the court, telegraphed by the British Consulate General at Shanghai yesterday to the interested Senior Minister, the chief of the Chinese delegation stated today that it was an official alternative proposal. We submit that this also does not provide the necessary safeguards.”

PERKINS

893.05/224

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] December 21, 1929.

The Chinese Minister came in at my request. I told the Minister that I had just seen a telegram from China stating that the judge of the Provisional Court at Shanghai had announced that on and after January 1, 1930 no new cases would be heard by that court.³³ I referred to the fact that negotiations were now in process between delegations of the interested parties and the Chinese Government for

³³ See telegram No. 1168, December 19, from the Chargé in China, p. 735.

a revision of the situation as it concerned that Court and that I hoped that he would say to his Government that in view of these negotiations and in view of the fact that there was a good chance of their arriving at conclusions that would be mutually acceptable I hoped that they would make provision to continue the machinery of that court until the negotiations now going forward could be completed. The Minister asked me how long these negotiations would take. I told him that I could not tell; that I had reason to believe that they would not take so very long, but that they could not be completed before January 1. The Minister remarked that there would be some holidays during which the delegations would not function. I told him that he must remember that criminals did not take any holidays and that the police could take no holidays and that it was necessary for some court to function for the purpose of keeping the situation clear, for an impossible situation would be made if there was no court. I said that the only thing that I desired to lay before him clearly was our hope that his Government would not leave the International Settlement without some judicial machinery after January 1 and would make some provision for continuing the present machinery until new machinery could be installed. He said that he would communicate this to his Government.

N[ELSON] T. J[OHNSON]

893.05/213 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 21, 1929—9 p. m.

426. Your 1173, December 20, 3 p. m.

1. The Department approves the joint telegram but desires to make the following comments.

2. *Land Regulations and By-Laws.*

It is believed that the formula adopted should provide for the incorporation of the land regulations and by-laws as they now stand into the body of laws enforceable in Chinese courts; and, to prevent a possible subsequent attempt by the Chinese to modify the arrangement by unilateral action, such formula as is adopted might well provide that changes in the land regulations and by-laws shall be made only with the concurrence of the rate-payers, the interested Legations and the competent Chinese authorities.

3. *Scope of Jurisdiction.*

The Department desires that it be kept currently informed of important developments in discussions under this head,

4. *Procurator System.*

The Department would see no objection to the procurator system in the Settlement, provided that the right of the municipal authorities to initiate criminal prosecutions in the court is fully preserved.

STIMSON

893.05/220 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 27, 1929—noon.

[Received December 27—11:10 a. m.³⁴]

1190. Department's 426, December 21, 9 p. m. The American Consul General at Shanghai has submitted the following observations with regard to the principal questions at issue in the negotiations regarding the Provisional Court. This telegram is repeated for the consideration of the Department in connection with any instructions which it may have occasion to give in this matter.

"December 24, noon. I respectfully submit for the Legation's consideration the following comments in regard to specific points under negotiation, my sole reason being to place again before the Legation the results of my observation of and experience with the workings of the court and the municipality extending over a period of years.

It is inconceivable that any proposal by the Chinese which brings into question the validity of the land regulations and municipal bylaws would be seriously considered by the foreign powers. The Provisional Court has been aptly termed the keystone of the Shanghai municipality.

The land regulations are the very foundation stone. When these are replaced by any legislation, such law will be subject to unilateral interpretation, amendment and repeal, and the public opinion of the whole world will endorse such a claim as soon as the land regulations have been superseded. Replace the land regulation[s] and the foreign administration of the Settlement disappears very quickly. Such a replacement surrenders all the debatable rights claimed by foreigners such as extra-Settlement roads and concomitant questions. No legislation can possibly be enacted to include all the provisions of the land regulations, much less the bylaws and precedents, and any attempt to enforce a law replacing the charter of the Settlement would inevitably be a new cause of friction. I urge that the delegates' recommendation be not disregarded.

It is rather remarkable that the Chinese should insist upon imposing upon the foreign settlement the procurator system which they consider as unsuitable for modern China. It is unsuited for Shanghai municipal affairs. I seriously object to the procurator system in any form, though within stated limits with ample safeguards and provision against new legislation which will halt his functions he assumes his least objectionable form.

³⁴ Telegram in five sections.

I hope that no recession from the delegates' position in regard to consular representatives will be regarded as possible at this time and his position in the court should be such to distinctly mark his presence as being different from the ordinary visitor. The Chinese proposal seems humiliating and undignified. If the new court proves efficient and such as to commend its action to the public, the animosities in practice will soon disappear no matter what the treaties may contain.

It is inconceivable that the most important safeguard of the foreigner and the residences of the International Settlement should be in any way interfered with. The judicial police are necessarily Shanghai's municipal police if the individual wealth of the Settlement is not to be subject to depredation, and any other system would lead to constant and irreconcilable conflicts. No objections can be offered to providing special uniforms, but, when discharged, they must not be ineligible to municipal reemployment. The Chief Clerk is very important to guarantee the handling of funds and publicity when necessary, which is one of the great safeguards, since the judicial proceedings cannot be kept from the press. Unexecuted judgments of the Mixed and Provisional Courts must be recognized and executed throughout China. I feel it important that all appeals should be confined to the court within the Settlement. Certainly all appeals which concern the foreigner and law and order of the Settlement should without question be heard and finally determined by a court in the Settlement.

Prisons should be under the complete control of the Settlement authorities though some joint control as a face-saving device might be possible. The rules of 1902 defining respective jurisdiction in the courts of the French and International Settlements would probably find a place in the negotiations."

PERKINS

893.05/221 : Telegram

The Chargé in China (Perkins) to the Secretary of State

[Paraphrase]

PEIPING, December 30, 1929—10 a. m.

[Received December 30—2:45 a. m.]

1202. Legation's 1190, December 27, noon. The Consul General at Shanghai, under date of December 28, 2 p. m., reports that the Director General of the Municipal Council called on him that day and confirmed what had been previously heard, namely, that if the Provisional Court should cease functioning at the close of 1929, the Municipal Council sees no other course available than to declare a state of emergency until a court is established. The plan is to confine major offenders but to allow the lesser offenders to be temporarily out on bail upon the deposit of a sum assuring their appearance. This official indicated calmness prevailed, but the Council has a well-thought-out plan for temporarily meeting an emergency such as may occur.

PERKINS

893.05/221 : Telegram

The Secretary of State to the Chargé in China (Perkins)

WASHINGTON, December 31, 1929—3 p. m.

437. Your 1202, December 30, 10 a. m. The Department has not been informed that the Chinese Government will take the extreme step of withdrawing Chinese judicial officers from the Provisional Court before provision has been made for another court. If such action seems to be contemplated by the Chinese Government, the Department suggests that the Legations concerned propose to the Chinese Government the continuation of the Provisional Court until the negotiations for a new court have reached a satisfactory conclusion.

STIMSON

893.05/259

*The Chinese Commissioner of Foreign Affairs for Kiangsu (Hsu Mou) to the Senior Consul at Shanghai (Cunningham)*³⁵

[Translation]

[SHANGHAI,] December 31, 1929.

SIR: I have the honor to inform you of the receipt of the following instruction dated the 30th instant from the Kiangsu Provincial Government:

“As the record shows, it was declared by this Provincial Government that the Provisional Agreement for the Rendition of the Shanghai Mixed Court was deemed inapplicable, and you were instructed to notify accordingly the various consuls concerned. The said agreement will expire on December 31st of the present year. All matters pertaining to the Provisional Court of the Shanghai International Settlement will, thereafter, be submitted by this Provincial Government to the Central Government to be dealt with.”

In view of the foregoing instruction, I have to transmit the same for your information.

With my compliments,

Hsu Mou

893.05/223 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, January 3, 1930—5 p. m.

[Received January 3—4:35 p. m.]

11. Department's 437, December 31, 8 [3] p. m.

1. In a telegram December 30, 6 p. m., American Consul General at Shanghai reports that docket is now being made up for 1930 in

³⁵ Copy transmitted to the Department by the Consul General at Shanghai, in his despatch No. 6669, December 31, 1929; received January 30, 1930.

the Provisional Court, that several cases have already been set for trial in January and indications are that the court is to be continued as at present.

2. Kuo Wen News Agency, Shanghai, December 30, announced the control of the Provisional Court passes from the Kiangsu Provincial Government to the Judicial Yuan of the National Government on New Year's Day and, at the same time, the rendition agreement loses its effect. It also states "pending reorganization the court will function as usual."

PERKINS

893.05/225 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, January 4, 1930—5 p. m.

[Received January 5—7 a. m.³⁶]

18. Legation's 1173, December 20, 3 p. m.

1. After continued discussions with the Chinese delegates, the foreign delegates again sought the instructions of the interested Heads of Legation in a joint telegram December 29, 5 p. m., to which joint reply was sent January 1, 8 p. m. Since the further instructions given in the joint reply are deemed to be within the meaning of the original instructions approved by the Department in its 426, December 21, 9 p. m., the Legation will not transmit the texts of this joint telegram above mentioned unless the Department so desires but will summarize seriatim the fifteen points under discussion.

2. Points 1, 2, and 3. Foreign delegates indicated belief that satisfactory agreement could be reached.

Point 4. Chinese desire to enlarge scope of procurator's activities to include all cases covered by first ten chapters of part 2 of the revised criminal code, and all cases arising in inquests, but agree procurator would not prosecute when the police or private parties instituted prosecution. Foreign delegates believe Chinese will recede from their position if firm stand is taken. Legations approved delegates' recommendation but stated issue is not one which should be forced.

Point 5. Chinese refused to agree to 2 months' delay after promulgation of new laws before these are enforced in the court and refuse to permit reference in agreement to the right of foreign powers to object to legislation considered prejudicial to peace and order. Legations suggested a unilateral declaration by Chinese that new laws will be promulgated a reasonable period before enforcement and unilateral declaration on foreign side reserved [, *reserving?*] the right to

³⁶ Telegram in eleven sections.

object to enforcement of any law prejudicial to the maintenance of law and order in the Settlement or preferably that all reference to the application of Chinese laws be omitted.

Points 6, 7 and 8. Chinese position is that foreign representatives may be allowed in (*a*) criminal cases in which the Municipal Council is complainant and (*b*) criminal cases directly affecting peace and order of the Settlement. Regarding mixed cases, Chinese refuse to admit direct reference to extraterritoriality or existing treaty rights but are willing to attempt to find an indirect formula making clear that new agreement does not affect treaty rights. Chinese state consular representative will be called observer and will represent the powers now represented at the conference, and must be a lawyer or a jurist and must have knowledge of Chinese law, without which qualification the court will not accept him, the court to have the right to reject observers who do not abide by the provisions of the agreement on the subject of consular representation. Observer to be given a special seat, perhaps higher than the lawyers but lower than the bench, on the right-hand side of the judge between the bench and [the] lawyers. His functions are to observe the trial in the court. He will not be allowed to make any utterances or remarks in open court, interrogate witnesses, or, outside the court, to make known in public his opinions with regard to the case but he may present his views to the judge in judgments on matters of procedure and jurisdiction. In case of differences of opinion between judge and observer, differences to be put on record, and opinion of observer brought to the attention of higher court in case of appeals. Legations stated they were prepared in the last resort to accept the Chinese definition of scope of representation that is to be confined to criminal cases.

They suggested solution regarding treaty reservations in connection with mixed cases should be sought along the lines of unilateral declaration of existing rights in connection with this and other points in the agreement, declaration to be made either jointly or individually by the powers concerned and separately from, but with reference to, the agreement. Legations are prepared to accept in principle the proposals in regard to form of consular representation but observe that all reference to particular powers to be represented by consular observers should be omitted or that formula be found covering powers signatory to the new agreement, and leaving door open for adherence of such others as Chinese may conclude similar arrangements with. Legations consider enumeration of detailed restrictions on observers' functions to be derogatory and prefer affirmative definition of what these functions shall be. Heads of Legation insist that qualifications of observers must lie with the foreign authorities concerned, leaving to

discretion of delegates the wording defining seating accommodations and functions of observer.

Point 9. Chinese agree judicial police to be detailed by Municipal police but insist on distinctive uniforms, that they take orders solely from the court, be paid by the court, and that they be Chinese, except that anyone may be detailed upon request of the president of the court. Apart from judicial police, Chinese insist upon separate body of process servers not belonging to municipal police, to be appointed by the court to serve its processes but not to make arrests or forcibly enter premises without assistance of judicial police. Legations replied that they had no objection to distinctive uniforms but, subject to further observation of delegates after consultation with the council, they do not favor introduction of the court's own process servers. No comment on other items under this head pending receipt of further opinions of delegates. Agreement provides consultation with the council.

Point 10. Chinese propose omitting this from agreement, to be taken care of in the preamble by some indirect formula without specific reference to treaty rights. Legations replied they had no objection to having this point dealt with separately from the agreement and suggested that if necessary formula might be found in the form of unilateral declaration.

Point 11. Chinese concede that there may be, in addition to Chinese superintendent appointed solely by Chinese Government in every prison, a foreign assistant superintendent appointed by the Chinese Government, these two officers to select entire prison staff, not necessarily from municipal police. The foreign delegates reserved opinion pending consultation with Municipal Council.

Point 12. Chinese refuse to include in agreement any undertaking to employ any foreigner on clerical staff but remarked that for the sake of convenience the Chinese authorities might employ three or four foreigners of their own selection. Foreign delegates considered it would be dangerous to agree to the Chinese demands. Legations concurred and considered this point must be insisted upon, further consideration as to possibility of compromise to be given if other points are satisfactorily disposed of and this one remains outstanding.

Point 13. Chinese are prepared, in exchange of notes, to place judgments of Mixed, Provisional and new Courts on the same footing as regards validity. Legations concurred on the understanding that the point proposed means that judgments in question are indisputably valid.

Point 14. Chinese state foreign lawyers will be admitted (a) in cases in which Municipal Council is plaintiff or complainant; (b) in

all cases in which a foreigner is party, provided foreign lawyers can only represent Municipal Council or foreign parties. Police may send foreign lawyers to act as prosecutor[s] in criminal cases which they bring before the court. Chinese further propose municipal or foreign lawyers be limited to those already practicing in Shanghai, these lawyers to apply for certificates from Ministry of Justice in accordance with Chinese regulations and to be subject to Chinese regulations defining discipline of lawyers. Foreign delegates recommend Chinese proposal be considered acceptable only in the event that (a) provision is made for new lawyers, and (b) application of qualified lawyer to Ministry of Justice will be purely *pro forma*. Legations concurred, leaving to discretion of delegates whether to insist on (a). They suggested attention be drawn to provisions of Sino-German³⁷ and Sino-Austrian³⁸ treaties on this point.

Point 15. Chinese stated that though contrary to Chinese law they could agree to *status quo* pending definite arrangement with authorities of French special agreement.

Additional points:

Point 16. Chinese stated every modern Chinese court has a place for storing confiscated articles which belong to the state such as opium, arms, et cetera. Legations did not comment but stated they presumed storage of confiscated arms in the court would not be likely [garbled groups] endangering the peace and order of the Settlement.

Point 17. Chinese refuse include in agreement a clause definitely safeguarding treaty rights. Legations pointed out this has already been dealt with and added that new agreement cannot abrogate existing treaty provisions and that it seems unnecessary and challenging to say so.

Point 18. Foreign delegates inquired if new court would include registration bureau for land and documents such as may under Chinese liberal construction exist in District Courts. The Chinese stated this question had not been considered.

3. British Legation requests copy of the above be handed British Embassy for transmission to Foreign Office in London.

PERKINS

³⁷ Agreements between Germany and China regarding the restoration of the state of peace, signed at Peking, May 20, 1921; League of Nations Treaty Series, vol. ix, pp. 271, 288, 289.

³⁸ Treaty of commerce between China and Austria, signed at Vienna, October 19, 1925; *ibid.*, vol. lv, pp. 9, 21.

893.05/226 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEKING, January 6, 1930—11 a. m.

[Received January 6—6 a. m.³⁹]

21. Legation's 18, January 4, 5 p. m.

1. Following from Jacobs and Bucknell:

"January 5, 3 p. m. Following joint telegram to the French Minister, as Senior Minister concerned, from the foreign delegates on the Provisional Court Commission:

'At meetings with the chairman of the council on December 31st and January 1st, at Shanghai, the foreign delegates discussed the following four points: (a) Procurator; (b) Judicial Police; (c) prisons; (d) clerical staff.

The chairman's views were as follows:

(a) No procurator if possible but if unavoidable his powers should be limited to inquests and prosecution of crimes under the first two chapters only of part 2 of the criminal code, provided that in so-called extradition cases something equivalent to the proving of a *prima facie* case should be required.

(b) The judicial police and process servers should be organized under a foreign municipal officer having an office in the court through whose hands every process of the court should pass before advising service.

The chairman considers this point to be the most important of all for safeguarding the peace and order of the Settlement. For further details on this point, see telegram number 2 of January 2 from the British Consul General at Shanghai to British Minister.

(c) Council cannot agree to the appointment of a Chinese superintendent of prisons and would indeed prefer that all Chinese sentenced for violations of the criminal code be incarcerated in Chinese prisons outside of the Settlement, leaving only minor offenders convicted of infractions of the land regulations and bylaws and of police offenses to serve their terms in the Settlement prisons.

(d) If the concessions under (a), (b) and (c) can be secured, the council would be willing to give up any reference in the agreement to foreign representation on the clerical staff, but otherwise they must insist upon this point.

The chairman considers the employment of a foreigner of the council's selection to head the judicial police and process servers to be the most important feature, and, to secure the consent of the Chinese thereto, is even prepared to go so far as to sacrifice the observer provided the agreement recognizes the right of the council to have a legal representative appear and be heard by the court in every case in what the council considers the interest of the Settlement directly involved.

The foreign delegates respectfully request to be informed at the earliest moment possible as to the views and the suggestions of the foreign Ministers concerned on these points.'

³⁹ Telegram in four sections.

Repeated to the British Minister by the British Consul General at Nanking.

Personal for Perkins. The elimination of all observers, who at best would have little power, would appear only a part with the question of his functions and position in the court as well as the necessity of classifying offenses which are two very difficult questions. On the whole we are in favor of the council's views since these and other concessions already authorized afford much greater possibility reaching an agreement."

2. Interested Heads of Legation have not yet discussed the proposal. The views of the council appear on the whole to be conciliatory while at the same time calculated to retain the minimum of privileges essential to the maintenance of peace and order. Unless the Department instructs otherwise, I shall advocate giving the foreign delegates full discretion to modify our joint instructions to them of agreement so as to accord with the council's views.

3. I consider that in any case [it would] be necessary [to] make some declaration or reservation (either within or apart from the proposed agreement) with regard to our treaty rights in the matter of the attendance at trials of "the properly authorized official of the plaintiff's nationality."

PERKINS

REFUSAL OF AMERICAN CONSULATE GENERAL AT SHANGHAI TO COMPLY WITH REQUEST OF SHANGHAI PROVISIONAL COURT THAT CONSUL TESTIFY IN CASE ARISING IN CONNECTION WITH OFFICIAL DUTIES

893.05/171

The Minister in China (MacMurray) to the Secretary of State

No. 2341

PEIPING, September 23, 1929.

[Received October 25.]

SIR: I have the honor to enclose a copy of a despatch, No. 6132, of September 12, 1929, from the American Consulate General at Shanghai, together with a copy of the Legation's instruction in reply, of to-day's date,⁴⁰ in regard to the appearance of American consular officers in Chinese courts. The Legation is in general agreement with the attitude adopted by the Consul General at Shanghai, and would particularly invite the Department's attention to the constructive suggestion in the last paragraph of the despatch mentioned.

I have [etc.]

J. V. A. MACMURRAY

⁴⁰ Legation's instruction not printed.

[Enclosure]

*The Consul General at Shanghai (Cunningham) to the Minister in
China (MacMurray)*

No. 6132

SHANGHAI, September 12, 1929.

SIR: I have the honor to enclose herewith a copy of a subpoena issuing from the United States Court for China,⁴¹ requiring the presence of Consul J. E. Jacobs in the Provisional Court to testify as a witness in the cause of the Shanghai Municipal Police (Bubbling Well) (Miss Mabel P. Lee) versus Zung Ah Mo. A copy of this subpoena is being forwarded to the Legation for the purpose of having it transmitted, together with a statement of the circumstances surrounding its issuance, to the Department of State, with such comment as the Legation may desire to make.

So far as this office is aware, this is the first occasion that a subpoena of this kind has been issued. The procedure in the past for securing the presence of an American consular official at the Provisional Court, or its predecessor the former Mixed Court, has been for the Registrar of that Court to address a letter to the Consul General asking that he direct the officer whose testimony is desired to appear at such time as might be arranged with the Registrar. In this particular instance, the Registrar of the Provisional Court, Mr. J. E. Wheeler, was absent, and the Acting Registrar forwarded the request for the United States Court for China for the issuance of a subpoena, which the Acting Clerk of the United States Court for China prepared and served upon Consul Jacobs without consulting Judge Milton D. Purdy.

Realizing that his appearance in the Provisional Court under a subpoena of this kind might establish an unfortunate precedent in connection with the privileges and immunities of American consular officers in China, Consul Jacobs discussed the matter with Judge Purdy and Dr. Sellett, the United States District Attorney. As a result of this interview, Judge Purdy directed the Clerk to return the request for the issuance of a subpoena of the Acting Registrar of the Provisional Court with the suggestion that he follow the usual procedure and address a letter to the American Consulate General. Such a letter dated September 9, 1929, a copy of which is enclosed,⁴¹ was subsequently received.

While Consul Jacobs is not aware of the particular questions which may be asked of him in connection with this case, his connection therewith arises from the performance of his official duties as a consular officer of the United States. The complainant in this case, a certain Mrs. Lee, who is a Chinese citizen, called upon the Consulate by telephone for assistance in connection with certain jewelry which she

⁴¹ Not printed.

alleged to have been stolen from her while she was residing at the Burlington Hotel. After stating her complaint, Consul Jacobs ascertained that Mrs. Lee was not an American citizen, and, accordingly, he declined to assist her in taking up the matter with the Settlement Police whom she alleged were not rendering adequate assistance.

While no specific provision is found in any of the treaties between China and the United States which gives American consular officers immunity from the obligation of serving as a witness or giving testimony in Court, it is believed that under the general rules of international law a consul may not be required to divulge information which came to him in his official capacity since such information is the exclusive property of his government. The Registrar of the Provisional Court is being informed accordingly and a copy of this Consulate General's letter to him in this connection is enclosed herewith. On this point, reference is made to Secretary Hay's instruction to Mr. Merry, Minister to Nicaragua, April 17, 1899 (*Foreign Relations* 1899, p. 567) as follows:

"Under the general rules of international law a consul may not be summoned to give evidence concerning consular business or to produce to the court any part of the consular archives; and information which came to him in his official capacity, he is privileged from disclosing, for such information belongs to his government.

"He can not be required to divulge information which came to him in his official capacity, for that is the exclusive property of his government; but as to matters which come within his knowledge or observation in his mere capacity as an individual he is not privileged from testifying as a witness. If a consul should himself participate in the commission of a crime or in setting on foot an insurrection, or should observe others doing so, against the Government to which he is accredited he could not be shielded from testifying, according to the forms of the local law, as to the facts thus acquired and within his knowledge."

Reference is also made to the Department of State's instruction to the American Consul at Bombay, dated October 21, 1919 (Stewart's "Consular Privileges and Immunities" page 138) as follows:

"As regards your statement that you are instructed to claim inviolability for the archives, it is observed that the Bombay authorities in their letter to you of April 4th expressly recognize the inviolability of the archives and property of the consulate. Should you again be requested to appear in court as a witness and to produce official archives you will not only claim exemption from producing said consular documents, but also from giving testimony in respect to official consular business."

Since the question has arisen in this instance, it is believed that the matter should be borne in mind when a new treaty between the

United States and China is negotiated in order that a more definite provision may be inserted in the treaty defining the rights, privileges, and immunities of American consular officers in China, than is now provided in the very general provisions of Article 2 of the Sino-American Treaty of 1903.⁴³ After the abolition of extraterritoriality, the extent of the protection which consular officers in China can render American citizens may be seriously impeded if the treaty provisions on their rights, privileges and immunities are not clearly defined.

I have [etc.]

EDWIN S. CUNNINGHAM

[Subenclosure]

The Consul General at Shanghai (Cunningham) to the Chief Clerk of the Shanghai Provisional Court (J. E. Wheeler)

SHANGHAI, September 12, 1929.

SIR: I have the honor to acknowledge the receipt of your letter No. 25346, dated September 9, 1929,⁴⁴ in connection with Criminal Case 3/23560, S. M. P., Bubbling Well (Miss Mabel P. Lee) versus Zung Ah Mo, in which you transmit a request of the Judge of the Appellate Court that Consul J. E. Jacobs of this office be directed to appear in Court (No. 9) at 2:00 p. m. on Friday, September 13, 1929, in order to give evidence in this case. While this office desires to assist the Provisional Court in every way possible, it is regretted that its request in this instance cannot be complied with since the connection of Consul Jacobs with this case arises from the performance of his official duties at this office as a consular officer of the United States Government. Under the general rules of international law, a consul may not be required by an alien court to divulge information which came to him in his official capacity, since such information is the exclusive property of the government which he represents. It is requested, therefore, that you convey this information to the Court.

I am [etc.]

EDWIN S. CUNNINGHAM

893.05/171

The Secretary of State to the Minister in China (MacMurray)

No. 1406

WASHINGTON, November 22, 1929.

SIR: The Department has received your despatch No. 2341, dated September 23, 1929, enclosing copies of correspondence between the Legation and the Consul General at Shanghai with regard to the appearance of Consul J. E. Jacobs as a witness before the Shanghai Provisional Court.

⁴³ *Foreign Relations*, 1903, p. 91.

⁴⁴ Not printed.

The Department approves the attitude taken by the Consul General at Shanghai in this matter, as set forth in his letter of September 12, 1929 to the Chief Clerk of the Court.

The Department has noted the suggestion made by the Consul General that, when a new treaty is negotiated between the United States and China, the rights, privileges, and immunities of American consular officers should be clearly defined. The Department will bear this suggestion in mind and will give further consideration to it at an appropriate time.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

PRESS RESTRICTIONS BY CHINESE AUTHORITIES AFFECTING
AMERICAN CITIZENS IN CHINA

611.9331/158

*Memorandum by the Counselor of Legation in China (Perkins) of a Conversation With the Chinese Minister for Foreign Affairs (C. T. Wang) at Nanking on January 17, 1929*⁴⁵

[Extract]

[PEKING,] February 18, 1929.

I then inquired of Dr. Wang whether he had any matters which he wished me to mention to Minister MacMurray. In reply he mentioned the name of Rodney Gilbert,⁴⁶ and said, with considerable vehemence, that Mr. Gilbert was *persona non grata* to the National Government; that his activities greatly handicapped the furtherance of good relations between China and the United States and that he would like to get Gilbert out of China. If it were not for the existence of extra-territoriality they would have Gilbert deported at once. He said it was true that Gilbert was connected, not with American, but with British publications,⁴⁷ and that steps were actually being taken to see if his obnoxious activities could not be curtailed.⁴⁸ I said that I would report to Mr. MacMurray what Dr. Wang had said, but that in any case the Minister did not possess the authority to deport American citizens. If, however, Mr. Gilbert was guilty of violating the law regarding libel, slander, etc., action could of course be taken against him. Dr. Wang said that he knew that, according to American law,

⁴⁵ Copy transmitted to the Department by the Minister in China in his despatch No. 1962, March 11; received April 15, 1929.

⁴⁶ An American citizen, journalist and author in China.

⁴⁷ The *North China Daily News* and the *North China Herald*, daily and weekly newspapers published by the North China Daily News & Herald Ltd. at Shanghai.

⁴⁸ Rodney Gilbert left China for the United States in February 1929.

there was a great deal of latitude in the matter of free speech and that that made it very difficult to handle matters of this kind in that way.

M[AHLON] F. P[ERKINS]

893.711/13: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 13, 1929—7 p. m.

[Received February 13—2:45 p. m.]

109. Department's 58 [59], February 11, 6 p. m., paragraph [sentence] 2.⁴⁹

[1.] Gauss⁵⁰ reports that on February 5th editor of the *Star*⁵¹ received a communication from the local Postal Commissioner to the effect that the paper would be refused postal transmission as a result of instructions received from the Minister of Communications. Upon inquiry being instituted as to reasons for such action, the Postal Commissioner stated that his instructions directed him to withdraw postal privileges from the *Star* as it was stated to be of a seditious nature. This information was forwarded to Perkins with the request that he bring the matter to the attention of Wang and request an investigation of the reason for such arbitrary action. This was done but up to the present time no explanation has been received.

2. Gauss subsequently informed the Legation that the local Commissioner for Foreign Affairs confirms the authenticity of a report appearing in the Chinese press in Tientsin to the effect that orders have been issued by the Central Executive Committee of the Kuomintang for the suppression of the paper, as well as the withdrawal of postal privileges.

3. Gauss also informed the Legation that Fox reported that he had confidentially received private advice from a friend in the Nanking Foreign Office to the effect that the reason for the refusal of postal privileges was the publication of an article by the Peking representative⁵² of the United Press which appeared in the *Star* under date of December 17th and which was entitled "Kuomintang upset predicted to come within sixty days."

MACMURRAY

⁴⁹ Not printed.

⁵⁰ Clarence E. Gauss, Consul General at Tientsin.

⁵¹ Charles James Fox, American citizen and editor-publisher of the *North China Star* (American), Tientsin.

⁵² Demaree C. Bess.

893.711/13 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 19, 1929—4 p. m.

69. Your 109, February 13, 7 p. m. Department would be interested to have any further information concerning the matter and desires that you consult with Fox with a view to making such representations as may seem wise and necessary.

KELLOGG

893.711/14 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 21, 1929—1 [3] p. m.

[Received February 21—1 : 40 p. m.⁵³]

125. Your telegram No. 69, February 19, 4 p. m. There have thus far been no further developments in the case. The Legation has kept in close touch with Fox through the Consul General at Tientsin. In consequence of a telephone message from Gauss last night I have today telegraphed as follows to the Consul at Nanking:

“February 21, 3 p. m. 1. Will you please communicate to Dr. C. T. Wang as under telegraphic instructions from me a personal message to the following effect:

I am greatly perturbed by what appears to be the wholly apparent and lamentably ill-advised action of the higher authorities of the Government in denying to the *North China Star*, a newspaper of American ownership and editorship, the further use of mail facilities. You will recall that on February 9th Mr. Perkins addressed to you in my behalf an inquiry as to the reasons for this action.

To that inquiry no reply has yet been received. Apart from the legal aspects of the matter—as to which I would rather not make an issue if it can be avoided—I cannot but feel that this action is not only unfair and unfriendly towards an American enterprise but especially unfortunate in forcing an issue as to the freedom of speech and of comment in regard to which (as you are in a position to realize) the American public and press are peculiarly sensitive. I trust that I may rely upon your sympathetic and wholehearted support to bring about a discontinuance of a discriminatory and confiscatory administrative measure which makes so conspicuous a public issue at a time when the Nationalist Government is particularly concerned to manifest alike its good will towards legitimate American interests and its capacity to deal justly with any such interests as it may be in a position to control or affect.”

MACMURRAY

⁵³ Telegram in two sections.

893.711/15: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 25, 1929—4 p. m.
 [Received February 25—10:45 a. m.]

139. Legation's 125, February 21, 3 p. m. Following from Nanking:

"As Minister of Foreign Affairs is in Shanghai, not returning until Monday, I handed your message to Vice Minister Tong this morning, who promised to telegraph the gist thereof to Wang.

Tong stated that the action against the *Star* had been taken at the instigation of the Tientsin Special Municipality Party Board and was the result of a misunderstanding; further that yesterday Ministry of Foreign Affairs had taken up the matter with Central Executive Committee which had agreed to instruct the Tientsin Party Board to lift the ban; and that he believed it would be lifted within two or three days.

Privately Tong expressed to me both Wang's and his great concern over this action against a newspaper toward which they entertained the most cordial feeling."

PERKINS
 For the Minister

893.711/15: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 7, 1929—6 p. m.

84. Your 139, February 25, 4 p. m. Department is informed by Fox that ban against *North China Star* remains unlifted in spite of promises made by Vice Minister of Foreign Affairs. Please have Consul at Nanking make further representations in the matter.

KELLOGG

893.711/16: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 11, 1929—3 p. m.
 [Received March 11—1:50 p. m.]

165. Department's 84, March 7, 6 p. m. While in Nanking I discussed the matter of the *North China Star* with Dr. C. T. Wang and he assured me that he is exerting every effort to have ban removed. Full memorandum covering conversation is being forwarded by mail despatch.⁵⁴

MACMURRAY

⁵⁴ Not printed; but see his telegram No. 171, *infra*.

893.711/17: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 12, 1929—5 p. m.
 [Received March 13—4: 30 p. m.⁵⁵]

171. 1. Subsequently to despatching my telegram No. 165, March 11, 3 p. m., I received from the Consulate General at Tientsin, a despatch dated March 10, of which the following is a résumé:

Dr. Fox has received radio message from C. T. Wang at Nanking reading:⁵⁶ "I am informed that postal facilities will be restored to the *Star* if you will write to the Central Executive Committee expressing regret for the publication in the *Star* on December 17th of the article by Mr. D. C. Biding [*Bess*], which was full of rumors."

Fox states that he is unwilling to comply with the suggestion made in the message by Dr. Wang except under instructions from the American authorities. He points out that some time has elapsed since the postal ban was placed on the *Star* and the matter is in the hands of American authorities. In his opinion, to acquiesce in the suggestion made by Wang would be tantamount to acknowledging the correctness of the position of the Central Executive Committee in withdrawing postal privileges from the paper. He does not acknowledge that the Executive Committee or National Government were entitled to take such action and considers that not only American extraterritorial rights have been violated, but the most elemental principles of justice have been flouted. He is disposed, if postal privileges are restored, to publish an expression of regret, but he cannot follow the suggestion made in Doctor Wang's radio message.

2. I have replied to the effect that "I cannot but concur in Doctor Fox's [apparent omission] feels that acquiescence in this suggestion would be tantamount to acknowledging the correctness of the position of the Central Executive Committee in withdrawing postal privileges from the *Star*, in violation not only of existing extraterritorial rights but also of elemental principles of justice."

[Paraphrase.] I then continued for the information of the Consul General as follows:

"Recently, when I was in Nanking, I took up, on March 7, at an interview with the Minister for Foreign Affairs the case of the *North China Star*. Dr. Wang plainly expressed to me his regret and chagrin at the action taken in this case and proceeded confidentially to inform me what had happened; namely, that a United Press story in the *Star* had been translated and brought to the attention of a principal leader in the Chinese Government, whereupon he was much incensed, and forthwith directed the Central Executive Committee to

⁵⁵ Telegram in two sections.

⁵⁶ Quotation is of a statement "to the following effect" in the despatch, which used no quotation marks, from the Consul General at Tientsin to the Minister in China, March 10 (893.711/30).

refuse postal facilities to the *Star*. This was done without any reference to the Councilor for Foreign Affairs or to any other appropriate authority; and so, having been done, to arrange a reversal presented very considerable difficulties. Dr. Wang, with surprising candor, acknowledged his own concern regarding the action against Dr. C. J. Fox, not only because of the consistently pro-Nationalist sympathies of Dr. Fox, but also because of the latter's connection with the Chinese Ministry for Foreign Affairs, his usefulness to the Nationalist cause, likewise that of his brother Albert W. Fox in Washington, who both give publicity to such facts as it is desirable to have known. Dr. Wang was somewhat perturbed also because the United Press was involved indirectly in the affair. To me he conveyed the impression of being altogether sincere in his assurance that he would do his utmost, under the difficult circumstances, to have removed the causes of antagonism toward the American journalistic interests affected." [End paraphrase.]

MACMURRAY

893.711/17: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 14, 1929—6 p. m.

95. Your 171, March 12, 5 p. m. Department approves attitude outlined in paragraph 2 of your telegram. Please keep Department informed of further developments.⁵⁷

KELLOGG

893.711/37

*The Consul General at Shanghai (Cunningham) to the Minister in China (MacMurray)*⁵⁸

No. 5945

SHANGHAI, April 23, 1929.

SIR: Referring to my telegram No. 61 of today's date,^{59a} in regard to the alleged demand of the Nationalist Government that Mr. George E. Sokolsky⁵⁹ be requested to leave China, I have the honor to transmit herewith a copy of a letter dated April 22, 1929, addressed to this office by Mr. Sokolsky⁶⁰ in which he sets forth his views concerning the reasons for such request. The press has given various reasons

⁵⁷ The Minister in China, in telegram No. 261, April 4, reported: "Following from Tientsin, April 3, noon: Postal ban on the *North China Star* lifted today" (893.711/26).

⁵⁸ Copy transmitted to the Department by the Consul General in his despatch No. 6113, April 23; received May 27, 1929.

^{59a} Not found in Department files.

⁵⁹ An American citizen and journalist in China, special contributor to the *North China Daily News* (British), Shanghai.

⁶⁰ Not printed.

for the action of the Central Executive Committee, the most generally accepted being the articles which were transmitted to the Legation with this office's despatch No. 5922 of April 10, 1929.^{60a} These, however, are not referred to in the protest from the Propaganda Department of the Central Executive Committee, transmitted to the Senior Consul by the Commissioner of Foreign Affairs under date of April 19, 1929, from which it would appear that the complaint against the *North China Daily News* is contained in the following quotation:

"During the past few months, the Shanghai *North China Daily News* has been publishing articles and reports which tend recklessly to calumniate our party and the Nationalist Government and to disturb the public by creating rumors. For example: its issue of March 7, 1929, contains the report that foreign nationals were advised to leave Nanking, and many other absurd statements. Again, in its issue of March 29th, it is stated in an article headed 'The Pity of It!', that 'the Third Party Congress issues a manifesto of 5,000 words . . .⁶¹ which are not worth 5,000 cash.' These statements are really insulting our party and nation.

"It is therefore requested that you will instruct the Commissioner of Foreign Affairs for Kiangsu to make representations to the Consuls at Shanghai to the end that the press may be ordered to rectify the above mentioned statements, and not to make any such remarks in the future as to meet with repression.

"A reply is expected."

Neither of the letters referred to in the above quotation was written by Mr. Sokolsky, and no mention is made of him in the letter of the Commissioner of Foreign Affairs from which the foregoing is quoted.

The news item carrying the action of the Central Executive Committee, which was dated at Nanking April 18th and published in the *North China Daily News* on April 19th, reads as follows:

"At the meeting of the Standing Committee of the Central Executive Committee today, the question of the *North China Daily News* was brought up for discussion.

It is stated that the decision of the meeting was that the *North China Daily News* has been anti-Kuomintang and has deliberately attacked the Central Government in spite of the repeated protests of the Ministry of Foreign Affairs.

It was decided, therefore, that the Ministry of Foreign Affairs be instructed to make strong representations to the American Minister in Peking, asking him to call on Mr. George Sokolsky, a correspondent of the *North-China Daily News* to leave the country.

In the meantime, the circulation of the newspaper through the Post Office will be prohibited.

The Customs will also be asked to cooperate in stopping the circulation of the *North-China Daily News*. In previous cases, the *North-*

^{60a} Not printed.

⁶¹ Omission indicated in original despatch.

China Daily News has used the local steamers to distribute copies of the paper by shipping them in bulk as freight. Now the Customs will be called upon to search all outgoing steamers at Shanghai to make sure that no copies of the *North-China Daily News* can be distributed through the same channel."

Reuter's News Agency, under date of Nanking April 20th, has published in the *Shanghai Times* (British with Japanese sympathy), under the heading "Nationalist Action Against Paper" a copy of which is enclosed,⁶² the reasons advanced by the Nationalist authorities for the action taken.

I have [etc.]

EDWIN S. CUNNINGHAM

811.91293/146 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 30, 1929—6 p. m.

[Received May 1—9 : 30 a. m.]

331. My No. 261, April 4, 5 p. m.⁶³

1. United Press message from Shanghai reports that National Government has directed its Minister at Washington to request the *New York Times* and the *Chicago Tribune* to withdraw from China their respective Peking correspondents Abend and Dailey,⁶⁴ on the ground of their unsympathetic attitude and alleged false reports.

2. Minister for Foreign Affairs in conversation last March stated that Bess, Peking correspondent of the United Press, was unfavorably regarded and asked my assistance in bringing about his withdrawal from the country. Upon my stating that I had no legal powers in the matter but would be glad to consider any definite charges of wrongful conduct which might be formulated against him, Dr. Wang showed a reluctance to formulate any specific statement on the subject but intimated that means would be found to force him to leave. Bess however has not informed me of any pressure brought to bear upon him.

3. Semiofficial announcement has been made of the decision of the Nationalist Government to have the Minister for Foreign Affairs approach the Legation with a view to removal of Sokolsky from China, but no communication to this effect has been received.

MACMURRAY

⁶² Not printed.

⁶³ See footnote 57, p. 758.

⁶⁴ Hallett Abend and Charles Dailey, American citizens.

811.91293/151

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 2083

PEKING, May 9, 1929.

[Received June 11.]

SIR: In reference to my telegrams No. 331, of April 30, 6 p. m., and No. 362, of May 8, 5 p. m.,⁶⁵ concerning measures taken by the Nationalist Government to bring about the removal from China of certain American correspondents whose reporting has apparently proved distasteful to the Government, I have the honor to enclose a copy of a confidential memorandum supplied to me on May 2nd by Mr. Hallett Abend, Peking correspondent of the *New York Times*,⁶⁶ in reference to the Nationalist Government's alleged efforts to control the foreign press.

There is also enclosed copy of a note addressed to me on May 1st by Mr. D. C. Bess,⁶⁶ United Press representative in Peking, . . .

. . . From my dealings with the two correspondents named, I believe them to be altogether trustworthy men, and consider that their confidential reports on the foreign press situation in Shanghai deserve serious consideration.

I have [etc.]

J. V. A. MACMURRAY

893.711/35 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 10, 1929—4 p. m.

[Received May 10—11:20 a. m.⁶⁷]

372. My 362, May 8, 5 p. m.⁶⁶ Following from American Consul General at Shanghai:

"May 9, 4 p. m. The North China Daily News & Herald has requested Dollar Steamship Company's permission to deliver aboard their mail steamers packages containing their journals fully addressed for delivery in Hong Kong, Manila, Japan and American ports. The postage will be fully prepaid by affixing Chinese stamps to the packages. I have informed the company that I do not know of any legal reason for refusing to accept packages, but since their property is located within Chinese territory it is particularly vulnerable, and, therefore, the company should determine whether the

⁶⁵ Latter not printed.⁶⁶ Not printed.⁶⁷ Telegram in two sections.

acceptance would be practicable or not. It is an established practice to receive mail aboard their mail steamer with postage fully prepaid, and even to accept it at their office after the postoffice is closed for posting aboard ship. Are my actions approved?"

I am replying as follows:

"May 10, 4 p. m. Your 74, May 9, 4 p. m.

With respect to the legal questions involved in the request made of the Dollar Company that it receive these journals, in the circumstances described, the Legation is of the opinion that you should have referred the company to their legal advisers. With respect to advisability of complying with such a request apart from the question of there being any legal obstacle or obligation in the matter, the Legation is of the opinion, especially in view of the absence of any American interest requiring protection, that you should inform the company that the matter is one entirely for their own decision and that you cannot undertake any responsibility or give any advice in connection therewith.

Your telegram and the Legation's reply are being transmitted to the Department for such comment as it may desire to make."

MACMURRAY

893.711/35 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 13, 1929—6 p. m.

157. Your 372, May 10, 4 p. m. Department feels that you should instruct Cunningham to point out to the Dollar Steamship Company that the packages of stamped journals in question would undoubtedly be handled by the sea post offices on board vessels and that assistance given to publisher in his endeavor to evade the Chinese Government's postal ban may raise an issue of international concern and may also prejudice the Dollar Company's interests.

Department has laid the facts before the Post Office Department and will communicate to you any comment which may be made by that Department.

STIMSON

893.711/36 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 20, 1929—5 p. m.

168. Department's 157, May 13, 6 p. m., last paragraph. Postmaster General has replied on May 17 in part as follows:

"The mailing of these publications in the manner requested by the publisher would be contrary to the provisions of the Universal Postal Convention, which governs the exchange of international mails.

I may add that it is general practice to prepare despatches of mails for a foreign country at a post office of the country of origin, and the isolated instances in which articles are mailed by being handed over to the purser or to a sea post clerk aboard a vessel are in the nature of a concession on the part of the country of origin and intended for the convenience of the mailing public by permitting the conveyance by a vessel of mail matter which would otherwise be detained until a subsequent sailing.

In view of the foregoing and of the circumstances that the country of origin is responsible for the compensation due the steamship company for the transportation of the mails, existing instructions of this Department provide that, except as set forth in the preceding paragraph, sea post clerks shall decline to accept at a foreign port mail matter of any character which has not been regularly made up by a post office of the country of origin."

Inform Shanghai.

STIMSON

811.91293/170

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the American Minister in China (MacMurray)*⁶⁹

719

NANKING, June 17, 1929.

SIR: With a view to effectively foster the friendly feelings now happily subsisting between China and other Powers, the National Government is determined to take appropriate action against those newspapers and correspondents in China, whose libelous or seditious publications tend to either engender distrust in the mind of the Chinese people of their Government and leaders or unjustly estrange foreign public opinion from China. It is hardly necessary for me to point out to you the grave responsibility any foreign correspondent has towards the newspaper to which he contributes, the public upon which his messages exert a certain amount of influence, and the people and government about which he writes. The responsibility of Hallett Abend, Peiping correspondent of *The New York Times*, is graver than usual in view of the far-reaching effect of *The New York Times* upon American public opinion and of the traditional friendly and sympathetic feelings subsisting between our two peoples. You will agree with me that a man in his position should be extremely careful and discreet when writing despatches or expressing opinions. To my great surprise and disappointment, however, he has, under the false impression that freedom means license, repeatedly betrayed the trust his employer and the American public have put in him and reciprocated the hospitality extended to him by the country where he resides

⁶⁹ Copy transmitted to the Department by the Minister in China in his despatch No. 2188, July 6; received August 2, 1929.

by maliciously fabricating news concerning it, its Government and officials. On December 9, 1928, *The New York Times* published a special correspondence from Abend part of which reads:

"Soong Mei-ling, General Chiang's wife, is blamed for the General's present hunger for power, and so universal is the habit of placing the blame for the present trend of events at her door that even in the bazaars in Peking it is a commonplace when grievances are discussed, to end the discussion with what has almost become a proverb: 'If Mei-ling were at the bottom of the Yangtse, then China would suffer less.'

"So evident has it become that Chiang Kai-shih and his ambitious wife are aiming at the attainment of supreme power that all of their adherents are now cynically referred to by the Chinese as 'the royal family,' and the one-time hero of the revolution erstwhile 'George Washington of China,' is even more unpopular than the despots he ousted from power.

"But there is one member of 'the royal family' who is openly and bitterly opposed to General Chiang's personal ambitions, and that one person is his able and powerful brother-in-law, T. V. Soong, the Finance Minister. Mr. Soong will tell any one who has his confidence that General Chiang's course, in his opinion, can lead to nothing but more fighting. He declares that the many men who helped to bring the Nationalist movement to success are all entitled to a real share in the government, and in the task of reconstruction in China. They all resent a one-man assumption of power, and will all work against the success of centralization of power in one man's hands."

The above quotation is taken from but one of his many despatches of falsehood sent during the last eight months. I shall not enumerate them here and believe it sufficient to call your attention to his last act of criminal fabrication that has come to my knowledge.

On April 25, 1929, *The New York Times* published his wireless despatch part of which reads:

"General Fang Chen-wu's overtures to Marshal Feng coincide with Marshal Chang Hsueh-liang's declaration that, though the Nationalist principles afford China's only hope, the nation has been betrayed by the present Nanking leaders, who are termed 'rotten to the core.' A clean sweep is the only remedy for such intolerable conditions, Chang declares."

General Chang Hsueh-liang has categorically denied the above statement. The following is a translation of his telegram.

"Shenyang (Mukden), June 15th.

"Dr. C. T. Wang, Minister for Foreign Affairs.

Your telegram of the 11th instant was duly received. I have complete confidence in the Central Government and have never criticized nor expressed any dissatisfaction with the doings of the Government. I think there is no need of further mentioning of this since both President Chiang and you know me very well.

"I do not know the foreign correspondent Hallett Abend. It is quite apparent that he circulated all those rumours to throw dust into

the eyes of the public in the hope of enabling him to fish in the troubled waters.

“(Signed) Chang Hsueh-liang.”

In view of Abend's repeated libelous and seditious writings, I am constrained to request you to have him deported from China. International law recognizes the sovereign right of every nation to exclude and expel undesirable aliens; and, in the present case, my Government has been left with no alternative except resorting to this right of expulsion. At present when the question of abolition of extraterritoriality has not yet been finally settled between our two countries, I am seeking your cooperation on behalf of my Government in this matter. I am confident that you will see your way clear to comply with my request in order that it cannot be said certain American nationals have been sheltered by the abuse of extraterritoriality, and also that the mutual respect our two peoples have for each other, built up through long years of persevering effort on the part of both governments to maintain the traditional policy of friendship, will not be endangered by the malicious actions of a correspondent.

I avail myself [etc.]

CHENGTING T. WANG

811.91293/153 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 26, 1929—6 p. m.
[Received June 26—4:50 p. m.⁷⁰]

512. Legation's No. 504, June 24, 6 [5] p. m.⁷¹ Legation today received formal note from the Minister for Foreign Affairs⁷² charging that Abend has “reciprocated the hospitality extended to him by the country where he resided by maliciously fabricating news concerning it, its government and officials”. The note then refers to a news item published in the *New York Times* on December 9, 1928, criticizing Chiang Kai-shih and his wife and to an item published on April 25, 1929, in reference report of criticism of Nanking leaders by Chang Hsueh-liang who is alleged flatly to repudiate statements attributed to him by Abend.

Note concludes with the following paragraph:

[Here follows quotation of final paragraph of note.]

Abend has been informed no other action is being taken pending the return of the Minister.

HEWES⁷³
For the Minister

⁷⁰ Telegram in two sections.

⁷¹ Not printed.

⁷² *Supra.*

⁷³ Clarence B. Hewes, First Secretary of Legation in China.

811.91293/163

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] July 2, 1929.

The Chinese Minister asked me whether I had heard anything about the question of Mr. Hallett Abend and the desire of the Chinese Government. I told him I had; that the Legation had received a request from the Chinese Government asking it in so many words to deport Mr. Abend. I stated that I did not know who had advised them in this matter, but I thought whoever had advised them had advised them wrongly as they had asked us to do administratively something we could not do. The American Minister at Peking had no power to deport anyone. The Minister said he supposed not except by judicial process. He said he wondered what the Chinese Government was going to do in the matter. I said I did not know; that the Government was powerless to act. I said that I could conceive of the Chinese Government denying news to a newspaper man but even that was a bad method to take as we ourselves in our own experience had found that to attempt to do that was simply to make matters worse for us. The best way to treat newspaper men and their stories was to ignore them. He said naturally the Chinese Government was incensed by this sort of thing being sent out of China and doubtless under this situation had done the only thing that it could.

N[ELSON] T. J[OHNSON]

811.91293/168

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] July 6, 1929.

MR. SECRETARY: The attached telegram, No. 512 of June 26, 6 p. m., from Peking,⁷⁴ regard[ing?] Hallett Abend, informs us that the National Government of China has made a formal request of our legation at Peking that our legation "have him deported from China." The National Government bases its request upon its right under international law "to exclude and expel undesirable aliens". Mr. Abend is the *New York Times* correspondent at Peking. He has given offense to the National Government by his despatches to the *Times*, which have been published in this country. The two offending articles printed under Mr. Abend's name on December 9, 1928 and April 25, 1929 respectively, are attached.⁷⁵

As an American citizen Mr. Abend enjoys the protection of extraterritoriality and the Chinese cannot touch him. They are not able

⁷⁴ *Ante*, p. 765.⁷⁵ Not printed; for extracts from the articles, see note of June 17 from the Chinese Minister for Foreign Affairs, p. 763.

therefore to exercise their so-called right and deport Mr. Abend from China.

I am of the opinion, and my opinion is supported by the Solicitor of the Department, that there is no power under the laws of the United States, either in the administrative offices of the United States or in the courts of the United States (and this would include our extraterritorial courts in China) under which an American citizen could be deported from China. As a matter of fact, in a case that arose in Yokohama in 1878, the Department disapproved the action of the Consul General who turned over to the Japanese authorities for deportation an American citizen who had been convicted in the Consular Court of the offense of assault and battery, the Department informing the Consul General that deportation was a mode of punishment not recognized in the United States (*Foreign Relations*, 1879, page 697).

Thus it is clear that not only are the Chinese unable to deport Mr. Abend, but we are unable to deport him.

N[ELSON] T. J[OHNSON]

811.91293/160 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 10, 1929—7 p. m.

[Received July 11—9:45 a. m. ⁷⁶]

556. My 542, July 5, 8 p. m.⁷⁷

1. Following telegram was repeated by the Legation to Shanghai:

“July 6, 5 p. m. Please communicate to the District Attorney ⁷⁸ a copy of the note to me from the Minister for Foreign Affairs dated June 18 [17] ⁷⁹ requesting the deportation of Abend and request him in my behalf to advise me by naval radio at his earliest convenience whether on the showing of facts made in that note it is his opinion that prosecution (with a view to deportation) could properly be undertaken in the United States Court for China against Abend on the complaint of the Chinese Government on the ground of the libelous or seditious character of his journalistic correspondence.”

2. In a reply dated July 9th Shanghai informs me Sellett is of the opinion that deportation of American citizens from China is not possible under our law but suggests that libel charge might be made against Abend if Chinese officials concerned would appear to testify in the United States Court for China.

⁷⁶ Telegram in two sections.

⁷⁷ Not printed.

⁷⁸ George Sellett, of the United States Court for China.

⁷⁹ *Ante*, p. 763.

3. I propose, unless otherwise instructed, to reply to Wang's note of June 17th to the effect that while it is not of course within my competence as an administrative officer to take action in the matter, I have consulted the American officials concerned; that they have now expressed to me the opinion that deportation as requested by the Chinese Government is not possible under the law but that should the Chinese authorities desire that the Minister's note of June 17th be made the basis of a libel action against Abend in the United States Court for China, I should be happy to take the matter up with a view to facilitating the proceedings to that end.

MACMURRAY

811.91293/160 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 12, 1929—4 p. m.

229. Your 556, July 10, 7 p. m. Withhold action Abend case until further instructions. After communicating complaint to *New York Times* Department is awaiting further word from the *Times*.

STIMSON

811.91293/160 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 18, 1929—1 p. m.

235. Department's 229, July 12, 4 p. m.

1. The Acting Managing Editor of the *New York Times* under date of July 16 wrote to the Acting Chief of the Washington Bureau in reference to the Abend matter saying in part "As to the proposed answer to the demand for his deportation, we have no objection whatever to any trial or investigation of the charges against him by any fair and impartial tribunal and we assume that the Consular Courts are such, or Minister MacMurray would not suggest such a course. Abend himself has given us the sources of the information on which he based the statements contained in the two despatches which have been cited in the attack on him and we are satisfied that they justified its use. Therefore we are confident of the outcome of a hearing before any unbiased arbiter. Will you so please inform Secretary Stimson?" By the term "Consular Courts" the *New York Times* intended to include all American courts in China.

2. The Department authorizes you to reply to the note of the Chinese Minister for Foreign Affairs dated June 17 along the lines indicated in your 556, July 10, 7 p. m., paragraph 3, making such additions thereto based upon the passage quoted from the letter of the *New York Times* as you may consider advisable.

STIMSON

811.91293/165 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 19, 1929—5 p. m.
[Received July 20—10 : 53 a. m.]

595. Your telegram No. 235, July 18, 1 p. m.

1. Abend's transfer to Shanghai was made known to the Minister for Foreign Affairs recently at a luncheon given by him to the local representatives of the foreign press. Almost immediately thereafter he had Abend sought out by Kwangson Young, head of the information and publicity department of the Nanking Government, who, after an attempt to force Abend into revealing his confidential sources of information, assumed a very friendly tone and offered to be of all possible assistance to him and to put him in touch with news sources in Shanghai.

2. It is my hope that the campaign against Abend will be dropped for the time being at any rate. I would therefore suggest that I be authorized to withhold reply to Wang's note of June 17th unless he should again raise the question.

MACMURRAY

811.91293/165 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 23, 1929—4 p. m.

243. Your 595, July 19, 5 p. m. While the Department shares your disinclination to take any action concerning Abend not required by circumstances the possibility of a resumption of the campaign against him must be faced. In view of the circumstances the Department believes that the responsibility for the next step should be placed with the Chinese Government and therefore suggests that instead of the reply already proposed you inform the Chinese Minister for Foreign Affairs that it is impossible to deport Abend through administrative action and indicate your readiness to discuss possible recourse to legal procedure if he so desires.

STIMSON

893.918/43 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 31, 1929—6 p. m.
[Received July 31—12 : 40 p. m.]

657. On July 24th the American Peking editor of the *Peking Leader*,⁸⁰ published in English, was notified by local authorities that Ministry of Interior had ordered censorship of his paper.

⁸⁰ Grover Clark.

No reason for order was given, but associate editor⁸¹ suggests it possibly is connected with a front-page news article written by him regarding the American Museum of Natural History's forced abandonment of its Central Asiatic expedition⁸² as previously reported to the Department.

2. Following receipt of order, the paper has sent from it proofs to censor's office, but these have promptly been stamped and returned. Editor states that there have been no suggestions that all or part of any material prepared for publication should be suppressed or altered and that he does not for the present at least propose to enter any formal protest.

3. *Peking Leader* is incorporated under the laws of Delaware, but its board of directors and stockholders are international in character, including Chinese.

MACMURRAY

893,918/44 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 1, 1929—8 p. m.
[Received August 2—9:35 a. m.]

661. My 657, July 31, 6 p. m.

1. American editor-president of *Peking Leader* has just informed me that the newspaper has from today's date been transferred to new ownership and control⁸³ and that former incorporated company which will be liquidated as soon as possible has no connection with newspaper.

2. *Le Journal de Pékin*, French newspaper published locally, was yesterday suddenly refused postal facilities. While censorship of *Peking Leader* was taken at orders of Nanking authorities, action against *Journal de Pékin* appears not to have come officially from Nanking but to have originated with local district Kuomintang which controls post office workers in disregard of higher postal authorities representing Nanking. No reason given for sudden action which is possibly in protest at editorials not altogether complimentary to present Government.

MACMURRAY

⁸¹E. W. Hunter, an American citizen.

⁸²Under the leadership of Roy Chapman Andrews of New York. See pp. 841 ff.

⁸³The transfer was made to P. K. C. Tyau for Chinese owners, Tyau retaining Hunter as editor.

811.91293/171: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 8, 1929—11 p. m.
[Received August 8—9:31 p. m.]

692. Your telegram No. 243, July 23, 4 p. m. Although reluctant to insist upon a judgment in opposition to that of the Department I feel so strongly that it would be a tactical error to reopen Abend case that I have held the matter in abeyance while debating with myself whether to ask the Department's reconsideration of its instruction. There is every indication that the Chinese authorities tacitly acquiesce in their defeat in the matter and are content to have us ignore their demand for his deportation. To reply to that demand would make it difficult if not impossible for them to drop the quarrel, as I believe is their intention, and to do so would put us in no better position to meet a possible resumption of the campaign against him. I therefore beg to request authorization to make no reply unless the situation so alters as to make it tactically advisable.

MACMURRAY

811.91293/171: Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, August 9, 1929—8 p. m.

264. Your 692, August 8, 11 p. m. Your last sentence. Department's telegram July 23, 4 p. m. is cancelled. You may recommend further steps when you consider them necessary.

COTTON

893.5045/447

The Consul General at Shanghai (Cunningham) to the Minister in China (MacMurray)⁸⁴

No. 6253

SHANGHAI, November 16, 1929.

SIR: Referring to this Consulate General's despatch No. 6227 of October 31, 1929,⁸⁵ and its telegram No. 178 of November 7, 5 p.m.,⁸⁶ relative to a strike of the Chinese employees of the *Shanghai Evening Post* (American), and the subsequent denial of postal privileges to that paper by the Chinese authorities, I have the honor to enclose herewith a copy of a letter dated November 2, 1929, in English and Chinese, which has been received from the Commissioner of Foreign Affairs for Kiangsu,⁸⁵ in which a request is made that the United States District Attorney institute legal proceedings against the editor

⁸⁴ Copy forwarded to the Department without covering despatch; received December 21, 1929.

⁸⁵ Not printed.

⁸⁶ Not found in Department files.

of this paper. In order that the Legation may have more definite information on this case, there are enclosed herewith copies of the caricatures of Colonel Yuan Liang, Chief of the Bureau of Public Safety of the Municipality of Greater Shanghai, and the newspaper articles which appeared in the *Evening Post* on October 28, and October 29, 1929.⁸⁷

The enclosed caricatures and articles appeared in the *Evening Post* approximately three weeks after the strike of the Chinese employees of the newspaper, which occurred on October 10th. During this period Mr. Carl Crow,⁸⁸ the editor of the *Evening Post*, had been carrying on negotiations with the strikers and with the Bureau of Public Safety, and although these negotiations were unsuccessful, Mr. Crow, up to October 28, 1929, refrained from publishing any criticism whatsoever of the authorities. However, as a result of the arrest of his chief stereotyper, Chang Chu-hseng, on October 23rd, and his subsequent detention for four days under somewhat disgraceful circumstances, as outlined in the enclosed clipping from the *Evening Post* published on October 29, 1929, this incident seems to have infuriated Mr. Crow and prompted him to publish the caricatures and criticisms of the Chinese authorities contained in the two enclosures.

While there is no direct evidence that Mr. Yuan Liang was in any way personally responsible for the ill treatment of Mr. Chang Chu-hseng, his statement quoted in the Commissioner's letter enclosed herewith is a clear admission that his subordinates detained an innocent man for four days. His statement that he had reported the matter to the Shanghai District Court for an investigation to determine whether a charge of false accusation should be brought against Mr. Chang's accusers would indicate that he also agrees with Mr. Crow that these parties should be punished. It is significant, therefore, that Mr. Yuan Liang has admitted that it is possible for strikers to have an innocent man detained under disgraceful circumstances on a trumped up charge. Mr. Crow has criticized him for a state of affairs which he admits to have existed, and although he may not be directly responsible he is the head of the Bureau of Public Safety and must, therefore, bear to a certain extent responsibility for the actions of his subordinates.

Mr. Crow is not willing to express any apology since he feels that the stand which he has taken was perfectly justified by the action of the Chinese authorities. He desires, therefore, that every effort be made to secure a release of the ban which has been placed upon his use of the Shanghai postal privileges. In addition to any further action which the Legation may be able to take in the premises, this

⁸⁷ None printed.

⁸⁸ An American citizen.

Consulate General and Mr. Crow himself will continue to negotiate with the local authorities.

The matter of the prosecution of Mr. Crow on a charge of libel has been referred to the United States District Attorney who has not yet replied but it is not believed that any such charge could be proven even if brought against him.

I have [etc.]

EDWIN S. CUNNINGHAM

893.711/50

*The Consul General at Shanghai (Cunningham) to the Chargé in China (Perkins)*⁸⁹

No. 6324

SHANGHAI, December 23, 1929.

SIR: Supplementing this office's despatch No. 6253 of November 16, 1929, regarding the ban of *The Shanghai Evening Post* from the mails, I have the honor to transmit a copy of a letter dated December 13, 1929, from Mr. Carl Crow, with its enclosure,⁹⁰ from which it will be seen that the Labor Dispute Arbitration Committee of Greater Shanghai Municipality, in the matter of the strike of the *Shanghai Evening Post* printers, has upheld the attitude of *The Shanghai Evening Post* and justified it in every particular.

It may be stated that while the ban continues, *The Shanghai Evening Post* does not consider that it is suffering materially as a result. Naturally *The Post* is interested in having the ban lifted but arrangements have been made for the forwarding of the paper in a manner which, though slightly more expensive, enables it to be distributed pretty generally.

I have [etc.]

EDWIN S. CUNNINGHAM

TREATY REGULATING TARIFF RELATIONS BETWEEN THE UNITED STATES AND CHINA, SIGNED JULY 25, 1928⁹¹

611.9331/127: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, January 4, 1929—6 p. m.

[Received January 4—11:35 a. m.]

7. My telegram No. 903, December 28, 7 p. m.⁹²

(1) The Netherlands Minister, Oudendijk, informs me that his negotiations have disclosed that the National Government's construction

⁸⁹ Copy transmitted to the Department without covering despatch; received February 13, 1930.

⁹⁰ Neither printed.

⁹¹ Continued from *Foreign Relations*, 1928, vol. II, pp. 449-492.

⁹² Not printed.

of the Chinese-American tariff treaty of July 25, 1928,⁹³ assures the United States of nondiscriminatory treatment only for goods imported into China by American nationals (as article I, paragraph 2 provides) and not for the produce and manufactures of the United States irrespective of the nationality of the importer, and that the Chinese were disposed to construe paragraph 1 of the same article as giving the United States equality of treatment in respect of customs procedure and formalities. In offering to the Netherlands Minister on behalf of the Chinese Minister for Foreign Affairs, C. T. Wang, a text substantially identical with the American one, it was in fact made plain to him that he must choose between this arrangement giving protection to Dutch importers and some other arrangement to protect importations of Dutch provenance, but that Oudendijk could not expect, any more than could the Americans, to have both. Fortunately he was successful in combating the disingenuous attempt at restriction of the scope of nondiscriminatory treatment which China undertook in the American treaty, and in the first annex to his treaty Oudendijk was able to obtain assent to its supplementary clauses.⁹⁴

(2) The British Minister, Sir Miles Lampson, also tells me that, having been warned by the Netherlands Minister's experience, he insisted upon knowing the construction which the National Government placed on the nondiscriminatory provisions in the American treaty. Finding Dr. Wang evasive on this point, Lampson felt constrained to insist on the clarification which is embodied in his treaty's first annex ⁹⁵ (see my telegram 896, December 27, 8 p. m.⁹⁶).

(3) While, as it appears to me, there can be no honest doubt respecting the inclusiveness of the American text regarding nondiscriminatory treatment of American trade in every respect, the Chinese are manifestly seeking to set up a bargaining position, at any rate, as to United States rights in that regard. The Netherlands, British, and other subsequent treaties have settled the particular point at issue regarding the nationalities concerned; but by no means am I confident that the National Government will regard the United States as entitled to claim clarifications annexed to those treaties as applicable to American trade. Therefore, I beg to request authorization for me to address to the National Government a note to request confirmation of the United States Government's understanding that, under the treaty of July 25, 1928, the United States is entitled to claim the treatment established by any subsequent treaties concluded by the National Gov-

⁹³ *Foreign Relations*, 1928, vol. II, p. 475.

⁹⁴ Treaty and first exchange of notes signed December 19, 1928, at Nanking; League of Nations Treaty Series, vol. CXI, pp. 161, 164.

⁹⁵ Annex I (an exchange of notes), dated December 20, 1928; *ibid.*, vol. XC, pp. 337, 352.

⁹⁶ Not printed.

ernment with other foreign powers for goods imported by American nationals into China and for all produce and manufactures of the United States imported into China on a nondiscriminatory basis. In view of the vital importance that American trade be protected against discrimination and that all possible controversy in that regard be obviated, I venture to suggest to the Department that it formulate the terms in which I should address the Chinese Minister for Foreign Affairs on this subject.

MACMURRAY

611.9331/127: Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 7, 1929—6 p. m.

9. Your telegram 7, January 4, 6 p. m.

(1) You may thank the British and Netherlands Ministers, on behalf of this Government, for their helpfulness in relating to you their experiences.

(2) The Department considers that, with respect to the Chinese-American treaty of July 25, 1928, both the spirit and the letter call for reciprocal nondiscriminatory treatment in everything relating to rates of duty, drawbacks, transit dues, tonnage dues, and any related matters, including in relation thereto the benefits of any rights or privileges which are, or which hereafter shall be, extended to or be enjoyed in their respective territories, by their respective nationals, or by the nationals of any other state.

(3) In view of article 2 of the British treaty and of the note construing a treaty exactly like the American one, as annexed to the treaties with Sweden⁹⁷ and the Netherlands, I do not think China could possibly claim the American treaty does not mean the same thing. The Department feels sure of the all-inclusiveness of the nondiscriminatory clause in the American treaty, but it does not care to have a controversy over it, and I could easily delay the treaty in the Senate and arrange its amendment. The Department prefers for you not to send at this time a note on this subject. It suggests that either you go or send Mahlon F. Perkins⁹⁸ to Nanking in order to ascertain if the Chinese are seriously considering the possibility of denying to American trade the benefits of rights or favors they accorded other countries. The Department believes the Chinese should make this clear in a note, in line with the interpretation which is given in the above-mentioned treaties.

⁹⁷ Treaty and exchange of notes, signed December 20, 1928, at Nanking; League of Nations Treaty Series, vol. CVII, pp. 81, 89.

⁹⁸ Counselor of Legation in China.

(4) A note to the Chinese Minister for Foreign Affairs may be personally delivered by you or by your representative, to read as follows:⁹⁹

“Referring to Article I of the Treaty signed by Mr. T. V. Soong, Minister of Finance, on behalf of the National Government of the Republic of China, and Mr. J. V. A. MacMurray, American Minister to China, on behalf of the United States, at Peking, on July 25, 1928, I have the honor to state that it is the understanding of my Government that it was and is the intention of the High Contracting Parties to agree to the abrogation of certain provisions of existing treaties, namely, provisions relating expressly and specifically to rates of duty on imports and exports of merchandise, drawbacks, transit dues and tonnage dues in China, and to provide that in relation to these matters neither of the High Contracting Parties shall in any way discriminate against the other or its nationals or articles grown, produced or manufactured in its territories or imported or exported by its nationals as compared with treatment accorded to any other country or its nationals, or to articles, the growth, produce or manufacture of any other country, it being the intention of the Contracting Parties that in regard to those matters each shall accord to the other and to its nationals and to its trade as favorable treatment as it accords to any other country or to the nationals and trade thereof.

“I have the honor to request an assurance on your part that this is also the National Government’s understanding of the purport and intent of this treaty.”

(5) Pending a receipt from you of a report that an assurance has been given, as indicated above, you are informed, confidentially, that I am holding up the treaty’s consideration by the Senate.

KELLOGG

611.9331/130 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 22, 1929—7 p. m.

[Received January 22—11:30 a. m.]

45. Department’s 12 [9], January 8 [7], 6 p. m. Following from Perkins:

“On the 17th I delivered to Wang the Legation’s note of January 12th regarding the provisions of the tariff treaty relating to most-favored-nation treatment. He said there would be no difficulty in meeting our wishes in the matter; that the British and Dutch had insisted upon minute specification of certain points, but that there had been no necessity for this as the meaning of the two was quite clear providing for complete most-favored-nation treatment. I said that we naturally desired to have our understanding with the Chinese Government no less explicit than that of any other power, and I requested that he transmit his reply through me in order that I might

⁹⁹ Quotation not paraphrased.

telegraph the text to the Legation and dispose of any possible question in connection with this matter before my departure. Wang indicated his assent. Since four days have now elapsed without further word from him, I purpose urging the desirability of a prompt reply."

MACMURRAY

611.9331/129 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, January 22, 1929—8 p. m.

[Received January 22—8:30 a. m.]

46. Reference Legation's 45, January 22, 7 p. m. As to paragraph 5, Department's 9, January 7, 6 p. m. In view of previous experience concerning the unreliability of similar oral assurances, the receipt of a satisfactory written reply to the American request for an assurance regarding the construction to be given to provisions for non-discriminatory treatment will, I assume, be awaited before further action is taken on the treaty.

MACMURRAY

611.9331/130 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 22, 1929—5 p. m.

28. Referring to your telegrams 45 and 46, January 22, 6 [7] and 8 p. m. Regarding the last paragraph in the note to China. A written reply should quote the text of this American note and should state that such is the understanding of the National Government of the purport and intent of the Soong-MacMurray treaty.

Since the assumption you state is correct, the Department hopes for that reason that an exchange of notes can, without further delay, be effected.

KELLOGG

611.9331/132 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 23, 1929—9 p. m.

[Received January 23—1:15 p. m.]

50. Department's 28, January 22, 5 p. m.

(1) Following has been received from Perkins:

"January 22, 3 p. m. My January 21, midnight. I received this morning from the Minister of Foreign Affairs a sealed letter containing

Chinese and English languages of a reply to the Legation's note of January 12th relating to the tariff treaty. The letter was a copy of the English text reading as follows:

'Ministry of Foreign Affairs, Nanking, January 21, 1929.

Excellency: I have the honor to acknowledge the receipt of Your Excellency's note of January 12, 1929, with reference to the interpretation of article I of the Sino-American treaty regulating tariff relations, signed on July 25, 1928, and to state that, while the meaning of the second paragraph of article I of the said treaty is unmistakable and requires no explanation, it is the view of the National Government that the first paragraph of the said article should be interpreted to include the following principle:

Articles produced or manufactured in the territories of either of the high contracting parties shall not be subject, on their importation into the territories of the other party or on their exportation from its own territories to the territories of the other party, to any duties, internal charges or taxes other or higher than those paid, respectively, on like articles produced or manufactured in and imported from any other country or on like articles produced or manufactured in the country and exported to any other country.

I avail myself, et cetera. (Signed) Cheng Ting T. Wang."

(2) [Paraphrase.] I am instructing Mahlon F. Perkins to obtain from the Chinese Minister for Foreign Affairs a note in the form which Department's telegram 28, January 22, 5 p. m., prescribed. Inasmuch as Dr. Wang's note does not appear to respond wholeheartedly to the American request for an assurance that the treaty entitled the United States to nondiscriminatory treatment in all respects, I assume you will wish a reply in such form to be insisted upon. Should the contrary be the case, I suggest direct instruction be sent Perkins so that a loss of time through relaying the message may be avoided.

(3) Repeated to Nanking. [End paraphrase.]

MACMURRAY

611.9331/132 : Telegram

The Secretary of State to the Consul at Nanking (Price)

[Paraphrase]

WASHINGTON, January 24, 1929—11 a. m.

For Perkins: With reference to the Legation's 50, January 23, 9 p. m., which was repeated to you, the desire of the Department is confirmed and emphasized that the Nanking Government's reply should quote the text of the American note to it, as given in the Department's telegram 9, January 7, 6 p. m., paragraph 4, and should state that such is the understanding of the National Government of the purport and intent of the treaty. The United States Government seeks reciprocal, unequivocal and complete assurance that in reference to the matters mentioned in the treaty there shall be no discrimination, and the American note has been phrased comprehensively in order to obviate any possible misunderstanding. In view of the recently signed texts and annexes of treaties by China with several other states, especially Great Britain, Sweden and the Nether-

lands, it is felt by the Department that the Chinese Minister for Foreign Affairs should not find any difficulty responding to the American request affirmatively in phraseology identical with that in the American note. Not only does this suggested procedure conform to well-established international practice, but it is believed in the general run of China's official correspondence there is ample precedent.

Repeat the above to the Legation at Peking.

KELLOGG

693.003/864 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 24, 1929—11 a. m.

30. Your 884, December 20, 1 p. m., Paragraph 3¹ and Department's 421, December 22, 7 p. m.²

In view of all the facts of the situation this Government does not wish to lodge any protest against putting the schedule into effect. However, unless you are aware of reasons why such a course would be inadvisable, you will transmit to the Minister of Foreign Affairs as from the Secretary of State the following message:

"It is noted with regret that, while the American Government was the first to take effective steps making possible the realization of the aspirations of China for tariff autonomy, the National Government, in arranging its new tariff, has apparently chosen to impose upon certain commodities, which are imported into China for the most part and in large quantities from the United States, duties higher than those which were regarded, in the course of full consideration of the question at the Conference in Peking in 1926, as equitable in comparison with the rates then so regarded and which subsequently have been adopted by China in reference to other commodities and classes of commodities."

KELLOGG

611.9331/133a : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 28, 1929—6 p. m.

36. With further reference to the Department's telegram January 24, 11 a. m., to Nanking for Perkins, Senate consideration of the treaty is expected to begin January 30.

If the Chinese Minister for Foreign Affairs should not reply in the terms which you requested in pursuance of instructions from the De-

¹ *Foreign Relations*, 1928, vol. II, p. 395.

² Not printed; it conveyed the information that the Senate had adjourned until January 3 without ratifying the treaty (i. e., the tariff treaty signed July 25, 1928).

partment, I desire you to address a note to Dr. Wang to acknowledge receipt of his January 21 note. Then refer in your note to Dr. Wang's oral statement to Perkins (as reported in your telegram 45, January 22, 7 p. m.) that the treaty's meaning was clear, providing for complete most-favored-nation treatment (i. e., nondiscriminatory treatment), and to the contents of the Chinese note you are acknowledging. Thereupon state your Government's acceptance of these statements as conclusive of the National Government's understanding that the treaty does constitute an all-comprehensive agreement that the treatment each of the contracting parties accords to the other and to its nationals in regard to all the matters concerned is not to be in any way discriminatory in comparison with the treatment which is accorded to or is permitted to be enjoyed by any other state or its nationals in regard to those matters.

KELLOGG

611.9331/133 : Telegram

The Consul at Nanking (Price) to the Secretary of State

[Paraphrase]

NANKING, January 28, 1929—10 p. m.

[Received January 29—2:39 a. m.]

From Perkins: Reference Department's telegram of January 24, 11 a. m. This afternoon, in a personal conversation with the Chinese Minister for Foreign Affairs, I made a full presentation of the Department's views regarding an exchange of notes and emphasized the desire of the Department for a conclusion as soon as possible of this matter. Nevertheless, Dr. Wang stated he could not accept the precise phraseology used by the Department. As soon as his views are received in writing, I shall telegraph them. This has been repeated to Peking.

PRICE

611.9331/151

*The Minister in China (MacMurray) to the Consul at Harbin
(Hanson)*³

PEKING, January 29, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch No. 1885, of January 22, 1929,⁴ in which you desire to be informed whether or not the treaty regulating tariff relations between the United States and China, of July 25, 1928, annuls and makes inoperative Article V of the Treaty of 1844 between the United States and China⁵ which

³ Copy transmitted to the Department by the Minister in his despatch No. 1895, January 29; received March 2, 1929.

⁴ Not printed.

⁵ Miller, *Treaties*, vol. 4, p. 559.

states that, upon payment of maritime customs dues, American owned goods, upon importation into or exportation from Chinese treaty ports, shall be exempted from all other charges.

Article I of the new Sino-American Treaty states that all provisions which appear in treaties hitherto concluded and in force between the United States of America and China relating to rates of duty on imports and exports of merchandise, drawbacks, transit dues, and tonnage dues in China, shall be annulled and become inoperative and the principle of complete national tariff autonomy shall be applied, subject, however, to the condition that each of the high contracting parties shall enjoy, in the territories of the other, with respect to the above specified and any related matters, treatment in no way discriminatory as compared with the treatment accorded to any other country. The nationals of neither of the high contracting parties shall be compelled, under any pretext whatever, to pay, within the territories of the other party, any duties, internal charges or taxes, upon their imports or exportations, other or higher than those paid by nationals of the country or by nationals of any other country.

Under these circumstances, it is believed that the only valid grounds for protest against new levies, after the ratification of the treaty takes place, would be in the case of clear discrimination against American goods or American interests in favor either of Chinese goods and/or merchants, or goods or merchants of some other country.

I am [etc.]

J. V. A. MACMURRAY

611.9331/134 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, January 29, 1929—7 p. m.

[Received January 29—10:50 a. m.]

67. Referring to Department's 36, January 28, 6 p. m., and Nanking's January 28, 10 p. m., from Perkins. The unwillingness of Dr. Wang to assent formally in writing to your statement of the understanding that the treaty entitles the United States inclusively and unequivocally to nondiscriminatory treatment appears clearly to make reliance upon his general oral assurances impossible. Most urgently do I request of the Department that it reconsider the proposal of accepting a compromise and that it authorize me to inform Dr. Wang that the Senate will begin consideration January 30 of the treaty and that its ratification will be withheld unless assurances along the lines set forth previously are received.

MACMURRAY

611.9331/134 : Telegram

The Secretary of State to the Minister in China (MacMurray)

[Paraphrase]

WASHINGTON, January 29, 1929—3 p. m.

39. Reference your 67, January 29, 7 p. m. The Department's 36, January 28, 6 p. m., was not intended to suggest complete reliance on oral assurances by the Chinese Minister for Foreign Affairs, but instead on the phraseology of the treaty itself in addition to those assurances. While the written communication falls far short of the sort of statement which the Department desires, it is not inconsistent, insofar as it goes, with the treaty. The Department merely wishes Dr. Wang to be informed of its understanding of the treaty's meaning, so that correspondence may cease at that point.

KELLOGG

611.9331/136 : Telegram

The Consul at Nanking (Price) to the Secretary of State

NANKING, January 29, 1929—10 p. m.

[Received January 30—2:50 p. m.]

Following telegram to the Legation, referring to my telegram of January 28, 11 [10] p. m.:

"Following from Perkins: Wang accepts exact wording of the Legation's note down to and including the phrase 'articles grown, produced, or manufactured in its territories'. He proposes that the rest of the paragraph read as follows: 'or imported or exported by its nationals, or its ships, [as compared with ?] treatment accorded to any other country or its nationals, or to article[s], the growth, produce, or manufacture of any other country, or to its ships, it being the intention of the contracting parties that in regard to those matters each shall accord to the other and to its nationals and to its articles and ships as favorable treatment as it accords to any other country or to the nationals and articles and ships thereof.'

In support of his proposal Wang has submitted the following:

'It seems to me that in Mr. MacMurray's note the principle of nondiscrimination in regard to import and export drawbacks, transit dues and tonnage dues, is stated in two ways, one negative and the other affirmative. First it is said that each contracting party or its nationals or its articles shall not be discriminated against in the above-specified matters. Then it is stated that in regard to those same matters each contracting party, its nationals and its trade shall be accorded the most-favored-nation treatment.

We now propose to insert the word "ships" in the first part, since in matters of tonnage dues it is ships which are entitled to nondiscrimination, and to substitute the words "articles and ships" for the word "trade" in the second part so that the clause will be more explicit and unequivocal. If the word "trade" refers to those matters already specified its use appears to be redundant. If it means something else it is rather too vague and too inclusive. When we say that the trade of one nationality should be accorded the same treatment as the trade of any other nation it would be much better to mention specifically the

subjects which are entitled to such treatment. In the present case we believe that it is either the contracting party itself or its nationals or its articles or its ships (in regard to tonnage dues) and nothing else, which can enjoy the benefit of the most-favored-nation treatment.'

My own comment follows in a separate telegram. Repeated to Department."

PRICE

611.9331/135 : Telegram

The Consul at Nanking (Price) to the Secretary of State

[Paraphrase]

NANKING, January 29, 1929—11 p. m.

[Received January 30—9:20 a. m.]

The following telegram from Perkins has been sent to Peking:

Reference my telegram, January 29, 10 p. m. I have pointed out to Dr. Wang the needlessness of his proposed change and have tried in every way to dissuade him from any proposal to modify the American draft. As he objects to the American request regarding an exchange of notes, I believe that, should the Department desire to adhere exactly to the phraseology of the American note, means other than argument and persuasion will be needed in an effort to influence the Foreign Minister. This is repeated to the Department.

PRICE

611.9331/140

*Memorandum by the Chief of the Division of Far Eastern Affairs
(Hornbeck)*

[WASHINGTON,] February 1, 1929.

The Chinese Minister,⁶ having stated by telephone that he had a reply from his government to the telegram which he had sent after his conversation with the Secretary on January 30, 1929, called and read to the Secretary the contents of the telegrams. In his outgoing telegram, as read, he had informed his Minister of Foreign Affairs that the Secretary had informed him that the Chinese Government had accorded Great Britain, in the tariff treaty concluded between China and Great Britain, certain things which do not appear expressly in the American treaty and that the Secretary was informed that Dr. Wang had stated that the American treaty did not entitle the United States to complete most-favored-nation treatment; and that the Secretary had stated that the American Government had taken the lead in making it possible for China to regain her tariff autonomy and, if it were now made known in this country that China

⁶ Sao-Ke Alfred Sze.

was discriminating against the United States, it would have a highly injurious effect upon China's reputation here.

In the incoming telegram, as read, Dr. Wang stated that the Chinese Government had very great appreciation of the helpful friendliness of the United States and that he had never affirmed that the American treaty did not entitle the United States to what was provided in the British treaty.

The Secretary asked that Mr. Hackworth⁷ and Mr. Hornbeck give Mr. Sze an account of what had occurred and the important items in the telegraphic correspondence. The Minister and Mr. Hackworth and Mr. Hornbeck withdrew and Messrs. Hackworth and Hornbeck gave Mr. Sze the history of the case. It was explained to Mr. Sze that the point at issue was the apparent unwillingness of Dr. Wang to commit himself in writing to the statement which had been given him on behalf of this Government as an expression of this Government's understanding of the meaning of the treaty. The text of the Legation's note, as it appeared in the Department's telegraphic instruction, was read to Mr. Sze, and it was explained to him that Dr. Wang had first replied with a note which meant much less than this and later with a note which meant substantially the same but which implied dissent from this Government's statement of its understanding of the meaning of the treaty.

Mr. Sze and Mr. Hackworth and Mr. Hornbeck returned to the Secretary's office and Mr. Sze explained to the Secretary that he did not see his way free to go into the matter with his Government. It was proposed that Mr. Sze might state to his Government that he had been informed that Dr. Wang was not willing to subscribe to this Government's statement of its understanding and inquire concerning the obstacle to his so doing. After some conversation it was decided to let the matter stand for further consideration by officers of the Department.

Mr. Sze left with the impression (probably) that he would be informed concerning the action taken.

Note: Mr. Hornbeck has informed Mr. Sze (7 p. m.) by telephone that another telegram had gone forward and, without stating anything with regard to the nature of the instruction, that it is the hope of the Department that the National Government will realize how urgently desirable it is that this matter be brought to a satisfactory conclusion with the least possible delay.

S[TANLEY] K. H[ORNBECK]

⁷ Green H. Hackworth, Solicitor of the Department of State.

611.9331/136 : Telegram

The Secretary of State to the Consul at Nanking (Price)

WASHINGTON, February 1, 1929—6 p. m.

For Perkins: Reference to Department's No. 9, January 7, 6 p. m., and Nanking's January 29, 10 p. m. I desire that, on the basis of our note and Wang's proposal as now reported by you, which differ little in substance, you endeavor to come to an agreement with Wang upon a mutually acceptable text which will clearly and indisputably affirm an understanding that the treaty provides for complete most-favored-nation treatment. When such formula has been agreed upon you may address a new note to Wang which shall contain the affirmation "I have the honor to state that it is the understanding of my Government that" et cetera, and shall be concluded "I have the honor to request an assurance on your part that this is also the National Government's understanding" et cetera. Simultaneously Wang should address a note to you acknowledging the receipt of this note, quoting it in its entirety, and concluding with an assurance on his part that such is the National Government's understanding, et cetera.

If you can reach an agreement on a text within the next forty-eight hours, you should refer it to the Department for approval. If not, you should report on situation. If this plan is followed to a successful conclusion, you will be expected at the moment of exchanging the notes to return to Wang and to have returned to you by Wang the notes previously given.

[Paraphrase.] Wang's last proposal seems to cover all the Department has asked and, in a last resort, you might adopt it in the note you address to him for him to repeat to you. The Department wishes you to understand that it seeks, most of all, to have this matter promptly and adequately concluded, and the Department does not insist on any particular phraseology so long as the adopted formula is comprehensive, clear and unequivocal in assuring that the interpretation of most-favored-nation treatment was intended by and is to be put upon the treaty. The above is repeated as No. 45 to the Legation. [End paraphrase.]

KELLOGG

611.9331/139 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, February 4, 1929—5 p. m.

[Received February 4—9:15 a. m.]

From Perkins:

"Department's February 1, 6 p. m. After conference with Wang here this morning we have tentatively agreed, subject to your approval,

on the following. Text to be the same as that of our original draft down to but not including the last clause of the first paragraph. In place of this clause there will be substituted the following: 'it being the intention of the contracting parties that in relation to these matters there shall be complete, reciprocal, and unequivocal most-favored-nation treatment.' Balance of note will be the same as our original draft and Wang in return will quote our note in its entirety and give assurance asked for.

If the foregoing is approved, please reply to Shanghai as soon as possible definitely authorizing me to sign. Wang will come again to Shanghai on Thursday the 7th, and we plan to sign on that date.

Repeated to the Legation."

CUNNINGHAM

611.9331/139 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, February 4, 1929—2 p. m.

Your February 4, 5 p. m. To Perkins:

Department now understands text of note to read

[Here follows text of note printed *infra*.]

If above is text Wang has agreed upon, Department approves and you are authorized to sign. Effect signature and exchange immediately if possible.⁸ For your confidential information, there will be a Senate hearing on this treaty February 6 and I would like to have signature take place before that date. Repeat to Peking.

KELLOGG

611.9331/153

*The Counselor of the American Legation in China (Perkins) to the
Chinese Minister for Foreign Affairs (C. T. Wang)*⁹

728

NANKING, February 6, 1929.

EXCELLENCY: Referring to Article I of the treaty signed by Mr. T. V. Soong, Minister of Finance, on behalf of the National Government of the Republic of China and Mr. J. V. A. MacMurray, American Minister to China, on behalf of the United States, at Peking, on July 25, 1928, I have the honor to state that it is the understanding of my Government that it was, and is, the intention of the High Con-

⁸ The Consul at Nanking in telegram dated February 6, reported: "From Perkins: Exchange of notes has been effected today in accordance with your February 4, 2 p. m." (611.9331/141)

⁹ Copy transmitted to the Department by the Minister in China in his despatch No. 1919, February 15; received March 18, 1929.

tracting Parties to agree to the abrogation of certain provisions of existing treaties, namely, provisions relating expressly and specifically to rates of duty on imports and exports of merchandise, drawbacks, transit dues, and tonnage dues in China, and to provide that in relation to these matters neither of the High Contracting Parties shall in any way discriminate against the other or its nationals or articles grown, produced, or manufactured in its territories or imported or exported by its nationals as compared with treatment accorded to any other country or its nationals or to articles the growth, produce, or manufacture of any other country, it being the intention of the Contracting Parties that in relation to these matters there shall be complete, reciprocal, and unequivocal most favored nation treatment.

I have the honor to request an assurance on your part that this is also the National Government's understanding of the purport and intent of this treaty.

I avail myself [etc.]

MAHLON F. PERKINS

611.9331/153

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the Counselor of the American Legation in China (Perkins)*¹⁰

[Translation]

660

NANKING, February 6, 1929.

SIR: I have the honor to acknowledge the receipt of your note of today's date, reading as follows:

[Here follows the text of note printed, *supra*.]

I hereby confirm that such is the National Government's understanding of the purport and intent of this treaty.

I avail myself [etc.]

CHENGTING T. WANG

611.9331/143 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 13, 1929—10 a. m.

[Received February 13—6:25 a. m.]

104. Legation's telegrams 82, February 1, 8 p. m.,¹¹ paragraph 2, respecting the new Chinese tariff; and 98, February 9, 3 p. m.,¹¹ and previous, interpreting article I of the Sino-American tariff treaty.

1. In order to avoid so far as the United States is concerned the establishment of a precedent which might prove a source of embar-

¹⁰ Copy transmitted to the Department by the Minister in China in his despatch No. 1919, February 15; received March 18, 1929.

¹¹ Not printed.

rassment under different circumstances in the future, I venture to recommend that I be authorized to address to the Minister for Foreign Affairs, on the occasion of the exchange of ratifications of our treaty, a note recalling that, while by its terms it is to become operative four months subsequently to the exchange of ratifications, the executive branch in the meantime is not disposed to initiate any protest against the application by China of the new import tariff¹² notwithstanding the fact that as regards the United States it has as yet no legal basis.

2. The representatives of Germany, Great Britain, France and Japan have no occasion for taking such action since each of those countries either by the fulfillment of the prescribed procedure or by other formal action has acquiesced in the enforcement of the new tariff. Other diplomatic colleagues likewise consider it advisable to notify the Chinese Government of the fact that their respective countries have adopted *ex gratia* a passive attitude toward the application of the new tariff.

MACMURRAY

611.9331/148 : Telegram

The Chinese Minister for Foreign Affairs (C. T. Wang) to the Secretary of State

SHANGHAI, February 23, 1929.

[Received 9:05 a. m.]

On the occasion of the mutual ratification¹³ of the new Sino-American tariff treaty I have the honor to express the hope that the bond of friendship hitherto uniting the two countries will be yet further strengthened and that both Governments will be actuated by the same spirit of mutual understanding and cooperation in dealing with other important questions.

CHENG TING WANG

611.9331/149 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 24, 1929—3 p. m.

[Received February 24—10:35 a. m.¹⁴]

136. 1. Following telegram from Soong, Minister of Finance, was received yesterday:

¹² For previous correspondence regarding new Chinese import tariff, see *Foreign Relations*, 1928, vol. II, pp. 370 ff.

¹³ Ratifications exchanged at Washington February 20, 1929.

¹⁴ Telegram in two sections.

“On the occasion of the ratification of the Sino-American tariff treaty in Washington I wish to felicitate Your Excellency for having so ably represented your nation in taking the leadership of recognizing China’s right to tariff autonomy, and in according formal recognition to the Nationalist Government. The wisdom of the step is today evident, what had been misinterpreted by some in the beginning as an empty gesture is now generally admitted to be a bold act of statesmanship which has contributed much to the actual and speedy accomplishment of China’s tariff autonomy and in placing the relations of China with the outside world on a proper basis.”

I replied as follows:

“February 23rd. I cordially appreciate your very courteous telegram on the occasion of the exchange of ratifications of the tariff treaty. Although you are generous enough to attribute the credit to me, I cannot but recall that it was you who perceived the essentials involved, and brought the project into realization. It is gratifying to believe that the conclusion of the treaty has been of assistance to your Government, and I sincerely hope that the attainments of China’s tariff autonomy will contribute to the development of peaceful commercial intercourse and to the prosperity of the Chinese people.”

MACMURRAY

611.9331/148 : Telegram

*The Secretary of State to the Chinese Minister for Foreign Affairs
(C. T. Wang)*

WASHINGTON, February 25, 1929.

I have the honor to thank you for your telegraphic message of February 23d, referring to the exchange, effected on February 20, 1929, of ratifications of the treaty signed on July 25, 1928, for the regulation of tariff relations between China and the United States. The conclusion of this treaty evidences the spirit of friendliness and mutual understanding characterizing the relations between our respective countries, which I hope will be continued.

FRANK B. KELLOGG

611.9331/149 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, February 25, 1929—4 p. m.

For MacMurray: Your 136, February 24, 3 p. m. Department is pleased with spirit and substance of Soong’s telegram and your reply and is publishing both. You may so inform Nanking officials.

The Secretary is replying in personal telegram to personal telegram from Wang. These telegrams being published.

KELLOGG

611.9331/147 : Telegram

*The Secretary of State to the Consul General at Shanghai
(Cunningham)*

WASHINGTON, March 1, 1929—10 a. m.

For MacMurray: Your 133, February 23, 4 p. m.,¹⁵ paragraph 2. Refer to your 82, February 1, 8 p. m.,¹⁵ paragraph 2 and Department's 30, January 24, 11 a. m.

It was and is the Department's view that it would be inexpedient to make any official protest against the going into effect of the tariff schedule on February 1, and that we should rest content with making, in advance of the going into effect, the adverse comment upon rates which was outlined in Department's Number 30. The Department does not believe that it would best serve our purposes, all factors being considered, to send now a note such as is suggested in your 104.¹⁶

You may, in conversation with Wang and other Chinese officials, stress the fact that, although it might rightfully have done so, your Government did not choose in this instance, in view of the circumstances, to protest. You may say that it hoped that the Chinese would themselves recognize the impropriety of acting in disregard of the treaty rights, both old and new, of Powers which had shown their good will by the signing of the new treaties. You may say that, although no foreign government apparently has seen fit to raise the issue of legality, nevertheless the Chinese Government's action in this matter has created a distinctly unfavorable impression.

For your information, the view that this would probably be the case was imparted here unofficially, in conversations, to the Chinese Minister and Dr. Wu,¹⁷ before February 1st.

KELLOGG

¹⁵ Not printed.

¹⁶ Telegram of February 13, from the Minister in China, p. 787.

¹⁷ Dr. C. C. Wu, Special Representative in the United States of the National Government of China.

EFFORTS OF THE UNITED STATES TO MEET SITUATION CREATED
BY IMPOSITION IN CHINA OF TAXES CONSIDERED UNFAIR TO
AMERICAN TRADE¹⁸

893.512/899 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 3, 1929—4 p. m.
[Received January 3—3:20 p. m.¹⁹]

2. Legation's 828, November 13, 8 p. m.²⁰ Department's 384, November 15, 1 p. m.²¹ Upon the suggestion of the American Consul General at Canton, I earnestly recommend that I be authorized to forward the following note to the Nationalist authorities in Nanking as from the Department:

"Excellency: With reference to my note number 692 of November 13, 1928, I have the honor by direction of my Government to bring to the attention of Your Excellency the following message:

'With reference to the illegal seizure and detentions at Canton on the part of the local authorities of two American vessels, the property of the Standard Oil Company, it is to be noted that although these vessels have at last been released, the American company concerned was deprived of the use of its property for a period of two months as the result of the arbitrary action of the Canton authorities. Not only were the essential rights of the company violated through the seizure of the vessels but the Finance Department of the Canton Government undertook to try the issues involved and to levy a heavy fine upon the company in patent contravention of existing treaties. The attitude furthermore of the Cantonese authorities in their unwillingness throughout this incident readily to meet and confer with the local representative of the American Government contributed in no small degree to the protracted delay in the release of the vessels.

The American Government cannot but record its profound dissatisfaction with the action of the Cantonese authorities in this matter, and to express hope that the Chinese Government will take effective measures to prevent any repetition [of] such an incident.'"

MACMURRAY

893.512/899 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 5, 1929—6 p. m.

8. Your 2, January 3, 4 p. m.

1. Draft of proposed note is approved.
2. The Department's records do not clearly indicate whether the particular taxes involved in this case are paid by virtue of a private

¹⁸ For previous correspondence regarding Chinese taxes, see *Foreign Relations*, 1928, vol. II, pp. 494 ff.

¹⁹ Telegram in two sections.

²⁰ *Foreign Relations*, 1928, vol. II, p. 521.

²¹ *Ibid.*, p. 522.

tax agreement or are paid by the public generally. The Department assumes that consular officers are careful to avoid basing their representations on the stipulations of private agreements for the payment of extra treaty taxes.

KELLOGG

893.512/917

*The Minister in China (MacMurray) to the Consul at Hankow
(Adams)*²²

PEKING, January 10, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch L. No. 599, of December 22, 1928,²³ concerning the increased tobacco tax instituted by the Chinese authorities in Hankow, in which you enclose a copy of a letter received from the Hankow office of the Liggett & Myers Tobacco Company (China) Ltd., in which it is alleged that the competitors of the American company had, in some manner, obtained advance notice of the increased tax and had immediately, before its imposition, forwarded large stocks to their dealers, thus placing the American firm at a serious disadvantage.

It would appear to the Legation that unless Messrs. Liggett & Myers Tobacco Company (China) Ltd., are in a position to show that their competitors received some form of official notice of this increased tax, the Consulate General would not be justified in lodging a formal protest in the matter. However, in view of the fact that the business of the American firm has been unfairly affected by the lack of notice of the imposition of such tax by the local authorities, you are authorized, unofficially, to use your good offices in taking up the matter with the local authorities pointing out the fact that the imposition of this tax, as at present contemplated by them, is operating unfairly against the American company. It is suggested that, at the same time, you might endeavor informally to discuss some means whereby the enforcement of this tax against the products of the American company might be delayed until Messrs. Liggett & Myers Tobacco Company (China) Ltd., have been given a fair opportunity to receive sufficient stocks to place them on an equal basis with their competitors.

I am [etc.]

J. V. A. MACMURRAY

²² Copy transmitted to the Department by the Minister in his despatch No. 1849, January 10; received February 16, 1929.

²³ Not printed.

611.937/12 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 19, 1929—6 p. m.

24. Hankow despatch No. 585, December 5,²⁴ regarding reported increases in export and import duties to be effective January 1. Werner G. Smith Company, Cleveland, Ohio, has telegraphed Department of Commerce as follows:

“Chinese Government at Hankow very suddenly imposing heavy tax on export of China wood oil without due notice. This action very unfair to us as American exporters of this commodity as we have sold for delivery in this country not calculating this unfair tax. May we suggest that you attempt to influence the Chinese government to postpone this action until we have had a chance to get our purchases out of China to cover American sales.”

Please investigate and if facts warrant it take such action on behalf of Smith Company as appears proper and practicable. Report by telegraph facts in case and action taken.

KELLOGG

611.937/13 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 21, 1929—8 p. m.

[Received 9:08 p. m.²⁵]

42. Your 24, January 16 [19], 9 [6] p. m., received today.

1. The Legation was informed by telegraph on January 15 that American wood oil firms at Hankow had informed Consulate General that beginning on the 16th a local tax of \$2 per picul would be imposed by the Hankow Surtax Bureau on all exports of wood oil from Hankow.

2. This telegram was immediately repeated to Perkins²⁶ in care of the Consulate at Nanking with the following comment:

“The Department has recently instructed the Consul General in Shanghai with regard to representations to be made by that office in a similar case regarding importation of Daisy air rifles. Cunningham has been telegraphically instructed to repeat to you his telegram to the Legation on the subject and my reply embodying the Department’s instruction mentioned above.

Since in the Department’s instruction above referred to Cunningham was directed to press the Chinese authorities for ample notice of their intention regarding prohibition of importation of Daisy air rifles, it is suggested that you take up the present matter of the tax on

²⁴ Not printed.

²⁵ Telegram in two sections.

²⁶ Mahlon F. Perkins, Counselor of Legation in China.

wood oil with Wang²⁷ and inform him that, apart from any question of the legality of the tax, we earnestly urge that the tax be at least postponed in order that sufficient notice of the new levy may be given the American exporters concerned to enable them to protect themselves insofar as concerns their shipments of this commodity already contracted for before notice was received of the imposition of the tax."

3. Additional telegram was received from Adams²⁸ on January 16 to the effect that he had received official notice through Bureau of Foreign Affairs that wood oil tax would become effective on 16th but that no actual attempt had been made to collect the tax. This was also repeated to Perkins.

4. The following telegram has been received from Perkins, January 18, 4 p. m., Hankow being duly informed by the Legation:

"Wang has informed me that Minister of Finance is issuing orders to cancel export tax on wood oil at Hankow and that collection thereof will not be permitted, such taxation being contrary to policy."

MACMURRAY

893.512/931

The Minister in China (MacMurray) to the Secretary of State

No. 1906

PEKING, February 1, 1929.

[Received March 18.]

SIR: I have the honor to inform the Department that, on January 10th, I was informed by the British Legation that word had been received from the British Consul General in Canton to the effect that the Kwangtung Government intended to put into effect the following system of consumption taxes in the Canton area:

Existing Surtax Department will be called Consumption Tax Bureau and will levy provincial taxes on all imports ranging from 2½ per cent to 17 per cent ad valorem, in addition to new national tariff collected by Customs. Provincial tariff will not be ready by February 1st, but, pending its enforcement, present surtaxes will continue, in addition to new national tariff.

Stamp taxes on import applications and customs receipts are also to be imposed.

Provincial tariff is stated to be in compensation for likin dues which it is hoped to abolish by July, but practical result is that total import duties on British goods will greatly exceed published national tariff and would seem flagrant violation of assurance given in Annex 3 of new British Treaty.²⁹

²⁷ C. T. Wang, Chinese Minister for Foreign Affairs.

²⁸ Walter A. Adams, Consul at Hankow.

²⁹ Treaty relating to the Chinese customs tariff, etc., signed at Nanking, December 20, 1928, with annexes, etc.; League of Nations Treaty Series, vol. xc, pp. 337, 354.

The British Consul General stated that he gathered from the press that the provincial tariff described above was in accordance with a scheme authorized by the Nanking authorities and may also be applied to other provinces.

This information was repeated to the Consulate General in Canton by telegraph, with a request for information on the subject. On January 14th Mr. Jenkins informed the Legation that he believed the above report to be correct, but that he hoped to have official confirmation on the following day. On January 15th, Mr. Jenkins informed the Legation that he had been advised by the Commissioner for Foreign Affairs that the Provincial Finance Department had under consideration a scheme of taxation similar to that described by the British Consul General, but that no definite action in the matter had been taken.

A summary of this information was repeated to Mr. Perkins in Nanking, and, under date of January 19th, he informed the Legation that, in a conversation with Dr. C. T. Wang on the 17th, the latter professed entire ignorance of the proposed taxation at Canton and said that he would have to consult with the Minister of Finance in regard to the matter; and that, on the 18th, Wang informed Mr. Perkins that he had made inquiries of Soong who replied that this taxation would not go into effect and that the various surtaxes would be abolished. Wang made the reservation, however, that the Chinese Government might, as it saw fit, impose consumption taxes applying to both native and foreign goods without discrimination, and that any such measures would have to be carried out by or with the approval of the Ministry of Finance, but that he did not know of any plans at the present time for levying such taxation.

This information was repeated to the Consul General at Canton and, under date of January 25th, he informed the Legation that the Commissioner for Foreign Affairs had just advised him verbally that the local authorities had abandoned the proposed consumption tax and that likin would continue for the present, as well as the 2½ per cent surtax begun in 1926, but that the latter tax would be collected by the maritime customs authorities, presumably as a part of the new tariff. He further stated that the Commissioner for Foreign Affairs added that the so-called Inland Tax Bureau which supervised the collection of the 2½ per cent surtax, petroleum tax, and other special duties, is to be abolished, and that the Standard Oil Company and other oil companies have received official notice that the Oil Tax Bureau will be closed on January 31st, but that such companies will be expected to pay the special tax on oil imported before that date and still in storage. Mr. Jenkins stated that it was evident the local government had been forced to abandon its scheme for a provincial consumption tax as a result of vigorous pressure from Nanking, and

that he was informed confidentially that the local Commissioner of Customs had been instructed to remit all revenues collected to Nanking.

I have [etc.]

J. V. A. MACMURRAY

611.937/13 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 2, 1929—5 p. m.

46. Your 42, January 21, 8 p. m. Department approves basis of representations outlined in paragraph 2. Smith Company received cable from Hankow on January 29 stating that Adams had been informed by Chinese authorities no instructions regarding cancellation of tax received from Finance Minister and that tax still in force. Department assumes that you already have this information and that Perkins has brought it to the notice of Wang.

KELLOGG

893.512/923

*The Consul at Harbin (Hanson) to the Minister in China
(MacMurray)*³⁰

No. 1899

HARBIN, February 7, 1929.

SIR: I have the honor to quote below Customs Notification No. 433 issued by the local Commissioner of Customs on February 1, 1929:

“The Public is hereby notified that under instructions received from the Inspector General of Customs a Surtax of 2.5% on Native Exports, of 1.25% on Native Imports and of 2.5% on the Export Duty collected on Chinese Factory Products will be levied from 1st February, 1929.”

Some weeks ago shippers of raw furs from North Manchuria to the United States inquired at the Consulate whether it had any news of increased Customs duties on exports. The local Commissioner of Customs informed me that he had no knowledge of such proposed increase. The Consulate telegraphically requested the Consul General in Shanghai to send whatever information he had on this subject. He replied that the Customs officials at Shanghai knew nothing about proposed increases of export duties. The business public here as evidently elsewhere in China was taken by surprise by the issuance of this notification. Japanese merchants were loud in their protests, and the Tokyo Government telegraphically instructed the local Japanese Consul General, Mr. M. Yagi, to protest against this surtax. The Japanese are especially interested, because they ship immense quanti-

³⁰ Copy transmitted to the Department by the Consul at Harbin in his despatch No. 4751, February 7; received March 5, 1929.

ties of beancake to Japan via Suifenho and Vladivostok. The fact that this tax was imposed without giving them at least two months notice is working a hardship on them. American interests are affected by this surtax on furs, about six million American dollars worth of which are sent to the United States annually from North Manchuria.

As the Legation is aware, cargo shipped south, unless it is parcel post cargo, does not pay any export duty until it reaches Dairen. As the Japanese Commissioner of Customs at Dairen has so far refused to put this surtax into effect the natural tendency will be for all shippers of native produce to send their cargo south in order to avoid in those cases of eastern shipments paying the surtax at Suifenho, where there is a Maritime Customs House.

Mr. Yagi invited Mr. Grant-Jones, the British Consul, and myself for a conference at his house on February 5th to discuss this matter. As his Government had intimated that probably the British would protest against this surtax as a violation of the spirit of the recent Customs agreements, he requested the British Consul to join him in a protest to the local officials, and asked my opinion in regard to the surtax. I pointed out to him and to my British colleague that I did not feel inclined to protest unless there was some discrimination detrimental to American interests. The British Consul stated that his Government's Customs Treaty with China only referred to imports, not making any mention of exports. Therefore he could not lodge a protest without instructions from his Legation, which he promised to secure. Out of courtesy to my Japanese colleague I informed him that I would also refer the matter to my Legation. This I did in my telegram dated February 5th, 3 P. M. on this subject.

Local businessmen feel that if without notice a surtax of 2½% can be placed on native goods today then perhaps tomorrow without notice a surtax of 10, or 20, or more per cent may also be placed on native exports.

The above is not the first case of cooperation between the Japanese Consul General and the British Consul which has come to my notice. Some time ago Mr. Grant-Jones informed me that he had been instructed by his Legation to cooperate with the Japanese Consul General in connection with the matter of the registration of land leases at Harbin. So it would appear that both the Japanese Consul General and the British Consul have been instructed by their respective Governments to work in cooperation.

There is enclosed herewith a copy of a letter from Mr. Jacques Klemantaski, the Distributor of the John N. Willys Export Corporation, American, dated January 30th,²¹ in which he states that he paid a total of L\$12, including the new parcel post tax for which no

²¹ Not printed.

receipt was given, on a parcel of spare parts for automobiles made in the United States valued at L\$60. This means a tax of 20% in addition to the 5% import duty at Dairen.

I have [etc.]

G. C. HANSON

893.512/938

*The Consul at Mukden (Myers) to the Minister in China
(MacMurray)*³²

No. 189

MUKDEN, February 21, 1929.

SIR: Having reference to the Legation's telegraphic instruction of February 7th authorizing this office to protest against the confiscation by Chinese Authorities of oil, the property of American companies, I have the honor to enclose herewith a copy of my despatch of February 8th, addressed to the Commissioner of Foreign Affairs,³³ in which a protest was lodged against the confiscation of the stocks of The Texas Company at Tiehling. The circumstances of the case are outlined in the company's letter of February 6th, a copy of which is also enclosed.³³ No answer to my letter has thus far been received.

The threatened confiscation of stocks at Shanchengtzu and Liaoyang has not been carried out and consequently this office has not written about these cases. It is understood that at Liaoyang the agents of the various companies paid the tax on the stocks in their possession while at Shanchengtzu their godowns have been sealed in lieu of payment.

At that time, it may be added, I strongly recommended the American companies to report confiscations and threatened confiscations to their head offices at Shanghai with a view to their securing the aid of the Nanking Government in preventing further seizures and in reaching a settlement in regard to the collection of the tax on stocks in the interior. This was done but to date no settlement of the matter has been reached and the \$1.00 per case tax is still in force. I am informed that the Special Kerosene Tax Bureau advised the companies a few days ago that negotiations are now taking place between the Nanking and Mukden Governments and pending a settlement the tax will have to remain in force. It is thought that both the amount of the customs collections on kerosene oil and gasoline which is to be handed over by the Nanking Government to the Mukden Government in lieu of the tax and the collection of the tax on stocks imported prior to February 1st, the date of the going into effect of the new import tariff, are the matters now under discussion at Nanking and Shanghai.

³² Copy transmitted to the Department without covering despatch; received April 1, 1929.

³³ Not printed.

Confidentially it has been learned that the Nanking Government has agreed to make a duty refund of \$0.35 per case to the companies on all kerosene and gasoline imported by them into the Three Eastern Provinces and that it has offered the Mukden Government \$0.40 per case in lieu of the present \$1.00 tax. There is reason to believe that the early withdrawal of the \$1.00 tax is expected.

Further developments will be reported as they occur.

I have [etc.]

M. S. MYERS

893.512/946

*The Consul at Tsingtao (Dorsey) to the Minister in China
(MacMurray)*³⁴

No. 276.

TSINGTAO, February 21, 1929.

SIR: I have the honor to refer to the Consulate's despatch No. 275 of February 15, 1929,³⁵ concerning the opposition to the Chinese Customs Surtaxes by the local Japanese authorities.

It was reported therein how, pending negotiations between the Japanese and Chinese Governments for the solution of the question, the Commissioner of Customs was prepared to concede to foreign merchants of all nationalities the same treatment in respect of these surtaxes that the Japanese authorities had forced upon him for Japanese subjects, and that his decision had been submitted to the Inspector General of Customs for approval.

In a reply dated February 18, 1929, the Inspector General instructed the Commissioner of Customs that merchants of other than Japanese nationality were not to be accorded the privilege of paying on deposit during the period of negotiation but that all surtaxes collected from them were to be paid direct into revenues and not subject to refund in any event. The Commissioner of Customs was not advised as to the reasons for this attitude, but whatever shaped it the fact remains that, temporarily at least, all exports to America or elsewhere by Japanese will enjoy preferential treatment to the extent of 2½ per cent.

It is believed in commercial circles that Japan's drastic action in the matter was prompted largely through the concern of Japanese exporters as to forward contracts which had been entered into without regard to the additional 2½ per cent surtax imposed with so little advance notice. It is felt by the Commissioner of Customs that if the Chinese Government yields at all in the matter it will be along the line conceding refunds of deposits made where it can be established

³⁴ Copy transmitted to the Department by the Minister in China in his despatch No. 1965, March 12; received April 15, 1929.

³⁵ Not printed.

that contracts had been actually entered into prior to the promulgation of the order applying the surtax at Tsingtao.

The Commissioner of Customs is prepared to seek to obtain from the Inspector General an order that all merchandise contracted for export prior to the date of the promulgation of the surtax should be entirely exempt from its operation. This the Legation will recall was the procedure followed in Tientsin in September, 1928, when the surtaxes were first applied there, the American Consulate General, upon representations as to hardship made by interested American firms, using its good offices with the Customs Surtax Bureau to secure such exemption which was eventually conceded.

The Japanese authorities in Tientsin raised no objection to this procedure and to my knowledge no formal protest was ever made by the Japanese Consul General there to either the surtaxes and luxury taxes on imports or to those imposed on exports and coast trade, both of which latter, it is understood, were not abolished in Tientsin with the coming into force of the new Chinese Import Tariff.

I therefore see no good reason why, if it is represented to the Consulate that American interests would suffer otherwise, good offices should not be used with the Commissioner of Customs to encourage him to seek an exemption to the extent indicated above. This, it is submitted, could in no wise be construed as taking advantage of an exemption due to the presence of the armed forces of any nation.

Of course the only way to secure full and certain equality of treatment would be through representations to the Chinese Government based on discrimination against which Americans were assured in the treaty of July 25, 1928,³⁶ when the principle of tariff autonomy was recognized by the United States but conditioned upon equal treatment in the application of duties. In the Consulate's opinion a protest so premised would be entirely justified, but, in view of the attitude of the Department towards benefits created by and based upon the presence of armed forces of other foreign countries (telegram to Legation of May 29, 1928, 1 P. M.³⁷) the Consulate refrains from action on that ground pending the Legation's instruction as to whether such representations are desirable and if so whether they should be made by the Consulate to the local Commissioner of Customs, or whether the Legation will put them forward to Nanking direct.

This is believed to be the first instance where the question of discrimination under the new customs treaty has arisen and it will be interesting to know whether the circumstances surrounding this episode are considered a sufficient justification for China's seeming show

³⁶ *Foreign Relations*, 1928, vol. II, p. 475.

³⁷ No. 173, *ibid.*, p. 504.

of bad faith in disregarding its undertakings for most favored nation treatment under the first of its new era engagements.

The Legation's views and instructions in the matter will be awaited with interest.

I have [etc.]

W. RODERICK DORSEY

893.512/936

*The Consul at Harbin (Hanson) to the Minister in China
(MacMurray)*³⁸

No. 1920

HARBIN, March 1, 1929.

SIR: I have the honor to refer to my despatch No. 1858, dated December 18, 1928,³⁹ on the subject of a new tax on foreign goods in Heilungchiang Province, and to report that under date of December 14, 1928, after much correspondence with the provincial authorities at Tsitsikar, I quoted to the Civil Governor Article XI of the Treaty of Commerce and Navigation entered into between China and Japan in the year 1896,⁴⁰ which states that after the payment of transit dues goods should be exempted from all further inland charges whatsoever, and Article III of the Commercial Treaty of 1903, entered into between China and the United States⁴¹ referring to the favored nations clause. Under date of February 14, 1929, the Civil Governor replied stating that once the destination of the goods is reached the transit passes become null and void, and the destination and consumption and sales taxes must be paid as well. A copy, in translation, of this letter is enclosed herewith.³⁹

The agents of the Standard Oil Company of New York up-country are paying this tax and charging the consumer with the same in increased prices on oil. At some places a less percentage is paid than at others, the price upon which the tax is based varies, and the taxes are collected on sales at the end of the month or on anticipated sales at the beginning of the month. The threat to collect a L\$1.-tax on each case of oil has not been carried out.

In the face of the determination of the provincial authorities to collect these consumption and sales taxes it would appear useless to protest against their levying the same. It can only be hoped that the Nationalist Government, which has insisted upon levying increased Maritime Customs import charges will some day be in the position to prevent the levying of these exorbitant local import taxes.

I have [etc.]

G. C. HANSON

³⁸ Copy transmitted to the Department by the Consul at Harbin in his despatch No. 4771, March 1; received March 26, 1929.

³⁹ Not printed.

⁴⁰ Signed at Peking, July 21, 1896; *British and Foreign State Papers*, vol. LXXXVIII, p. 473.

⁴¹ Signed at Shanghai, October 8, 1903; *Foreign Relations*, 1903, p. 91.

693.9431/29

*The Consul at Mukden (Myers) to the Minister in China
(MacMurray)*⁴²

No. 192

MUKDEN, March 5, 1929.

SIR: As of possible interest, I have the honor to report upon the Japanese attitude toward the application of the new import tariff and export surtaxes at Antung and the provisional arrangements which have been made for the collection of duties from Japanese subjects at that port.

In the Sino-Japanese "Agreement concerning special duty reduction treatment of goods imported into Manchuria from or through Chosen, and exported from Manchuria to or through Chosen, by rail via Antung", of May 29, 1913,⁴³ it was provided that both export and import duties shall be levied at two-thirds of the Maritime Customs duty rates. It has been learned that when the new import tariff went into effect at Antung on February 1, 1929, the Commissioner of Customs at that port, a Japanese, was verbally informed by the Japanese Consul that under instructions from his Government the cancellation of the special duty reduction would be resisted and that the branch Customs Examination shed at the South Manchuria Railway station, Antung, would be closed if an attempt were made to collect the full duty. This attitude on the part of the Japanese Government elicited an instruction from the Inspector General at Shanghai allowing, for the time being, the special reduction on the old tariff rates but ordering the collection of the additional duties in full, an arrangement which apparently was acceptable to the Japanese Government. A similar instruction was also sent to the Customs Houses along the northern frontier of Korea, namely Lungchingtsun and Hunchun.

On February 25th in accordance with instructions from the Inspectorate General a notification was issued by the Custom House at Antung cancelling the reduction as from February 26th but the Japanese protests, and possibly threats, that followed had the desired effect. *The Manchuria Daily News* of March 1st reported that Commissioner of Customs Fukumoto called on Consul Okada this morning to inform him that a telegram had been received from the Inspectorate General again postponing the withdrawal of the special duty reduction.

According to *The Manchuria Daily News* of February 26, 1929, the Japanese protest which was filed at the Mukden Foreign Office by Consul General Hayashi is based on the ground that the proposed cancellation of the duty reduction is in violation of the agreement

⁴² Copy transmitted to the Department without covering despatch; received March 30, 1929.

⁴³ China, Imperial Maritime Customs, *Treaties, Conventions, etc., Between China and Foreign States* (Shanghai, 1917), vol. II, p. 775.

of May 29, 1913, mentioned above, and of the official memorandum exchanged between Japan and China relative to the one-third Customs duty reduction on the Chientao frontier, signed on May 3, 1919. It was also reported in this issue that the reduction was abolished on February 25th at the ports on the Chientao frontier, namely, Lung-chingtsun and Hunchun, but no confirmation of this has been seen.

In view of the recognition of the principle of uniform customs duties on all land and maritime frontiers by Japan in the Treaty between the United States of America, Belgium, the British Empire, China, France, Italy, Japan, the Netherlands and Portugal relating to the Chinese Customs Tariff, signed at Washington on February 6, 1922,⁴⁴ the Japanese appear to be endeavoring to force the Chinese to negotiate for the abolition of existing agreements providing for the special tariff reduction before giving effect to the above. In fact, the Japanese press of Japan have warned Japanese exporters that the preferential tariff is bound to be abolished "after reasonable negotiations in accordance with the Washington Conference."

The cancellation of this reduction will probably greatly decrease shipments of Japanese cotton goods to central and northern Manchuria via the Chosen rail route unless, of course, the Chosen Government railways reduce freight rates proportionately. *The Manchuria Daily News* recently reported that for cotton goods from Osaka destined to Mukden the rail route with the duty reduction was about Yen 1.10 per bale cheaper than the sea route via Dairen but that the tables would be turned were the reduction abolished. It was pointed out that the loss of this freight would mean a reduction in freight receipts of the Chosen Government railways between Yen 400,000 and 500,000. The trade most affected by the abolition of the special tariff treatment would be exports of millet to Chosen which annually amount to about U.S. \$20,000,000. Millet, it may be added, is imported into Chosen for food purposes, as a result of which large quantities of rice are released for exportation to Japan. In passing, it may be mentioned that the Japanese Chambers of Commerce at all the principal cities in Manchuria have filed strong petitions with their Government protesting against the proposed cancellation of this special duty reduction.

The following export surtaxes were to have been put into effect at Antung on February 16th :

<i>Classes of Duty</i>	<i>Amount of Surtax</i>
Export Duty	2.5 %
Coast Trade Dues	1.25 %
Duty on Foreign-style machine made goods	2.5 %

⁴⁴ *Foreign Relations*, 1922, vol. I, p. 282.

At Dairen these surtaxes were to have been imposed on and after February 4, 1929, but due to the opposition of the Japanese Government they were withdrawn. Their imposition at Antung was also opposed under instructions from Tokyo, the nature of which according to *The Manchuria Daily News* (issue of February 13th) was as follows:—

“The Tokyo Government has regarded from the outset the new Export Surtaxes as an unlawful levy, and is, under such conviction, negotiating with the Nanking Government.

“The Northeastern Four Provinces being peculiarly related to Japan the new surtaxes shall be resisted by force if necessary.”

It was reported that the Japanese Consul at Antung informed the Chinese Authorities that Japanese exporters of Chinese produce would not pay these surtaxes on rail borne cargo and threatened to send such cargo through without Customs examination if necessary. Under the arrangement eventually arrived at, bona fide Japanese and Korean merchants do not pay these surtaxes on rail borne cargo, the regular export tariff duties (less the special deduction) being accepted by the Customs under protest. This arrangement does not apply to other nationalities nor to cargo exported by steamer. It has been learned that the export documents covering such cargo are chopped by the Bank of Chosen, possibly as a guarantee of the bona fide character of the exporter. It may be added that the export trade with Korea is almost entirely in the hands of Japanese and Korean merchants.

In this connection it may be mentioned that the Japanese merchants at Newchwang have also petitioned their Government to permit Japanese owned exports to be shipped from that port without payment of the surtaxes, in accordance with the precedent established at Antung. This port, now ice bound, will not be open before about the end of March and apparently no action on the petition has thus far been taken.

I have [etc.]

M. S. MYERS

893.512/946

*The Minister in China (MacMurray) to the Consul at Tsingtao (Dorsey)*⁴⁵

PEKING, March 12, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch No. 275, of February 15, 1929,⁴⁶ and No. 276, of February 21, 1929, in

⁴⁵ Copy transmitted to the Department by the Minister in his despatch No. 1965, March 12; received April 15, 1929.

⁴⁶ Not printed.

regard to existing discrimination against American interests in the collection of customs surtaxes at Tsingtao.

You should make a formal protest to the local authorities against the non-payment by the Japanese of this surtax, which constitutes a discrimination against American interests, and at the same time you are authorized to use your good offices with the Customs Surtax Bureau to the end that all merchandise contracted for by American interests for export prior to the date of the promulgation of the surtaxes should be exempted from its operation.

I am [etc.]

J. V. A. MACMURRAY

611.937/21

*The Consul General at Hankow (Lockhart) to the Minister in China (MacMurray)*⁴⁷

No. 670

HANKOW, April 1, 1929.

SIR: I have the honor to refer to my telegram No. 26, March 28, 3 p. m.,⁴⁸ reporting further developments on the wood oil tax question at Hankow and to enclose herewith copy of a letter, addressed to me under date of March 28, 1929, by Mr. O. E. Vongehr of McKesson and Robbins, enclosing notices received by him from the Wood Oil Export Special Tax Bureau.⁴⁹ It will be observed that in the last paragraph of the tax bureau's letter of March 27 a threat to fine the company is made and that a peremptory demand for a reply in two days is communicated.

I regret that this Consulate General has not been able to be of any assistance to American wood oil exporters in connection with this controversy beyond that which is represented by an exchange of telegrams between this office and the Legation. The local authorities, as in other matters, are completely ignoring the instructions of the Nanking Government and are bringing every possible pressure to bear on local exporters of wood oil to pay the special tax on all shipments of that product. While some foreign firms have apparently evaded the payment of the tax by private arrangements, it seems clear that this situation will soon cease to exist and that a general payment of the tax will be forced unless there is a change in the local government in the near future.

Inasmuch as wood oil is a speculative product and in many cases is sold under future contracts, the imposition of a special tax is particularly burdensome and often wipes out the small profits that

⁴⁷ Copy transmitted to the Department by the Consul General at Hankow in his despatch No. 1060, April 1; received May 13, 1929.

⁴⁸ Not found in Department files.

⁴⁹ Enclosures not printed.

might accrue under the regular tax rates. In addition the evasion of payment of the tax by some exporters and its payment by others adds confusion to a sensitive price market and the net result is that the trade is extremely timid and is finding itself under increasing handicaps in conducting its business.

As suggested in the Legation's telegram No. 18 of March 29, 6 p. m.,⁵⁰ the Consulate General will continue its efforts with the local authorities with a view to having the tax abolished.

I have [etc.]

F. P. LOCKHART

693.003/902 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 15, 1929—10 p. m.
[Received April 15—9:30 p. m.⁵¹]

283. 1. From consular reports received from Shantung and from various parts of Manchuria it has become clear that the Chinese authorities, as a result of official or at least semi-official Japanese protests, have made arrangements whereby Japanese nationals and their goods are accorded special treatment insofar as concerns the imposition of export surtaxes. While I do not consider it advisable to protest the imposition of such surtaxes, as has been done by the Japanese authorities, I am of the opinion [that, unless ?] the matter is brought officially to the attention of the Chinese Government, there may be created a dangerous precedent whereby it might be interpreted at some future date that the American Government had acquiesced in discriminatory treatment affecting its nationals and their merchandise.

2. I therefore [propose?] addressing a note in the following terms to the Minister for Foreign Affairs, Nanking:

[For the text of note as sent, see page 810.]

3. The Department's authorization is respectfully requested.

MACMURRAY

693.9431/30

*The Consul at Mukden (Myers) to the Minister in China
(MacMurray)⁵²*

No. 209

MUKDEN, April 17, 1929.

SIR: With reference to my despatch No. 192, of March 5, 1929, regarding the special duty reduction treatment and export surtaxes

⁵⁰ Not found in Department files.

⁵¹ Telegram in five sections.

⁵² Copy transmitted to the Department without covering despatch; received May 11, 1929.

at Antung and to my political review for March, dated April 13, 1929,⁵³ in which reference was made to the Japanese attitude toward the export surtaxes at Newchwang, I have the honor to state that the export surtaxes are not being paid by Japanese shippers at Newchwang. Privately I have learned that as a result of the Japanese Government's objection to these surtaxes the Customs accept from Japanese exporters the export duty only and stamp all documents issued to them "Document issued under protest". It is understood that the Japanese Consulate, Newchwang, officially notified the Commissioner of Customs that unless the Customs accepted the regular export duty only from Japanese exporters Japanese steamers would be cleared without Customs nonobjection papers. The above is the same arrangement as obtains at Antung.

All other exporters pay the surtaxes in accordance with an arrangement forced on the Customs by the Superintendent of Customs and the Chinese merchants whereby the amount of the surtaxes is deposited to the joint account of the Superintendent and the Commissioner of Customs pending the decision of the Central and Mukden Governments concerning the imposition of these additional duties. As long as the Japanese Government maintains the present attitude toward these surtaxes their enforcement against shippers of other nationalities would be discriminatory and therefore objectionable. Consequently, it is believed that their cancellation is to be expected until such time as their payment is enforceable against all shippers.

It may be added that although there are no American shippers through the port of Newchwang shipments are sent through that port to the United States by exporters of other nationalities.

I have [etc.]

M. S. MYERS

693.003/902 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, April 20, 1929—5 p.m.

131. Your 283, April 15, 10 p.m., paragraph 3. You may send note as drafted with following changes:⁵⁴ Omit portion beginning "Both

⁵³ Latter not printed.

⁵⁴ These changes apply to the final paragraph of the note, the text of which was transmitted to the Department in the Minister's telegram No. 283, April 15; the paragraph reads as follows: "Both of these instances of discrimination cited Your Excellency will, I am confident, recognize as very clearly in contravention of the provisions relating to non-discriminatory treatment contained in the Sino-American treaty of July 25, 1923, and of the more precise understanding with regard to Article number 1 of the treaty set forth in the exchange of notes of February 6, 1929. I shall not hesitate therefore to ask that Your Excellency's Government will investigate", etc. For the exchange of notes under reference signed February 6, 1929, see pp. 786 and 787.

of these instances" and ending "notes of February 6, 1929". Change the words thereafter as follows: "I have the honor therefore, under instructions from my Government, to ask that Your Excellency's Government investigate" etc.

CLARK

611.937/22

*The Minister in China (MacMurray) to the Consul General at Hankow (Lockhart)*⁵⁵

PEKING, April 22, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch No. 681, of April 11, 1929,⁵⁶ in which you bring to the attention of the Legation a statement of Messrs. Werner G. Smith Company, an American firm, to the effect that they paid out as special taxes on wood oil, from February 9, 1929, to March 18, 1929, the sum of \$46,093.94. You suggest that, inasmuch as the Minister of Finance had issued orders canceling the special export tax on wood oil at Hankow, the Legation may wish to consider the question of entering into negotiations with the National Government for the refunding of the above-mentioned amount to Messrs. Werner G. Smith Company. You further enclose copy of an enclosure to a letter from Messrs. Werner G. Smith Company dated April 8, 1929, to your office, listing the dates on which these taxes were paid and the various amounts paid by the company on the dates indicated.

After a careful consideration of the matter, the Legation is not inclined to think that there is any likelihood that the National Government would refund the amount in question to the Werner G. Smith Company, a course which would obviously involve a similar refund of all amounts collected through the special export tax on wood oil. In the absence of discrimination against the American firm, the Legation is, furthermore, not of the opinion that the facts of the case would justify the filing of a diplomatic claim. In the event, however, that the company desires to lodge such a claim, the Legation will be glad to submit it in the usual manner to the Department of State for consideration.

I am [etc.]

J. V. A. MACMURRAY

⁵⁵ Copy transmitted to the Department without covering despatch; received May 25, 1929.

⁵⁶ Not printed.

893.512/960

*The Minister in China (MacMurray) to the Consul General at Tientsin (Gauss)*⁵⁷

PEKING, April 26, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch of April 22, 1929,⁵⁸ in which you inform the Legation that by a notification issued March 20th, the Revenue Stamps Tax Bureau at Tientsin, operating through the Customs Bank, has imposed certain stamp taxes on goods imported from Shanghai under "Exemption Certificates," and that you have received a protest from the American Chamber of Commerce in regard to such imposition. You request instructions with regard to the action to be taken concerning these new stamp taxes.

The Legation is of the opinion that, in the absence of some discriminatory feature, either in the imposition of such taxes or their collection, the Consulate General should take no action in the matter, at least for the time being. In the event that there appear to be any discriminatory features in the taxes, you are authorized to protest their imposition on such grounds.

I am [etc.]

J. V. A. MACMURRAY

693.003/908

The Minister in China (MacMurray) to the Secretary of State

No. 2066

PEKING, April 30, 1929.

[Received June 10.]

SIR: With reference to the Department's telegraphic instruction No. 131, of April 20, 5 p. m., I have the honor to enclose a copy of a note, No. 757, of April 30th, which was addressed by this Mission to the Ministry of Foreign Affairs of the National Government at Nanking, with regard to discriminatory practices against American nationals and their goods in the collection by the Chinese customs authorities of certain surtaxes.

The Department's attention is respectfully invited to page four, line three, of this note, in which the following appears:

"During March when steamer traffic was resumed this arrangement was extended to cargo exported in vessels by Japanese subjects."

This statement was included in the note as a result of information received subsequently to the despatch of the Legation's telegram No. 283, of April 15, 10 p. m.

I have [etc.]

J. V. A. MACMURRAY

⁵⁷ Copy transmitted to the Department by the Minister in his despatch No. 2058, April 26; received June 10, 1929.

⁵⁸ Not printed.

[Enclosure]

*The American Minister (MacMurray) to the Chinese Minister for
Foreign Affairs (C. T. Wang)*

No. 757

PEKING, April 30, 1929.

EXCELLENCY: I have the honor to inform Your Excellency that reports have recently been submitted to me by American consular officers in China with regard to the application of the Chinese Customs tariff from which it appears that, in the collection of duties at certain ports, the Chinese Customs Administration is discriminating against American nationals in contravention of the provisions of the Sino-American Treaty of July 25, 1928.

The American Consul at Tsingtao has informed me that the Commissioner of Customs at that port, in Customs Notification No. 200, of February 9, 1929, announced the imposition, as from February 10, 1929, of surtaxes upon native exports and native imports of 2½ per cent and 1½ per cent respectively. It appears that, in the collection of these surtaxes, preferential treatment was granted to Japanese nationals in that they were not compelled to pay them directly and unconditionally into the revenues of the Chinese Maritime Customs, but were permitted to make deposit in a special account with the Customs bank pending action upon a protest which had been made by the Japanese authorities that the collection of these surtaxes was illegal. A similar privilege was in the meantime denied to American nationals, who are at the present time compelled to pay these surtaxes directly into the Customs revenues. I am informed furthermore that the Commissioner of Customs at Tsingtao is acting in this matter under the specific instructions of the Inspector General of Customs, who, on February 18, 1929, directed the Commissioner that merchants of other than Japanese nationality were not to be accorded the privilege of paying on deposit during the period of negotiation, and that all surtaxes collected from those of other nationalities were to be paid into ordinary revenues and not into a suspense account with a view to possible eventual refund.

A further instance of discrimination in the collection of Customs duties has been reported to me by the American Consul at Mukden, who states that surtaxes similar to those imposed at Tsingtao were to have been imposed at Antung and other ports on the Korean border on February 16, 1929. In consequence of a protest from the Japanese authorities, the collection of the surtaxes was postponed; but a working arrangement was finally reached whereby bona fide Japanese and Korean merchants were not to pay these surtaxes upon rail-borne cargo. During March when steamer traffic was resumed

this arrangement was extended to cargo exported in vessels by Japanese subjects.

I have the honor, therefore, under instructions from my Government, to ask Your Excellency's Government to investigate these discriminatory practices, with a view to their discontinuance, if still found in effect, and to the satisfaction of any well-founded complaints which American nationals may have to bring in this relation. I am also directed by my Government to express the hope that Your Excellency's Government may also see its way to issue such instructions to the Chinese Customs Administration as may obviate the possibility of similar instances of discrimination arising in the future.

I avail myself [etc.]

J. V. A. MACMURRAY

611.937/20

The Secretary of State to the Minister in China (MacMurray)

No. 1223

WASHINGTON, May 18, 1929.

SIR: Referring to the Department's telegraphic instruction No. 24 of January 19, 6 p. m., and subsequent correspondence regarding the imposition of a tax of \$2.00 Mex. per picul on wood oil exported from Hankow, the Department transmits herewith a copy of a letter dated May 11, 1929, from the Werner G. Smith Company of Cleveland, Ohio,⁵⁹ showing that that company has paid this tax in the sum of \$46,093.94 and stating that it believes this amount should be refunded. This letter is transmitted for such action in the premises as you may consider warranted and advisable in the light of the information which you have concerning this tax, which, you will note, the Werner G. Smith Company states is no longer in effect.

A copy of the Department's reply to the Werner G. Smith Company is transmitted herewith.⁵⁹ You will inform the Department of any action which you may take in reference to the company's request.

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

693.512/972

*The Consul General at Tientsin (Gauss) to the Minister in China
(MacMurray)*⁶⁰

TIENTSIN, June 20, 1929.

SIR: I have the honor to enclose copy of two letters addressed to me as Senior Consul by the Tientsin General Chamber of Commerce,⁵⁹

⁵⁹ Not printed.

⁶⁰ Copy transmitted to the Department by the Consul General at Tientsin in his despatch No. 1649, June 20; received July 18, 1929.

in reference to the recent action of the Hopei (Chihli) provincial government in ordering a 30% increase in likin (Consolidated Goods Tax) rates in this Province.

The Tientsin General Chamber of Commerce stresses the point that China has undertaken to take steps to abolish likin and internal taxation, but, in the face of such undertaking, now increases the likin tax in this Province.

The reply which would naturally follow to this protest is that the foreign merchant may avoid the payment of likin by employing the transit pass system; but it is a fact that the transit pass system, inward and outward, is rapidly falling into disuse because of the constant effort of the tax authorities to break it down by attempting to charge irregularities between the pass and the goods with a view to imposing fines or attempting confiscation.

The Consular Body at a meeting held on June 18th decided that the protest of the Tientsin General Chamber of Commerce should be brought to the attention of the Foreign Ministers for their information and consideration, the opinion being expressed that the Ministers should be currently informed of such violations by provincial authorities of the undertakings of the national government.

A despatch is being forwarded to the Senior Minister enclosing copies of the letters from the Tientsin General Chamber of Commerce.

I have [etc.]

C. E. GAUSS

611.937/23 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 27, 1929—11 a. m.

[Received June 27—9:40 a. m.]

515. Department's mail instruction No. 1223, May 18th. In view of Legation's instruction of April 22nd to Hankow, copies of which were forwarded to the Department without covering despatch April 28th, is it desired that the Legation take any action at this juncture?

For the Minister :

HEWES

611.937/23 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 1, 1929—7 p. m.

221. Your 515, June 27, 11 a. m. Department believes that it would be well to instruct Consul General at Hankow, if he considers such action advisable, to take up matter with local authorities and attempt

to effect local settlement. In the meantime company may consider it desirable to prepare formal diplomatic claim as suggested in your instruction of April 22 to Hankow. Report developments.

STIMSON

611.937/24 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 12, 1929—3 p. m.
[Received July 12—2:30 p. m.⁶²]

564. Department's 221, July 1, 7 p. m.

1. Following from Hankow:

"July 10, 10 a. m. Nanking authorities have instructed Customs to collect special tax of \$1 per ton on wood oil stored by Werner G. Smith Company, an American concern, in storage tanks of Standard Oil Company here. Tax not being collected from other concerns and is purely discriminatory. Chinese concern immediately adjoining Standard Oil Company tanks is not paying tax. Smith Company notified by Customs if taxes not paid by July 15th permission to store wood oil in Standard Oil Company tanks will be canceled. I suggest advisability of Legation requesting Nanking Government cancel tax immediately on the basis of discrimination against American company."

2. Above repeated to Nanking with following instruction:

"Similar tax was subject of negotiations by Perkins in Nanking in January of this year and was eventually abolished in April following representations made by Lockhart to T. V. Soong,⁶³ then in Hankow. Renewal of tax is reported as directly discriminatory against American firm and you should accordingly on my behalf register emphatic protest with Ministry of Foreign Affairs and urge that Ministry of Finance issue immediately instructions for cancellation of tax. Reply by telegraph."

MACMURRAY

611.937/25 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 23, 1929—10 p. m.
[Received July 23—12:20 p. m.]

617. My 564, July 12, 3 p. m.

1. In answer to my personal representations on July 12th Minister for Foreign Affairs assured me of his immediate attention to the matter of discrimination against Werner G. Smith Company but no

⁶² Telegram in two sections.

⁶³ Chinese Minister of Finance.

relief has as yet been afforded. I am accordingly instructing American Consul at Nanking to renew representations to Minister for Foreign Affairs.

2. Reference first sentence of quotation in paragraph 2 of my 564, July 12, 3 p. m. Following from American Consul General at Hankow:

“July 16, 5 p. m. Tax referred to in my 104, July 10, 10 a. m. has no relation to the special tax on wood oil abolished last April following representations by me to T. V. Soong. The new tax of \$1 per ton is intended to be collected only [on] wood oil stored by the Werner G. Smith Company in the Standard Oil Company storage tanks and is being assessed against no other company.”

MACMURRAY

611.937/26 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 17, 1929—6 p. m.

[Received August 17—6:10 p. m.]

725. My 617, July 23, 10 p. m. Following from American Consul at Nanking:

“August 15, 3 p. m. Minister of Foreign Affairs informs me that Minister of Finance has instructed Superintendent of Customs at Hankow to discontinue collection of taxes wood oil stored by Smith Company in Standard Oil Company tank. Despatch follows.⁶⁴”

MACMURRAY

693.003/915 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 18, 1929—5 p. m.

[Received October 19—2:30 p. m.⁶⁵]

903. (a) Cunningham, as Senior Consul, has submitted for the consideration of the diplomatic body the text of a recent notification Number 1157, issued August 12th by the Commissioner of Customs at Shanghai, setting forth a new version of import tariff under rule I. Pertinent portions of the notification are as follows:⁶⁶

“In accordance with instructions received from the Inspector General of Customs the public is hereby notified that Rule I of the Former Import Tariff, providing, *inter alia*, for arbitration in cases of dispute

⁶⁴ Not printed.

⁶⁵ Telegram in four sections.

⁶⁶ Notice corrected on basis of complete text transmitted to the Department by the Consul General at Shanghai in his despatch No. 6375, August 16; received September 13, 1929 (693.002/96). Omissions as indicated in the original telegram.

regarding valuation of goods, et cetera, is abolished and a new rule is promulgated in which a Tariff Board of Inquiry and Appeal takes the place of the former Board of Arbitration. The new version of rule I is as follows:—

1. The duty-paying value of any import liable to an ad valorem rate of duty shall be determined on the basis of the wholesale market value of the goods in local currency at the port of importation. This latter value, when converted into Haikwan taels, shall be considered to be higher than the duty-paying value by (a) the amount of the duty on the goods, and (b) 7 per cent of the duty-paying value of the goods. . . .

5. The importer, if dissatisfied with the decision of the Customs as to the value or classification of imported goods, or the amount of duty or charges assessed thereon, may, within twenty days after the filing of the application to pay duty on [*or other*] Customs entry, file a protest in writing with the Commissioner of Customs, setting forth specifically his objection thereto. Pending a decision in the case, the merchandise—in the discretion of the Customs—may be released to the importer upon payment of a deposit sufficient to cover the full amount of duty and such additional duties as may be claimed by the Customs. Upon the filing of protest the Commissioner shall within fifteen days thereafter review his decision, and, if the protest is not sustained, the case shall be referred to the Inspector General of Customs with the request that it be submitted to the Kuan-Wu Shu for the consideration and decision of the Tariff Board of Inquiry and Appeal. (Kuan-Wu Shu is understood to be the term adopted by the Nationalist Government as the equivalent of the former Shui Wu Ch'ü.)

6. Questions regarding procedure, et cetera, which had not arisen [*may arise*] during the sittings of the Tariff Board shall be decided by the majority. The final finding of the maximum rate [*majority of the*] Board, which must be ratified by the Kuan-Wu Shu and announced within fifteen days of the reference (not including holidays), shall be binding. . . .

9. This provisional rule is effective as soon as it is promulgated. It is subject to change at any time upon notice being given."

The complete text of the notice is being forwarded by mail.

(b) It will be noted that the new procedure for determination of disputes with regard to the valuation of imports provides for unilateral action by the customs authorities instead of the arbitral method of procedure specified in rule I, annex II, of the Sino-American treaty of October 20, 1920.⁶⁷ Although the tariff treaty of July 28 [25], 1928,⁶⁸ does not specifically provide for the annulment of the method fixed by the treaty of 1920, it does state in article I that the "principle of complete national tariff autonomy shall apply."

I therefore assume that the Department would not desire that any protest should be made by the Consul General at Shanghai against

⁶⁷ *Foreign Relations*, 1921, vol. I, pp. 459, 490.

⁶⁸ *Ibid.*, 1928, vol. II, p. 475.

the application of the new procedure as laid down in the notification of August 12th. I shall, however, await your instructions before taking a definite position in the matter.

MACMURRAY

893.512/998

*The Minister in China (MacMurray) to the Consul at Tsingtao (Dorsey)*⁶⁹

PEIPING, October 21, 1929.

SIR: I beg leave to acknowledge the receipt of your despatch No. 340, of October 15, 1929,⁷⁰ in which you inform the Legation that the Goods Tax now being collected at Tsingtao is the same as that referred to by the American Consul at Tsinan as the Shantung Provincial Consolidated Goods Tax, and in which you inquire whether or not a protest should be entered with the local authorities in view of the discriminatory features of the tax. Since the provisions of this tax appear to be clearly discriminatory, you are instructed to lodge a protest on these grounds with the local authorities.

I am [etc.]

J. V. A. MACMURRAY

693.003/915 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 24, 1929—3 p. m.

347. Your 903, October 18, 5 p. m. The Department does not perceive from your telegram that any reasons exist for protesting against the application of the new procedure.

STIMSON

611.937/33 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 20, 1929—8 p. m.

[Received November 21—6 a. m.⁷¹]

1016. Following from Hankow :

“November 18, 4 p. m. Wood oil trade is again agitated by collection of tax of 90 cents per picul on wood oil under consolidated tax schedules. This tax is in effect likin, and taxable [*taxing?*] officials are insisting on its payment on export cargo passing through Hankow regardless of record of it[s] originating in or outside Hupeh, provided that cargo is not covered by a receipt showing that the tax has already

⁶⁹ Copy transmitted to the Department by the Minister in his despatch No. 2388, October 21; received November 22, 1929.

⁷⁰ Not printed.

⁷¹ Telegram in two sections.

been paid. While the Central Government has not yet formally abolished the consolidated tax or likin in Hupeh, the drastic manner in which tax officials are enforcing payment is causing an evidence of friction between American firms and the tax office. Chinese employees of foreign firms have been seized as a means of compelling payment.

If the Legation perceives grounds upon which to lodge a protest with the Nanking Government against the tax, the trade would be gratified."

Subject to the Department's approval, Legation proposes to instruct Hankow that, in the absence of discrimination, it does not feel that protest to Foreign Office is called for and to suggest, in his discretion, Consul General attempt, by informal local arrangement, to bring about less drastic means of collecting tax. Since immunity of Chinese employees of American firms seems to be based on precedent rather than treaty, I do not feel that protest against their arrest would be productive of any good result.⁷²

MACMURRAY

PROTESTS BY THE UNITED STATES AGAINST PROPOSED CHINESE FINANCIAL MEASURES DIVERTING REVENUES FROM PAYMENT OF AMERICAN LOANS IN DEFAULT⁷³

893.51/5113 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, January 28, 1929—3 p. m.

[Received 8:27 p. m.]

59. 1. I have received a note of January 18 from Doctor Wang⁷⁴ informing me that:

"The State Council of the Nationalist Government on January 4, 1929, voted upon and decided to set aside yearly \$5,000,000 of the new customs revenues for use in the adjustment of both foreign and domestic loans; and to establish a committee for, and only for, the adjustment of foreign and domestic loans. In the future the responsibility for the adjustment of all foreign and domestic loans that should be adjusted will rest upon the above-mentioned committee."

2. Unless otherwise instructed I propose to acknowledge the receipt of this note without comment.

MACMURRAY

⁷² The Secretary of State, in telegram No. 383, November 23, replied: "Proposal in last paragraph approved." (611.937/33)

⁷³ Continued from *Foreign Relations*, 1928, vol. II, pp. 531-538.

⁷⁴ C. T. Wang, Chinese Minister for Foreign Affairs.

893.51/5113 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 7, 1929—7 p. m.

54. Your 59, January 28, 3 p. m.

1. Have you acted on the Department's telegram 414 of December 19, 3 p. m.,⁷⁵ and if so with what result?

2. Department wishes to avoid any commitment on its part regarding Wang's note of January 18, and proposal in your paragraph 2 is approved as satisfactory in this regard.

KELLOGG

893.51/5117 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, February 8, 1929—6 p. m.

[Received February 9—9:20 a. m.]

95. Your 54, February 7, 7 p. m.

1. Respecting paragraph 1. A note worded as authorized was sent to the Minister for Foreign Affairs under date of December 27, 1928.⁷⁶ (Reference Legation's despatch No. 1820, December 29, 1928.)^{76a} No reply has as yet been received.

2. Respecting paragraph 2. Acknowledgment without comment was made in a note of February 7th.

MACMURRAY

893.51/5127

The Minister in China (MacMurray) to the Secretary of State

[Extract]

No. 1932

PEKING, February 21, 1929.

[Received April 1.]

SIR: With reference to my telegram No. 95, of February 8, 6 p. m., and to previous correspondence respecting the protection of the interests of American creditors of the Chinese Government, I have the honor to enclose a translation of the reply of February 6, 1929, made by the Minister for Foreign Affairs to my note of December 27, 1928. . . .

I have [etc.]

J. V. A. MACMURRAY

⁷⁵ *Foreign Relations*, 1928, vol. II, p. 537.⁷⁶ See *ibid.*, p. 538, footnote 10.^{76a} Not printed.

[Enclosure—Translation]

*The Chinese Minister for Foreign Affairs (C. T. Wang) to the
American Minister (MacMurray)*

L-661

[NANKING,] February 6, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of December 27, 1928, in which, under the instruction of Your Excellency's Government, you request a formal statement of the policy of the Chinese Government in relation to the obligations due to foreign creditors.

This Ministry transmitted the above to the Ministry of Finance and has now received a reply stating:

"With regard to the various American claims for indebtedness against the former Ministry of Finance, it will be necessary to wait until the present Ministry has placed them together with the various claims of other nationalities, and after giving them joint consideration, has settled upon a method of procedure, then they may be handled."

I have the honor to reply for Your Excellency's information.

WANG CHENG-T'ING

893.51/5119

*Memorandum by the Assistant Secretary of State (Johnson) of a
Conversation With Mr. George Bronson Rea of Shanghai*

[WASHINGTON,] March 9, 1929.

Mr. Rea came to see me this morning. He showed me a power of attorney given to him by Sun Fo, Minister of Railways in the National Government at Nanking, signed in the presence of Mr. Cunningham, our Consul General at Shanghai, empowering Mr. Rea to take up with the Government of the United States and with other interested parties the question of assisting the National Government of China in obtaining funds for the construction of 10,000 miles of railways, said construction to be carried out as a definite program over a period of ten years. Mr. Rea said that he intended to come to talk to me about this matter at a later date. He said he realized all of the difficulties involved; that he was under no illusions in the matter and that he realized that the success of this plan depended upon the ability of the National Government of China to stabilize itself and to obtain control over the area where the railways were running. He said he realized that the question of China's unpaid debts must be taken into consideration, but that he thought that this fact should not prevent the consideration of the greater problem involved, namely, the problem of finding some way of supporting efforts to build up and stabilize governmental institutions in China in the interest of peace and in the interest of the welfare of business. He stated that the problem of

China's present railways would not be such a complicated problem provided the National Government could obtain actual control of its lines, that he estimated that it would take approximately \$20,000,000 Mex. to repair the lines and the rolling stock so that the wheels could be set turning and the lines once more be put into operation with present facilities. He said that in working out his plans with the Chinese for the construction of new lines he had stipulated that he would have nothing to do with any plan which would have to do with the construction of lines which might involve controversies with rights already granted to other nationalities and that he felt certain that the plans which had been worked out complied with these requirements of his. He said that the plan called for the construction of railroads in southern China with the exception of certain extensions of the Lunghai and a short line to connect the Tientsin-Pukow Railway with the Peking-Hankow Railway from Techow, a station on the Tientsin-Pukow line. Mr. Rea stated that it was his desire to have the matter adopted as an administration policy and that he hoped to take it directly to Mr. Hoover. He said that he had a letter of introduction from Tong Chow Li [*T'ang Shao-yi?*]. He said that if the Administration could make some statement in favor of the idea that then it might be possible to do something with the bankers. Mr. Rea stated that he was very anxious to avoid any controversies with the consortium.⁷⁷ I told him that I did not know what attitude the consortium might take in the premises. The consortium still existed and naturally would be interested in the point of view of previous commitments. I understood from Mr. Rea that he intended to come back to see me on this matter some time later.

N[ELSON] T. J[OHNSON]

893.51/5123 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 21, 1929—11 a. m.

[Received 11:55 p. m.⁷⁸]

196. My despatches 1716, October 24, 1928; 1820, December 29, and 1832, December 31.⁷⁹

On my return I received three letters dated March 16th from the American group representative in Peking⁸⁰ of the Hukuang Railway loan group banks,⁸¹ copies of which are being forwarded by mail,⁷⁹ in

⁷⁷ For agreement regarding the consortium, on October 15, 1920, by American, British, French, and Japanese groups, see *Foreign Relations*, 1920, vol. I, p. 576.

⁷⁸ Telegram in three sections.

⁷⁹ None printed.

⁸⁰ Charles R. Bennett, manager of Peking branch, National City Bank of New York.

⁸¹ American, British, French, German. For signing of loan agreement on May 20, 1911, see *Foreign Relations*, 1912, p. 87.

which Mr. Bennett points out that an ever-increasing domestic debt is being given priority of charge on the customs revenues over long overdue or defaulted foreign loans. He states that this discrimination against foreign bondholders is a matter of serious concern to the financial groups involved and expresses the hope that I will lodge a protest with the Nationalist Government.

After listing charges reported to have been imposed upon the available customs surplus in favor of domestic loans (amounting to approximately \$200,000,000 in the past year alone, the latter item being a \$50,000,000 loan authorized in January for the purpose of "troop disbandment"), he states that:

"The only provision made from this source (customs revenue) in favor of the foreign issued Chinese Government loans secured on the general resources of the Government and enjoying, under the terms of the loan agreements, a preferential claim on the customs surplus generally and the increased revenue derived from the revised tariff in particular, consists of the Chinese Government's undertaking, contained in their decision of January 4th last, to set aside from the increased revenue the sum of \$5,000,000 annually for the consolidation of domestic and foreign debts [reference my despatch 1932, February 21]."⁸²

It may thus be said that the financial policy of [the] Nationalist Government up to the present time follows the line of reserving almost exclusively to the holders of recently issued domestic obligations the sole national security of any substantial value under present conditions, leaving the holders of prior foreign obligations to appeal in vain for the satisfaction properly due to them, while other foreign obligations of the Government incurred for materials supplied and now long overdue also remain unsettled."

2. I venture to recommend that I be authorized to take up the matter with the Minister of Foreign Affairs either jointly or coincidentally with my French, British and German colleagues to whom their group representatives have sent similar communications.

MACMURRAY

893.51/5123 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 27, 1929—noon.

105. Your 196, March 21, 11 a. m. In view of position taken by the National Government in note of December 4 last (see your telegram December 12, 6 p. m.⁸³) Department doubts whether renewed protest would accomplish anything of immediate value. Moreover Depart-

⁸² Brackets appear in the Minister's telegram.

⁸³ *Foreign Relations*, 1928, vol. II, p. 536.

ment does not consider it expedient to single out any one obligation for special presentation at this time. If you consider that useful purpose would be served, however, you may discuss with your colleagues the proposal made in your paragraph 2. Department desires, however, that any action upon which you and your colleagues may tentatively agree be referred to it for consideration before action is taken. You should keep in mind Department's desire to safeguard the interests not of Hukuang bond holders only but of all American creditors. Department's suggestions based on general survey of obligations due to American citizens will probably be despatched by next pouch.

KELLOGG

893.51/5151 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 15, 1929—1 p. m.

198. The Department of Commerce has received telegraphic report from Shanghai office that the Chinese Ministry of Railways has submitted memorandum to Central Executive Committee proposing that one hundred and fifty million dollars silver be appropriated from the British and Russian Boxer Indemnity funds for the issuance of bonds, proceeds of which are to be used for the completion of the Canton-Hankow and Lunghai Railways. Please investigate and report by telegram, paying special attention to possible granting of preferential rights to countries named in supplying of materials to be purchased.

CLARK

893.51/5152 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 21, 1929—2 p. m.

[Received 9 p. m.]

499. Your 398 [198], June 15, 1 p. m., was repeated to the American Consul at Nanking who has replied as follows:

"June 20, 8 p. m. Sun Fo this afternoon informed me that the information quoted by you is substantially correct. Two-thirds of the proceeds of the remitted portions of the Italian, British and Russian Boxer indemnities—amounting to approximately \$270,000,000 Mex. gross—will be set aside as a sinking fund to operate as security for a bond issue of 150,000,000 to be employed as follows: Canton-Hankow Railway 69,000,000; Lung-Hai Railway 87,000,000. The above was approved in writing by the Central Executive Committee on the 17th. Sun further stated there will be no preference as to nationality of materials necessary to be purchased abroad and that it has not been decided whether the bond issue will be domestic or foreign."

MACMURRAY

893.51/5154 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, June 26, 1929—noon.
[Received June 26—5:04 a. m.]

510. Following from the American Consul at Nanking:

June 24, 11 p. m. The British Minister this afternoon informed me that negotiations with the Chinese were not proceeding well. As to remitting the Boxer Indemnity to China, Sir Miles Lampson stated that the money was apparently regarded by the Chinese as already theirs, while the British Parliament had yet, as a matter of fact, to make public the terms which would govern release of the funds by Britain.

(2) In the British Minister's opinion, Parliament's decision would very likely be that, other things being equal, the money would be used to purchase British goods. As to Weihaiwei's retrocession to China, Sir Miles said that after an agreement had been reached as to all the terms, the Chinese Foreign Office had introduced certain perfectly preposterous demands. These included, he said, the automatic reversion to the Chinese Government of all property titles acquired in Weihaiwei and the debarment from future residence there of all foreigners. He had told the Chinese Minister for Foreign Affairs that such terms were not to be considered. There the matter stood at present.

(3) As to preparing a new treaty—the British Minister had pointed out that such was not necessary, because the existing treaty with China⁸⁴ still had four years to run—Dr. C. T. Wang had insisted on the interposing of clauses carrying with them clearly or by implication the immediate relinquishment of extraterritoriality;⁸⁵ and this, Sir Miles stated plainly, he was not ready even to discuss. The only explanation Sir Miles could offer for Dr. Wang's extraordinary attitude was that the Chinese authorities count much on the new British Labor Government's assuming a presumably more indulgent attitude to China.

For the Minister:
HEWES

893.51/5157 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Paraphrase]

PEKING, June 29, 1929—2 p. m.
[Received June 29—5:30 a. m.]

522. Legation's 499, June 21, 2 p. m., and 517, June 27, 4 p. m.⁸⁶ Following from the American Consul at Nanking, dated June 28, 4 p. m.:

⁸⁴ Treaty between Great Britain and China respecting commercial relations, signed at Shanghai, September 5, 1902, *British and Foreign State Papers*, vol. xcvi, p. 39.

⁸⁵ For correspondence on this subject, see pp. 543 ff.

⁸⁶ Letter not printed.

Reference my telegram of June 24, 11 a. m. The British Minister today informed me that his Government, responding to his request for instructions, had replied that the Chinese proposals had been so sweeping it would not be possible to formulate instructions prior to the return of Sir Miles Lampson to Peking. Therefore, with all negotiations suspended, Sir Miles is leaving tomorrow, June 29, for Shanghai en route north.

Respecting the rumor that the British Boxer Indemnity would be employed to complete the Lung-Hai Railway, Sir Miles said his Government had instructed him to remind the Chinese Minister for Foreign Affairs—and this Sir Miles had done—of the existing contractual obligations in respect of railway construction which the British Government expected to be fulfilled by the Chinese Government, referring naturally to the Hukuang Agreement 1911.

For the Minister:

HEWES

893.51/5168

The Minister in China (MacMurray) to the Secretary of State

No. 2174

PEKING, July 3, 1929.

[Received August 2.]

SIR: With reference to the Legation's despatch No. 1832, of December 31, 1928,⁸⁷ respecting the service of the Hukuang Railways Loan of 1911, I have the honor to state that a partial default occurred on the payment by the Chinese Government of the service of the loan due on June 3rd. This matter was brought to the attention of the Legation, in the customary manner, in a letter of June 17th from Mr. Charles R. Bennett, American Group Representative in Peking of the Hukuang Railways Loan Group Banks, a copy of which is enclosed.⁸⁷ Likewise enclosed is a copy of the joint note of protest of June 24th, addressed by the Diplomatic Representatives of France, the United States of America, and Great Britain, to the Minister for Foreign Affairs,⁸⁷ on this subject.

I have [etc.]

For the Minister:

CLARENCE B. HEWES

First Secretary of Legation

893.51/5167a

The Secretary of State to the Minister in China (MacMurray)

No. 1313

WASHINGTON, August 5, 1929.

SIR: The Department has observed in the press items issued by the Kuo Min News Agency, under date of June 30, 1929, an article

⁸⁷ Not printed.

headed "China to Consolidate Her Debts". This article describes the formation and first meeting of a "Commission for the Readjustment of Domestic and Foreign Debts". A copy of this article is attached hereto.⁸⁸

The Department desires that the Legation verify and supplement this information to the extent that may be necessary and inform the Department whether, in the opinion of the Legation, the formation of this Commission affords a favorable occasion for bringing to the attention of the Chinese Government sums owed by that Government to American citizens and organizations. Any other comments or suggestions that the Legation may desire to make in connection with this subject will be welcomed by the Department.

I am [etc.]

For the Secretary of State:

NELSON TRUSLER JOHNSON

893.51/5178

Memorandum by the Assistant Secretary of State (Johnson) of a Conversation With Mr. George Bronson Rea of Shanghai

[WASHINGTON,] September 3, 1929.

Mr. Bronson Rea called and stated that last week while he was in New York he received a telegram from Sun Fo asking him to approach the American Government and American bankers in order to ascertain whether there would be any possibility of floating a loan in the United States for the purpose of purchasing back the Chinese Eastern Railway.⁸⁹ Mr. Rea stated that he took the matter up with Mr. Lamont and Mr. Martin Egan of Morgan & Company, New York, that he realized there was no use in his coming to the Government as the best way to do would be to put it up to the bankers and let the bankers take it up with the Government. I told Mr. Rea that I felt that was the best way to handle such a proposition, as we as a Government were not particularly interested in the matter.

Mr. Rea stated that Mr. Lamont had asked him for a memorandum of the matter and he had given Mr. Lamont such a memorandum and that he did not expect any answer from Mr. Lamont until this week. He stated that he understood that Mr. Lamont would have to telegraph to the other members of the Consortium and he speculated on the unlikelihood of France consenting to such an arrangement. He stated that the immediate reaction of Mr. Martin Egan was that such a loan would be possible on condition that there was some guarantee that the road would be free from military operations and in addition

⁸⁸ Not printed.

⁸⁹ For correspondence concerning the conflict over this railroad involving China and the Soviet Union, see pp. 186 ff.

that there would be some guarantee that the bondholders would have a good return on their money. . . .

I pointed out to Mr. Rea that Paragraph 2 of Article X [IX] of the Agreement on General Principles for the Settlement of the Questions between the Republic of China and the Union of Soviet Socialist Republics signed in Peking on May 31, 1924⁹⁰ reads as follows:

“The Government of the Union of Soviet Socialist Republics agrees to the redemption by the Government of the Republic of China, *with Chinese capital*, of the Chinese Eastern Railway, as well as all appurtenant properties, and to the transfer to China of all shares and bonds of the said Railway.”

I said that from my knowledge of contracts of this kind that I was quite certain that the words, “with Chinese capital”, had been inserted with a purpose and that the Soviet Government would raise a great outcry were China to borrow money from another Government for the purpose of making this purchase. Mr. Rea agreed with me and said of course this put a stop to any proposition of this kind. He said that he could not understand why Sun Fo should be telegraphing him such a proposition.

I stated that I felt certain that such a proposition as this could only fail as the Russians would put all manner of obstacles in the way of the success of any proposition that would place the railway under the control of anyone except Russia. I called his attention to the fact that already the Russians had been spreading reports that the United States was engaged in imperialistic intrigue for the purpose of depriving Soviet Russia of her rights in the railway and that any indication that the plan which Mr. Sun Fo had cabled to Mr. Rea met with the approval of this Government would be a signal for further outcry of this kind.

Mr. Rea stated that he was planning to return to China in about a month. He stated that he felt that Mr. Lamont's speech at Amsterdam had put a quietus on any possibility of a Chinese loan such as he had originally undertaken to obtain for Mr. Sun Fo and that he could not accomplish anything for them now. . . .

N[ELSON] T. J[OHNSON]

892.51/5176: Telegram

The Consul at Nanking (Adams) to the Secretary of State

NANKING, September 9, 1929—9 p. m.

[Received 10:18 p. m.]

Legation has instructed me to telegraph the Department regarding activities of Chinese Government committee for readjustment of foreign and domestic loans.

⁹⁰ *Foreign Relations*, 1924, vol. I, p. 495.

Representatives of both Ministry of Foreign Affairs and Finance assure me that the work of the committee is just beginning and that there is no foundation for press reports that foreign creditors will soon be invited to Nanking.

I am told that, while no decision has been reached, it is probable that Government obligations for materials supplied will be given same status as loans which have already fallen due and against which substantial securities were offered. I understand that Kemmerer Commission⁹¹ is doing some work upon classification of the Government's financial obligations.

Despatch to the Legation, with copies to the Department, follows.⁹²

ADAMS

893.51/5191 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 16, 1929—9 p. m.
[Received October 16—8:52 p. m.]

893. The Department's written instruction No. 1313 of August 5th. The following is a memorandum of a conversation on October 5th between the American Consul General at Shanghai and the Minister of Finance:

"Inquiry was found to be agreeable, Mr. Soong concedes the existence of a commission to answer them⁹³ and pass upon the various claims of indebtedness against the Chinese Government. He stated that such a commission is in existence and in reply to a further inquiry he stated that while the commission may refer to the Kemmerer Commission for advice, it is independent of the Kemmerer Commission. He was then asked as to the status of American creditors for railway equipment, and replied that within a very short time the American creditors would be notified to present their claims. When questioned as to the date when such notice would be given, after due deliberation he stated definitely that it would be forthcoming within a period of two months. Inquiry was then made as to the status of such claims—whether they would be inferior to the loans which have already fallen due and against which substantial securities have been offered by the National Government. He stated immediately and unequivocally that claims for railway equipment would be in a better position than other loans. He said that the supplies were in the hands of the railway and were producing and they would therefore be recognized as having a superior status to other loans which had matured.

⁹¹ Commission headed by Prof. E. W. Kemmerer of Princeton, attached to the Chinese Ministry of Finance.

⁹² Not printed.

⁹³ Phrase garbled; it should read: "Inquiry was made of Mr. Soong concerning the existence of a commission to examine into."

My own impression is that all indebtedness for railway equipment will be given preference over loans and other debts."

MACMURRAY

493.11/1498 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, October 24, 1929—2 p. m.

346. Your 893, October 16, 9 p. m. Paragraph 2 of the Department's instruction of August 5.

The Department particularly desires to learn your opinion whether it would be advisable to arrange for presentation to the commission of American claims of indebtedness. If your opinion is favorable to this course please make suggestions regarding procedure, categories of claims and related matters.

STIMSON

493.11/1499 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 26, 1929—4 p. m.

[Received 6:20 p. m.]

930. Your 346, October 24, 2 p. m.

1. In view of the present politico-military situation I do not feel that this is an advantageous time for the presentation of American claims to the commission. I did however transmit to the American consular officers in China, in a circular of October 18, a copy of Cunningham's memorandum of conversation with Soong on October 5⁹⁴ with the suggestion that its substance be brought to the notice of interested American citizens.

2. For my information and guidance in anticipation of the time when it may seem desirable to approach the commission, I should be grateful to be informed of the nature of the survey referred to in the Department's 378, November 18 [10], 3 p. m., 1928,⁹⁵ and No. 105, March 27, noon.

3. The report prepared by Kemmerer's "Commission of Financial Experts" is to be submitted to the Chinese Government on December 10, and it is hoped that it may be made public shortly thereafter. I am informed that it includes a careful examination of all of China's financial obligations.

MACMURRAY

⁹⁴ See telegram No. 893, October 16, from the Minister in China, p. 827.

⁹⁵ Not printed.

CONTINUED NEGOTIATIONS CONCERNING THE FEDERAL TELEGRAPH COMPANY'S CONTRACT WITH THE CHINESE GOVERNMENT⁹⁶

893.74/875

The Secretary of State to the Minister in China (MacMurray)

No. 1353

WASHINGTON, September 25, 1929.

SIR: Referring to previous correspondence regarding the contract concluded between the Ministry of Communications and the Federal Telegraph Company of California on January 8, 1921,⁹⁷ for the erection and operation of radio stations in China and regarding developments subsequent thereto, particularly the succession of the Federal Telegraph Company of Delaware in 1923 to the rights of the Federal Telegraph Company of California under the contract above mentioned,⁹⁸ the Department informs you that a representative of the Federal Telegraph Company of Delaware has submitted to the Department a certificate embodying a resolution passed by the stockholders of the Company on June 11, 1929, wherein it was requested that the Secretary of State formulate and present to the Chinese Government a demand on behalf of the Company that the Chinese Government carry into effect the obligations imposed upon it by the contract of January 8, 1921, as amended and supplemented and assigned to the Federal Telegraph Company of Delaware. A copy of the certificate is enclosed⁹⁹ with the present instruction. You will observe that the resolution states that, if the Chinese Government fails to comply with this demand, the contract as amended and supplemented shall be considered by the Federal Telegraph Company of Delaware to have been breached and the Government of China shall be regarded as in default thereunder.

The Department has undertaken that it will present this demand to the Chinese Government on behalf of the Federal Telegraph Company of Delaware and encloses herewith the draft of a note which the Department proposes that you address to the Minister for Foreign Affairs of the Chinese Government in this connection. If, however, from your more intimate contact with the present situation, you consider that this draft should be altered in any respect, or if you have comments to offer in regard to the suggested procedure, the Department desires that you submit your recommendations by telegraph.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

⁹⁶ Continued from *Foreign Relations*, 1928, vol. II, pp. 555-569.

⁹⁷ For text of the contract, see *List of Contracts of American Nationals With the Chinese Government*, etc., annex VIII (Washington, Government Printing Office, 1925), p. 3.

⁹⁸ See letter of November 5, 1923, from the Secretary of State to the President of the Federal Telegraph Co. of Delaware, *Foreign Relations*, 1923, vol. I, p. 821.

⁹⁹ Not printed.

[Enclosure]

Draft Note From the American Minister (MacMurray) to the Chinese Minister for Foreign Affairs (C. T. Wang)¹

EXCELLENCY: I have the honor to inform your Excellency that I am in receipt of instructions from my Government to recall the fact that under date of January 8, 1921, the Ministry of Communications of the Chinese Government concluded with an American firm, the Federal Telegraph Company of California, a contract for the erection and operation of certain radio stations in China. My Government believes that the appropriate authorities of the Chinese Government are familiar with the terms of this contract, as well as with certain articles supplementary thereto agreed upon on September 19, 1921,² and with the text of a letter, dated February 2, 1923, from the Federal Telegraph Company of California, addressed to the Chinese Minister of Communications, and approved by the Minister on July 13, 1923,³ which provided, *inter alia*, that all of the rights and obligations under the contract of January 8, 1921, and the supplementary articles of September 19, 1921, should be transferred to the Federal Telegraph Company of Delaware.

This contract and the agreements arising from it imposed certain obligations on the American and Chinese signatories. The Federal Telegraph Company of Delaware, as the American party in interest, has now made representations to the American Government to the effect that, although the Federal Telegraph Company of Delaware has made every effort to carry out its part of the undertaking, and although it has at all times been prepared to proceed therewith, it is unable to do so because of the fact that the Chinese Government has never fulfilled certain essential obligations devolving upon it, among which are the delivery to the Company of its stipulated bonds, the providing of land on which the radio stations may be erected, and the issuing of the permits necessary to enable the Company to import the materials called for in the undertaking.

The Federal Telegraph Company of Delaware, in view of the difficulties it has encountered, has requested my government to bring these various circumstances to the attention of the appropriate authorities of the Chinese Government, and to inform them of the desire of the Company to proceed forthwith with the carrying out of the joint enterprise, at the same time presenting a formal request to the Chinese Government that it take those steps enumerated above,

¹ This note was dated and dispatched on October 31, 1929, without any change in text (893.74/880).

² *List of Contracts of American Nationals With the Chinese Government, etc.*, annex VIII, p. 7.

³ *Ibid.*, pp. 12 and 13; see also telegram No. 259, July 14, 1923, from the Minister in China, *Foreign Relations, 1923*, vol. I, p. 809.

as well as carry out the other obligations assumed by it under the agreement.

I have the honor, therefore, in compliance with the instructions I have received, to bring these facts to the attention of your Excellency and to request that I be informed of the intentions of the Chinese Government in the premises, in order that I may report the same to my Government.

893.74/876 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 4, 1929—8 p. m.

[Received 10:15 p. m.]

959. 1. Reuter reported under date of Nanking, October 29th, declaration was made the day before that the Ministry of Communications will shortly appoint a special committee for revision of the cable, telephone and wireless contract[s] with foreign corporations and that representatives of the Ministries of Communications, Finance and Foreign Affairs will be ranking members of it.

2. Following from American Consul in this relation:

“Ministry of Communications states that newspaper report is correct. No appointments have yet been made but committee will be formed within a month. Existing contracts will be studied by the committee in Nanking before discussion of new terms with representatives of foreign concessionaires. It is estimated that two or three months will be required to study existing agreements.”

MACMURRAY

893.74/878 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, November 14, 1929—5 p. m.

[Received 9:25 p. m.]

998. 1. Following from American Consul, Nanking:

“November 3, 3 p. m. My November 2, 1 p. m. Ministry of Communications today informs me that the special committee being formed will deal only with contracts of Great Northern and Eastern Extension Telegraph Companies. Ministry states that these contracts must be drastically revised because of the recent advent of radio communications.

The Legation will note that this statement is inconsistent with the statement made to the Consulate on November 2nd.”

2. The statement referred to in second paragraph of the above message was that repeated to the Department in second paragraph of my 959, November 4, 8 p. m.

MACMURRAY

893.73/61 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 16, 1929—5 p. m.
[Received December 16—9:07 a. m.]

1156. Department's instruction 1337, September 4th⁴ and Legation's telegram Number 998, November 14th, 5 p. m. Following from Kuo Wen News Agency featured local press of December 14:

"The Nanking telegram saying [*sic*] the Minister of Communications has decided to notify the Eastern Cable Company that its agreement with the Chinese Government, which expires the end of next year, will not be renewed in its present form. A communication to this effect will be delivered to the company on or before December 20th."

PERKINS

893.74/884 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, December 29, 1929—noon.
[Received December 29—5:40 a. m.]

1199. Following from Kuo Wen Agency, Nanking, December 26:

"Notice of cancellation of the wireless agreement concluded between the Federation [*Federal*] Wireless Company of America and the former Chiaotungpu⁵ in Peiping, was served on the American firm on December 24, according to confirmation from local Chinese circles. The communication was issued by the commission recently organized by the Chiaotungpu for the revision of these cable contracts with the Chinese Government.

So far as can be ascertained, the letter requests the American company to send delegates to Nanking to enter into negotiations with the commission. It is stated that in the forthcoming negotiations the Government will insist on the elimination of all fears [*features?*] from the old agreements that are considered as 'unequal' so that the right of international communication may be restored to China.

It is understood that similar communications have been sent to the Great Northern and Great Eastern Cable Companies."

I am asking consul at Nanking to confirm.⁶

PERKINS

⁴ Not printed.

⁵ Ministry of Communications.

⁶ Notice that their contracts would expire on December 31, 1930, was given by the Chinese authorities to the Great Northern Telegraph Co., Ltd.; to the Eastern Extension, Australasia and China Telegraph Co., Ltd.; and to the Commercial Pacific Cable Co., Ltd.

893.74/885 : Telegram

The Chargé in China (Perkins) to the Secretary of State

PEIPING, January 3, 1930—10 a. m.

[Received January 3—1:07 a. m.]

9. My 1171 [1199], December 28 [29], noon. Following from American Consul General [*sic*] at Nanking:

“December 30, 4 p. m. Minister of Communications informed me that the Chinese Government has not yet officially notified the American company of cancellation of the Federal Wireless contract. It stated, however, that both the Japanese and American wireless contracts would definitely be canceled. Ministry would not state when contracts would officially be declared canceled.”

PERKINS

CHINESE REGULATIONS RESTRICTING IMPORTATION OF RADIO EQUIPMENT AND MATERIALS

811.91293/139

The Secretary of State to the Minister in China (MacMurray)

No. 1133

WASHINGTON, March 1, 1929.

SIR: The Department refers to the Legation's despatches No. 1339 of January 5, 1928, and No. 1628 of August 15, 1928,⁷ in regard to the alleged violation by certain foreign interests in China of international radio arrangements to which China is a party.

The Department has given careful consideration to the statements of fact embodied in the enclosures to these two despatches, the general purport of which is that radio receiving stations operated in China by the naval authorities and citizens of various nationalities are making a practice of receiving, transcribing and distributing to the press radio messages broadcast from stations in foreign countries. The Department assumes that in reporting these actions to the Department the Legation has in mind particularly the resolution passed by the Powers participating in the discussion of Pacific and Far Eastern questions at Washington on February 1, 1922.⁸

The international agreement embodied in this resolution and its accompanying declarations would seem to forbid the distribution of foreign radio messages as described above. However, the Department has received the impression that the attitude of the present Nationalist Government of China toward the importation and use of radio apparatus differs from that of the Chinese Government in power when the resolution in question was passed, in that the importation of all radio

⁷ Neither printed.

⁸ Resolution VIII, *Foreign Relations*, 1922, vol. I, p. 293.

apparatus was then prohibited but is now permitted under rules promulgated in different areas. It occurs to the Department, therefore, that if the Nationalist Government now permits the importation of radio receiving apparatus and imposes no restrictions of a sort that would forbid the dissemination of messages broadcast by stations in foreign countries it has rendered the situation such that the resolution of February 1, 1922, is inapplicable.

You are requested to ascertain whether regulations governing the importation and use of radio apparatus have been promulgated by the Nationalist Government of China, and if they have, whether they would prohibit the dissemination of radio messages received by broadcast from stations in foreign countries. In the absence of regulations issued by the Nationalist Government, the Department desires to have the same information in regard to such local regulations as may be operative. In making your investigations you will, of course, be careful not to indicate that this Government is officially raising any question regarding the interpretation or carrying out of the resolution regarding radio stations in China.

The information obtained by you should be briefly reported to the Department in a telegram, followed, if necessary, by a longer explanation in a written despatch.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

811.91293/150

*The Consul at Nanking (Price) to the Minister in China
(MacMurray) ⁹*

D-67

NANKING, April 20, 1929.

SIR: I have the honor to acknowledge the receipt of the Legation's Instruction of April 5, 1929, enclosing the Department's Instruction to the Legation, No. 1133, of March 1, 1929 (File No. 811.91293/131 and 139) requesting information on the subject of the existing regulations governing the importation and use of radio apparatus now current under the Nationalist Government of China.

In amplification of my telegram of April 19th, 12 Noon,¹⁰ on the subject, I beg to quote the following pertinent portion of a letter dated April 17, 1929, addressed to me by Mr. K. I. Nieh, of the Ministry of Communications in response to my oral request for information:

⁹ Copy transmitted to the Department by the Minister in China in his despatch No. 2070, May 3; received June 10, 1929.

¹⁰ Quoted in telegram No. 306, April 22, from the Minister in China (811.91293/145).

"I am sending you, with this letter, a volume of the International Radiotelegraph Convention of Washington, 1927.¹¹ As there are not yet any regulations prepared in this Ministry, this is the fundamental convention to which most of the radio affairs are controlled accordingly.

"An order from the Central Government was issued lately stating that any radio apparatus imported from foreign countries must first apply for permission from the Ministry of War. This is the only order or law, as I know, from the Chinese Government regarding radio administrations."

In this general relation the following item from the Kuo Min News Agency's Press release under date of April 18, 1929, may be of interest to the Legation:

"In a ministerial order to the Commissioner of Foreign Affairs for Kiangsu, the Ministry of Foreign Affairs instructs that a strong protest be lodged with the French Consul-General in Shanghai, against the despatching and receiving of commercial messages by the French (Koukaza) Radio Station. The order points out that the operation of the French Radio Station in Shanghai for commercial purposes constitutes a violation of International Conventions."

It is thought that possibly the Legation may be able to secure from the French Legation a statement as to the nature of the specific charges of violation of International Conventions brought by the Chinese authorities.

I have [etc.]

ERNEST B. PRICE

893.113 Radio/11 : Telegram

The Consul General at Shanghai (Cunningham) to the Secretary of State

SHANGHAI, May 16, 1929—3 p. m.

[Received May 16—9:55 a. m.]

The following telegram has been sent to the Legation:

"79, May 16, 3 p. m. The Nationalist Government issued the prohibition on April 13, 1929, against the further importation of radio equipment and materials,¹² which notice was only brought to the attention of American importers when they attempted to enter shipments from America. There is at present over one hundred thousand dollars worth of all American radio materials on the high seas. This prohibition apparently originated with the War Department. Chinese Maritime Customs is attempting to have the prohibition altered by allowing amateur radio equipment to come in.

¹¹ For text of convention, see *Foreign Relations*, 1927, vol. 1, p. 288.

¹² Copy of regulations, published on April 13, 1929, by the Chinese Ministry of Finance was transmitted to the Department by the Consul General at Shanghai in his despatch No. 6207, May 23; received June 21, 1929 (893.113 Radio/21).

This one of several prohibitions which the Chinese Government has recently issued without giving due notice to shippers.

Repeated to the Department."

CUNNINGHAM

893.113 Radio/13: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 18, 1929—6 p. m.

166. Telegram 79, May 16, 3 p. m., from American Consul General at Shanghai to the Legation.¹³

Unless you find that steps have been taken to modify the prohibition of importation of radio equipment in a way to obviate loss to legitimate American interests, you should bring to the attention of the Chinese Government the hardship inflicted upon American importers by lack of reasonable notice, and urge extension of time for entry of goods now in transit.

STIMSON

893.113 Radio/14: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, May 23, 1929—8 p. m.

[Received 8:55 p. m.]

415. 1. Department's 166, May 18, 6 p. m., repeated to Shanghai with following instructions.

"[Unless?] steps have been taken to modify the prohibition of importation of radio equipment in a way to obviate loss to legitimate American interests, you should bring to the attention of the Chinese Government the hardship inflicted upon American importers by a lack of reasonable notice and urge extension of time for entry of goods now in transit.

(2) Please report as to possible remedial measures effected by Chinese Maritime Customs as referred to in your telegram. If prompt representations appear expedient, you are authorized to utilize Department's instruction to the Legation in representations to Chinese authorities."

2. In telegram of May 22, 11 a. m., Cunningham reported that Customs has been unable to effect remedial measures and that Ministry of War has informed an American importer that no machinery exists for granting permission to import radio equipment. In view of rapid developments in political situation, Cunningham deemed immediate action expedient and made representations to the Minister of Foreign Affairs in the sense of the Department's May 18, 6 p. m., to the Legation.

MACMURRAY

¹³ *Supra.*

893.113 Radio/15 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 1, 1929—1 p. m.

181. Your 415, May 23, 8 p. m. What is the present status of prohibition against importation of radio equipment as regards both consignments now in shipment and future importations?

CLARK

893.113 Radio/16 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 5, 1929—5 p. m.

[Received June 5—4:20 p. m.¹⁴]

448. Department's 181, June 1, 1 p. m., was referred to the American Consul General at Shanghai who has replied as follows:

"June 4, 3 p. m. I have to inform the Legation that no reply has been received to the protest of the Board of Trade memorandum [*Ministry of Finance regulations?*]. The embargo is still absolute. The office has been informed by the Customs that no radio equipment can be imported unless it has been consigned to the National Government."

2. Referring to last sentence paragraph 2 of the Legation's 415, May 28 [23], 8 p. m., Cunningham made representations to Minister for Foreign Affairs on May 22 in following terms:

"Upon the instructions of the American representative, Peking, I have the honor to urge a postponement of the coming into effect of the prohibition of April 13, 1929, against the further importation of radio equipment. This was issued without sufficient notice to importers. American firms have considerable amateur radio equipment, which has already arrived at Shanghai and other materials in transit but which the Customs will not permit to be entered because of the embargo. It is believed that the prohibition of the Nationalist Government above referred to is not intended to apply to amateur radio material, but, in the absence of explanatory instructions, the Customs authorities have failed to make any distinction and have regarded the embargo as applying to all radio materials. This embargo against importation of radio material is working a great hardship on importers concerned because of the fact that it was issued without reasonable notice. The Minister requests an extension of time for entry of the goods which have already arrived at Shanghai, as well as other shipments in transit to be granted."

3. Does the Department desire that further representations be made?

For the Minister:

PERKINS

¹⁴Telegram in two sections.

893.113 Radio/18 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 7, 1929—3 p. m.

187. Your 448, June 5, 5 p. m. The Legation may act on its own discretion. Department suggests that further representations may be withheld unless specific complaints are received from importers. Keep Department informed.

STIMSON

893.113 Radio/20 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 20, 1929—5 p. m.

[Received June 20—3:20 p. m.]

495. Your 187, June 7, 3 p. m. Following from Shanghai:

“June 19, 11 a. m. The following has been received from the office of the Ministry of Foreign Affairs bearing date June 14, 1929, in reply to this office’s telegram of May 22nd, as advised in my No. 88 of May 22, 11 a. m. to the Legation.¹⁵

‘Having referred your request to the proper organization, we have now received the following reply from the Minister of Finance:

“With a view to exercise of caution in respect to military intelligence, the Ministry of War, in consultation with the General staff, has previously suggested a rule for restriction import of radio apparatus or material. The rule provides that no individual, corporation or business establishment engaged in the buying or selling of radio apparatus or material shall be allowed to import the same without having secured a *huchao*¹⁶ from the Ministry of War. It further provides that the purposes for which such apparatus or material is to be imported shall be fully and completely declared so that investigations may be made with greater facility. The record discloses that, with the sanction of the National Government, the Ministry of Finance has instructed all customhouses to enforce compliance with this rule, the purpose [of] which is not to prohibit entry but to regulate shipment. The issuance of *huchao* by the Ministry of War has now been discontinued by a mandate, and the Ministry of Finance has under consideration the way of modifying or adapting the above restrictive rule to circumstances. As soon as a new rule or *modus operandi* is framed and ratified, we shall direct all customhouses to carry it into force so that it may be easier for United States [merchants] to effect shipment.”

We have to transmit this reply for your information and would appreciate your forwarding it to the American Minister.’

Copy of complete despatch is being forwarded by today’s mail.”¹⁷

MACMURRAY

¹⁵ See par. 2 of telegram No. 415, May 23, from the Minister in China, p. 836.

¹⁶ A permit.

¹⁷ Not printed.

811.91293/162 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 15, 1929—4 p. m.
[Received July 15—9:30 a. m.]

570. My 338, May 2, 8 p. m.¹⁸ In reply to the Legation's further inquiry, following from Nanking:

"July 13, 4 p. m. Ministry for Foreign Affairs today informed me that action for ratification by China of Washington Radio Convention of 1927 was taken in June but was nullified by irregular proceeding duplicature. The necessary action has been taken again and only the signature of Chiang Kai-shih¹⁹ is now required for [completion?] of ratification by China of the Radio Convention."²⁰

MACMURRAY

893.113 Radio/31

*Chinese Regulations Restricting Importation of Radio Equipments and Materials, Promulgated July 31, 1929*²¹

[Translation]

ARTICLE 1. Radio equipments and materials shall consist of the various kinds of equipments and materials for the use of radiograph and radiophone.

ARTICLE 2. Prior to the importation of equipment and materials, all importers or sellers of the various kinds of radio equipment and materials shall submit packing invoices, specifications of machines, bills of consignment, and detailed statements of cost to the highest local authorities of that district for transmission to the Ministry of Military Administration for the issuance of a release permit, after which the shipment may be imported. Should the firm be located in a foreign leased area, an application may be submitted to the nearest highest authorities for transmission to those in charge for issuance.

ARTICLE 3. When any business firm applies for a second permit for importation of radio equipment and materials, a detailed table showing the place of consumption of the various equipment and materials imported during the last shipment, purchasers, descriptions and quantities of equipment and materials shall be enclosed therewith. In case

¹⁸ Not printed.

¹⁹ Gen. Chiang Kai-shek, chairman of the State Council of the National Government of China.

²⁰ The Chinese instrument of ratification, together with a declaration, was deposited by the Chinese Minister with the Department of State on June 23, 1930.

²¹ Copy transmitted to the Department by the Minister in China in his despatch No. 52, February 27, 1930; received March 28, 1930. The Chinese text was transmitted to the Legation in China in a note of February 7, 1930, from the Chinese Foreign Office.

the table proves incorrect with the facts, the issuance of the permit may be stopped.

ARTICLE 4. When the Ministry of Military Administration and the General Staff Board deem it necessary to ban imports of certain radio equipment and materials during a period of military affairs, the issuance of permits may be suspended.

ARTICLE 5. In case of the discovery and seizure by the Maritime Customs of any imports of radio equipment or materials illicitly shipped without any covering of permit, the said equipment or materials shall be detained, and the matter reported to the Ministry of Military Administration for consideration and action.

ARTICLE 6. After they have obtained permits, all business firms shall pay all necessary duties on the equipment and materials in accordance with the existing tariff regulations of the Ministry of Finance.

ARTICLE 7. Each application for a permit shall be accompanied by a fee of \$10 for the permit and a stamp tax of \$2.

ARTICLE 8. Imports of any radio equipment or materials for the use of the Ministry of Communications or the Board of Reconstruction shall be released, if they are covered by permits issued by the Ministry or the Board. However, a notice must be sent to the Ministry of Military Administration and the General Staff Board for their information.

ARTICLE 9. These Regulations shall come into force from the date of promulgation.

893.113 Radio/27

*The Consul General at Shanghai (Cunningham) to the Chargé in China (Perkins)*²²

No. 6309

SHANGHAI, December 12, 1929.

SIR: With reference to this Consulate General's telegram No. 105, June 19, 1929, 11 a. m.,^{22a} quoting a telegram from the Ministry of Finance regarding the lifting of the embargo against the importation of radio equipment, I have the honor to quote the following from the local Commissioner of Customs for the information of the Legation.

"I have the honour to acknowledge receipt of your letter of the 26th November last, enquiring, in connection with the reported removal of the restrictions against the importation of radio receiving sets, wireless apparatus, etc., if any official notification to that effect had been received by the Customs, and, in reply, to inform you that I have not been notified of the removal of the embargo.

²² Copy received in the Department without covering despatch on February 26, 1930.

^{22a} See telegram No. 495, June 20, from the Minister in China, p. 838.

"Some time ago my attention was drawn to announcement anent this removal appearing in the *Government Gazette*, and official confirmation was then sought for by me, so far, however, without reply."

I have [etc.]

EDWIN S. CUNNINGHAM

**DIFFICULTIES IN CHINA OF THE CENTRAL ASIATIC EXPEDITION
OF THE AMERICAN MUSEUM OF NATURAL HISTORY**

031.11 American Museum of Natural History (4th Asiatic)/11

*Memorandum by the Secretary of State of a Conversation With the
Chinese Minister (C. C. Wu)*

[WASHINGTON,] May 13, 1929.

Subject: Roy Chapman Andrews expedition under auspices of American Museum of Natural History

I told the Minister that I had received a communication from Dr. Henry Fairfield Osborn, President of the American Museum of Natural History, who is an old friend of mine and whom I had known for many years, in regard to the Andrews expedition; that I was also familiar with those expeditions while I was in Peking and that I had seen and knew Mr. Andrews and was very much interested in the results of his previous trips; that I was informed that the expedition had been held up since April 15th by the Chinese Government which had sought to impose certain conditions which I had before me before they would consent to its proceeding; that I had read the conditions and I thought they were wholly impossible and subversive of the expedition's going forward. I pointed out too, particularly, the first article, which I read to the Minister, requiring the expedition to be composed of half Chinese and half foreign members and each half to have a leader. I said that such a division of responsibility was violative of every principle of scientific expeditions, as indeed any military expedition or any other kind of expedition, that the success of Mr. Andrews' expedition depended upon his personality and his leadership and this would destroy that. I pointed out that I myself am personally familiar with exploring expeditions, having participated in them and I knew what the destruction of leadership meant.

The other condition that they have imposed upon foreign membership in the expedition, that they make the Museum pay for all of the expenses of these added members, was grossly unfair in view of the difficulty which the Museum had in raising money for these expeditions. In short I told him that I thought these conditions would make impossible such an expedition. I told him further that I was sympathetic with the efforts which China was making to preserve its good name and its advances and had respected the achievements

which its present leaders were making in those respects, but if such an attempt to hold up—and I said the word might be disagreeable but it meant nothing less than that—this expedition were made upon such terms it would cause a very bad impression throughout the world and that impression would go everywhere because all scientists were virtually brothers; therefore I hoped that a word to the wise would be sufficient and I would be glad if he would convey my impressions to Dr. Wang²³ the Foreign Minister, whom I knew personally, so that this expedition could go forward as soon as possible.

031.11 American Museum of Natural History (4th Asiatic)/17

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] May 20, 1929.

The Chinese Minister called at noon by appointment. The Minister stated that he had called for the purpose of informing the Secretary of two replies he had received to his two messages concerning the Roy Chapman Andrews Expedition, one message sent as the result of his conversation with Doctor Sherwood²⁴ and the other message sent as the result of his conversation with the Secretary on May thirteenth.

The Minister stated that in reply to his first telegram, the Minister for Foreign Affairs at Nanking stated that the question had previously been handled by an organization for the preservation of antiquities in North China and had not been up for consideration by the Minister for Foreign Affairs, but now that it was before the Government, the National Legislature (Legislative Yuan) was giving consideration to a law on the subject of the preservation of antiquities which would be general in its application, and it was hoped then that the question of the Andrews Expedition could be properly handled.

The Secretary asked the Minister whether he had communicated to his Government the Secretary's anxiety with regard to the future prospects of the Andrews Expedition as every day's delay was making it less probable that the Expedition would be successful and the Minister's remark that the matter was to be dealt with by the Legislature sounded ominous. The Minister stated that he was coming to that: that in a second telegram, a personal one from the Foreign Minister, Mr. C. T. Wang, to himself in reply to the second telegram reporting his conversation with the Secretary, the Foreign Minister had stated that the Secretary of State should not be worried about

²³ C. T. Wang.

²⁴ George H. Sherwood, director of the American Museum of Natural History, New York.

the matter as he was sure that every just consideration would be given to the requirements of Mr. Andrews.

The Secretary stated that he felt these replies did not quite meet the situation, that it was not a question of human antiquities whose preservation for historical and national reasons he could understand and sympathize with, but it was a question of scientific research into the remains of early prehistoric life, of interest to the entire world, a research in which all peoples would equally benefit, which was being held up by the Chinese at the present time. Mr. Andrews was not a new investigator in this field. He had proved his ability by previous expeditions and was now asking for permission to proceed on an expedition for this coming summer and he was being delayed by requirements and demands which the Secretary said appeared to be most unusual and most burdensome. The Secretary felt that perhaps the Chinese Government did not appreciate the fact that further delay was calculated to jeopardize the entire expedition as the summer would soon be over and communication impossible.

The Chinese Minister stated that he felt the requirements which the Secretary referred to had been made by inexperienced persons engaged in cooperating with this party in North China; that he felt sure the authorities at Nanking could and would recognize the importance of the matter. He said that he would telegraph again and that he hoped to have a more favorable reply to his next telegram. He said that after all the dinosaur bones had been there a long time and perhaps a delay of a day or two would not make too much difference. The Secretary stated that of course it was quite true that the dinosaur bones had been sitting a long time but that the expedition was in the field and could not wait and it was very important that something be done very soon.

N[ELSON] T. J[OHNSON]

031.11 American Museum of Natural History (4th Asiatic)/24

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] June 4, 1929.

The Chinese Minister called upon the Secretary by appointment. The Secretary stated that he was still concerned about the situation that confronted the Mongolian expedition of the Natural History Museum of New York as he had heard from Dr. Osborn recently and he wondered whether the Minister had received any reply.

The Minister stated that he had not received any reply. He said that he had been somewhat embarrassed in the matter as the Secretary would recall that he had made the suggestion to his Government that the Andrews expedition be allowed to proceed and leave the question

of a decision with regard to the treatment of fossil remains to be settled when the new law which was under consideration by the Nationalist Government was passed. Dr. Wu said that he believed the Secretary had approved his idea. The Minister stated that about two days after this telegram went out he had been in New York and had asked Dr. Osborn to come to see him and had told him what he had done. Later Dr. Sherwood had come to Washington and had shown him a letter from Dr. Osborn from which Dr. Wu had inferred that Dr. Osborn did not agree to the suggestion made by the Minister and he said that Dr. Sherwood had returned to New York to confirm Dr. Wu's understanding of this matter and had so telegraphed him so that he had been under the necessity of telegraphing his Government that Dr. Osborn could not accept that suggestion.

The Secretary stated that he did not recall that he had in any sense approved of the idea that the expedition should be allowed to proceed under any sense of uncertainty as to the disposition of its fossils. He said that the Natural History Museum headed by Dr. Osborn had through the means of these several expeditions accumulated a very valuable history of Mongolian fossils; that the Museum naturally felt that there was only one way to handle this fossil material and this was to bring it out from Mongolia, take it to New York where it could be properly studied with all the scientific material there and comparison made, and then decisions made as to what should be done with it. He said that he understood that the Museum was prepared to be very fair with the Chinese and would send to them duplicates of all specimens found where duplicates existed and expertly-made casts of unique material when found, so that the result would be that the Chinese would have a duplicate of the collection at the Museum. He pointed out that he sympathized with the viewpoint of the Museum in this matter, as naturally it would be very difficult if not impossible to determine in China or any place else than New York for that matter just what the specimens found represented and how they fitted into the continuity of the finds, and he said that he felt there was considerable to be said on the side of the Museum in feeling that the Chinese should settle this question before the Museum went into the field.

The Chinese Minister stated that Mr. Tchang Ki, the chairman of the committee for the Preservation of Chinese Antiquities, was a person acquainted to him and in whom he felt the greatest confidence. He felt that he was a liberal man, anxious to do the right thing in all matters. He felt that perhaps he had been wrongly advised by some of the Chinese scientists around him, that perhaps some differentiation should be made between paleontological specimens and art specimens of human manufacture. The Secretary asked the Minister

whether he could make this suggestion to the Foreign Minister and have the Chinese Government make this decision now. The Minister stated that it was a question of the law which was to be passed and there was some difficulty about the time as he understood that the expedition had to leave by the 15th of June at the latest and he did not believe that they could work so fast in China, that they had already been delayed by the funeral of Dr. Sun ²⁵ and there had been other delays due to the commission form of Government which they had. Mr. Wu stated that having confidence in the judgment of his own authorities he had felt that he could make the suggestion which he had originally made. He realized it was his own suggestion and he felt certain that the Government would have settled the matter satisfactorily in the end.

The Secretary reminded Dr. Wu that the expedition was sent out under the instructions of Dr. Osborn who was an authority in his field and respected all over the world, that because of his position people throughout the United States had been making contributions for the support of this expedition, that they stood to lose their investment if they could not get their finds back to the Museum. Dr. Wu stated that of course it was a question of the finances and if the Government should decide against the expedition they could reimburse the Museum for the loss. The Secretary stated that that of course could be done but it wasn't merely a question of finances; it was a question of scientific study, the question of completing a study already begun, the question of completing a work which only Dr. Osborn could do, that Dr. Osborn was a man along in years and it could not be expected that he could continue this kind of work forever. The opportunity was here now and the specimens were being collected and classified and Dr. Osborn was applying his great abilities to their classification and that more than a financial loss would be suffered by the scientific world if the expedition were to fail.

Some question was raised as to the authority of the Commission. Mr. Johnson remarked that the expeditions in the past had operated under permits issued by the Peking Government, the last being issued by the Government of Chang Tso-Lin, that when the Government of Chang Tso-Lin disappeared ²⁶ and the National Government took over affairs the Committee headed by Mr. Tchang Ki had suddenly appeared and began its work by seizing the finds of the Andrews expedition at Kalgan on their emergence from Mongolia. Mr. Johnson stated that months had passed and it remained at Kalgan because the Committee had been unwilling to authorize a permit for the export of

²⁵ See pp. 875 ff.

²⁶ See *Foreign Relations*, 1928, vol. II, pp. 119 ff.

a large number of cases of finds made by the expedition last year. Mr. Johnson stated that this was added reason why Mr. Andrews was unwilling to proceed on the new expedition unless he had some assurance that they could take out their finds when they got them.

The Secretary stated that he had not been aware that the expedition had been handicapped in sending out previous finds up to this time. He could see that there was reason for the expedition being unwilling to proceed with the matter undecided. He expressed the hope that the Chinese Minister could persuade his Government to find some solution to permit the finds of the expedition to leave China and that the expedition should proceed with its work, so that further finds could go to New York as hitherto arranged. Mr. Wu stated that he would again telegraph his Government and see what he could do. Before leaving, Mr. Johnson arranged with Mr. Wu for him to see Dr. Osborn in Mr. Johnson's office on Friday morning at 10 o'clock.

N[ELSON] T. J[OHNSON]

031.11 American Museum of Natural History (4th Asiatic)/23 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, June 10, 1929—9 p. m.

[Received June 10—6:08 p. m.²⁷]

460. Your No. 170, May 22, 7 p. m.²⁸

1. In response to personal telegram I had sent him May 22 urging facilitation of arrangements to avoid necessity of the American Museum abandoning plans for further scientific exploration in China, Doctor Wang handed me June 4 a note stating that permission had been given for Andrews "to proceed before June 15th to be accompanied by a proper number of Chinese specialists with the understanding that the excavated materials shall be disposed of in accordance with the regulations governing excavations in China which are being drawn up," and asking for telegraphic word whether this arrangement would be agreeable to Andrews. In doing so Wang stated that this was admittedly unsatisfactory but the best he had been able to do in the matter thus far, and urged that I assure Andrews that he might start on his expedition in reliance upon Wang's personal assurance that everything would be arranged to his satisfaction.

2. On consultation with Andrews I telegraphed Wang June 7th that the museum had instructed him not to proceed without definite understanding regarding disposition of collections.

²⁷ Telegram in three sections.

²⁸ Not printed; it reported interviews of May 13 and 20 with the Chinese Minister.

3. Andrews has today shown me a telegram from the museum dated June 9th stating that it had offered to accept Wu's proposal that the expedition proceed "leaving status of 1929 collection to Nanking legislation which Minister Wu states may separate fossils from archaeological specimens."

4. Andrews and his assistants are convinced, as I am, that to start without previous definite agreement would involve the results of the expedition in disputes to which the museum could not from previous experience expect reasonably satisfactory outcome.

5. We further apprehend that the definite arrangements we were still hopeful of obtaining within the brief period before final decision must be taken, will now be delayed by the announcement as to the position taken by the museum. Andrews is therefore telegraphing [apparent omission] that the museum withdraw its offer to accept the Chinese proposal that the expedition proceed without awaiting an understanding as to the disposition of its finds.

MACMURRAY

031.11 American Museum of Natural History (4th Asiatic)/34

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] June 12, 1929.

The Chinese Minister called upon me today and stated that he had received a telegram from his Government informing him that a permit had been issued for the export from China of the thirty-five cases belonging to the Museum from the Andrews Expedition into Mongolia of 1928. He said that this would leave the question of the disposal of the collections of the 1929 expedition to be settled under the new regulations which were in preparation. The Minister told me that he had communicated this by telegraph to Doctor Osborn.

N[ELSON] T. J[OHNSON]

031.11 American Museum of Natural History (4th Asiatic)/40

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] June 18, 1929.

At the request of Doctor Osborn of the American Museum of Natural History, I asked the Chinese Minister to come to see me this morning. Upon his arrival I showed him the telegram which Mr. Andrews had sent to the Museum through the Legation.²⁹ I

²⁹ Not printed.

explained to him that the Museum was somewhat disturbed as Doctor Osborn had understood from his interview with the Minister on June 7, that provided the 1928 collections were released, the 1929 expedition could proceed on its way leaving the question of the disposition of the 1929 collections to be determined under the legislative measures concerning such questions now being drafted by the Legislative Yuan, Doctor Osborn feeling confident from what the Minister told him that the Legislative Yuan in making such legislation would deal justly with the matter. I stated that from this telegram it would appear that the Cultural Society was not willing to accept the Government's word in the matter; that they were dictating themselves the terms under which the expedition should proceed and that the American Museum was very much discouraged and was prepared to withdraw its expedition rather than go ahead under these arrangements. I pointed out also that the expedition could not proceed under co-directors; that all Doctor Osborn had consented to was that they should take along with them two students who could accompany the expedition for purposes of training.

The Chinese Minister read the telegram and then stated that he recalled in a conversation with Doctor Osborn the other day that Doctor Osborn had stated he would be willing to accept the terms made by the Minister provided the 1928 collections were released; that is, that he would be prepared to recommend to his trustees that they accept these terms and permit the 1929 expedition to take the field. The Minister stated that up to the present time he had not heard from Doctor Osborn as to what action he had taken in the matter, although he had telephoned to Doctor Osborn at once about the release of the 1928 fossils.

I told the Minister I thought it was quite clear about the matter. As a matter of fact, Doctor Sherwood had forwarded me a copy of the telegram which Doctor Osborn had sent to Andrews authorizing him to proceed. I said I would get Doctor Sherwood on the telephone and have him discuss the matter with Doctor Wu. This I did and the Chinese Minister had a conversation with Doctor Sherwood, the exact purport of which I could not hear. The Minister, however, apparently was told by Doctor Sherwood that orders had been issued for the expedition to proceed and I understood that he arranged with Doctor Sherwood for a further communication this afternoon at 3:15. As the Minister left I understood him to say that he hoped everything would be satisfactorily arranged.

N[ELSON] T. J[OHNSON]

031.11 American Museum of Natural History (4th Asiatic)/46

Memorandum by the Secretary of State

[WASHINGTON,] June 24, 1929.

The Chinese Minister gave me an account of the negotiations which had taken place during my absence in regard to the Andrews Expedition. This included the fact that the collections for 1928 had been released by the Chinese Government and that a demand for a Chinese expert to go as a co-director with Andrews had been made by the Chinese society, but not by the Chinese Government. He did not anticipate that there would be any trouble on that score.

031.11 American Museum of Natural History (4th Asiatic)/51 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 28, 1929—6 p. m.

219. Can you give Department any information as to the present status of Andrews expedition. Department understood that Chinese Minister here advised National Government to permit expedition to proceed into the field subject to release of 1928 collections, the Natural History Museum being willing to leave the question of disposal of 1929 finds to be settled under legislation now being enacted by National Government, it being understood that Chinese Minister here had advised his Government that all other governments make a distinction between palaeontological specimens and archaeological specimens in such legislation. Natural History Museum also notified Chinese Minister here that it would not accept a co-director of the expedition but would take two Chinese students into the field and would bring one to America.

STIMSON

031.11 American Museum of Natural History (4th Asiatic)/52 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 2, 1929—1 p. m.

[Received 11 p. m.⁸⁰]

528. Your 219, June 28, 3 [6] p. m. No developments subsequent to those reported in the Legation's 503, June 24, 5 p. m.,⁸¹ and previous telegrams.

Andrews early in April, in local negotiations with cultural society, as a first concession reluctantly agreed to accept a so-called Chinese

⁸⁰ Telegram in two sections.

⁸¹ Not printed.

co-director but the expedition should not proceed unless the museum should have full direction of it and control of the disposal of any fossils discovered. On the other hand, after Andrews had deadlocked with cultural society, Osborn, negotiating for the museum with Minister Wu, agreed to the expedition proceeding without prior definite arrangements in regard to disposal of fossils, trusting to favorable Nanking legislation regarding disposal of 1929 collection.

Osborn originally agreed with Andrews in this phase of the matter but altered his views, presumably as a result of representations made by Minister Wu who apparently only recently persuaded museum that 1928 collection of fossils was in jeopardy, although it had been released already under an agreement made by Andrews with cultural society of Peking in October of last year.

As reported in the Legation's 503, June 24, 5 p. m., cultural society has adopted evasive attitude and refuses to state whether or not it will accept terms agreed to by Nationalist Government. If Ministers Wang and C. C. Wu are actually seeking to control opposition of cultural society, their efforts thus far appear utterly fruitless and the society is manifesting an increasingly unfriendly attitude.

Andrews and his associates consider situation hopeless since they are convinced that the society will block the expedition unless its terms, however reasonable, are accepted. Andrews awaits further instructions from museum.

For the Minister:
HEWES

031.11 American Museum of Natural History (4th Asiatic)/57

Memorandum by the Secretary of State

[WASHINGTON,] July 12, 1929.

The Chinese Minister brought up the question of the Andrews Expedition and told me that what he thought was the last doubt had been dissolved; that the Chinese had given up their claim to have a Chinese co-director go with the Expedition.

031.11 American Museum of Natural History (4th Asiatic)/61: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 19, 1929—8 p. m.
[Received July 20—1:45 p. m.³²]

596. In further reference to your telegram No. 219, June 28, 6 p. m.

1. I took Andrews, July 11th, to discuss with Minister for Foreign Affairs, then in Peking, what appeared to be the sole outstanding

³² Telegram in two sections.

issue, namely, the demand for a Chinese co-director of the expedition. Wang assured us he had prevailed upon the cultural society to waive its insistence upon appointing co-director so that it would only be necessary for Andrews to make [apparent omission] with that society final arrangements for the starting out of the expedition.

2. On consulting the society, Andrews found they insisted upon his acceding to their demand that all this year's finds should be subject to such division as they might see fit to make here without permitting the collection to be sent to America for study. This would wholly defeat in advance the museum's purpose in consenting to abide by Nanking legislation in the matter as Pettit [*Doctor?*] Osborn had offered to do in reliance upon Minister Wu's assurance that such legislation would enable the finds to be divided after thorough scientific study. Andrews meanwhile learned that Wang had made known his support of the society in this matter. He therefore declined, in accordance with instructions of the museum, to accede to this demand which would have made the division of those finds subject to haphazard disposition by a group which is definitely hostile.

3. While regretting the necessity of his abandoning further plans of exploration in territory under Chinese control, I have made it clear that there was no other course open to him; and I concur in his report [to] museum that "We cannot see hope for future unless there is complete change in attitude of Government, which unhappily there is no reason to expect."

MACMURRAY

031.11 American Museum of Natural History (4th Asiatic)/64

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] July 26, 1929.

The Chinese Minister called and referred to the case of Mr. Roy Chapman Andrews. He stated that he had received a telegram from C. T. Wang, Chinese Foreign Minister, stating that he had arranged with the Cultural Committee in Peking about the question of the co-director so that the expedition could go into the field. The Minister stated that he now understood that Mr. Andrews had canceled his expedition and he wondered what had happened as he hoped everything had been fixed up.

I told the Chinese Minister what had happened. After Mr. Andrews' interview with the Minister of Foreign Affairs, he consulted the Cultural Society only to find that the Cultural Society was insisting that all material found by the expedition should be brought to Peking and there to be gone over and divided by the Chinese before any of it could be sent to New York. I stated that this went back to

the beginning of things when we had discussed the whole question of the distinction to be drawn between archeological remains and paleontological remains; that the Museum was acting on what I understood to be a well-known fact, namely, that paleontological remains discovered in public domains belonged to the finder while archeological remains, having a connection with the national history of the country where found, naturally were subject to such claims as the people of that country might care to exert. I stated that Mr. Andrews with the approval of their principals here had refused to agree to any such method and that we could hardly expect them to agree.

The Minister stated that he had not heard that there was any such dispute, that he had thought all of that settled.

I stated that it was my understanding that Mr. Andrews would doubtless remain in Peking for some time although the expedition was now off because it was too late for them to go into the field. I still had hopes, as did Doctor Osborn, that we could arrange this misunderstanding.

N[ELSON] T. J[OHNSON]

031.11 American Museum of Natural History (4th Asiatic)/67

The President (Osborn) and the Director (Sherwood) of the American Museum of Natural History, New York, to the Assistant Secretary of State (Johnson)

NEW YORK, July 29, 1929.

DEAR SECRETARY JOHNSON: I am deeply interested in your letter of July 27³³ enclosing a telegram received from Mr. MacMurray,³⁴ also in a letter of June 29 just received from Dr. Andrews which throws further light on the situation—a somewhat unexpected light since the head of the Geological Survey of China is found to be the author of these impossible conditions.

Dr. Andrews is so hopeless about the future that he advised selling out our entire equipment and practically abandoning Peking as a base of operations. I cabled him not to do so but to send all the rest of the party back and to remain himself in Peking and hold our ground and await the results of further negotiations until our Government and the Chinese Government can get together and settle the important principle involved in this matter. If you have an opportunity I hope you will kindly draw Secretary Stimson's attention to this letter as a subject which can be brought up in the autumn but which in the meantime I hope you will both have in mind, namely:

³³ Not printed.

³⁴ See telegram No. 596, July 19, p. 850.

First, the confiscation of the 1928 collection, secured by authorization of the Chinese Government, is quite as serious as the confiscation of any other American property in China.

Second, the holding of the 1928 collection in August, 1928 until June, 1929 involved a very serious financial loss for which the American Museum should be remunerated.

Third, the imposition of practically confiscatory conditions on the 1929 expedition was without precedent in any country in the world, civilized or uncivilized.

Fourth, the United States Government supports the American Museum of Natural History in drawing a sharp distinction between objects of archaeology and art which should remain in China and objects of purely scientific value, the history of which is the common property of the scientific world.

Fifth, the American Museum desires to complete its geological and palaeontological survey of Mongolia which has cost nearly half a million dollars and is one of the most important scientific undertakings of the twentieth century.

Sixth, the American Museum desires to foster the science of palaeontology in China by the training of experts in this field, by the sending of duplicate collections to the museum in Peking, by the completion of its twelve-volume survey of the geology and palaeontology of Mongolia and by the liberal preparation and despatch of duplicate collections to the Palaeontological Museum of the Survey in Peking or to the public Natural History Museum if such is established as planned by Professor Osborn and Director V. K. Ting in 1923.

Yours sincerely,

HENRY FAIRFIELD OSBORN
GEO. H. SHERWOOD

INFORMAL REPRESENTATIONS TO PROTECT AMERICAN FIRM FROM ACTION OF THE JAPANESE POLICE IN THE SOUTH MANCHURIA RAILWAY ZONE

393.115 Foster-McClellan Company/1

The Minister in China (MacMurray) to the Secretary of State

No. 2179

PEKING, June 25, 1929.

[Received August 2.]

SIR: I have the honor to enclose copies of six despatches from the American Consul in charge at Mukden, to the Legation,³⁵ in regard to efforts of the Japanese authorities to close the office of Foster-McClellan Company, an American firm, doing business in the Japanese Railway Settlement at Mukden, such action by the Japanese being in complete disregard of the extraterritorial privileges enjoyed by Amer-

³⁵ None printed.

ican citizens throughout China. There is also enclosed a copy of the Legation's instruction of today's date to the American Consul in charge at Mukden.

I have [etc.]

J. V. A. MACMURRAY

[Enclosure]

The Minister in China (MacMurray) to the Consul at Mukden (Myers)

PEKING, June 25, 1929.

SIR: In response to your despatch, No. 231, of May 31, 1929,³⁷ and to previous despatches regarding the efforts of the police authorities of the Japanese Railway Settlement at Mukden to interfere with the business of the Foster-McClellan Company, as conducted in the Railway Settlement, I beg leave to inform you that this matter has been the subject of informal personal representations addressed to the Japanese Legation here, in the hope of bringing about a satisfactory adjustment of the matter without formally reopening the general question of the rights of the Japanese authorities in the Railway Settlement at Mukden. This phase of the matter was tactfully brought to the attention of the Japanese Legation, which in reply stated that it would address prompt inquiries to the Japanese Consul General in Mukden, since it was possible that there had been some misunderstanding.

A copy of an informal note of today's date, addressed to Mr. Eiji Amau, First Secretary of the Japanese Legation, by Mr. Spiker of this Legation, is enclosed³⁸ for your information. It is hoped that the informal representations made will prove sufficient to bring about the cessation of the efforts of the Japanese police to interfere with the legitimate business activities of the Foster-McClellan Company in Mukden. However, in the event that this does not prove to be the case, the Legation will give further consideration to the suggestions contained in the last two paragraphs of your despatch, No. 213, of April 25th, to the Legation,³⁷ namely: that your office make reply to the Japanese Consul General in the general sense of the Department's instruction to the Legation, No. 992, of June 3, 1919,³⁹ relative to previous efforts of the Japanese to exercise authority in the Japanese Railway Settlement in Mukden in disregard of the extraterritorial privileges enjoyed by American citizens in China.

A copy of your despatch under acknowledgement and of your previous reports concerning this case have been transmitted to the Department, together with a copy of this instruction. A copy of my transmitting despatch to the Department is also enclosed.

I am [etc.]

[File copy not signed]

³⁷ Not printed.

³⁸ Not found in Department files.

³⁹ *Foreign Relations*, 1919, vol. II, p. 449.

393.115 Foster-McClellan Company/2

The Minister in China (MacMurray) to the Secretary of State

No. 2262

PEKING, August 16, 1929.

[Received September 13.]

SIR: In reference to the Legation's despatch No. 2179 of June 25, 1929, regarding the efforts of the Japanese police authorities to close the office of the Foster-McClellan Company, an American firm doing a wholesale business in drugs and medicine in the Japanese Railway Settlement in Mukden, I have the honor to enclose copies of informal communications addressed to this legation by Mr. Eiji Amau, First Secretary of the Japanese Legation, under dates of June 26 and July 11, 1929, together with copy of the Legation's instruction of today's date to the American Consul in charge in Mukden.⁴⁰

There are also enclosed copies of despatches No. 238 of July 6, 1929, and No. 239 of July 8, 1929, from the American Consul in charge at Mukden, to the Legation,⁴⁰ in reference to the matter.

The failure of the Japanese Legation to mention in its informal notes the "new regulations of June, 1928", which were quoted by the Acting Consul General for Japan in Mukden in his letter of April 24, 1929, to the American Consul in charge at Mukden (see enclosure No. 4⁴¹ with Legation's despatch No. 2179 of June 25, 1929), only serves to confirm the belief that the sudden action by the Japanese police, early in 1929, against the Mukden agency of the American firm, was taken not in response to Government regulations, but to the "regulations of June, 1928", as promulgated by an association of Japanese chemists and medicine dealers, which body has apparently been rather successful in driving out German and Russian competitors from Mukden and other places in Manchuria. The Kwantung Government regulations of 1925, as quoted in the Japanese Legation's informal note of July 11th, were not mentioned previous to 1929 as applicable to the American firm, and during recent conversations this fact was tactfully brought to the attention of the Japanese Legation. It is believed that it will allow the matter to rest with Secretary Amau's final informal note of July 11th, expressing the belief that this Legation will acquiesce in the suggestion that the American firm should comply with the Kwantung Government regulations of 1925, which regulations, it is to be noted, quite apart from the question of extraterritorial jurisdiction involved, appear technically inapplicable to a business of the nature of the one conducted in Mukden by Mr. Podlesoff, as agent of the Foster-McClellan Company, since the agency

⁴⁰ None printed.

⁴¹ Not printed.

does not prepare, retail, or peddle medicines, and so appears unaffected by the regulations quoted by Mr. Amau.⁴²

I have [etc.]

J. V. A. MACMURRAY

ASSENT BY THE UNITED STATES TO THE PROPOSAL OF THE CHINESE GOVERNMENT RESPECTING PAYMENT OF REMITTED BOXER INDEMNITY FUNDS⁴³

493.11/1463

The Secretary of State to the Secretary of the Treasury (Mellon)

WASHINGTON, August 14, 1929.

SIR: There is enclosed herewith a copy of telegram No. 672, of August 5, 1929, 3 p. m., from the American Minister at Peking.⁴⁴

It will be noted that this telegram is to the following purport:

The Chinese Minister for Foreign Affairs has informed the American Minister that:

1. The management of Tsing Hua College and of the Educational Mission in the United States, including the control of the proceeds of the Boxer Indemnity remissions devoted by the Chinese Government to the support of these institutions, has been entrusted by the Chinese Government to the Ministry of Education. (Comment: This supervision has hitherto been exercised by the Ministry of Foreign Affairs.)

2. The Minister of Education has made and the Minister for Foreign Affairs has approved a recommendation that the monthly indemnity remissions referred to above, namely, the remissions made under the terms of the Joint Resolution of May 25, 1908,⁴⁵ and of the Executive Order of December 28, 1908,⁴⁶ shall hereafter be paid to the China Foundation for the Promotion of Education and Culture.

3. This proposal has been submitted to the Executive Yuan for approval.

The telegram concludes with the text of the request from the Minister of Education that future payments of the 1908 Boxer Indemnity remission be paid to the Foundation for the Promotion of Education and Culture until the expiration of the Indemnity payments, and with a request from the American Minister that he be authorized to carry this proposal into effect after the Executive Yuan has formally approved the procedure.

The Department of State has, for its part, no objection to offer to this plan. You will recall that under the procedure now in force the American Minister receives each month a check in Shanghai taels for an amount equal to the indemnity payment for that month in United States currency and, after properly endorsing the check, hands it to

⁴² According to despatch No. 438, September 4, 1930, from the Minister in China, no further action in the case was taken (393.115 Foster-McClellan Company/6). The company's office was not closed.

⁴³ For previous correspondence concerning the payment of Boxer Indemnity funds, see *Foreign Relations*, 1928, vol. II, pp. 538 ff.

⁴⁴ Not printed.

⁴⁵ *Foreign Relations*, 1908, p. 65.

⁴⁶ *Ibid.*, p. 72.

a payee designated by the Chinese Government through the Minister for Foreign Affairs. He receives a receipt which indicates that the money is allocated to "the support of Tsing Hua College and of the Educational Mission in America". (See, for instance, the Department's letter to the Secretary of the Treasury of January 12, 1929, and the reply thereto of January 23, 1929.⁴⁷)

Payment of that portion of the Boxer Indemnity remitted under the terms of the Executive Order of July 16, 1925,⁴⁸ are now made to the China Foundation for the Promotion of Education and Culture (see your letter of March 30, 1929⁴⁹), and it would appear to be not only permissible, but also desirable from many standpoints, to follow the same course in connection with the earlier remission. The Department desires to ascertain whether, in the view of the Treasury Department, the authorization asked for by the American Minister may be granted.

If the Treasury Department arrives at the conclusion that it is permissible under the terms of the Joint Resolution of May 25, 1908, and of the Executive Order of December 28, 1908, to assent to the proposal made by the Chinese Government after it has been approved by the Executive Yuan, the Department proposes to telegraph to the American Minister, conveying this information, and instructing him to arrange for a proper form of receipt from the China Foundation, the wording of which, in conformity with past practice, shall indicate that the funds in question are to be utilized for the support of Tsing Hua College (i. e. the so-called "Indemnity College") and of the Educational Mission in the United States.

Very truly yours,

For the Secretary of State:
NELSON TRUSLER JOHNSON
Assistant Secretary

493.11/1468 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, September 24, 1929—6 p. m.

315. Your 838, September 19, 7 p. m.⁴⁹

1. A copy of your 672 of August 5, 3 p. m.,⁴⁹ was sent to the Treasury Department with necessary explanation and Department has now received reply dated September 24. Pertinent paragraphs follow :

"If the proposal that the payments in question hereafter shall be made direct to the China Foundation is formally approved by the proper representatives of the Chinese Government, the Treasury is of the opinion that a procedure similar to that followed in connection with the 1925 remission under which the checks would be issued in favor of the American Minister and endorsed by him to the China

⁴⁷ Neither printed.

⁴⁸ *Foreign Relations*, 1925, vol. I, p. 935.

⁴⁹ Not printed.

Foundation for the Promotion of Education and Culture would be entirely proper, and the Treasury can see no objection thereto.

Your statement is noted that arrangements will be made for a proper form of receipt for such installments of the 1908 remission from the China Foundation, the wording of which will, in conformity with past procedure, indicate that the funds in question are to be utilized for the support of Tsing Hua College and of the Educational Mission in America. It is suggested that the form of receipt be so worded as to indicate that the China Foundation for the Promotion of Education and Culture is the agent designated by the Chinese Government to receive the payments in question."

2. When Executive Yuan has approved the proposed procedure you may hand to the China Foundation the monthly indemnity remissions concerned, receipts for which should embody *inter alia* the statements referred to in the letter from the Treasury. Inform Department by telegraph when checks now held by you have been handed to the China Foundation.

STIMSON

493.11/1474: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEIPING, October 18, 1929—6 p. m.

[Received 9:30 p. m.]

904. Department's 315, September 24, 6 p. m. Sealed petition of Ministry of Education and sealed Order in Council, Executive Yuan, having now been received, I have today transmitted by [to?] the China Foundation check for the installments of the 1908 remission accumulated in July, August, and September.

MACMURRAY

DETERMINATION AND PAYMENT OF AMERICAN CLAIMS UNDER THE AGREEMENT IN SETTLEMENT OF THE NANKING INCIDENT OF MARCH 24, 1927⁵¹

493.11 Woo, John W./2: Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

PEKING, January 22, 1929—5 p. m.

[Received January 22—11:30 a. m.]

43. . . .

1. Commissioner Spiker of Nanking Claims Commission⁵² has informed me, in a despatch of January 4th, of refusal of Chinese

⁵¹ For previous correspondence concerning the Nanking incident, see *Foreign Relations*, 1928, vol. II, pp. 323 ff.

⁵² C. J. Spiker, Second Secretary of Legation in China, and V. G. Lyman, of Shanghai, were the two American members, while the two Chinese members were C. Kuangson Young (Yang Kuang-sheng) and Wu Ching.

Commissioners under Chinese nationality law of *jus sanguinis* to consider claims filed by following four brothers, American citizens born in Hawaiian Islands of Chinese parents:

[Here follow details regarding Dr. John W. Woo, Dr. Paul S. Woo, Francis H. Woo, and Timothy D. Woo.]

2. Assuming American citizenship of these claimants to be sufficiently established, I request Department's instructions as to the support to be given their claims in view of their being of dual nationality and domiciled in the country of their other allegiance.

MACMURRAY

493.11 Woo, John W./3 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, January 30, 1929—3 p. m.

41. Your No. 43, January 22, 5 p. m. Woo claims. These claimants were American residents within the meaning of the agreement between the United States and China for the settlement of the Nanking claims.⁵³ Furthermore existing treaties between United States and China make no distinction between American citizens of Chinese race and other American citizens. The claims should be accorded the same support as other American claims.

KELLOGG

493.11N15/287 : Telegram

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

PEKING, February 2, 1929—5 p. m.

[Received 5:58 p. m.⁵⁴]

83. 1. Following from the American members of the Nanking Reparations Commission:

"Commission has verified and assessed all American claims other than the following:

(1) The American Government Claim. Chinese Commissioners in letter January 28⁵⁵ have quoted instructions sent to British Commissioners by British Minister under date of November 16, 1928 (see our despatch of December 31⁵⁵), and have renewed request that the American Government take similar action in presenting its claims in the same detailed form as private claims. American Commissioners will make no reply pending further instructions. In addition to total stated in Shanghai's telegram No. 325 of October 31, noon, Navy per-

⁵³ See telegram of March 30, 1928, from the Minister in China, *Foreign Relations*, 1928, vol. II, p. 331.

⁵⁴ Telegram in eight sections.

⁵⁵ Not printed.

sonnel claims totalling American \$339.30 and Mexican \$97 have been received by the American Commission from the Nanking Consulate which states copies were at same time transmitted to Legation which it is presumed will include such claim in notification supplemental to notification November 7, 1928.

2. Chinese Commissioners were duly notified of the Department's No. 315 of last September 17, 4 p. m.,⁵⁶ in reference to interest on claims and informally questioned proposal but stated that matter would be referred to the Ministry of Foreign Affairs for a ruling. Later the Chinese Commissioners intimated that at least some compromise on the Department's proposal might be reached, this leading American Commissioners to hope for eventual success. To clarify such highly unsatisfactory status of the case, American Commissioners have persistently pressed for definite reply as to the attitude of the National Government but the Chinese Commissioners with equal insistence have plead their inability to obtain definite statement from the Ministry of Foreign Affairs.

American Commissioners in support of the Department's proposal have informally cited cases, while Chinese Commissioners have cited 1911 revolution claim settlement when interest was waived. However, this waiver was the result of special action taken *in misericordia*. This morning all hopes for satisfactory solution of the matter were ended when Chinese Commissioner Young orally informed American Commissioners that instructions finally had been received from his Government and that Chinese Commissioners definitely cannot agree to payment of interest on any claim. When again pressed for written statement in the matter, Young with reluctance finally promised to go on formal written record as to the position of the Foreign Office and has just submitted letter reading in part as follows:

'We feel that the undertaking of the National Government to make compensation in full for all personal injuries and material damages does not include the payment of interest which question was never brought up during the negotiations which led to the Federal Government settling the Nanking incident.'

7. Respecting paragraph (1) of section 1, the Legation in a telegram instruction of January 15th authorized the American Commissioners to reaffirm their position that, under the identic note issued to the American and Chinese Commissioners by their respective Governments, they are to accept and approve the American Government's claim as presented and that it is therefore not within the competence of the Commission in any way to question this claim.

MACMURRAY

⁵⁶ *Foreign Relations*, 1928, vol. II, p. 359.

493.11N15/292 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 9, 1929—8 p. m.

57. Your number 83, February 2, 5 p. m. Sino-American Commission.

1. Department approves your instructions to American Commissioners in regard to the Government claim.

2. Telegraphic instructions regarding Hobart⁵⁷ Claim and custody of Commission records and claims sent by Department to American Commissioners care American Consulate General, Shanghai, January 28.⁵⁸

3. In the agreement for the settlement of the Nanking claims the Chinese Government undertook to make "compensation in full for all personal injuries and material damages." Obviously any settlement which does not take into account the lapse of time between the date the loss or injury was suffered and the date of payment can not constitute "full compensation" and would not conform to the agreement. Moreover, the Chinese are in error in asserting as a precedent that interest was waived in regard to the 1911 claims. On August 25, 1914, the Wai Chiao Pu agreed to the payment of interest on such claims at the rate of 5 percent, to be calculated from August 26, 1913, the date of the signature of the Reorganization Loan. See your despatch No. 367 of September 12, 1914.⁵⁹ The Department suggests as a basic date for the imposition of interest on the Nanking claims and as a compromise of the matter the date of the Nanking agreement, namely March 30, 1928.⁶⁰

Instruct American Commissioners to reopen discussion of interest question in the sense of the foregoing and to inform Chinese commissioners that if the matter can not be adjusted between the two Governments, it will be necessary to consider submitting the question to a neutral arbitrator as contemplated by the agreement. You may, in your discretion, also take up matter directly with Foreign Office in an effort to have fresh instructions issued to Chinese commissioners to accept principle that imposition of interest was contemplated by the agreement.

KELLOGG

⁵⁷ Earle T. Hobart, formerly Nanking manager of Standard Oil Co.

⁵⁸ Not printed.

⁵⁹ *Foreign Relations*, 1914, p. 94.

⁶⁰ See telegram of March 30, 1928, from the Minister in China, *ibid.*, 1928, vol. II, p. 321.

493.11N15/299½ : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 27, 1929—midnight.

79. Your 114, February 15, 4 p. m. and your 130, February 22, 7 p. m.,⁶¹ Sino-American Commission.

1. Department desires that you instruct American Commissioners as follows:

(a) To move that on account of division of Commission on question of nationality Woo claims be dismissed without prejudice to the rights of American Government or the claimants elsewhere.

(b) To move that an order be entered recording the division of Commission on question of interest on claims and stating that such order is without prejudice to the right of the American Government to negotiate for adjustment of matter through other channels.

2. With regard to Bowen⁶² informal claim and other American claims based on lost deeds, the Department concurs in plan of adjustment outlined by American commissioners in your No. 114.⁶³

3. Department authorizes you to make the statements to the Commission regarding American Government claim as outlined in paragraph 2 of your No. 130.⁶⁴

4. If the Commission makes rulings as suggested with regard to Woo claims and question of interest and otherwise concludes its work the Department desires that before returning to Peking you take such steps as appear to you advisable to bring about agreement with National Government regarding (1) Woo claims, (2) interest on claims, (3) payment of further installments on total damages awarded.

KELLOGG

493.11N15/302 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, March 11, 1929—7 p. m.

[Received March 11—1:50 p. m.]

168. Your 79, February 27, midnight, which was repeated to Shanghai for Spiker and to Nanking for me.

⁶¹ Neither printed.

⁶² A. J. Bowen, president of Nanking University.

⁶³ The plan of adjustment provided for the replacement of lost deeds without cost to American owners.

⁶⁴ Paragraph 2 reads as follows: "2. Respecting the American Government's claim I venture to suggest that I be authorized to meet the wishes of the Chinese Commissioners to the extent of informing the Commission that the claim consists of the following three parts and giving a separate aggregate total for each part: (a) Property losses of the Government itself; (b) property losses of the officers and employees of the Nanking Consulate; (c) property losses of United States Navy personnel. I would add that the figures are compiled from sworn affidavits covering the several items submitted to the American Government." (493.11N15/299.)

1. On March 7th, at Nanking, I pointed out to the Minister, and he agreed, that the Woo claims and the question of interest, being matters beyond the scope of the Commission, should be reserved for subsequent diplomatic negotiations between the two Governments.

2. Without being precise as to date or amount, I urged Wang to cause payment of further installments to be hastened. He stated that he would consult with the Minister of Finance with that end in view.

MACMURRAY

493.11N15/316

*The American Commissioners on the Sino-American Joint Commission
to the Secretary of State*

SHANGHAI, March 15, 1929.

[Received April 15.]

SIR: The American Commissioners on the Sino-American Joint Commission for the assessment of damages for American losses at Nanking have the honor to enclose the final awards of the Commission as signed and sealed on March 15th [13th], and to submit this final report on the work of the Commission. Details of the Commission's previous activities have already been reported to the Department in the Commissioners' confidential communications of October 12, 1928, November 19, 1928, December 27, 1928, February 6, 1929, and March 9, 1929,⁶⁵ and in a number of telegrams transmitted through the Legation at Peking.

In assessing the claims for American losses at Nanking, the American Commissioners were in general guided by the Department's telegraphic instruction No. 315 of September 17, 4:00 p. m. to the Legation,⁶⁶ to the effect that:

"As to the value to be used as the measure of damages, . . . the Department's view would be that generally the actual value of the property at the time of the loss, as nearly as ascertainable, should be used."

The claims as filed were in general very reasonable in nature and in only a few instances were there encountered claims in which there appeared conclusive evidence of an overstatement of values, the Commission reducing such claims in accordance with the evidence. Reasonable amounts were written off for depreciation in certain of the large number of cases in which values were stated in terms of cost of goods purchased over a period of years, although in a number of these cases, the valuations were so modest in nature that the Chinese Commissioners agreed to the American Commissioners' proposal that the

⁶⁵ None printed.

⁶⁶ *Foreign Relations*, 1928, vol. II, p. 359.

claim be assessed in the full amount claimed. Of the 122 individual claims assessed, 45 were assessed as presented, while the bulk of the remainder were subject to comparatively slight reductions, each case being decided on its merits, so far as these merits could be determined from the claim as filed and from collateral evidence available to the Commissioners.

The Chinese Commissioners in the main evinced a spirit of conciliation and fairness in reference to the assessments, although in a number of cases they made most unreasonable attacks on claims which appeared entirely legitimate in every way. The American Commissioners, however, had an unflinching source of strength in such cases in the provision that the sworn statements of American citizens were to be accepted as 'prima facie' evidence which was to be questioned only upon proof of error. After their experiences in the matter, the American Commissioners are of the opinion that but for this provision in the exchange of notes, the assessment of damages at all commensurate with the losses suffered would have been out of the question.

In assessing damages to immovable property, the Chinese Commissioners agreed to the following scale of depreciation for buildings:

First five years after construction . . .	No depreciation.
First ten years thereafter	2½ per cent per annum.
Second ten years thereafter	1½ per cent per annum on first depreciated valuation.
Third ten years thereafter	½ per cent per annum on second depreciated valuation.

This scale, as compared with those supplied to the American Commissioners by the local real estate and insurance companies, was a very favorable one and in most cases was liberally construed by the Commission, which was working with figures based on the appreciated cost of building materials and workmanship.

As reported in the American Commissioners' telegram of November 23, 10:00 a. m. to the Legation,⁶⁷ only one of the claims presented to the Commission contained a specific claim for rental of the property (which had been forcibly occupied by Nationalist troops for a number of months). The Chinese Commissioners held that such claim was not a proper charge against the National Government, the American Commissioners holding the opposite view. The matter was accordingly referred to the Legation, which in its telegram No. 298 of December 1, 4:00 p. m., quoted the Department's instruction to the Legation of November 30, 6:00 p. m.,⁶⁸ reading in part as follows:

⁶⁷ See telegram No. 844, November 26, 1928, from the Minister in China, *Foreign Relations*, 1928, vol. II, p. 366.

⁶⁸ *Ibid.*, p. 367.

“One. Department considers that claim for rental as such cannot be supported on legal grounds but will leave to the discretion of the Commissioners to decide to what extent the argument of simple justice should be pressed.”

This original instruction was later modified by the Department's telegraphic instruction of December 17, 5:00 p. m. to the Legation,⁶⁹ but the American Commissioners in the meantime had been pressing the claim as a matter of simple justice and the Chinese Commissioners on these grounds had agreed to a readjustment, without making any formal definite ruling on the matter of rental. This was possible because of a dispute concerning the exchange rate used in converting gold to Chinese currency, and the claim was assessed as a whole in accordance with the usual practice governing the assessment of organization claims.

The American Commissioners, as reported in each of their previous communications to the Department, experienced much difficulty in securing the attendance of the Chinese Commissioners at meetings, both Commissioners holding concurrent positions in the Government at Nanking, which necessitated frequent trips to that city. . . .

As reported in the American Commissioners' telegrams of January 30, 10:00 p. m. and January 31, 7:00 p. m. to the Legation,⁷⁰ the Commission on the latter date had assessed all claims other than the Hobart claim for personal injuries, the Department's telegraphic advices as to the examining surgeon's report on Mr. Hobart's injuries not having been received until January 31st, too late for consideration at the Commission's meeting held that morning.

In the same telegrams the American Commissioners requested instructions as to the action to be taken in reference to the American Government claims; and reported a deadlock between the American and Chinese Commissioners in reference to the matter of interest on claims and the admission of the claims of four American citizens of the Chinese race. Report was also made of certain difficulties encountered in reference to the negotiations looking to the replacement of American owned deeds lost as a result of the disturbances at Nanking.

The American Government's claim ⁷¹ as presented in the Legation's telegram of March 4, 5:00 p. m. to the American Commissioners was accepted and approved by the Commission on March 13th, while the matter of the replacement of lost deeds was adjusted by the Commis-

⁶⁹ *Ibid.*, p. 368.

⁷⁰ See extracts in telegram No. 83, February 2, from the Minister in China, p. 859.

⁷¹ See telegram No. 79, February 27, to the Minister in China, p. 862.

sion's formal recommendation which constitutes Section five of the final report signed by the American and Chinese Commissioners and enclosed herewith.

However, all efforts by the American Commissioners to break the deadlock which existed on January 31st in reference to interest on claims and the claims of four American citizens of the Chinese race, proved unavailing and the Commission in its final report of March 13, 1929, noted division in reference to these two questions as instructed in the Department's telegram of February 27, 12:00 p. m. to the Legation, this instruction having been received by the American Commissioners on March 5th in the Legation's telegram No. 43 of March 4, 5:00 p. m.

Detailed confidential memoranda as to the negotiations before and after January 31, 1929, in reference to interest and the four claims of Chinese-Americans are being submitted under cover of separate despatches of today's date ⁷² supplementing this final report, so will not be referred to at greater length here.

In accordance with the instructions contained in paragraph 2 of section 7 of the Department's telegram of January 28th to the American Commissioners,⁷³ the original copies of all claims appearing on the final list of awards together with the original book of minutes and all other archives of the Commission are being handed over to the American Consul General at Shanghai for safekeeping. The file of claims consists of 117 individual claims and 14 group or organization claims, each claim being contained in a manila envelope with the name of the claimant written thereon, while the minutes and other archives are contained in nine Shipman binders duly indexed.

We have [etc.]

C. J. SPIKER
V. G. LYMAN

[Enclosure]

Final Report of the Sino-American Joint Commission

(Nanking Incident Claims)

The Sino-American Joint Commission having been instituted by the exchange of notes between the American and Chinese Governments in settlement of the Nanking Incident, "to verify the actual injuries and damages suffered by the American residents (at Nanking) at the hands of the Chinese concerned, and to assess the amount of compensation due in each case", held its first meeting on August 27, 1928, and concluded its work this 13th day of March, 1929, having held forty formal meetings.

⁷² None printed.

⁷³ See point 2 of telegram No. 57, February 9, to the Minister in China, p. 861.

The assessments and findings of the Commission are embodied in the following report which is divided into five parts, namely :

- I. American Government claims.
- II. Private Claims;
 - A. Individual Claims,
 - B. Group or organization Claims.
- III. Claims Waived and Withdrawn.
- IV. Divided opinions of the Commission on the questions of interest and of nationality of Chinese-American claimants.
- V. Recommendation for replacement of lost deeds.

I. AMERICAN GOVERNMENT CLAIMS

In accordance with the identic instructions to the Commissioners from their respective Governments "that all American Government claims, including those of the consular officials and staff of the consulate, should be accepted and approved as presented", the Commission accepts and approves as presented, the American Government claims in the following sums :

- A. Losses of American Government owned property U. S. Gold \$8,321.97 (eight thousand three hundred twenty-one dollars and ninety-seven cents) ;
- B. Property losses of officers and employees of the American Consulate at Nanking U. S. Gold \$45,889.25 (forty-five thousand eight hundred eighty-nine dollars and twenty-five cents) ;
- C. Property losses of United States Navy personnel U. S. Gold \$339.30 (three hundred thirty-nine dollars and thirty cents), and Chinese Currency \$97.00 (ninety-seven dollars) ;

making a total of U. S. Gold \$54,550.52 (fifty-four thousand five hundred fifty dollars and fifty-two cents) and Chinese Currency \$97.00 (ninety-seven dollars).

II. PRIVATE CLAIMS

The Commission, having been instituted "to verify the actual injuries and damages suffered by the American residents at the hands of the Chinese concerned, and to assess the amount of compensation due in each case", has carried out these instructions and made the following assessments of the claims of American individuals and organizations, the amount of the several claims and assessments thereon being set down in the following schedule :

[Here follows list of 116 individual claims totaling \$755,285.96, with assessments of \$639,963.75 and of 14 group or organization claims totaling \$286,746.19, with assessments of \$247,213.83, a grand total of individual and group claims of \$1,042,032.15, with assessments of \$887,177.58, all in Chinese currency.]

III. CLAIMS WAIVED AND WITHDRAWN

In addition to the claims listed in the foregoing sections of this report, the following claims were presented to the Commission for its consideration but were subsequently waived or withdrawn by the parties concerned:

[Here follows list of 7 individual claims totaling \$45,658.77 and 2 group claims totaling \$100,030.14, all in Chinese currency.]

IV. DIVIDED OPINIONS OF THE COMMISSION ON THE QUESTIONS OF INTEREST AND OF NATIONALITY OF CHINESE-AMERICAN CLAIMANTS

Owing to the conflict of the nationality laws of China and of the United States of America, the American and Chinese Commissioners are divided in their opinions on the question of the nationality of Dr. John Y. Woo, Dr. Paul S. Woo, Mr. Timothy D. Woo and Mr. Francis Woo, four Chinese-Americans, whose claims are accordingly dismissed by the Commission without prejudice to the rights of the American Government or of the claimants elsewhere.

In reference to interest on claims, the American Commissioners hold that the National Government having undertaken in the agreement for the settlement of the Nanking claims "to make compensation in full for all personal injuries and material damages done to the American Consulate and to its officials and to American residents and their property at Nanking", any settlement which does not take into account the lapse of time between the date the loss or injury was suffered and the date of payment of the assessments on claims cannot constitute "compensation in full" and does not conform to the agreement.

The Chinese Commissioners however hold that the Commission is limited in its power by the exchange of notes and by the identic instructions to the Commissioners from their respective Governments, and that the question of interest is therefore without the competence of the Commission to decide. Furthermore, they are of the opinion that, granting such decision is within the competence of the Commission, interest on claims is a matter of contract and, in the absence of explicit provision in the exchange of notes and/or the identic instructions to the Commissioners, cannot be allowed.

The Commission accordingly records its division on the question of interest on claims, which action however is without prejudice to the rights of the American Government to negotiate for adjustment of the matter through another channel.

V. RECOMMENDATION FOR REPLACEMENT OF LOST DEEDS

In reference to the loss of certain deeds by the American Consulate and by American residents at Nanking, the Commission recognizes

that they should be protected from possible damage arising from such loss, and the Commission accordingly makes formal recommendation to the National Government that, upon application by the American Consulate at Nanking, the National Government will take steps to replace, without cost to the American citizens concerned, any deeds lost as a result of the disturbances at Nanking. American claimants for such losses should comply so far as practicable and possible with the regulations governing the replacement of lost deeds. The Commission is of the opinion that as in the case of other claims for losses, the sworn statements of claimants for lost deeds, supported by a certificate from the American Consulate at Nanking based on its records and/or other knowledge, should be accepted as 'prima facie' evidence by the Chinese authorities concerned.

Done at Shanghai, China, March 13, 1929.

C. KUANGSON YOUNG

Chinese Commissioner

WU CHING

Chinese Commissioner

CLARENCE J. SPIKER

American Commissioner

VERNER G. LYMAN

American Commissioner

493.11N15/309 : Telegram

The Acting Secretary of State to the Minister in China (MacMurray)

WASHINGTON, June 1, 1929—2 p. m.

182. Your 259, April 3, 6 p. m., paragraph 3.⁷⁴ If you have heard nothing further from the Chinese authorities in regard to the payment of the Nanking awards, the Department desires that you inform the Minister for Foreign Affairs that your Government has received and examined the final report of the Sino-American Joint Commission, signed March 13, 1929, and believes that the Chinese Government will feel the same satisfaction that is felt by the American Government at the way in which the Commission has done its work. You should state in reference to the payment of interest on awards that, if the Chinese Government pays promptly the amounts awarded to American claims, the American Government will then be disposed not to press further the claim which it has asserted on behalf of these claimants for interest. It should be urged that the interests of equity and international good feeling would be greatly advanced by the prompt payment of these awards and you should inquire on behalf of your Government regarding the time and manner of payment decided upon by the Chinese Government. You may use your discretion as to the time and manner of transmitting this communication and the including of additional subject matter. It should be under-

⁷⁴ Not printed.

stood, however, that the suggestion that claim to interest may be waived is made contingent upon early payment of amounts awarded.

CLARK

493.11N15/327

The Minister in China (MacMurray) to the Secretary of State

No. 2138

PEKING, June 10, 1929.

[Received July 20.]

SIR: In response to the Department's telegraphic instruction No. 182, of June 1, 2.00 p. m., concerning representations to be made to the Nationalist Government regarding the payment to American claimants for Nanking losses of the awards made by the Sino-American Joint Commission, I have the honor to enclose a copy of a note, No. 787, of June 10th,⁷⁵ which I addressed to the Ministry of Foreign Affairs in reference to the matter.

Upon careful consideration of the matter, it is my belief that it is inexpedient at this juncture to suggest the waiver of interest on claims, such waiver being contingent upon the early payment of the claims by the Nationalist Government. I have accordingly refrained from including that suggestion in my note to the Ministry of Foreign Affairs.

I have [etc.]

J. V. A. MACMURRAY

493.11 Hsu Shun Pu, heirs of/4 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, July 11, 1929—6 p. m.

228. Your 496, June 20, 6 p. m. and your 538, July 5, 4 p. m.⁷⁶ The Department has been endeavoring to devise a method whereby it might afford relief to the heirs of Hsu Shun Pu.⁷⁷ It would not be practicable to make an advance to them to be reimbursed when awards are paid. Department is considering the immediate distribution among all the claimants of the \$100,000 already received. This procedure obviously would entail additional labor and might cause complications. The reported action of the Executive Yuan affords grounds for hope that further substantial sums will be paid in the near future if not the entire amount outstanding. The Department desires that unless you have received satisfactory assurances in this regard from the National Government you shall tele-

⁷⁵ Not printed.

⁷⁶ Neither printed.

⁷⁷ Deceased former employee of the Consulate at Nanking.

graph to the Chinese Minister for Foreign Affairs in the name of this Government pointing out that some of the claimants are in urgent need of the sums that have been awarded to them and that it seems highly desirable that the whole incident shall be settled as soon as possible. Endeavor to obtain definite assurance of future payments. Report by telegraph.

STIMSON

493.11 Hsu Shun Pu, heirs of/5 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, July 16, 1929—7 p. m.
[Received July 17—9:45 a. m.]

578. Your 228, July 11, 6 p. m. In an interview July 12th with the Minister for Foreign Affairs, I inquired as to the steps being taken to pay Nanking incident claims. Dr. Wang confirmed that the matter had been referred to the Executive Yuan and that the latter had instructed the Minister of Finance to devise means of payment. He expressed the hope that the Ministry of Finance would take prompt action, adding that he would inform me of it at once.

MACMURRAY

493.11 Hsu Shun Pu, heirs of/6 : Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, August 2, 1929—5 p. m.
[Received August 3—9:35 a. m.]

667. My 578, July 16, 7 p. m.

1. The following is the substance of a note of July 29th from the Minister for Foreign Affairs:

"I have the honor to acknowledge the receipt of your formal note of June 10th requesting that you be given definite information as to decision made by the Chinese Government regarding the time and manner of the payments of the indemnity for damages resulting from the Nanking incident.

"I have the honor to observe as regards this indemnity that it is now planned to make a payment of \$100,000 *per mensem* from August of this year until the date when the indemnity is paid in full."

2. A copy of the note of June 10th referred to was transmitted to the Department under cover of the Legation's despatch No. 2238 [2133] of June 10th.⁷⁸

MACMURRAY

⁷⁸ The first payment of Mex. \$100,000 occurred in April 1929; the concluding payment was made in 1933.

**EFFORTS OF THE UNITED STATES TO OBTAIN AMENDS FROM THE
CHINESE GOVERNMENT FOR THE KILLING OF DR. WALTER F.
SEYMOUR⁷⁹**

393.1123 Seymour, Walter F./23

*The American Minister in China (MacMurray) to the Chinese Minister for Foreign Affairs (C. T. Wang)*⁸⁰

No. 719

PEKING, January 9, 1929.

EXCELLENCY: With reference to my note No. 687 of October 31, 1928, and to your reply of November 27, 1928,⁸¹ regarding the murder of Dr. Walter F. Seymour, an American citizen, on April 16, 1928, at Tsining, Shantung, by soldiers of the Nationalist Government, I have the honor to recall to Your Excellency the course which this case has followed.

Under date of May 10th, the Legation caused to be brought to the attention of the Ministry of Foreign Affairs notice of the murder of this American citizen,⁸² with the request that the guilty person be arrested and punished; and the right was reserved to submit at a later date a claim for appropriate indemnity. On July 16th, and again on August 4th, further communications were addressed to Your Excellency on the subject. Under date of August 8th, a reply was received stating that an investigation was being made and that the results of this investigation would be communicated to me. Another note was addressed to Your Excellency with regard to this matter on October 31st; and a reply from you, dated November 27th, made the following statement in regard to an investigation conducted in behalf of the Nationalist Government by its Military Commander in Shantung, General Sun Liang-ch'ang:

"After my army had attacked and captured all parts of Tsining, I heard that there was an American, Dr. Walter F. Seymour, who had been injured, and I immediately sent an officer to the said hospital to make an investigation. According to the statement of the hospital, at the time that the Nationalist Army was attacking the southern gate Dr. Seymour went outside of the gate to look around, then returned within the hospital. At that time there were disorderly soldiers outside the gate running about firing in all directions. Dr. Seymour, who was standing within the gate, was struck by a bullet and killed. At that time the enemy was retreating and conditions were chaotic. I am afraid that Dr. Seymour was killed by a stray bullet."

⁷⁹ Continued from *Foreign Relations*, 1928, vol. II, pp. 281-292.

⁸⁰ Copy transmitted to the Department by the Minister in China in his despatch No. 90, March 17, 1930; received April 23, 1930.

⁸¹ See telegram No. 858, December 5, 1928, from the Minister in China, *Foreign Relations*, 1928, vol. II, p. 290.

⁸² Apparently note delivered May 15, 1928, by the Consul General at Shanghai to the Chinese Minister for Foreign Affairs; see telegram No. 377, May 21, 1928, from the Minister in China, *ibid.*, p. 286.

I am instructed by my Government to state that the result of this investigation into Dr. Seymour's death, as given in Your Excellency's note of November 27th last, is not acceptable to it. The testimony of eye witnesses given to Chinese officers in high command, including General Sun himself, and other evidence points conclusively to the commission of a wanton murder. My Government would be reluctant to believe that the National Government is indifferent or that its responsible officials are unable to apprehend the criminals and administer justice. Nevertheless it must come to one of these conclusions unless there is afforded, without further delay, satisfactory evidence that the Nationalist Government does not condone the offense and is willing and able to take proper action in the premises.

I avail myself [etc.]

J. V. A. MACMURRAY

393.1123 Seymour, Walter F./22

*Memorandum by the Counselor of Legation in China (Perkins) of a Conversation With the Chinese Minister for Foreign Affairs (C. T. Wang), January 24, 1929, at Nanking*⁸³

I called on Dr. Wang by appointment at his residence at 9 a. m. and took up with him the case of Dr. Seymour who was murdered by Chinese soldiers in April, 1928, at Tsining, Shantung. I took occasion to remark that we felt a good deal of dissatisfaction with the way in which this case had been handled by the National Government, not necessarily because the actual murderers had not been apprehended, but because there had apparently been shown no disposition by the National Government to take any genuine interest in the case, to meet the issues involved, or to deal seriously with the specific evidence which had been brought to its attention. I pointed out that, after a period of some nine months, the last note from the Foreign Office merely stated that an investigation had been made, the result of which indicated that Dr. Seymour had been killed by a stray bullet. This was contrary to the specific evidence which had been obtained at the time of the murder, and the Chinese reply made no attempt to deal with this evidence or to make any adequate response to our requests that justice be done in this matter.

In spite of the fact that the Minister for Foreign Affairs had himself signed the note to which I referred, Dr. Wang then stated that he himself did not believe that Dr. Seymour had been killed by a stray bullet; and he proceeded to give his version of a personal investigation which he had attempted to make in this case at the time when he was in Shantung shortly after the incident occurred and before

⁸³ Copy transmitted to the Department by the Minister in China in his despatch No. 1978, March 13; received April 15, 1929.

he had been appointed Minister for Foreign Affairs. This version was to the effect that the first group of Feng's soldiers who met Dr. Seymour had held some conversation with him and had then passed on without doing him any injury. Shortly after they left him they heard a shot and, looking back, saw a man, who could not be identified, running away. I said that our report of the incident was similar to this insofar as the first group of soldiers was concerned, but that there had been a second group who had killed Dr. Seymour and had then robbed his body. I went on to say that we would have felt differently about the case if some such report as this had been made and if we had been convinced that it had been impossible to find the guilty parties. Our feeling of disappointment lay chiefly in the fact that there had been no genuine attempt to do justice. Dr. Wang then said that after the Japanese incident in the early part of May, everyone forgot everything else in the excitement caused by that affair and this served to explain why more attention had not been given to the Seymour case at the time.

I then mentioned to Dr. Wang that the impression created by the failure to do justice in this case was far-reaching in its implications and could not but create a certain amount of belief as to the general inability of the Chinese Government to do justice in cases of this kind. Dr. Wang then inquired if more specific evidence than we had already submitted could not be obtained as to the identity of the group of soldiers concerned in this incident. I received the impression that Dr. Wang was trying to make the best of a bad case and that he appreciated a mistake had been made in their attitude towards this affair. By requesting more evidence after this lapse of time, however, I did not feel that Dr. Wang was displaying a bona fide interest in the case and I did not attempt to exact any definite promise from him as to what would be done, preferring to leave the impression that we were pretty much disillusioned as to their intentions in the matter and that a very definite impression had been created that there was a lack of any genuine purpose even to attempt to do justice in this case.

[PEKING (?)] February 20, 1929.

393.1123 Seymour, Walter F./22

*Memorandum by the Minister in China (MacMurray) of a Conversation With the Chinese Minister for Foreign Affairs (C. T. Wang), March 7, 1929, at Nanking*⁸⁴

[Extract]

The Minister then discussed the Seymour case, and Dr. Wang stated that it had been extremely difficult to investigate the matter, but that

⁸⁴ Copy transmitted to the Department by the Minister in China in his despatch No. 1978, March 13; received April 15, 1929.

the report that he had received was to the effect that a body of soldiers had approached the compound in which Dr. Seymour was shot, had talked to Dr. Seymour and had quite peaceably turned about and were leaving when they heard a shot ring out and saw Dr. Seymour fall, and that they had seen a single soldier in the distance running away. Mr. Price ⁸⁵ at this time asked whether any effort had been made to obtain the evidence of eye witnesses of the shooting, including the gate-keeper at the Seymour place. Dr. Wang requested the name of the gate-keeper and said that he would make an effort to obtain his testimony.

[In a memorandum of a conversation with the Chinese Minister for Foreign Affairs, on February 26, 1930, at Nanking, the Minister in China stated: "I gained the impression from Dr. Wang's statement to me that we could not expect anything further on this subject." (393.1123 Seymour, Walter F./23.)]

SPECIAL MISSION TO THE STATE BURIAL OF THE LATE NATIONALIST LEADER, SUN YAT-SEN, AT NANKING, JUNE 1, 1929

893.44 Sun Yat Sen/23 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, February 28, 1929—1 p. m.

80. Your No. 145, February 26, 5 p. m.⁸⁶ The Department feels that as the request for the appointing of special representatives to the ceremonies connected with the burial of the remains of Sun Yat Sen has been made by the Minister of Foreign Affairs and it would appear that the ceremonies are to be held under the auspices of the Chinese Government, this Government should accede to the request and should appoint a special representative to participate in the ceremonies. The Department would prefer to appoint the Minister in this capacity. If, however, the other Governments represented in China are appointing as special representatives some one other than the Minister, you should so inform the Department.

The fact that Sun Yat Sen was a private citizen at the time of his death ⁸⁷ seems to the Department to have no bearing on the question as it would appear from your telegram that the ceremonies are being conducted under the auspices of the Government.

KELLOGG

⁸⁵ Ernest B. Price, Consul at Nanking.

⁸⁶ Not printed.

⁸⁷ Sun Yat-sen died at Peking, March 12, 1925.

893.44 Sun Yat Sen/26: Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, March 18, 1929—6 p. m.

96. Your 174, March 13, 5 p. m.⁹⁰ Department considers telegraphic or written instructions to you to attend the ceremonies as special representative of this Government will be sufficient, such instructions to be communicated by you to the Chinese Government.

Department expects to follow that procedure upon receiving from you the form of official invitation from the Chinese Government, unless the form of invitation particularly requests that special credentials be issued to this Government's representative at the ceremonies, in which case the Department will expect to recommend the issuing of such special credentials by the President.

KELLOGG

893.44 Sun Yat Sen/28: Telegram

The Minister in China (MacMurray) to the Secretary of State

PEKING, April 25, 1929—7 p. m.

[Received April 26—9:35 a. m.⁹¹]

317. Your telegram No. 96, March 18, 6 p. m.

1. The following is the translation of the Chinese Government's invitation:

"February 9, 1929.

Excellency: I have the honor to inform Your Excellency that June 1st, 1929, has been set as the date for the national ceremonies connected with the burial of the remains of the eminent Mr. Sun Yat-sen, the founder and first President of China. I have been instructed by the chairman of the National Government to request all friendly nations to send special representative[s] to participate in the ceremonies. These are the most exalted and dignified state ceremonies of my country and I venture to request that Your Excellency telegraph to your Government inviting it to send a special representative or by means of a special order given to Your Excellency to repair to the capital as a special envoy to participate in the ceremonies, thus showing great honor to former President Sun and giving glory to the National Government and the Chinese people, as well as greatly increasing and strengthening the friendly relations now existing between the United States and China.

I have the honor to request an early reply informing me of the name of any such representative that Your Excellency's Government may deem fit to appoint in order that proper arrangements may be made for his reception. As regards the etiquette to be followed at the time of the state burial ceremonies and as regards the etiquette and the date for the reception of the representatives, a special notification will be sent to you as soon as possible. Wang Cheng-ting."

⁹⁰ Not printed.

⁹¹ Telegram in three sections.

2. Japanese Legation is informed that it is the instructions of the Japanese Government to appoint Japanese Minister special envoy to represent the Emperor at the ceremonies, giving him no credentials but instructing him to advise the Chinese Government of his appointment in a note to the Foreign Office. This procedure is substantially similar to that proposed in the last paragraph of your telegram cited above and to that adopted by the British (my telegram No. 174, March 13, 5 p. m.⁹²).

3. With a view to assuring uniformity of action, it has been agreed at a recent meeting of the diplomatic body that the several chiefs of mission should recommend to their Governments the adoption of the same procedure.

MACMURRAY

893.44 Sun Yat Sen/32 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 3, 1929—4 p. m.

147. Your 325, April 29, 7 p. m.⁹² The President has approved of your designation as a special envoy to represent him at the national ceremonies connected with the burial of the remains of Sun Yat Sen.

You should so inform the Chairman of the National Government, in response to the invitation transmitted to this Government through the Legation by your telegram 317, April 27 [25], 7 p. m. You should further explain that the shortness of time will not permit of the forwarding of special credentials for you in this capacity and you may express the hope that your note will be received as your authority for acting as the special representative of the President at these ceremonies.

You are authorized to take with you the military and/or naval attaché, in the event you consider it desirable to do so.

STIMSON

893.44 Sun Yat Sen/39 : Telegram

The Secretary of State to the Minister in China (MacMurray)

WASHINGTON, May 22, 1929—4 p. m.

169. . . .

Referring to your 384, May 14, 6 p. m.,⁹² Navy Department desires that Commander in Chief U. S. Asiatic Fleet participate officially in the ceremonies and the Secretary of the Navy informs me he has in-

⁹² Not printed.

structed the Commander in Chief to attend the ceremonies as a member of your special mission and to communicate with you regarding details.

STIMSON

898.44 Sun Yat Sen/61

The Minister in China (MacMurray) to the Secretary of State

[Extracts]

No. 2166

PEKING, June 24, 1929.

[Received August 2.]

SIR:

The diplomatic representatives were provided by the Chinese Government with a special train which left Peking on May 27th at 5 p. m. and arrived on schedule at Pukow on Tuesday morning, the 29th, at 10 a. m. They were met at the station by representatives of the Foreign Office and were escorted across the river to Nanking where automobiles were waiting to take them to their various places of residence while in Nanking.

On the morning of May 30th the foreign representatives and their staffs called upon Dr. C. T. Wang. On the morning of May 31st they were received in audience by General Chiang Kai-shek in his capacity as President of the Chinese Government, after which they proceeded to the Kuomintang Party Headquarters where the body of Dr. Sun Yat-sen was lying in state, and paid their respects to the remains of the late President. On June 1st they took part in the funeral procession which left the Central Kuomintang Headquarters at an early hour in the morning.

The entire arrangements for the state funeral were dignified and impressive, and the ceremonies were carried out with the greatest smoothness and good taste. . . .

I have [etc.]

J. V. A. MACMURRAY

COLOMBIA

AGREEMENT BETWEEN THE UNITED STATES AND COLOMBIA GRANTING RECIPROCAL FACILITIES TO AIRCRAFT OF AMERICAN REGISTRY IN COLOMBIA AND OF COLOMBIAN REGISTRY IN THE UNITED STATES, INCLUDING THE PANAMA CANAL ZONE

821.7961/1 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

WASHINGTON, February 9, 1929—noon.

11. The Department has been having conversations recently with the Colombian Minister to come to an agreement for an exchange of notes for reciprocal permission for aircraft of United States registry to fly in Colombia and for aircraft of Colombian registry to enter the Canal Zone.

The Colombian Minister is requesting authority from his Government to enter into the following agreement:

“With reference to the conversations which you have had recently with the Department of State regarding the facilities which aircraft of Colombian registry will enjoy in the Panama Canal Zone for commercial aviation service and, reciprocally, aircraft of United States registry in Colombia, I take pleasure in confirming, by means of the present note, the understanding at which we have arrived, to wit:

Commercial aircraft of Colombian registry will have permission to land on land or water in the Atlantic and Pacific ports of the Panama Canal Zone, fuel, service, and ship and discharge passengers, mail and cargo, subject to the regulations and provisions which are enclosed with the present note.

Reciprocally, commercial aircraft of United States registry will have permission to fly along the Atlantic and Pacific Coasts of Colombia and over the territory immediately adjacent thereto; to land on land or water, fuel, service, and ship and discharge passengers, mail and cargo, in the ports of Cartagena, Barranquilla, and Santa Marta on the Atlantic, and Buenaventura and Tumaco on the Pacific, subject to the regulations and provisions which will be enclosed in the reply to this note.

All aircraft must carry out the respective Governmental regulations of both countries.

If either of the two Governments decides to terminate the permission to which this agreement refers or to modify the regulations or provisions, it will give ninety days' previous notice thereof to the other Government.

It is understood that the two Governments agree and will endeavor to give the greatest possible facilities to aircraft in international commercial communication service in order that they may land on

land or water, fuel, and carry out the other services above mentioned with all desirable speed and efficacy.”

Please take this matter up with the appropriate authorities and endeavor to obtain their agreement as soon as possible.

[Paraphrase.] Post Office Department has called for bids for carrying mail from the Canal Zone to Chile. The bids will be opened February 28. Under the terms of the advertisement, bidders must show that they have authority to operate in the intervening countries. The Pan American Airways is already in a position to operate to the Panama Canal, and through its subsidiaries it can operate in Ecuador and Peru. It is necessary to obtain an agreement to operate in Colombia. If this is not reached before February 28, all bids will, of course, have to be rejected.

Inform Department of all developments. [End paraphrase.]

KELLOGG

821.7961/5 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, February 15, 1929—noon.

14. The Department is very anxious about the aviation agreement with Colombia. Has any progress been made with the agreement and do you think it can be concluded shortly? In view of the conditions presented in Department's 11, February 9, noon, time is of the essence in the matter.

KELLOGG

821.7961/7 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, February 15, 1929—6 p. m.

[Received 9:10 p. m.]

26. Department's 13, February 13, 6 p. m.,¹ and 14, February 15, noon. The Minister for Foreign Affairs has just given me a copy of a telegram he is sending today to the Colombian Minister in Washington, Sr. Olaya, accepting the proposed exchange of notes with the following revisions:

In paragraph 2 of note after the word “ports” add “of the United States and ”; after the word “zone” add “to fly across said zone following the route pointed out by the Governor thereof”; after the word “service” add “make repairs”.

In paragraph 3 after the word “service” add “make repairs”.

¹ Not printed.

No mention is made in the telegram of the three-flight weekly limitation.

I believe it would be better to sign the exchange of notes in Washington.

CAFFERY

821.7961/8 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, February 16, 1929—7 p. m.

16. Your 26, February 15, 6 p. m. The Department is much gratified at the prompt action you were able to secure in this matter. The changes mentioned are acceptable to the Department with two slight modifications. Since the United States is included without mention of the specific ports, it is suggested that the enumeration of the Colombian ports be likewise deleted. With regard to flying "across said zone following the route pointed out by the Governor thereof," it is the real desire of the Government of Colombia to secure permission to fly between the Atlantic and Pacific ports of the Canal Zone, and the following wording is suggested in substitution of that proposed: After the word "Zone" to add "and to fly between the ports of the Canal Zone following the route designated by the Governor of the Panama Canal."

This has been accepted by Minister Olaya who says that it is the real desire of the Government of Colombia. The Department hopes that Minister Olaya will receive prompt authorization to sign on these terms.

The Governor of the Panama Canal has designated a route between the two ports of the Canal Zone, but he has not designated any route across the Canal in a north-south direction, and the War Department does not desire to do so. The wording mentioned above was drawn up in conference with the War Plans Division of the War Department.

KELLOGG

821.7961/10 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, February 19, 1929—7 p. m.

[Received 10:30 p. m.]

27. Department's 16, February 16, 7 p. m. I have before me copy of telegram from Minister for Foreign Affairs to Olaya authorizing him to sign as desired by the Department with one slight addition after words Colombian ports "where there are authorities charged with carrying out the pertinent regulations."

Olaya authorized to annex as Colombian regulations of [*sic*] the "exact copy" of those presented by the Department as "at present we have no especial legislation on the subject."

CAFFERY

821.7961/36

The Secretary of State to the Colombian Minister (Olaya)

WASHINGTON, February 23, 1929.

SIR: With reference to the conversations which you have had recently with the Department of State regarding the facilities which aircraft of United States registry will enjoy in Colombia for commercial aviation service and, reciprocally, in the United States including the Panama Canal Zone aircraft of Colombian registry, I take pleasure in confirming, by means of the present note, the understanding at which we have arrived, to wit:

Commercial aircraft of United States registry will have permission to fly along the Atlantic and Pacific Coasts of Colombia and over the territory immediately adjacent thereto; to land on land or water, fuel, make repairs, and ship and discharge passengers, mail and cargo, in the Atlantic and Pacific ports of Colombia where there are authorities charged with carrying out the pertinent regulations, subject to regulations and provisions equivalent to those established for commercial aircraft of Colombian registry in the enclosures to this note.²

Reciprocally, commercial aircraft of Colombian registry will have permission to land on land or water in the Atlantic and Pacific ports of the United States including those of the Panama Canal Zone, and to fly between the ports of the Canal Zone following the route designated by the Governor of the Panama Canal, fuel, make repairs and ship and discharge passengers, mail and cargo, subject to the regulations and provisions which are enclosed with the present note, as follows:

For the continental United States, the Air Commerce Act of 1926 and the Regulations promulgated pursuant thereto; for the Panama Canal Zone, Executive Orders Nos. 4971 and 5047 of September 28, 1928, and February 18, 1929, respectively, and the Provisional Regulations of the Governor of the Panama Canal issued pursuant thereto.

All aircraft must carry out the respective Governmental regulations of both countries.

If either of the two Governments decides to terminate the permission to which this agreement refers or to modify the regulations or provisions, it will give ninety days' previous notice thereof to the other Government.

² Enclosures not printed.

It is understood that the two Governments agree and will endeavor to give the greatest possible facilities to aircraft in international commercial communication service in order that they may land on land or water, fuel, and carry out the other services above mentioned with all desirable speed and efficacy.

Accept [etc.]

FRANK B. KELLOGG

821.7961/37

The Colombian Minister (Olaya) to the Secretary of State

[Translation]

No. 327

WASHINGTON, February 23, 1929.

SIR: In reply to the note which Your Excellency addressed to me on this same date regarding the conversations which I have recently held in the Department of State with respect to the facilities which aircraft registered in the United States will enjoy in Colombia for services of commercial aviation, and, reciprocally, aircraft of Colombian registration, in the United States including the Panama Canal Zone, I have the honor, duly authorized by my Government, to confirm the agreement which we have reached, that is:

Commercial aircraft of the United States register shall have permission to make flights along the Colombian coasts of the Atlantic and Pacific Oceans and over the territory immediately adjacent thereto; to alight on land and on water, to take on fuel, to make repairs, to land and receive passengers, mail and freight in Colombian ports in which there are authorities charged with fulfilling the formalities required, subject to regulations and provisions similar to those established for Colombian commercial aircraft in the enclosures accompanying Your Excellency's note to which I have honor to reply.

Conversely, commercial aircraft of Colombian registration shall have permission to alight on land and water in the ports of the Atlantic and of the Pacific in the United States including those of the Panama Canal Zone, to fly between ports of the Panama Canal Zone, following the route designated by the Governor thereof, to take on fuel, to make repairs, to land and receive passengers, mail and freight subject to the regulations and provisions annexed to Your Excellency's note to which I have the honor to reply.

All aircraft must comply with the respective governmental regulations of both countries.

If either of the two Governments should decide to put an end to the permission referred to in this agreement, or to change the regulations or provisions, it shall advise the other Government of this fact ninety days in advance.

It is understood that the two Governments agree and will earnestly endeavor to give the greatest facilities possible in order that aircraft engaged in services of international commercial communication may alight on land or water, take on fuel and to extend the other services mentioned above with all the efficacy and rapidity desirable.

I take [etc.]

ENRIQUE OLAYA

821.7961/16 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, February 27, 1929—4 p. m.

[Received 9:20 p. m.]

28. My telegram number 27, February 19, 7 p. m. Monday last, Minister for Foreign Affairs showed me Olaya's latest telegram saying he had signed note and had sent copies regulations by air mail. I asked him what steps Pan American should take in order to begin service. He replied of course he did not know exactly what regulations stipulated but that all he now wanted was formal notice through the Legation that Pan American desired to initiate service; he thought it would be well to include usual data about machines and names of pilots.

However, Doctor Uribe believes this to be the reciprocal procedure stipulated in the regulations.

CAFFERY

821.7961/17 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

WASHINGTON, February 28, 1929—7 p. m.

18. Your 28, February 27, 4 p. m. Department presumes that you have given the formal notice requested by the Minister for Foreign Affairs as well as data about machines and names of pilots.

KELLOGG

821.7961/18 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, March 1, 1929—4 p. m.

[Received 5 p. m.]

29. Department's 18, February 28, 7 p. m. Yes, on Wednesday.

CAFFERY

SUSPENSION OF NEGOTIATIONS FOR COMMERCIAL TREATIES WITH
COLOMBIA AND OTHER COUNTRIES

711.212/8

The Secretary of State to the Minister in Colombia (Caffery)

No. 107

WASHINGTON, November 9, 1929.

SIR: The Department refers to your despatch No. 592 of September 23, 1929,³ in which you request to be informed as to the status of a commercial treaty which has been alluded to by the Colombian authorities as now in negotiation between the United States and Colombia.

The Department's records show that by instruction No. 905 of August 28, 1926,⁴ Minister Piles was directed to inquire of the Colombian authorities whether they would be disposed to enter into a treaty of friendship, commerce and consular rights with the United States similar to the one concluded between the United States and Germany on December 8, 1923.⁵ It was stated in that instruction that if the Colombian Government was receptive to this proposal a special draft would be prepared by this Government for presentation to the Colombian Government. The Legation's telegram No. 33 of November 6, 1926,⁶ stated that the Colombian Government would be willing to enter into negotiations with the United States for the conclusion of a treaty. The special draft, however, was not forwarded to the Legation for presentation to the Colombian Government.

You may state if occasion arises that this government has temporarily suspended all commercial treaty negotiations but that as soon as they are generally resumed you will receive further instructions in the matter.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

BOUNDARY DISPUTE WITH NICARAGUA

(See volume I, pages 934 ff.)

³ Not printed.

⁴ *Foreign Relations*, 1926, vol. II, p. 1.

⁵ *Ibid.*, 1923, vol. II, p. 29.

⁶ Not printed, but see despatch No. 971, November 8, 1926, from the Minister in Colombia, *ibid.*, 1926, vol. II, p. 3.

COSTA RICA
BOUNDARY DISPUTE WITH PANAMA
(See volume I, pages 938 ff.)

886

CUBA

PROPOSAL BY CUBA THAT THE COMMERCIAL CONVENTION BETWEEN THE UNITED STATES AND CUBA, SIGNED DECEMBER 11, 1902, BE REVISED¹

611.3731/302

The Cuban Ambassador (Ferrara) to the Secretary of State

[Translation]

WASHINGTON, January 10, 1929.

MR. SECRETARY: I have the honor to inform Your Excellency that my Government has carefully examined your note No. 611.3731/285 of June 13th, 1928,² as well as the documents of the United States Tariff Commission enclosed therewith.³ In reply thereto, I beg leave to state that the documents in question, coincide in part, with the points of view of my Government, and to a certain extent, do not. To make a thorough analysis of the statistics prepared by the United States Tariff Commission and of its conclusions stressing thereby the discrepancies, would not be conducive to the success of these negotiations, for in reality the differences that may be found are rather due to differing appreciation of the facts.

In synthesis, the different appreciation of the effects, whether beneficial or adverse of the Reciprocity Treaty of 1903,^{3a} is confined to the fact, that while the United States Tariff Commission believes that the increase in the exportations of sugar from Cuba to the United States is the essential point of the Commercial Treaty of 1903 entered into by the two countries, thereby resulting in great profits to Cuba, my Government is of the opinion that it is necessary to look into the prices attained by our main product (sugar) and particularly into the benefit of the 20% differential rate that, granted in the said Treaty to Cuba, has after 1911 favored, almost constantly, the American consumer, for the Cuban producer sold his sugar to the United States at the very same price that was disposed of to other countries which have not granted Cuba preferential treatment, and, which consequently do not receive for their exports correlative advantages.

¹ Continued from *Foreign Relations*, 1928, vol. II, pp. 640-642. For text of the convention, see *ibid.*, 1903, p. 375.

² *Ibid.*, 1928, vol. II, p. 640.

³ Report of the U. S. Tariff Commission, *The Effects of the Cuban Reciprocity Treaty of 1902* (Washington, Government Printing Office, 1929).

^{3a} This treaty, signed in 1902, became effective in 1903, and is often referred to as of that date.

Nor does my Government believe that it could be considered as a justification of the Treaty the fact that Cuba had disposed of most of her sugar to the United States, for it is an undeniable fact that should there not have existed a Commercial Treaty with the United States and the subsequent differential customs duty, Cuba would have sold likewise all her sugars within or outside the American market and at the very same price which she obtained from the United States, because all the large exporting countries of this product, as Santo Domingo, Peru, Czechoslovakia, etc., have always been able to place the whole of their production at a price similar to Cuba's. Java, save when she has of her own volition preferred to keep her sugars from one year to another, has also been able to dispose of her entire stock.

However, my Government does not wish to discuss the denouncing of the Treaty of 1903, nor its maintenance, for its only aspiration is to improve the commercial reciprocity relations between both countries, therefore, it analyzes the subject outside of the scope of the United States Tariff Commission.

In the report submitted together with Your Excellency's note, mentioned hereinbefore, in Chapter First, reference is made to the political origins of the Reciprocity Treaty of 1903.^{3b} All that is contained therein is entirely exact. In fact, President Roosevelt, in his message to Congress on December 3rd, 1901,⁴ stated:

"We are bound by every consideration of honor and expediency to pass commercial measures in the interest of her (Cuba) material well being".

And in another special message to Congress on November 10th, 1903,⁵ President Roosevelt added:

"We expect Cuba to treat us on an exceptional footing politically, and we should put her in the same exceptional position economically."

Giving to the economic relations between the United States and Cuba the importance which it deserves, and seeing it in its true light, the then Secretary of War, Mr. Elihu Root, said:

"The same consideration[s] which led to the war with Spain, now requires [*sic*] that a commercial agreement be made under which Cuba can live. The condition of the sugar and tobacco industries in Cuba is already such that the earliest possible action by Congress upon the [*this*] subject is desirable."

^{3b} The origins of the commercial treaty with Cuba are set forth in chapter II of the report of the U. S. Tariff Commission.

⁴ *Foreign Relations*, 1901, p. xxxii.

⁵ Reference apparently erroneous; the sentence here quoted appears in the message of June 13, 1902; see *A Compilation of the Messages and Papers of the Presidents Prepared . . . Pursuant to an Act of the Fifty-Second Congress of the United States*, vol. xv, p. 6681.

General Wood, Military Governor of Cuba at the time, asked that: "Relief must be granted quickly or a condition will arise which will render the establishment and the maintenance of a stable Government highly improbable."

These words are taken, as I mentioned before, from the report that Your Excellency forwarded to my Government.⁶

From a Cuban viewpoint, these antecedents could be added to others which would clearly indicate that the sources of the Treaty called Permanent⁷ and those of the Commercial Treaty, if they were not the same, at least, bear mutual relations.

Since December 5th, 1898, President McKinley established the commercial principles that should preside in the relations between the United States and Cuba:

"As soon as we are in possession of Cuba and have pacified the Island, it will be necessary to give aid and direction to its people to form a Government for themselves. This should be undertaken at the earliest moment, consistent with safety and assured success. It is important that our relations with these people shall be of the most friendly character and our commercial relations close and reciprocal."⁸

Later, the same President of the United States set forth his ideas in his annual message (to Congress) of December 5th, 1899:⁹

"Whatever the outcome, we must see to it that free Cuba is a reality, not a name, a perfect entity, not a hasty experiment bearing within itself the elements of failure. Our mission, to accomplish which we took up the wager of battle is not to be fulfilled by turning adrift any loosely-framed commonwealth to face the vicissitudes which too often attend weaker States whose natural wealth and abundant resources are offset by the incongruities of their political organization and the recurring occasions for internal rivalries to sap their strength and dissipate their energies. The greatest blessing which can come to Cuba is the restoration of her agricultural and industrial prosperity, which will give employment to idle men and reestablish the pursuits of peace. This is her chief and immediate need."

The former Secretary Root said more than that; we take the liberty of transcribing the whole paragraph:¹⁰

"Cuba has acquiesced in our right to say that she shall not put herself in the hands of any other power, whatever her necessity, and in our right to insist upon the maintenance of free and orderly

⁶ Report of the U. S. Tariff Commission, pp. 387, 398.

⁷ Signed May 22, 1903; *Foreign Relations*, 1904, p. 243.

⁸ *Ibid.*, 1898, p. LXVI.

⁹ *Ibid.*, 1899, p. XXIX.

¹⁰ The quoted passages from the annual report of the Secretary of War, 1901, were reprinted in the report of the U. S. Tariff Commission, p. 387.

government throughout her limits, however impoverished and desperate may be her people. Correlative to these rights is a duty of the highest obligation to treat her not as an enemy, not at arm's length as an aggressive commercial rival, but with a generosity which toward her will be but justice; to shape our laws so that they shall contribute to her welfare as well as our own. Aside from the moral obligations to which we committed ourselves when we drove Spain out of Cuba, and aside from the ordinary consideration of commercial advantages involved in a reciprocity treaty, there are, the weightiest reasons of American public policy pointing in the same direction; for the peace of Cuba is necessary to the peace of the United States; the health of Cuba is necessary to the health of the United States; the independence of Cuba is necessary to the safety of the United States. The same considerations which led to the war with Spain now require that a commercial arrangement be made under which Cuba can live, etc."

We are referring to these antecedents, inspired in the Report of the Tariff Commission of the United States, that, with a high spirit of impartiality has recalled them. Cuba, on her part, has always been inspired by the principles that presided her first moments of independence.

Politically, she has given proofs of an ever increased friendship toward the United States; commercially, she has opened widely her doors to investments of money to the United States; to her banks, to her insurance companies, to her merchant marine, to her railroad enterprises as well as to her merchants, to her business men, to her manufacturers, and to her products.

She has never committed any act or action which might lessen, limit or alter the effects of the political treaty or commercial agreement. All the various elements of the economic activities from the United States have found laws which favor and authorities which protect them.

The products of the soil and industry of the United States receive in Cuba a preferential treatment that amounts up to 40% on the general tariff, which treatment is not nominal but real, for it may be considered that in all, in spite of attaining an average during these past years of \$170,000,000, they do not pay import duties in excess of \$24,000,000, which is about 16% of the total value.

As a consequence of this attitude there is invested in Cuba at the present time, nearly 1,500 million dollars of American capital; the banks of your nation control the monetary market; American ships enter and leave Cuban ports paying less port duties than the ships of other nations by special provisions of the law and 76.1% in the year 1919, and 62.1% in 1927, of the Cuban imports were products of the soil and industry of the United States.

It is indispensable to determine clearly this state of things of the Cuban economic structure affirming, that as a consequence of the

Commercial Reciprocity Treaty of 1903 between the United States and Cuba, the economic relations of both countries have reached such a degree of thorough understanding that it is very difficult to determine whose is the benefit and whose the harm, whether the interests of the United States or those of Cuba, when the changes in the customs tariff or the fluctuations of the price of sugar lower or favor the wealth of the Republic of Cuba. Statistics clearly verify these affirmations. In 1920, the year of prosperity, Cuba imported from the United States \$404,386,000; on the other hand, during the crisis of 1927, these imports dropped to \$155,383,000 and the outlook for 1928 is still worse, as it is presumed that it will not exceed \$125,000,000. If to this be added the difference had in the dividends of the sugar, tobacco, telephone, railroad, manufacturing, shipping, banking, and insurance companies, etc., domiciled in the United States which do business in Cuba, in the years above mentioned, it will be seen that the losses entailed by Cuba or the benefits obtained, are reflected to a certain extent, not unworthy of consideration, on the economic structure of the United States.

The essential point of the report of the Tariff Commission of the United States is that the increased Cuban production is the cause of the present crisis. The causes of the increased production in sugar are several, and if there is any fault in these, it is not certainly Cuba's. The natural development of Cuba has been one of the chief causes, up to 1911; a privileged and fertile country which can advantageously produce sugar, should, in an industrial era, such as ours, and with a stable government, develop the production and the manufacture of her main product.

It should not be cause for surprise that near to the United States, the largest consumer of sugar, there should develop, increasing its production, the country which possesses more natural conditions favorable for that production.

But the most important factor in the increased production was the European war. Cuba responded to the insistent indications of her allies who asked her to produce as much as possible to cover the deficit brought about by destruction of sugar-beet fields and of European sugar factories. Cuba did not want to remain deaf to the vehement suggestions of the United States; and she did not do it with lucrative purposes, as might be surmised, because she accepted fixed prices for her sugars for several years, very much lower than those she could have secured in an open market, and sometimes below cost of production, owing to the subsequent and sudden high cost of the raw materials indispensable to the sugar industry. Lastly, another cause of the increased production was the commercial upheaval of the year 1921, which placed in the hands of bankers and of important companies of the United States many sugar mills owned by small Cuban proprietors,

the new owners of which improved their machinery and their fields, obtaining thus a larger production.

These facts surely well known to the technical experts of the various departments of the Government of the United States, exclude the sole essential deduction made in their statistics by the Tariff Commission of the United States.

The problem, in my Government's judgment, must not be analyzed as to the quantity of the production or the quantity of the importations into the United States of Cuban sugars, but only with regard to the treatment that these imports receive. Cuba, which according to the opinions of President McKinley, of President Roosevelt, and of Secretary Root, which we have reproduced hereinbefore, given, almost, in the form of an offer, must economically be bound to the United States more intimately than to any other nation, receives a customs treatment, by virtue of which her products pay both alone and jointly more than any other of the countries doing business with the United States.

Of the approximate six hundred million dollars customs duties collected annually, the products of Cuba pay to the American treasury about \$150,000,000. Canada which exported to this country in 1927 \$475,028,148 paid around \$26,000,000. France which exported to the United States \$167,799,661 paid more or less \$50,000,000 and the same happened with regard to Germany whose exportations amounted to \$200,554,291. The United Kingdom which shipped \$357,930,937 paid less than \$70,000,000. The products of the soil and industry of Cuba pay almost as much as the products of England, France and Germany together, which are the three foremost nations exporting to this country.

Taking the total of the Cuban exportations to the United States, including in this total the raw materials which are not subject to duty, the customs tariff levy an average duty on our products of 55% in 1927; while it levies 18% to England; 31% to France; 25% to Germany; 6% to Canada and 4% to Japan. Should the grand total of the importations of the United States which amounted to \$4,184,742,416 in the same year, be compared with the grand total of the customs duties collected, which amounted to approximately \$600,000,000, it may be easily appreciated the treatment accorded to our country.

These are the figures, which *grosso modo* have been compiled by our statisticians, and which might be subject to a slight change if thoroughly studied with more accurate details, but this change would not alter the deductions reached. If they be placed in relation with the phrases pronounced at the beginning of Cuban independence, when the bases were put forth for a political treatment called the Permanent Treaty, which at the same time was originated by the Unilateral Act

called the Platt Amendment,^{10a} it will be seen that the purpose of the high contracting parties has not animated the subsequent acts.

However, my Government does not aspire to anything else but to find a solution for the future, that will be of common interest. My Government wishes to save from a possible ruin the Cuban wealth, which is in part, wealth pertaining to American interests, and to favor further, in just reciprocity the exportations of the United States to Cuba.

To this effect, on December 15th, 1927, I sent a note to Your Excellency¹¹ outlining ideas for a new commercial agreement. I proposed in this note that a part of Cuban sugar should receive a preferential treatment, while another part would be subject to the present tariff. Now, taking into consideration the report of the Tariff Commission which Your Excellency sent me, I am able to state that my Government would be willing to enter into an understanding on the basis of a reciprocal interest, whereby Cuba be granted the free entry of her sugar for a limited quantity. An arrangement could be reached easily as to the quantity and also with respect to benefiting some other articles. The customs revenues of the United States, and perhaps those of Cuba, would be the only ones to be subject to the consequences of an arrangement of this nature, but all concerned from both countries would greatly profit by it, without detriment to domestic producers of the United States, and without increase of the cost of the articles to the consumers. The solution would be of mutual advantage and would tend to consolidate the economic unity that in fact exists today, although endangered by customs measures.

My Government considers that this is the right moment for reaching an agreement, not only in its own interest, owing to the serious crisis which its principal product has been going through for the last three years, but also in behalf of the American exporters. They are seeing their volume of business with Cuba decreasing more and more every day, which market might be largely lost by them in a short time.

Accept [etc.]

ORESTES FERRARA

611.3731/304

The Secretary of State to the Cuban Ambassador (Ferrara)

WASHINGTON, February 20, 1929.

EXCELLENCY: I have the honor to inform you that the Department received in due time the note of January 10, 1929, in which you

^{10a} See the President's message to Congress, March 27, 1902, *Foreign Relations*, 1902, p. 320; also the treaty between the United States and Cuba, May 22, 1903, *ibid.*, 1904, p. 243.

¹¹ *Ibid.*, 1927, vol. II, p. 508.

state that your Government has carefully examined the Department's note of June 13, 1928 and its enclosed study by the United States Tariff Commission regarding the effects of the Reciprocity Treaty. Your observation has been noted that the statements made in the study coincide in part with your Government's views but to a certain extent do not; and your belief has also been noted that an analytical examination of the statistics and deductions "would not be conducive to the success of these negotiations" since, you observe, the differences that could be found are due to differing appreciations of the facts.

Your allusions to the intimate and cordial relations both political and commercial which, ever since the establishment of the independence of Cuba, have subsisted between our countries have been read with appreciation as has also your statement that your Government "does not aspire to anything else but to find a solution for the future that will be of common interest"; and I wish to assure you that my Government also desires that the relations between the two countries shall be mutually advantageous.

With reference to the suggestion, on page 17 of the English translation which you supplied with your note, that your Government "would be willing to enter into an understanding on the basis of a reciprocal interest, whereby Cuba be granted the free entry of her sugar for a limited quantity", I wish to say that careful consideration is being given to the matter and that another communication will be addressed to you as soon as adequate study shall have been given to this suggestion and to your explanations and arguments.

Accept [etc.]

FRANK B. KELLOGG

REPRESENTATIONS AGAINST PROPOSED LEGISLATION CONTRAVENING THE RIGHT OF AMERICAN INTERVENTION IN CUBA

837.00/2730

The Secretary of State to the Ambassador in Cuba (Judah)

No. 359

WASHINGTON, April 23, 1929.

SIR: The Department has received your despatch No. 615 of March 21, 1929,¹² wherein you called attention to the provisions of a bill which has been introduced in the Lower House of the Cuban Legislature for the amendment of Article 134 of the Penal Code so that it shall provide, among other things, that

"(a) Any Cuban who induces a foreign power to declare war on Cuba or who negotiates with such a power to that end shall be pun-

¹² Not printed.

ished with life imprisonment or death, if war is declared, otherwise with a long term or life imprisonment.

“(b) Any Cuban who seeks the intervention or interference of a foreign power in the internal or external development of the national life shall likewise incur the penalty of a long term or life imprisonment.

“(c) The Cuban who, with the same purpose, carries on propaganda, oral, written or of any other kind, shall be subjected to a long term of imprisonment.”

It can hardly be doubted that the above quoted provisions under (b) and (c) are designed to render it more difficult for the United States to exercise the rights of intervention which it has in the affairs of Cuba and which the Cuban Government has recognized by the incorporation of the Platt Amendment in the Constitution of Cuba and the Treaty of Relations with the United States of 1903.¹³

The enactment of the proposed bill would be justly regarded by the world as a measure of affront by Cuba directed at the United States and of attempted repudiation by Cuba of the consent heretofore given to the exercise of the rights of intervention inhering in the United States.

It must be obvious that to fulfill its duties in the premises, the Government of the United States must have free access to the sources of information and naturally citizens of Cuba constitute most important sources upon such questions as whether Cuban independence is threatened; whether the Government of Cuba, at a given time, is adequate for the protection of life, property and individual liberty, and whether the Government of Cuba is properly discharging the obligations imposed by the Treaty of Paris¹⁴ on the United States and thereafter assumed and undertaken by the Government of Cuba.

In this relation it is not too much to say that the enactment of the proposed legislation would be strong evidence that the existing government is not appropriately protecting individual liberty.

In view of the foregoing, the Department desires you to seek an early interview with President Machado and say to him that, while you do not suppose that there is any likelihood of the enactment of the proposed legislation, yet, out of abundance of caution you desired to point out to him the very unfortunate impression which its enactment would create in the United States.

The Department does not desire you to leave any written memorandum with the President, but you may orally present to him the foregoing considerations and incidentally point out, unless you perceive

¹³ Signed May 22, 1903; *Foreign Relations*, 1904, p. 243.

¹⁴ Treaty of peace between the United States and Spain, signed December 10, 1898, *ibid.*, 1898, p. 831.

serious objection to making such statements, that the rights of intervention inhering in the United States were not created by the inclusion of the Platt Amendment in either the Cuban Constitution or the Treaty of 1903, but merely recognized thereby, and that such rights date back to the general obligations which the United States assumed before the world by expelling the Spanish Power from Cuba and turning the Government over to the Cubans, and to the specific obligations which the United States assumed in the Treaty of Paris, and are not necessarily comprehensively stated in the Treaty of Relations with Cuba.

I am [etc.]

HENRY L. STIMSON

837.00/2743

The Ambassador in Cuba (Judah) to the Secretary of State

No. 653

HABANA, May 2, 1929.

[Received May 6.]

SIR: Referring to your instruction No. 359 of April 23, 1929, and your telegram No. 40, April 30, 5 PM,¹⁵ I have the honor to say that I today called upon President Machado and, in view of your telegram, I did not leave a copy of the instruction with him, nor did I read him the instruction, but orally presented to him the considerations contained therein except the last paragraph thereof.

President Machado replied that any Congressman could introduce a bill in the Cuban Congress but that the presentation of the bill did not mean that it would be passed. He said that he would use his influence to see that the bill in question was not passed and that, if it were passed, he would veto it. This means, in my opinion, that the bill will not be passed.

President Machado further said that I could assure the Secretary of State that no bill would be passed by the Cuban Congress which would impair in any way the political relations between the United States and Cuba.

I did not present to the President the considerations contained in the last paragraph of your instruction for the reason that there is, at the present time no political movement here to do away with any rights of the United States created by the terms of the Platt Amendment, and no public discussion, in the Press or otherwise, regarding the same.

I have [etc.]

NOBLE BRANDON JUDAH

¹⁵ Telegram not printed.

AGREEMENT BETWEEN THE UNITED STATES AND CUBA TO SUBMIT
THE CLAIM OF CHARLES J. HARRAH TO ARBITRATION ^{15a}

437.11H23/5

The Secretary of State to the Ambassador in Cuba (Crowder)

No. 720

WASHINGTON, June 12, 1926.

SIR: The Department has before it for consideration the claim of Mr. Charles J. Harrah, an American citizen, against Cuba for damages growing out of the alleged illegal demolition of his railroad and appurtenances located on the beaches of Marianao, Jaimanitas and Santa Ana in the vicinity of the Province of Marianao, and the consequent destruction of the business for which the railway was built.

It is averred on behalf of the claimant that in 1908 he obtained a permit from the Cuban Government for the extraction of sand from that part of the coast known as the "Maritime Zone", under the Ports Law (*Ley de Puertos*); that in order to provide for the transportation of the sand the claimant constructed twelve kilometers of railway of a fixed and permanent character, beginning at the town known as Playa de Marianao, running along the shore, passing through the town of Jaimanitas and ending at the town of Santa Fe or Santa Ana; and that the claimant fully equipped the railway with motive power, rolling stock, extensive terminals and complete switching and interchange facilities with the United Railways of Habana. It is stated that the railroad was constructed entirely upon public domain, under surveys authorized by the Department of Public Works; that it was of a fixed and permanent character, with a solid roadbed protected from the action of the sea by a concrete wall and breakwater, the bridges over the Quibu and Jaimanitas Rivers supporting the track being especially of a solid and enduring character; that in the construction of the road more than 30,000 square meters of swamp land were filled in and reclaimed, a portion of the roadbed being built upon this reclaimed land, as were also many of the terminal facilities and buildings; and that the project was in every way a permanent and fixed structure. It is also stated that, while the railway was primarily intended for the transportation of sand and stone, it served a public purpose in the transportation of drinking water to the inhabitants of Jaimanitas and other towns, and that for this service no charge was made.

It is alleged on behalf of the claimant that in the construction of the road he complied with all the legal requirements pertaining to such undertakings, including the procuring of the validation of

^{15a} The records of the arbitration are printed in the Department of State Arbitration Series No. 1: *Arbitration of the Claim of Charles J. Harrah*.

his project by the Railroad Commission, and that the road came into full operation in 1908 and continued in operation until 1917. It is stated that on June 16, 1915 a decree was issued by the then President of the Cuban Republic authorizing the demolition of the portable railway which was said to exist on the beach of Marianao by virtue of an alleged temporary (one year) permit to certain persons, namely Enrique Gomez y Pastor and another, and that an order was thereupon promulgated by the Secretary of the Treasury directing the demolition of the claimant's property. It appears from the record submitted that one Enrique Gomez (Enrique Gomez y Pastor) who was in charge of claimant's railway while the latter was absent from Cuba, appealed against the execution of the decree of demolition upon the ground that he (Gomez) was the real owner of the Harrah railway. It is stated that while this appeal was still pending suit was brought against Gomez by The Antillana Company for an alleged debt due by Gomez to the Company, which resulted in the issuance of an order by the municipal court of Marianao embargoing the railroad property for the alleged debt due the Company. Upon learning that his railroad property was to be sold to satisfy this judgment, the claimant returned to Cuba and instituted suit to recover his property from Gomez. By interlocutory order of the Court of First Instance in the proceedings brought by Harrah against Gomez to recover possession of the property, the property was placed in the hands of a judicial administrator for the account of Harrah pending the final disposition of the case. This administrator duly qualified, furnished bond and assumed possession and control of the railway and operated it pursuant to the orders of the court. Thereupon, it is stated, Gomez abandoned his counter proceedings for the vacation of the order of demolition of claimant's railway.

When the proposed action of the Secretary of the Treasury in regard to his intention to proceed with the demolition of the railway was brought to claimant's notice, the claimant states that he called the matter to the attention of the Judge of the Court of First Instance, who, it appears, on April 14, 1917, addressed a communication to the Secretary of the Treasury notifying him of the existence of the suit between Harrah and Gomez and the appointment of a judicial administrator of the property. The Court also requested the Secretary of the Treasury to protect the judicial administrator in the operation, maintenance and repair of the railroad. It seems that the Treasury Department by letter of May 21, 1917, to the Department of Public Works declined to entertain the request of the court; on the contrary the order for the demolition of the railroad was repeated, it being insisted upon by the Treasury Department that the fixed

materials and rolling stock were alone subject to the decision of the suit in that court. The Treasury Department seems to have taken the position that the railroad which was the subject of the suit was a portable railway of a temporary character, the concession for which had been granted to Enrique Gomez and another. On July 10, 1917, the Court of First Instance of the East of Habana rendered its decision holding that the claimant was the owner and entitled to the possession of the railroad, which it found to be a fixed railway built as a permanent structure and not to be confounded with the portable railway authorized by the Treasury Department, above mentioned, and requiring that an accounting be made to claimant for the profits derived from the operation of such railroad during its unlawful detention by Gomez. This decision was immediately appealed to the Audiencia, which on December 23, 1924, decreed possession and ownership of the railway in the claimant, Charles J. Harrah, as against the stock society "La Antillana" and Enrique Gomez y Pastor. It seems that the Audiencia declined to confirm the sentence of the Court of First Instance with respect to an accounting covering the profits received during the period of unlawful detention or for the costs of suit. It is asserted by the claimant that the movable and fixed property which was the subject of the suit was illegally dissipated and destroyed during pendency of the litigation and that his real property, consisting of right of way and reclaimed lands, is now unlawfully in the possession of the Compania Urbanizadora del Parque y Playa de Marianao, the principal owners of which were, and are now, Carlos Miguel de Cespedes y Ortiz, Carlos Manuel de la Cruz and one Cortina.

An appeal was taken by the Gomez interests from the decision of the Audiencia to the Supreme Tribunal and after the expiration of more than four years the appeal was allowed to lapse. In the circumstances it is understood that the decision of the Audiencia became final. The result of the efforts of the claimant during the course of eight years' litigation to confirm his assertion of ownership of the property and the exhaustion of his legal remedies in the courts of Cuba are asserted to have resulted merely in procuring an adjudication that he was the owner of property that was dissipated or destroyed while the litigation was going on and while the property was in the custody of the courts.

As before stated, in 1915 the then President of Cuba issued a decree authorizing the destruction of a portable railway that was said to exist on the beach of Marianao by virtue of a temporary permit. In the early part of 1917 the Secretary of the Treasury ordered the demolition of the claimant's railway, insisting that the claimant's railway was the portable railway authorized by the temporary permit.

Claimant thereupon filed formal written protest with the Secretary of Public Works on March 30, 1917 against such order. The latter official addressed a communication, under date of April 14, 1917, to the Secretary of the Treasury, transmitting petition of claimant for the suspension of the order for the destruction of claimant's railway until a definite decision had been reached legalizing the existence of the railway, calling attention to the placing of the property in the hands of the judicial administrator appointed by the Court of First Instance; that the court had given orders to the authorities of Marianao to protect the judicial administrator in regard to the property, and expressing the hope that as the legalization of the railway would be determined by another jurisdiction the Secretary of the Treasury would direct the suspension of the order for the demolition of the railway until it could be definitely determined whether the project should be legalized. The Secretary of the Treasury thereupon expressed the intention of proceeding for the fulfillment of the Presidential Decree concerning the demolition of the railway. A formal written protest was then lodged by the claimant with the President of the Republic, under date of June 9, 1917, reviewing the situation and requesting the President to authorize the Secretary of the Treasury to postpone the destruction of the railway. No reply was received to this protest except a letter, presumably from the President's Secretary, stating that the matter would be brought to the attention of the President in due course. No action was taken by the Secretary of the Treasury until the month of November, 1917.

On October 31, 1917, claimant was apprised that his property was to be immediately destroyed. He lodged a second protest with the President of the Republic on November 1, 1917, and he filed a petition with the Secretary of the Interior in which it was stated that Mr. Carlos Manuel de la Cruz had initiated a proceeding in the Department of the Interior requesting the destruction of a narrow gauge railway existing at the beaches of Marianao and Jaimanitas. Attention was called to the institution of suit to determine rightful ownership of the property and request was made that the Department should perfect its information regarding the railway project before ordering its destruction, by calling for the record already existing in the Treasury Department, or forwarding the petition of Mr. de la Cruz to that Department, or seeking fresh instructions from the President of the Republic; request was also made that the Interior Department annul any orders that might have been given to the rural guard of Marianao to proceed to destroy the railway and that the guard be instructed to protect the judicial administrator in the work of the repair of the railway. Notwithstanding the efforts made by claimant to procure protection for his rights in regard to this property, it is averred that

steps for its destruction proceeded and the railroad was destroyed by a large crew of workmen, who used dynamite for the purpose, the workmen being actually directed in the work of destruction by Mr. de la Cruz, a member of the Cuban Congress, supported by a contingent of the National Army. During the course of this destruction claimant again appealed to the President of the Republic on November 10, 1917, protesting against the unwarranted destruction of his property, but without avail. It is averred, also, that the judicial administrator used every effort to prevent the work of destruction but was unable to accomplish anything, although, it is said, he solicited the aid of the local authorities and the local court at Marianao, the officers in charge of the National Army on the property, and finally the Commander in Charge of the Army. It is further averred that the Commander in Charge of the Army informed the judicial administrator that he had received his orders from "El Chico", the country home of the President of Cuba.

The claimant states that after exhausting every conceivable means to prevent the final destruction of his property, he filed criminal charges against Mr. de la Cruz. This, however, seems to have been a futile remedy as far as Mr. de la Cruz was concerned for the reason that as a member of the Cuban Congress he is said to have enjoyed immunity from arrest and prosecution.

Upon the available evidence the contention that Mr. Harrah has sustained a denial of justice would seem to be well founded. It is believed, however, that the fixing of the amount of damages which the claimant has sustained could best be determined by arbitration, which would afford an opportunity for the arbitrators to make visual inspections and surveys at the situs of the injury.

In these circumstances the claimant has made the suggestion, in which the Department concurs, that the claim be referred to a committee of two persons, one to be selected by the Government of Cuba and the other by the claimant. In the event that such persons fail to reach an agreement, a third member of the committee could be selected by the two persons so appointed. If an agreement cannot be reached with respect to the selection of such third person, the selection may be made by agreement between the Secretary of State of the United States and the Secretary of State of the Republic of Cuba.

The Department will be pleased to have you bring this matter promptly to the attention of the Cuban Foreign Office with the request that the Government of the United States be informed whether the plan outlined with respect to the adjustment of the claim would be agreeable to the Cuban Government.

I am [etc.]

For the Secretary of State:
JOSEPH C. GREW

437.11H23/10 : Telegram

The Chargé in Cuba (Williamson) to the Secretary of State

HABANA, July 16, 1926—3 p. m.

[Received 6:43 p. m.]

119. Department's instruction 720, June 12, 1926. Foreign Office reply in Harrah case received yesterday. Text and translation go forward in tomorrow's pouch.¹⁶ In 18-page note Government courteously but categorically refuses to entertain proposal of arbitration.

WILLIAMSON

437.11H23/20

The Secretary of State to the Ambassador in Cuba (Crowder)

No. 943

WASHINGTON, April 14, 1927.

SIR: The Department refers to its instruction to you of June 12, 1926, No. 720, and the note of the Cuban Foreign Office of July 13, 1926,¹⁷ in relation to the desire of Mr. Charles J. Harrah to obtain indemnification for losses growing out of the alleged illegal demolition of his railroad and appurtenances located in the vicinity of Marianao, Cuba, and the consequent destruction of the business for which the railroad was built.

In its note of July 13, 1926, the Cuban Foreign Office declines to enter into any negotiations for the arbitration of this claim on the ground that the matter could only be made the subject of an arbitration after it had been demonstrated that the claim could not be settled through diplomatic channels, and states that an investigation of the matter by the Foreign Office discloses that the claimant has failed to set forth the true situation with respect to the facts of the case and that an examination of the data procured as a result of the investigation justifies the conclusions:

1. That Mr. Charles J. Harrah does not appear to have ever been a concessionaire of any railroad on the coast between Playa de Marianao and Baracoa and the North Province of Habana.
2. That the railroad which was constructed on said shore was constructed in an unlawful manner, inasmuch as it was constructed fixed and permanent in character under the cover of a provisional authorization of one year for the installation of a portable railway.
3. That such railroad appears to have been constructed by Messrs. Victor Gonzales and Enrique Gómez, as was confessed and declared under oath before the judicial authority by Mr. Harrah himself.
4. That the demolition was properly ordered, as is shown by the fact that it was thus recognized by the President of the Republic in deciding the appeal interposed by Mr. Gómez and by the courts of

¹⁶ Foreign Office note of July 13, 1926, not printed.

¹⁷ Latter not printed.

justice in setting aside the contentious administrative appeal and confirming the resolution appeal.

As the facts relied upon by the Cuban Foreign Office to support its conclusions as to the identity, character, ownership and legal status of the railroad for the destruction of which Mr. Harrah is seeking compensation were so at variance with the facts as presented to the Department by Mr. Harrah and supported by seemingly competent evidence, the Department, after a very careful reconsideration of the whole matter, decided that it would be desirable to acquaint Mr. Harrah's legal representative with the contents of the Cuban note in order that an opportunity might be afforded the claimant to restate his case in the light of the allegations of the Cuban Foreign Office. It may be observed in this connection that the Department felt that the reply of the Cuban Foreign Office to your presentation of the claim in accordance with the Department's instruction of June 12, 1926, did not constitute a very satisfactory disposition of the case, since the note of the Cuban Foreign Office itself raises a question as to whether there might not, as a matter of fact, have been a serious injustice done to Mr. Harrah through the confounding of his railroad, which was actually built in 1908, of a fixed and permanent character, with an alleged portable railroad that was authorized to be constructed under the provisional permit of 1910, but which would appear never to have been actually built.

Mr. Harrah through his legal representative has submitted a memorandum dated March 29, 1927¹⁸ to the Department containing a re-statement of his case and has made categorical replies to the allegations of the Cuban Foreign Office. In the light of this re-statement of the case and the allegations of the Cuban Foreign Office with respect to the facts as set forth by the Foreign Office, it would seem that three issues of fact are raised, namely: (1) Was the railroad which was destroyed built upon the public domain; (2) if built upon the public domain was legal authorization secured for placing the structure thereon or was such structure subsequently legalized; and (3) has the claimant established his ownership in and to the railroad which was destroyed pursuant to the order of the Cuban Government in 1917. In the determination of these questions, it would seem desirable to ascertain whether the claimant had a valid right to occupy the public domain and whether the claimant was in point of fact the owner of the railroad. If these questions are susceptible of determination in the claimant's favor, then it is difficult to escape the conclusion that an arbitrary disposition was made of his railroad which would entitle him to reimbursement for whatever losses he may have actually sustained.

¹⁸ Not printed.

The Department considers that the Cuban Foreign Office should be furnished with the text of the rejoinder of the claimant to the note of July 13, 1926, from the Foreign Office, since the essential points at issue both as to fact and law are apparently covered in the re-statement of the claimant's case. You are therefore instructed to take this matter up again with the Foreign Office in the sense of the foregoing, handing to the Foreign Office at the same time a copy of the claimant's memorandum above referred to, which is transmitted herewith in duplicate. You will state that unless the Foreign Office is able to show that the claimant's contentions are inaccurate the Cuban Government must admit that there was a lack of due process of law in the destruction of the road, a taking of property without the payment of compensation and that both justice and equity would seem to demand that steps be promptly taken to bring about a settlement which will make it possible for the claimant to realize on his property thus destroyed.

Please follow this matter closely and keep the Department promptly informed regarding developments.

I am [etc.]

FRANK B. KELLOGG

437.11H23/21

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

No. 2128

HABANA, June 23, 1927.

[Received June 28.]

SIR: With reference to the Department's instruction No. 943 of April 14, 1927, relative to the desire of Mr. Charles J. Harrah to obtain indemnification for losses growing out of the alleged illegal demolition of his railroad and appurtenances located in the vicinity of Marianao, Cuba, and the consequent destruction of the business for which the railroad was built, I have the honor to enclose herewith copies and translations of a note received from the Cuban Foreign Office (No. 668 of June 22, 1927),¹⁹ in answer to this Embassy's latest representations in the matter.

Dr. Campa, the Cuban Undersecretary of State, conferred with me in connection with this case and brought to my attention the fact that the Foreign Office considers that it has already expressed its opinion in its lengthy note No. 615 of July 13, 1926, on the subject, as reported in this Embassy's despatch No. 1528 of July 16, 1926.²⁰

Dr. Campa stated that the brief of Wade & Beck, contained in the Department's instruction under consideration, will be personally submitted to President Machado in order that, should he so desire, an-

¹⁹ Not printed.

²⁰ Neither printed.

other attorney may be delegated to study and report on the matter, should a new phase or point, not touched upon in the note of the Cuban Government, be found in the brief. Dr. Campa also stated that the Cuban Foreign Office does not care to have its own counsel study and report on this matter since it considers that because of the thorough study by the counsel of the Foreign Office it would not be fair to have him again reexamine the case.

The Undersecretary of State called my attention to note No. 271 of December 10, 1914, addressed by the American Minister in behalf of Harrah to the Foreign Office,²¹ in which it was clearly shown that what Harrah had was a concession for the extraction of sand for a limited period of time and that under such concession he made use of or constructed a narrow gauge railroad line over which he had no concession from the Railroad Commission; also that Harrah and his attorneys are presenting the facts so as to make it appear that what the Railroad Commission granted in 1912 to one Gomez, later a partner with Harrah in the sand business, might be interpreted to be a railroad concession belonging to Harrah, without proving this fact.

According to Dr. Campa, from the records of the Railroad Commission the only railroad concession granted in the district under discussion was that to Gomez in 1912, which was declared lapsed and without effect by a subsequent resolution of the Commission, because of failure to comply and fulfill certain conditions of the concession.

The Undersecretary of State pointed out very emphatically and clearly that the Cuban Government considered the brief of Wade & Beck very unjust and that it was chagrined because the Department of State thought fit to submit the said brief to the Cuban Government.

I have [etc.]

L. LANIER WINSLOW

437.11H23/21

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

No. 1036

WASHINGTON, August 5, 1927.

SIR: The Department refers to your despatch No. 2128 of June 23, 1927, and its enclosure, a note from the Cuban Foreign Office of June 22, 1927,²² in relation to the claim of Charles J. Harrah against the Cuban Government growing out of the alleged illegal demolition of his railroad and appurtenances located in the vicinity of Marianao, Cuba, and the consequent destruction of the business for which the railroad was built.

²¹ Not printed.

²² Enclosure not printed.

The Department does not consider it necessary to reply to the oral statements made to you by Dr. Campa regarding this matter since presumably the Cuban Government would have advanced these arguments in its official communications had it placed any reliance on them. It may be stated, however, that the Department has received through Counsel for the claimant an affidavit by Dr. Aloysius C. Gahan, dated July 9, 1927, to the effect that careful examination of the volumes containing the annual reports of the Railway Commission from June 1912 to the end of 1917, which reports purport to contain the minutes of the meetings of the Commission and the resolutions adopted by it, fails to reveal any record of a resolution revoking, canceling, annulling or in any manner affecting the resolution of the Commission of June 25, 1912, by which Harrah's railroad was approved and legalized. A copy of this affidavit, together with a copy of a letter dated July 23, 1927, from Counsel for the claimant, is enclosed for your information.^{22a}

The Cuban Foreign Office in its note of June 22, 1927, alleges two reasons why, in its judgment, the claim is not entitled to consideration. The first consists of a statement that there exists in the files of the Foreign Office data which definitively evidences the lack of ground for the claim which Mr. Harrah has made; the second is to the effect that the railroad in question was a portable railroad for the transportation of sand and constructed under a provisional authority of the Cuban Treasury Department, and that the character of the road as a portable structure was proved in various lawsuits between Mr. Harrah and persons who had entered complaints in the courts regarding the alleged illegality of Mr. Harrah's acts in connection with the extraction of sand on the beaches of Marianao and Santa Ana.

While this Government is, of course, not in a position to question the statement of the Foreign Office concerning the definitiveness of evidence contained in its files, it considers that, in view of the showing made by Counsel for Mr. Harrah in the memorandum enclosed with the Embassy's note No. 948 of April 20, 1927, to the Foreign Office,²³ it is entitled to specific information as to the nature of such evidence.

If the Foreign Office has in mind the evidence set forth in its note of July 13, 1926, it should be remarked that that evidence as shown by the memorandum enclosed with the Embassy's note of April 20, 1927, to the Foreign Office, does not establish the contentions of the Foreign Office. It is not perceived wherein the note, No.

^{22a} Neither printed.

²³ Neither printed; a copy of the memorandum, dated March 29, 1927, was transmitted to the Ambassador in Cuba by the Department in its despatch No. 943, April 14, 1927, p. 902.

271 of December 10, 1914, from the American Minister to the Foreign Office, to which the latter has referred, supports in any way the contention of the Foreign Office, since it relates merely to a private litigation regarding the extraction of sand, and Mr. Harrah's desire to obtain relief from gross injustices which were being perpetrated against him under cover of alleged rights of his opponents.

As to the second point made by the Foreign Office, namely, that the road was a temporary structure as proved in various lawsuits between Harrah and others in the local courts, this Government is not informed of any court decision holding that the road was "a portable or temporary structure". On the contrary, it appears that the Court of First Instance of the East of Habana in the case of *Charles J. Harrah v. "La Antillana" Company and Mr. Enrique Gomez*, in a decision rendered July 10, 1917, specifically found that the road was a fixed railway built as a permanent structure. The court stated:

"Although the defendants have brought into the records of these proceedings, a permit granted by the Department of the Treasury to build a temporary, portable railway along the coast at the beaches of Marianao and Jaimanitas, it is no less certain that Mr. Harrah has proved that prior to said permit he had instituted in the Department of Public Works of the Government of the Province of Havana, a proceeding to enable him to construct on said coast a fixed railway as a permanent work; and that from the report appearing in the record of the Chief Office of Public Works for the District of Havana, *it appears that the railway which the litigants are disputing in this suit, is a fixed railway built as a permanent structure, and that same is in process of being acted upon in the very proceeding which was brought by Mr. Harrah in the Provincial Government, the proceeding referred to being afterwards converted into a proceeding for the legalization and enlargement of the said structure; for which reason it is evident that the railway existing on the beaches of Marianao, Jaimanitas and Santa Ana, upon which the litigation turns, is the fixed railway which the said Harrah built in accordance with the project which he presented in his name in the Provincial Government,—something entirely different from the portable railway that was authorized by the Department of the Treasury.*"

It will be observed that the statement of the Court appears to have been based in part at least upon a report furnished at its request by the Office of Public Works through its Chief Engineer. That report reads in part as follows:

"November 2, 1916. To the Judge of First Instance of the East of Havana: Dear Sir: I have the honor to reply to your communication dated October 20, last, in which you request to be informed whether upon making due inspection on the ground to report upon the project presented by Charles J. Harrah on May 27, 1916, it was possible to determine whether the railway existing on the shore of the

beach of Marianao and Jaimanitas is a portable railway, or a narrow gauge railway. I take pleasure in informing you with regard to said point that *on making the inspection referred to, it was evident that the railway in question was a fixed narrow gauge railway.* Yours respectfully."

In addition to the foregoing, the Foreign Office itself in its note to the Embassy dated July 13, 1926, admits that the road which was destroyed was "a fixed and permanent railroad".

The Department finds it impossible to reconcile these various statements of Cuban authorities with the present contention of the Cuban Government that the road was of a temporary and portable character. The Department feels that the Cuban Government has not discussed the claim on its merits; that it has failed to give proper consideration to the arguments presented in the memorandum enclosed in the Embassy's note of April 20, 1927; and that the issues which the Foreign Office now raises have already been adequately met by the claimant.

On the record as now presented to this Government it must conclude that the claimant has made out a prima facie case as to the following facts:

1. That he constructed a permanent narrow gauge railroad in 1908.
2. That said railroad was duly legalized under the laws of Cuba by the Cuban Railroad Commission in 1912.
3. That said legalization was never canceled, revoked, or modified.
4. That claimant was found by the competent Cuban Courts to have been the sole owner of said railroad from the time of its construction to the time of its destruction by the Cuban Government.
5. That said railroad was destroyed in 1917 by individuals protected by the National soldiers acting under the orders of the Cuban Government.

This Government considers that it is entitled to have this claim considered on its merits, which was not done in the recent note from the Foreign Office, and submits, that, if the Cuban Government is still disposed to insist that the claim is without merit, this Government is entitled to be furnished with substantial evidence to controvert the showing which has been made. If the Cuban Government is not in a position to furnish such evidence, there would seem to be no good reason why the claim should not be immediately adjusted. You are instructed to deliver to the Secretary of State a further note in the sense of the foregoing and at the same time to state orally to him that your Government feels that its representations in this case have been treated entirely too lightly; that the case is one which requires frank discussion and an earnest effort on

the part of the two Governments to reach an understanding on the basis of the facts; that the Cuban Government having had ample season within which to bring forward any valid defense to the claim, and having failed to establish such a defense, it is the conclusion of your Government that justice requires that some immediate steps be taken to adjust the claim.²⁴

I am [etc.]

FRANK B. KELLOGG

437.11H23/27 : Telegram

The Secretary of State to the Ambassador in Cuba (Judah)

WASHINGTON, March 14, 1928—4 p. m.

57. Embassy despatch number 2232 August 22, 1927,²⁵ Harrah claim. Inform Foreign Office that delay of seven months in replying to your Government's representations is prejudicing Harrah's other financial interests and that your Government desires to know whether the Cuban Government is in a position to make a prompt adjustment of the matter. Cable reply.

KELLOGG

437.11H23/36

The Secretary of State to the Ambassador in Cuba (Judah)

No. 216

WASHINGTON, August 16, 1928.

SIR: The Department has received your despatch No. 176 of April 12, 1928 and enclosures, among which was a copy of a note from the Cuban Foreign Office addressed to the American Embassy under date of March 30, 1928,²⁶ in regard to the claim of Mr. Charles J. Harrah.

The Department has again carefully reviewed the record in this case and it is forced to the conclusion that the allegations of the claimant, which were set forth with particularity in the Department's instruction No. 720 of June 12, 1926, to the Embassy, have not been satisfactorily disposed of by the answers of the Cuban Government and that the facts set forth in the Department's instruction No. 1036 of August 5, 1927, as constituting a prima facie showing for the claimant, still remain uncontroverted.

Upon the present record it appears to be affirmatively established:

1. That the railroad which was destroyed was built by claimant in 1908; that it was built as a permanent, narrow-gauge railroad, upon the public domain; that it was legalized by the Railroad Commission in 1912, and that the Commission had sole jurisdiction over the railroad

²⁴ The substance of this instruction was embodied in the Embassy's note No. 1094, August 11, 1927, to the Cuban Foreign Office.

²⁵ Not printed.

²⁶ None printed.

and the determination of the manner of occupancy of the public domain by the railroad.

2. That the railroad was operated by Harrah and his agents from 1908 to 1917, a period of nine years, when pursuant to a decree of the President of Cuba confirming a previous order of the Treasury Department for the destruction of a temporary, portable railroad said to have been constructed subsequent to the construction of claimant's railroad under authorization of a temporary permit granted to parties other than the claimant, claimant's railroad was destroyed by the use of forcible means and with the aid and assistance of the national soldiers of Cuba acting in pursuance of the Presidential decree and the order of the Treasury Department. At the time the road was destroyed it was being operated under the judicial administrator appointed by the Court of First Instance of the East of Habana and was destroyed over the protests of the presiding judge of the Court.

3. That the railroad was built by claimant with his own money in 1908 and his title to the property was definitely and finally adjudicated by the courts of the Republic of Cuba in 1917, the Court of First Instance of the East of Habana also declaring that the railroad in litigation was not to be confounded with any temporary portable railroad such as was alleged to be the object of the order of demolition of the Treasury Department.

4. That claimant took all proper steps to obtain redress in the Cuban courts against the individual, one Carlos Manuel de la Cruz, who was actively engaged and had a personal interest in promoting the destruction of the railroad, but without avail, due to the immunity with which such individual was clothed by reason of his official character. The facts are that a criminal action based on a violation of the railroad law was brought in the Court of Instruction against Carlos Manuel de la Cruz, who represented the Secretary of the Treasury in the execution of the order of demolition, but the Court refused to proceed with the indictment of de la Cruz and thereupon an appeal was perfected to the Audiencia. The prosecuting attorney who investigated the matter found that de la Cruz had in fact violated the railroad law by directing the destruction of the property in question, but directed the Court's attention to the fact that before he could be prosecuted it would be necessary to procure the consent of the Cuban Congress. The case was accordingly certified by the Audiencia to the Supreme Tribunal which in turn certified the facts to the Cuban Congress with the request that permission be given to prosecute de la Cruz. An investigation was made by a Committee on "Acts, Incompatibility, Incapacity and Authorization for Prosecution," which recommended that the request of the Supreme Tribunal be denied on the ground that Carlos Manuel de la Cruz was a member of Congress. The Cuban House of Representatives thereupon refused to give the Court permission to prosecute de la Cruz and on March 24, 1919, so informed the Supreme Tribunal, which advised the Audiencia and the Court of Instruction of that fact, and the petition filed against de la Cruz was accordingly dismissed.

Referring to the statement of the Cuban Foreign Office that Mr. Harrah has a remedy in the local courts, to which he should address himself, it is the view of the Department that this is a case which

does not fall within the rule requiring the exhaustion of local remedies before recourse to diplomatic interposition can be availed of, since the pertinent issues of law have become proper subject-matter for inquiry under accepted principles of international law and the pertinent issues of fact in the case, notwithstanding the mass of collateral issues that have been brought into the record subsequent to the first presentation of the claim to the Cuban Government, remain the same and have already to a large extent been determined in the claimant's favor in the Cuban courts. According to the allegations of the Cuban Government the order of demolition was based upon and carried out solely on the grounds that the railroad was subject to the demolition order because it was built by the persons who obtained a temporary concession; that the concession lapsed after two renewals; that the railroad was a temporary, portable structure built on private property by the same persons who procured the temporary concession; that it was constructed subsequent to 1910, and that it was never legalized by the Railroad Commission; Whereas, it was found by the Cuban Courts in 1917, that the railroad which was sought to be made the object of demolition under the order of the Treasury and the Presidential Decree was built by a person who had no connection with the temporary concession. While the question as to the situs of the railroad was not an element of the case, before the courts, it may be observed that the Cuban Secretary of the Treasury later admitted that the railroad which was destroyed was located on the public domain. That official in a letter addressed to Mr. John Beck, counsel for the claimant under date of July 22, 1926, stated:

"even if the railway were destroyed by its agents there would be no basis for a claim against the State, as it is not necessary to apply to the courts to conserve and defend the public domain which the maritime terrestrial zone, whereon the Jaimanitas Railway was situated, undoubtedly is."

Moreover, it is established by the records of the Railroad Commission that the railroad was approved (legalized) by the Commission in 1912, and that there were filed with the Commission maps showing the location of the road as on the public domain.

The Secretary of Public Works, the Secretary of the Treasury and the Secretary of Agriculture, Commerce and Labor constituted the Railroad Commission. There is also in the records, a specific report of the Commission's inspector, which set forth that the matter before the Commission in 1912 simply concerned the legalization of the road, since the official inspection showed that the road was already built and in operation.

The American Government has endeavored to present and discuss the claim on its merits and to set forth the facts with respect to the

construction, operation and demolition of the railroad as such facts are disclosed by the statements of claimant and supported by official records of the Cuban Government, but thus far the Cuban Government has failed, not only to present convincing evidence to overcome or explain away the statement of facts thus presented and supported, but has brought into the record issues which seem to be irrelevant and which tend to confuse rather than clarify the basic issues in the case. These issues are as follows: (1) the identity of the railroad demolished under the Treasury Order, (2) the observance of due process of law in carrying out the destruction, (3) the justice of depriving the claimant of his property without just compensation. The irregularity and injustice of authorizing the claimant's adversary to destroy the railroad on the ground of assertion of adverse ownership of the land without requiring such adversary to assert and sustain his title and rights in a court of law, and the usurpation by executive fiat of the jurisdiction of the court under whose orders the road was at the time being operated by a judicial administrator, should at once be apparent to the Cuban Government.

As to the present contention of the Cuban Government that the matter is one which should be presented to the Cuban courts for decision, it would seem only necessary to observe that since in connection with the destruction of the road the Cuban authorities wholly ignored the requests of the Court, that the Order of Demolition be not carried out, the Cuban Government is now estopped to assert that the matter is one for judicial determination. Furthermore, the question as to the possibility of a remedy in the Cuban courts was considered by the claimant before redress was sought through diplomatic channels. At that time the claimant consulted an eminent Cuban attorney who, in an opinion given in 1924, stated:

"If claim of indemnity for losses and damages is brought against the State, before the ordinary Courts, the State would be absolved in the end, based on the fact that the Government had acted as a political entity and its acts are not open to contention in an ordinary suit.

"From a juridical point of view Harrah faces a wall that has no entrance. Cuban laws give him no loop-hole through which to attain redress for his wrongs and only diplomatic action, based on the responsibility of the Government, would result successfully."

The facts of the case seem to be so clear and are so well within the knowledge of, or readily ascertainable by, the Cuban authorities, that it is difficult for the Government of the United States to understand why in the circumstances the Cuban Government should not readily recognize that the claimant has suffered an injustice through the summary and apparently irregular action taken with respect to his property and take steps to repair the damage which has been done to him. It is not

perceived why difficulty should be experienced by the Cuban authorities in arriving at an equitable adjustment of the claim which would relieve the two Governments of what promises to be a source of continued annoyance. As the matter now stands it is apparent that the two Governments are so far apart in their respective positions as to the fundamental elements of the case that no appreciable progress toward a clarification of the facts seems possible through a further exchange of communications. The Government of the United States would, therefore, urge that the matter is one properly to be submitted to an arbitral tribunal for decision in accordance with the principles of international law, justice and equity. Such a tribunal should, in the opinion of this Government, be composed of three Commissioners of outstanding ability and integrity, one selected by the Government of Cuba, one by the Government of the United States, and the third, who should be a national of neither country, by agreement between the two Governments. This procedure would seem to be the most practical course, unless the Cuban Government would be willing to designate someone to negotiate directly with counsel for the claimant as to the amount to be paid as a compromise settlement.

You are requested to take the matter up with the Cuban Government along the lines indicated above and to impress upon that Government the strong desire of the Government of the United States to see this case brought to an early and satisfactory conclusion, and its feeling that the procedure which has been suggested will readily appeal to the sense of fairness of the Cuban Government.

As to the arbitral tribunal, you may state orally that, while your Government has not, of course, considered the personnel of a tribunal, you have in mind as the national Commissioners such men as Dr. Bustamante and Mr. Hughes, and as the presiding Commissioner a man of the standing of Dr. Maúrtua of Peru, or Dr. Fernández of Brazil. It is, of course, not known whether any one of these gentlemen would be willing to serve.

For your information and possible use in connection with this instruction, the Department is enclosing a copy of a letter of May 3, 1928, from counsel for the claimant.²⁷

I am [etc.]

FRANK B. KELLOGG

437.11H23/39

The Ambassador in Cuba (Judah) to the Secretary of State

No. 550

HABANA, January 11, 1929.

[Received January 14.]

SIR: Referring to the matter of the Harrah claim, I have the honor to state that I asked President Machado, through an informal

²⁷ Not printed.

note dated January 3, 1929, to give me his answer on the question of arbitration. This morning the Secretary of State asked me to call upon him and stated to me that President Machado had requested him to advise me that President Machado was not yet ready to give me an answer, saying that the President had decided to submit the question as to whether or not the matter was one which could properly be arbitrated, to a Committee of three of the leading lawyers here, viz., Doctor Antonio Sanchez Bustamante, Doctor Enrique Hernández Cartaya, and Doctor Octavio Averhoff for their opinion. I asked when we might reasonably expect these gentlemen to have completed their study of the matter and be ready with their opinion, and he stated that the matter would be immediately referred to them and suggested that their opinion should be ready within a month.

These three men are lawyers of excellent reputation here for ability and integrity. You will remember that, in our note to the Foreign Office, we suggested the name of Doctor Bustamante as Arbitrator for Cuba.

Meanwhile, I suggest that, if Mr. Hackworth²⁸ has finished the draft form for the proposed arbitration agreement in this matter, he forward the same to me and I will submit it to President Machado with the suggestion that it be studied by the same Committee so as to save time in case the Committee advise an arbitration.

I have [etc.]

NOBLE BRANDON JUDAH

437.11H23/42

The Secretary of State to the Ambassador in Cuba (Judah)

No. 315

WASHINGTON, February 13, 1929.

SIR: The Department refers to your despatch No. 550 of January 11, 1929, in which you stated that the matter of the Harrah claim had been submitted by President Machado to a committee of lawyers for the purpose of determining whether or not it can be appropriately submitted to arbitration and that the early decision of the committee was expected. You suggest that in the meantime the Department should transmit to you a draft of the proposed agreement in order that it may be studied by the committee in connection with its examination of the question submitted to it by President Machado.

There is transmitted herewith for your information a draft of an arbitral agreement between the United States and Cuba,²⁹ in which it is proposed to refer the case of the claim of Charles J. Harrah to an arbitrator for the purpose of ascertaining the liability of the

²⁸ Green H. Hackworth, Solicitor of the Department of State.

²⁹ Not printed.

Cuban Government in the premises and the amount of damages that should be awarded to Mr. Harrah. The Department has no objection to your furnishing President Machado with a copy of the proposed agreement. The Department, of course, is interested in learning that President Machado has sought the advice of the three lawyers mentioned, but obviously the United States can not be bound by the report of such committee.

The Department is convinced that this is a proper matter for arbitration and if arbitration is declined it must insist that upon the record as it now stands, the liability of the Cuban Government has been established and the amount of damages sustained is the only question which should be considered. The negotiations regarding this claim have been long drawn out. The proposal of arbitration was submitted by you to the Cuban Government in the month of August, last. In view of the length of time which has elapsed since such submission and the delays of the Cuban Government prior thereto, you are requested to say to President Machado that you are instructed to insist upon an early decision in the matter and that it is difficult for your Government to understand why there should be so much delay in replying to its proposal for the arbitration of a case justiciable in character and which, unless the Cuban Government is willing to effect a settlement otherwise, it must be admitted is one properly to be submitted to an arbitral tribunal.

I am [etc.]

FRANK B. KELLOGG

437.11H23/43

The Chargé in Cuba (Curtis) to the Secretary of State

No. 589

HABANA, February 21, 1929.

[Received February 25.]

SIR: I have the honor to acknowledge the receipt of your Instruction No. 315 of February 13, 1929, file No. 437.11H23/39[/42], transmitting a draft of an arbitral agreement between the United States and Cuba in the matter of the claim of Charles J. Harrah.

When this instruction was received the Ambassador had an appointment to see President Machado on February 18 and it seemed advisable to discuss the matter orally with him before furnishing him with a copy of this proposed agreement. The interview was postponed two days and President Machado then stated that he would give an answer regarding arbitration in about a fortnight. Accordingly, no further action will be taken for the present.

The Ambassador desires me to say that he will call at the Department of State in Washington on February 23 or 25 and will endeavor to discuss this matter orally with the proper official.

I have [etc.]

C. B. CURTIS

437.11H23/48

The Ambassador in Cuba (Judah) to the Secretary of State

No. 626

HABANA, April 4, 1929.

[Received April 8.]

SIR: Referring to our previous correspondence in regard to the claim of Charles J. Harrah, I have the honor to say that I called upon the Secretary of State this morning to ask to have the report of the Lawyers Commission expedited. The Secretary informed me that Doctor Mendoza and Doctor Bustamante had already made their report; that the *expediente* was at the moment in the hands of Doctor Hernández Cartaya, and, that when he finished with it, it would be sent to Doctor Averhoff, the Dean of the University of Habana. The Secretary of State instructed one of his assistants to call up Doctor Cartaya and ask him to finish his report as soon as possible.

I have requested both President Machado and the Secretary of State to expedite the matter so that, if there is to be an arbitration, the arbitration agreement may be closed before I retire as Ambassador.

I have [etc.]

NOBLE BRANDON JUDAH

437.11H23/52 : Telegram

The Secretary of State to the Ambassador in Cuba (Judah)

WASHINGTON, April 18, 1929—5 p. m.

36. Your despatch 626, April 4, 1929, regarding Harrah claim. This matter has now been the subject of discussion between the two Governments over a period of approximately four years. There appears to be hopeless disagreement on the essential facts of the case as well as on the principles of law involved. It is not perceived that any useful purposes will be served by awaiting a completion of the study of the case by the several lawyers referred to in your despatch since if they should by chance hold that the matter is not arbitral their decision would in no way alter the views of this Government that the questions are justiciable in character and should be submitted to arbitration unless the Cuban Government is prepared to make settlement without such procedure.

You are instructed to take up the matter with the Foreign Office and President Machado in the sense of the foregoing and to state that this Government is under the necessity of insisting that the claim be submitted to arbitration without further delay.

STIMSON

437.11H23/56

The Ambassador in Cuba (Judah) to the Secretary of State

No. 655

HABANA, May 7, 1929.

[Received May 11.]

SIR: Referring to my telegram No. 30, May 6, 11 a. m.,³⁰ and to previous correspondence in connection with the claim of Charles J. Harrah, I have the honor to state that President Machado advised me on Sunday that the Cuban Government would agree to arbitrate this claim. He asked me to take up with the Secretary of State the form and details of the arbitration arrangements.

This morning I discussed the matter with the Secretary of State who told me that, within a day or two, he would send me his suggestions in connection with the form of arbitration agreement which I submitted to him under your instruction on March 11, 1929.

In our conversation, however, he told me that he favored the appointment of two arbitrators, one American and one Cuban, with the proviso that a third arbitrator be agreed upon by them, or by the two Governments, in case the two arbitrators could not agree upon a decision. I will advise you as soon as I have heard further from the Secretary of State.

I have [etc.]

NOBLE BRANDON JUDAH

437.11H23/57: Telegram

The Secretary of State to the Ambassador in Cuba (Judah)

WASHINGTON, May 24, 1929—2 p. m.

54. Your despatch No. 655, May 7, 1929, regarding Harrah claim. Since the statement of the Cuban Secretary of State to you on May 7, that his suggestions regarding the form of the arbitral agreement would be sent to you within a day or two, Department does not understand why they have not been forthcoming. The proposed agreement has been before the foreign office since March 11. Department had expected that once arbitration was agreed upon the setting up of the arbitral machinery would be expedited. The financial distress experienced by the claimant as a result of the destruction of his property is being accentuated by the continued delay in affording him a remedy.

Please take up matted at once with foreign office in the sense of the foregoing and insist that it be given prompt attention.

STIMSON

³⁰ Not printed.

437.11H23/61

The Ambassador in Cuba (Judah) to the Secretary of State

No. 687

HABANA, May 31, 1929.

[Received June 3.]

SIR: Referring to my despatch No. 655 of May 7, 1929, and previous correspondence concerning the claim of Charles J. Harrah, I have the honor to transmit herewith a copy and translation of a note which I have just received from the Cuban Secretary of State.³²

This note is the first written statement made by the Cuban Government of its willingness to arbitrate this claim. Although I had understood from my various conversations with the Secretary of State that the note would contain whatever counter suggestions Cuba wished to make as to the draft of an Arbitration Agreement which was sent to the Embassy with the Department's instruction No. 315 of February 13, 1929, file No. 437.11 H 23/39[42], nevertheless this note contains no reference to the draft but suggests that there be two arbitrators, one Cuban and one American. I am, accordingly, acknowledging receipt of this note and inquiring whether all of the other stipulations contained in the Department's draft are satisfactory to the Cuban Government.

I have [etc.]

NOBLE BRANDON JUDAH

437.11H23/63

The Chargé in Cuba (Curtis) to the Secretary of State

No. 716

HABANA, June 13, 1929.

[Received June 17.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 60 of June 12, 5 PM., 1929,³² asking when the reply of the Cuban Department of State may be expected with regard to the acceptability of the stipulations contained in the Department's draft of agreement for the arbitration of the claim of Mr. Charles J. Harrah.

I regret to have to inform you that I have been unable to obtain any definite date. The Embassy has kept this matter constantly before the attention of the Cuban Department of State and received yesterday from the sub-Secretary of State an assurance that he would immediately give the matter his personal attention and send me a formal statement at the earliest possible moment. I shall continue to press this matter upon him at very short intervals.

I have [etc.]

C. B. CURTIS

³² Not printed.

437.11H23/71

The Acting Secretary of State to the Chargé in Cuba (Curtis)

No. 412

WASHINGTON, July 6, 1929.

SIR: The Department has received your despatch No. 716 of June 13, 1929, in further relation to the arbitration of the claim of Mr. Charles J. Harrah against Cuba, and notes your statements as to the attitude of the Cuban Foreign Office with respect to expediting the matter.

The Department is unable to understand why there should be any extended delay in deciding as to the form of agreement that should be adopted as the basis of the arbitration. The President of Cuba has agreed to arbitrate the claim and the Cuban arbitrator has been designated. Inasmuch as this has been done without indicating any objection to the form of agreement submitted several months ago by the American Government, the Department considers that it is warranted in assuming that the form submitted is acceptable to the Cuban Foreign Office and that when appropriate changes have been made to meet the desire of the Cuban Government that the matter shall be examined by two arbitrators, with provisions for calling in a third one, if necessary, the Cuban Foreign Office will be prepared to sign the agreement.

Upon the informal suggestion of the Cuban Ambassador, Senor Ferrara, in a conference with Assistant Secretary White and the Solicitor, Mr. Hackworth, on July 1, the provisions relating to the selection of a third Arbitrator have been framed so as to conform as nearly as possible to the like provisions in Article 3 of the General Treaty of Inter-American Arbitration, signed at Washington on January 5, 1929.³³

The Department requests that you take the matter up with the Cuban Foreign Office immediately in the sense of the foregoing and that you at the same time present to the Foreign Office the enclosed revised draft of agreement.³⁴ You should state that your Government would be gratified if the instrument could be promptly executed, so that the actual arbitral proceedings could be begun at once. You may state that you are authorized to sign the agreement on behalf of the United States.

Please keep the Department promptly informed regarding developments.

I am [etc.]

J. P. COTTON

³³ Vol. I, p. 659.

³⁴ Not printed.

437.11H23/86

Memorandum by Mr. Jacob A. Metzger, Assistant to the Solicitor

[WASHINGTON,] August 21, 1929.

MR. COTTON: The Cuban Government has agreed to arbitrate the Harrah claim growing out of the destruction of a railroad belonging to Harrah.

On July 6, 1929, the Department sent to the Embassy at Habana a draft of an agreement referring the claim to arbitration. The Cuban Government has submitted a counterdraft³⁵ which, with the exception of the points mentioned in the attached telegram,³⁶ is acceptable to the claimant's attorney and should, it is believed, with those exceptions be acceptable to the Department.

The Cuban draft seeks to have the arbitrators decide whether the railroad was lawfully constructed rather than whether the property was lawfully or unlawfully destroyed. The distinction between the issue as to the construction of the railroad and the destruction of the property is important in this case, because it seems that there is a dispute as to whether the building of the road was authorized in accordance with Cuban law. The claimants contend that whatever defect there might have been in their authorization at the time the railroad was constructed that defect was cured by later action on the part of the competent Cuban authorities. The form in which the question to be determined by the arbitrators is defined in the Cuban draft would not permit them to pass on the validity of the existence of the road at the time it was destroyed or on the rights of the claimants at that time. The question should, of course, be so framed as to admit of an adjudication of the effect of the curative action of the Cuban authorities taken after the road was built. The change in the Cuban draft proposed in the attached telegram is calculated to render it permissible for the arbitrators to consider the status of the railroad and the rights of the claimant at the time the property was destroyed.

No explanation is deemed necessary in regard to the change of Article 8 of the Cuban draft proposed in the draft telegram.³⁷

J[ACOB] A. M[ETZGER]

³⁵ Not printed.

³⁶ Telegram dated August 29, from the Department to the Ambassador in Cuba (not printed).

³⁷ The proposed change provided that if the award were not paid within 60 days from the date of rendition, it should bear interest at the rate of 6 percent per annum from the date of rendition to the date of payment. This was modified in the final form, p. 921.

437.11H23/94 : Telegram

The Chargé in Cuba (Reed) to the Secretary of State

HABANA, October 1, 1929—5 p. m.

[Received 6:45 p. m.]

105. My telegram No. 102, September 28, noon.³⁸ Harrah arbitration. Protocol signed this afternoon. Shall forward it by pouch leaving tomorrow.

REED

437.11H23/96

*Agreement Between the United States of America and Cuba, Signed at Habana, October 1, 1929*³⁹

WHEREAS, the citizen of the United States of America, Charles J. Harrah, has claimed through the diplomatic representatives of his country in Cuba an indemnity for damages which he says were caused by the destruction of a narrow gauge railroad located on the beaches of Marianao, Jaimanitas and Santa Ana or Santa Fe in the Province of Habana.

WHEREAS, since that date there has been extensive diplomatic correspondence between both Governments concerning the allegations made by Harrah without any agreement having been reached up to the present time.

WHEREAS, the Governments of the United States of America and Cuba have repeatedly expressed in Conferences and other International Acts their intention to resort to arbitration as a means of settling their differences.

Now, THEREFORE: The two Governments, that of the United States of America and that of the Republic of Cuba, the former represented by Mr. Edward L. Reed, its Chargé d'Affaires ad interim at Habana, and the latter by Dr. Francisco Ma. Fernández, Acting Secretary of State, have agreed as follows:

I.—The claim of the citizen of the United States of America, Charles J. Harrah, shall be submitted in conformity with the conditions hereinafter set forth, to two arbitrators, one a national of the United States of America and the other a national of the Republic of Cuba. These arbitrators shall be designated respectively by the Governments of the United States of America and of Cuba.

II.—The decision of the arbitrators shall cover the four following points:

³⁸ Not printed.

³⁹ In English and Spanish; Spanish text not printed. Original texts transmitted to the Department by the Chargé in Cuba in his despatch No. 839, October 1, 1929; received October 5.

A.—Did the competent authorities of the Cuban Government approve a permanent narrow gauge railroad between the beaches of Marianao, Jaimanitas and Santa Ana or Santa Fe?

B.—Was the railroad hereinbefore described lawfully or unlawfully destroyed?

C.—Has Charles J. Harrah the right to make claim as its owner?

D.—In the affirmative case, what indemnification should Harrah receive as reparation for the damages done him?

III.—The two arbitrators will begin their sessions in the City of Habana or such other place as may be agreed upon by them within thirty days after the signing of this agreement, and they shall continue in session until the final determination of the case.

IV.—The procedure to be followed by the arbitrators shall be fixed by themselves in so far as it does not violate the following rules:

A.—Each Government shall designate counsel to represent it before the arbitrators and to present to the Court orally and in writing all the arguments and proofs which they may consider desirable in the interests of the parties.

B.—The counsel of the United States of America shall present within ten days from the first meeting of the Tribunal, a statement of the claim with supporting evidence.

C.—The counsel of the Cuban Government shall present his answer to the plea within thirty days following the presentation of the statement of the counsel of the United States of America.

D.—All proceedings shall be in the English and the Spanish languages.

V.—The decision of the arbitrators shall be given within four months from the date of the first meeting of the Tribunal, exception made of inevitable delays, but in no event later than thirty days following the final arguments.

VI.—In the event that the two arbitrators do not agree upon the final decision to be given in the case nor upon the selection of a third arbitrator who shall decide the disagreement, the two Governments shall choose the third arbitrator in accordance with the procedure stipulated in Article III of the General Treaty of Inter-American Arbitration of January 5, 1929.

VII.—In this case, the third arbitrator designated by the arbitrators previously named or by the procedure provided in the previous article shall examine the evidence produced in support of and against the claim, shall hear counsel of both sides and shall render the decision.

VIII.—The decision of the arbitrators or that of the umpire, as the case may be, shall be accepted as final, conclusive and unappealable by both Governments. If the said final decision be in favor of

the claimant, the amount of the indemnity will be paid by the Government of Cuba to the Government of the United States of America, within sixty days from the date of its rendition. However, if for reasons of a fiscal nature it cannot be paid within that period, the amount of the indemnity shall bear interest at the rate of six per cent per annum from the date on which payment should have been made.

IX.—Each Government shall pay its own expenses, including compensation of its own arbitrator and counsel. The salaries and other expenses which may be incurred through the designation of a third arbitrator shall be borne exclusively by that party whose allegations may have been rejected in the final award.

DONE in duplicate in the English and Spanish languages, at Habana, the first day of October, nineteen hundred and twenty nine.

EDWARD L. REED,
Chargé d'Affaires ad interim
of the United States of America
F. M. FERNÁNDEZ,
Acting Secretary of State

437.11H23/116 : Telegram

The American Arbitrator (Howe) to the Secretary of State

HABANA [, undated.]
[Received December 3, 1929—6:10 p. m.]

The tribunal provided by agreement between the United States and Cuba signed October 1, 1929, to arbitrate the Harrah case began its sessions December 2.

WALTER B. HOWE

[With respect to the final disposition of the claim of Charles J. Harrah against the Republic of Cuba, a memorandum dated October 23, 1936 (437.11 H. 23/311), by the office of the Legal Adviser of the Department of State reads in part as follows:

“The arbitrators appointed by the two Governments apparently reached a decision on May 27, 1930, that the Government was liable, but the amount of liability was not fixed. Thereupon the Cuban Government offered in settlement \$350,000. This amount was accepted by the Government of the United States and a check therefor was handed to the Ambassador at Habana and forwarded to the Department on July 5, 1930. The money so received from Cuba was placed in the Treasury of the United States and is, as circumstances warrant, being paid to the claimant. It is recommended, therefore, that the case be marked closed.”

In accordance with this recommendation, the Legal Adviser closed the case.]

DENMARK

ARRANGEMENT BETWEEN THE UNITED STATES AND DENMARK FOR RECIPROCAL TREATMENT OF PASSENGER MOTOR VEHICLES

811.51259 Motor Vehicles/1

The Danish Minister (Brun) to the Acting Secretary of State

No. 125

BAR HARBOR, MAINE, September 4, 1928.

SIR: I am directed to inform you, that the Danish Government, on condition of reciprocity, is prepared to grant freedom from taxation for a period of 3 months to foreign automobiles built for the transportation of passengers not to exceed 7 in number including the driver, and belonging in the country in question and registered as the property of persons residing there.

In these circumstances I would be greatly obliged to you for being so good as to let me know, what formalities and conditions must be complied with in order that motor vehicles registered in Denmark may be exempted from taxation in the United States, therein included duties and taxes of all kinds.

I have [etc.]

C. BRUN

815.1259 Motor Vehicles/2

The Secretary of State to the Danish Minister (Brun)

WASHINGTON, October 27, 1928.

SIR: I have the honor to acknowledge the receipt of your note of September 4, 1928, in which you were good enough to inform me that your Government, on the basis of reciprocity, is prepared to grant freedom from taxation for a period of three months to foreign automobiles built for transportation of passengers not to exceed seven in number, including the driver, and belonging in the country in question and registered as the property of persons residing there.

In reply I have the honor to inform you that the Federal Government imposes no taxes on automobiles in the United States. The taxation of owners of automobiles and the exaction of fees for the registration of automobiles is a matter for determination by the several States. The Department has been informally advised that an investigation of the motor vehicle laws of the forty-eight States of the United States discloses the fact that all of them grant reciprocity to foreign visitors.

This reciprocity is granted in respect both to the license plate and the driving license, provided, of course, that the same reciprocity is extended by foreign countries to residents of States that are now granting this courtesy. With regard to the taxation of owners of automobiles which is usually distinct from the payment of a registration fee, it may be stated that it is the Department's understanding that as a general rule such taxes are only imposed upon persons who are found to be legal residents of a certain State. Such taxes, it is believed, would not be exacted from persons who are merely touring through the several States of the Union, the class of persons to whom, presumably, reference is made in your note under acknowledgment.

In this connection the following information regarding the freedom from customs duties granted on a reciprocal basis to motorcycles and automobiles brought into the United States by nonresidents for a period of not more than six months, quoted from a letter from the Treasury Department, would appear pertinent to your inquiry:

"The regulations governing such importations are contained in Chapter VIII, Customs Regulations of 1923, Articles 406-413. Article 407 provides that entry shall be made on Customs Form 7501, and that bond shall be given on Customs Form 7563 (with surety) in a penal sum equal to double the estimated duties. In lieu of such bond, the importer may deposit a cash amount equal to the estimated duties, which is treated as a cash bond. The entry will be liquidated free of duty, and the bond canceled or the amount deposited returned if the vehicle in question is exported within the six months period prescribed by Section 308 and provided that exportation is made in the manner required by Article 412 of the regulations. When not so exported, the vehicles are treated in the same manner as similar articles imported for sale and consumption, and assessed for duty on their value at the time of importation. The six months period prescribed for exportation cannot be extended."

I have the honor to express the hope that in the light of the foregoing information the competent Danish authorities will be prepared to grant reciprocal treatment to American citizens desiring to drive automobiles in Denmark.

Accept [etc.]

For the Secretary of State:
W. R. CASTLE, JR.

811.5129 Motor Vehicles/3

The Danish Minister (Brun) to the Secretary of State

No. 14

WASHINGTON, February 2, 1929.

SIR: Referring again to your reply-letter of October 27, 1928, in regard to taxation in this country of automobiles and exemption from such taxation of the automobiles of foreign visitors, I have the honor to state as follows:

In the last paragraph of your aforesaid letter you expressed the hope, that the competent Danish authorities, in the light of the information placed at their disposal, would be prepared to grant reciprocal treatment to American citizens desiring to drive automobiles in Denmark.

In this connection I am directed by the Danish Minister of Foreign Affairs to transmit to you the four copies here enclosed of a Regulation issued on this subject on January 18, 1929 by the Danish Ministry of Public Works. It will be seen that this Regulation, in view of the authorization contained in § 7 No. 1 of the Act No. 143 of July 1, 1927 on taxation of automobiles, etc., exempts from the tax prescribed in the said paragraph, for a period not exceeding 3 months, (visiting) automobiles for transportation of persons, built to seat not more than seven persons including the chauffeur, which belong in the United States and are registered in the United States as the property of persons residing in the United States.

A copy of § 7 No. 1 of the said Act is herewith enclosed.

I have [etc.]

C. BRUN

[Enclosure 1—Translation ¹²]

Journal N. 371 c.

Circular No. B.

Pursuant to the authority given to the Minister of Public Works in section 7, paragraph 1, in act No. 143 of July 1, 1927, relative to tax on motor vehicles, etc., the Ministry, after consultation with the Ministry of Finance, hereby waives the tax, in accordance with the said paragraph, on such passenger automobiles belonging in the United States as are designed to carry not more than 7 persons including the chauffeur, and are registered in the country in question as belonging to persons domiciled in that country.

Exemption from taxation is valid only for a period of 3 months, and therefore the liability to taxation mentioned by sections 1-6 of the above-named law arises in case the vehicle remains in this country for more than 3 months.

This proclamation shall go into effect February 1, 1929.

Which is hereby made public, reference being made to the proclamation of January 28, 1928, on this subject.

MINISTRY OF PUBLIC WORKS, January 18, 1929.

J. P. STENSALLE

CH. BUCHWALD

Proclamation
relative to

Exemption from taxation in this country of motor cars and trailers to same, which belong in the United States, and which are used in entering this country by persons coming to Denmark from abroad.

¹² File translation revised.

[Enclosure 2—Translation ²³]COPY OF ACT NO. 143 OF JULY 1, 1927 ON TAXATION OF AUTOMOBILES,
ETC.*Section 7, No. 1.*

The following taxes shall be paid on motor cars and trailers to same not belonging in this country, which are used in entering this country by persons coming to Denmark from abroad, except in the exceptional cases mentioned in section 1, paragraph 2.

On passenger automobiles, which are designed to carry not more than 7 persons including the chauffeur, and on trailers to passenger automobiles, 5 kroner for up to 2 days' driving, 15 kroner for up to 8 days' driving, and 50 kroner for up to one month's driving. If the car does not remain in this country during the whole period for which the tax is paid, it may be driven in this country later during the remaining time without payment of a new tax.

On passenger automobiles which are designed to carry more than 7 persons including the chauffeur, on tractors, commercial automobiles and motor trucks and on trailers to the same, 8 kroner for up to 2 days' driving, 25 kroner for up to 8 days' driving, and 80 kroner for up to 1 month's driving.

The tax is paid in advance in accordance with rules which shall be definitely fixed by the Minister of Public Works, after consultation with the Minister of Finance.

The Minister of Public Works may, however, after consultation with the Minister of Finance, waive payment of taxes under the present provision for passenger automobiles belonging in countries which grant the corresponding exemption from taxes for passenger automobiles belonging in this country.

PROPOSED RECIPROCAL EXTENSION OF FREE IMPORTATION PRIVILEGES TO CONSULAR OFFICERS OF THE UNITED STATES AND DENMARK²⁴

659.11241/12

The Minister in Denmark (Dodge) to the Secretary of State

No. 792

COPENHAGEN, April 2, 1929.

[Received April 16.]

SIR: My Despatch No. 736 of February 15th last enclosed a copy and translation of a note from Dr. Moltesen, Minister for Foreign Affairs, in reply to the Legation's note of April 25th, 1928,²⁵ relative

²³ File translation revised.²⁴ Continued from *Foreign Relations*, 1928, vol. II, pp. 733-740.²⁵ None printed.

to the extension of the privilege of free importation to American and Danish Consular Officers in the country of the other under the provisions of the Convention of 1826 between the United States and Denmark.¹⁶ This note stated that "the Danish Government were unable to share the opinion of the Government of the United States with regard to the scope of Article 10" of this Convention and promised a reply at a later date concerning a reciprocal arrangement for free importation by Consular Officers similar to that existing between the United States and Germany.

I have received this additional reply from Dr. Moltesen to-day, of which I enclose a copy and translation.¹⁷ It will be observed that this second note quotes a reply received from the Department of Customs and Consumption Duties of the Ministry of Finance to the effect that, in view of the laws now in force in Denmark, it will not be possible to grant freedom from customs duties for goods imported for the use of Consular Officers. The reply also refers to customs privileges which the Danish law allows to Consular Officers. All of these, as the Department is aware, are already enjoyed by American Consular Officers here. The note ends by the statement of Dr. Moltesen that he must agree with the opinion expressed by the Department of Customs and Consumption Duties which "considers that for the present in any case there is no possibility of having a modification of the law adopted tending to the extension of this favor to Consular Officers" and that "therefore . . . it is not possible to effect an arrangement of such an extended character as that proposed."

This reply of Dr. Moltesen is scarcely a surprise in view of the statements on this question of Count Reventlow, Director-General of the Foreign Office, which have been reported in Mr. Paddock's Despatch No. 551 of July 21st, 1928,¹⁸ and in my Despatches Nos. 695 of December 20th¹⁹ and 736, above referred to. In recent conversations which I have had with him, Count Reventlow has continued to express the desire of the Foreign Office that it might be possible to conclude an agreement such as proposed and his doubt as to whether the Ministry of Finance could be induced to submit a Bill to the Rigsdag proposing the necessary modifications of the existing Law.

It is possible that if a Social Democratic Government should follow the elections for the Folketing, which are to take place on the 24th proximo, a renewal of the Department's proposal would meet with a more favorable result.

I have [etc.]

H. PERCIVAL DODGE

¹⁶ Miller, *Treaties*, vol. 3, p. 239.

¹⁷ Not printed.

¹⁸ *Foreign Relations*, 1928, vol. II, p. 734.

¹⁹ *Ibid.*, p. 730.

659.11241/13

The Minister in Denmark (Dodge) to the Secretary of State

No. 795

COPENHAGEN, April 6, 1929.

[Received April 23.]

SIR: Referring to my Despatch No. 792 of the 2nd instant, relative to the inability of the Danish Government to agree to the extension of the privilege of free importation to American and Danish Consular Officers in the country of the other, I have the honor to inform you that in the course of a conversation to-day with Dr. Moltesen, the Foreign Minister, I referred to his note, of which a copy and translation were enclosed in my Despatch above referred to, and he stated that he regretted greatly that the Ministry of Finance had found itself unable to agree to my Government's proposal.

In a conversation also to-day with Count Reventlow, Director General of the Foreign Office, I also referred to Dr. Moltesen's note. Count Reventlow replied that he shared my regret and that in order if possible to obtain the agreement of the Ministry of Finance, he had gone further than he usually went in matters concerning another Ministry. Count Reventlow then, in reply to my enquiry regarding the reasons for the decision of the Finance Ministry, practically repeated the reasons which he had previously stated as reported in Mr. Paddock's Despatch No. 551 of July 21st and in my Despatches Nos. 695 of December 20th, 1928 and 736 of February 15th last. I may repeat these briefly as follows: new legislation would be necessary to permit the Government to consent to the proposed agreement and this would necessitate an alteration of the customs tariff. Any proposal for the alteration of the customs tariff was certain to lead to many other such propositions and accordingly to considerable difficulties for the Government. If this agreement were to be made with the American Government, it would also have to be extended to the Consular Officers of all other countries, thus leading to a slight but still perceptible diminution of customs revenue. Any such diminution at the present time, when there was much complaint about high taxes, in favor of a particular class of officials would be unpopular. Further, as the number of persons enjoying freedom of customs would be considerably increased by such an agreement the difficulty of supervising their imports would be increased as also the opportunities for the abuse of this privilege.

There can be no doubt that the Foreign Office has been anxious to agree to the Department's proposal and that only the opposition of the Ministry of Finance has prevented this proposal from being accepted.

I have [etc.]

H. PERCIVAL DODGE

DOMINICAN REPUBLIC
BOUNDARY DISPUTE WITH HAITI
(See volume I, pages 943 ff.)

930

EGYPT

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND EGYPT, SIGNED AUGUST 27, 1929

711.8312 A/3 : Telegram

The Acting Secretary of State to the Minister in Egypt (Gunther)

WASHINGTON, August 17, 1928—6 p. m.

27. On August 16th the Secretary handed to the Attaché of the Egyptian Legation a note¹ proposing the negotiation of treaties of arbitration and conciliation between the United States and Egypt. The note was accompanied by draft texts in all respects similar to those which have been proposed during recent months to other countries. Arbitration treaties have been proposed to 29 other countries and signed with 8. Conciliation treaties have been proposed to 19 other countries and signed with 5.

CASTLE

711.8312 A/11 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

ALEXANDRIA (CAIRO), October 20, 1928—5 p. m.

[Received October 20—2:45 p. m.]

41. Your instruction No. 4, August 16.¹ Shaw's personal letter of August 23rd and my despatch 41, September 19, 1928.¹ Under Secretary Foreign Affairs told me this morning that though treaties were still under consideration by the state legal committee he had no doubt but that it would be possible within a very brief interval to conclude these treaties with our Government through the Egyptian Minister at Washington. He observed that, as decisions of the Mixed Courts could in no way be involved by the terms of these treaties and that matters concerning third parties were not, it was felt by the Egyptian Government that no obstacle existed to their conclusion.

GUNTHER

711.8312 A/13 : Telegram

The Secretary of State to the Minister in Egypt (Gunther)

WASHINGTON, November 2, 1928—3 p. m.

33. Your 41, October 20, 5 p. m. The Department has noted the observation of the Under Secretary of Foreign Affairs that "as de-

¹Not printed.

cisions of the mixed courts could in no way be involved by the terms of these treaties," no obstacle existed as to their conclusion.

Certainly as to these treaties the mixed courts are Egyptian courts and consequently the treaties have the same relation to them and to their decisions as in case of other Egyptian courts.

It is not desired that you make unsought explanations to the Egyptian Government. On the other hand you should avoid leaving an incorrect impression through silence. If you have reason to believe that the Egyptian Government is relying on the decisions of the Mixed Courts being excepted from arbitration and conciliation, you are authorized orally to inform the Foreign Office in the foregoing sense. Please keep Department informed and telegraph for instructions if necessary.

KELLOGG

711.8312 A/14

The Minister in Egypt (Gunther) to the Secretary of State

No. 103

CAIRO, December 27, 1928.
[Received January 18, 1929.]

SIR: With reference to previous correspondence in regard to the proposed Treaties of Conciliation and Arbitration between the United States and Egypt, I now have the honor to report that the Minister for Foreign Affairs recently informed me that the State Legal Department had completed its examination of the Treaties, and that he would, therefore, shortly instruct the Egyptian Minister at Washington to take the matter up with you with a view to their conclusion.

I have [etc.]

FRANKLIN MOTT GUNTHER

Treaty Series No. 850

*Arbitration Treaty Between the United States of America and Egypt, Signed at Washington, August 27, 1929*³

The President of the United States of America and His Majesty the King of Egypt

Determined to prevent so far as in their power lies any interruption in the peaceful relations now happily existing between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

³Ratification advised by the Senate, January 20 (legislative day of January 6), 1930; ratified by the President, January 23, 1930; ratified by Egypt, June 25, 1932; ratifications exchanged at Washington, August 24, 1932; proclaimed by the President, August 25, 1932.

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries
The President of the United States of America:

Henry L. Stimson, Secretary of State of the United States of America;

His Majesty the King of Egypt:

His Excellency, Mahmoud Samy Pasha, His Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States of America, Grand Officer of the Order of the Nile; who, having communicated to each other their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by a special signed agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Egypt in accordance with its constitutional laws.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine.

ARTICLE III

The present treaty 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 Egypt in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate, and hereunto affixed their seals.

Done at Washington the 27th day of August in the year one thousand nine hundred and twenty-nine.

[SEAL]	HENRY L. STIMSON
[SEAL]	M. SAMY

Treaty Series No. 851

*Conciliation Treaty Between the United States of America and Egypt, Signed at Washington, August 27, 1929*⁴

The President of the United States of America and His Majesty the King of Egypt, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States of America:

Henry L. Stimson, Secretary of State of the United States of America;

His Majesty the King of Egypt:

His Excellency Mahmoud Samy Pasha, His Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States of America, Grand Officer of the Order of the Nile;

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:

⁴Ratification advised by the Senate, January 20 (legislative day of January 6), 1930; ratified by the President, January 23, 1930; ratified by Egypt, June 25, 1932; ratifications exchanged at Washington, August 24, 1932; proclaimed by the President, August 25, 1932.

ARTICLE I

Any disputes arising between the Government of the United States of America and the Government of Egypt, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

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, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and 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, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the 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 America by and with the advice and consent of the Senate thereof, and by Egypt in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate, and hereunto affixed their seals.

Done at Washington the 27th day of August in the year one thousand nine hundred and twenty-nine.

[SEAL] HENRY L. STIMSON
[SEAL] M. SAMY

PROPOSED CHANGES IN THE REGIME OF THE MIXED COURTS IN EGYPT⁵

883.05/288 : Telegram

The Secretary of State to the Minister in Egypt (Gunther)

[Paraphrase]

WASHINGTON, January 9, 1929—11 a. m.

3. The Department would be glad, before formulating a reply to the note of October 28, 1928, from the Egyptian Government,⁶ to receive the recommendations of the Legation mentioned in your despatch No. 89, December 1.⁷ If the recommendations have been set forth in a despatch, when was it mailed? If this has not been mailed already, please briefly telegraph the recommendations.

KELLOGG

883.05/290 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

[Paraphrase]

CAIRO, January 14, 1929—9 a. m.

[Received January 14—7:37 a. m.]

1. Your 3, January 9, 11 a. m. There have already been sent to the Department the views of . . . on the Egyptian note of Decem-

⁵ Continued from *Foreign Relations*, 1928, vol. II, pp. 743-773.

⁶ Note of October 28 from the Egyptian Minister for Foreign Affairs to the American Minister, *ibid.*, p. 767.

⁷ *Ibid.*, p. 770.

ber 25, 1927,⁸ and the replies, or references thereto, of Great Britain, France, Italy, Belgium, and Greece to the Egyptian note of October 28, 1928, with my comments.⁹ The answers of the Portuguese and Spanish Ministers likewise closely follow the lines of the French Minister's response. The only Minister other than myself who has made no reply yet is the Swedish Minister, who informs me that his note will follow the same general lines. The British alone have expressed views which are favorable to the holding of an international conference to consider Egypt's preliminary proposals, and I am given to understand that the British Government is, in principle, really opposed to holding a conference until the preliminary negotiations are further advanced.

A commission has been formed by the Egyptian Government to study these representations, but little progress is being made, I understand, due partly to the continuing domestic conflict between two political groups, backing the King and the Prime Minister, respectively.

Having these considerations in mind, may I respectfully submit the suggestions which follow:

(1) The American reply should express the friendly interest which the United States Government will have in the plans it understands are to be submitted later by the Egyptian Government to revise the capitulatory régime and should state something to the effect that the possible holding eventually of an international conference regarding this subject, in case Egypt desires it, will be sympathetically considered. I am informed by my Italian colleague that categorical instructions have been sent him and the French Minister as well to decline a conference to consider the specific proposals numbered in the Egyptian note of December 25, 1927.

(2) The American reply to these specific proposals should:

(a) Favor, in principle, proposal 1, providing that no limitation is placed on the right of objection of the powers;

(b) Agree, in principle, to proposal 2, briefly alluding, as it may seem desirable, to the apparently needed creation or the extension of the *parquet* judicial police, of the penitentiary system, and of the revision of codes of criminal law and procedure. These safeguards are not, from a practical standpoint, as important in Egypt to American as to other foreign interests;

(c) Agree to proposal 3, the Legation knowing of no dissenting opinion;

(d) Express the hope as to proposal 4 that the additional chamber, apparently much needed, will be composed not of three but of five judges, this being the generally held view here;

(e) View with sympathy the principle which motivates principle 5, but object to the requirement that an Egyptian must hold one office.

⁸ *Ibid.*, p. 747.

⁹ See despatches No. 83, November 22, 1928; No. 89, December 1, 1928; No. 90, December 7, 1928; and telegram No. 47, November 6, 1928, from the Minister in Egypt, *ibid.*, pp. 769, 770, 772, 768, respectively.

Thus the way would be left open for a later refusal. Serious doubt appears to exist regarding the ability of Egyptians to preside over the chambers;

(f) Reserve, for the present, an expression of opinion regarding proposal 6, as it is now drafted, since this seems to be the easiest way to avoid offending Egyptian susceptibilities, and it should fully meet the present situation.

(3) In case it should be deemed appropriate to refer further to proposal 4, a brief statement might be added to set forth the American position, similar to the instruction No. 306, January 22, 1927,¹¹ respecting the departure from the principle of equal representation, since, as the Department knows, exceptions to this were never filed formally with the Egyptian Government, owing to the last paragraph of the instruction cited. A favorable opportunity would appear to exist for these exceptions to be made known, in view of the attitude of the principal continental powers, but, as to the remainder of the American reply, I am of the opinion that the less definite it is, the better. Before going into further detail regarding the other five proposals, it would be advantageous to examine the Egyptian Government's response to the replies hitherto made by my colleagues.

I should appreciate telegraphic instructions, if possible, as the mail service at present requires about a month.

GUNTHER

883.05/291 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

CAIRO, January 25, 1929—11 a. m.
[Received January 25—10 a. m.]

3. Judicial adviser¹² confirms current rumors that impending vacancy Procureur Generalship, Mixed Courts is to be filled by Englishman. He implies also that political considerations dictate choice of Frenchman and Italian for two prospective Court of Appeals appointments. Such appointments would result in following numbers of magistrates representing principal capitulatory powers: Great Britain 8, Italy 6, France 5, United States 3. Of lesser powers, Norway, Belgium, Greece and Spain now have same representation as ourselves.

It is farthest from my thoughts to suggest that we should make our acceptance of Mixed Court reform contingent upon appointment of additional American judge, but I believe our traditional position and general prestige entitle us to refer to departure from principle of equal representation and to suggest desirability of establishing a situation which would at least more nearly provide in fact for parity amongst principal powers.

¹¹ *Foreign Relations*, 1927, vol. II, p. 560.

¹² Judge G. Arthur W. Booth (British).

As we may be faced shortly by *fait accompli* I respectfully suggest early reply to reform proposals and interview between yourself and Egyptian Minister; latter being asked to telegraph his Government your views.

GUNTHER

883.05/290 : Telegram

The Secretary of State to the Minister in Egypt (Gunther)

WASHINGTON, January 26, 1929—6 p. m.

4. Your telegram No. 1, January 14, 9 a. m., and your despatch No. 69 of November 3, 1928.¹³

[Paraphrase.] With an appropriate introductory paragraph, you may, unless some objection is perceived by you, reply substantially as follows to the Egyptian Government [End paraphrase.] :

"The Government of the United States is prepared to examine in a friendly and sympathetic spirit such appropriate proposals for the revision of the Capitulatory régime as the Egyptian Government may eventually formulate. The American Government would be disposed to consider the possibility of recourse to the procedure of an international conference if it should appear that the examination and discussion of these proposals would thereby be facilitated.

With the general spirit of the changes in the organization of the Mixed Courts, proposed in the Egyptian Government's circular note of December 25, 1927, the American Government is largely in sympathy and in order to facilitate the early conclusion of an agreement through a frank exchange of views, it makes the following observations and comments with respect to each of the six principal proposals set forth in the Egyptian Government's circular note.

1. The first proposal is in principle acceptable, subject however to the reservation of the right of the United States to note its objection to legislation which is considered beyond the scope of the authority that has been or may be granted to the General Assembly of the Court of Appeals.

2. The second proposal is likewise in general acceptable. It is noted, however, that this proposal would apparently involve the revision of the codes of criminal law and of criminal procedure, as well as the extension of the *parquet* judicial police and an enlargement of the prison system. The American Government would be glad to receive information as to the intentions of the Egyptian Government with respect to these matters. The American Government before giving final approval to this proposal would also appreciate being informed as to the penalties intended for the delicts mentioned and the precise scope of the term 'commercial frauds.'

3. The third proposal is acceptable.

4. My Government recognizes the desirability of creating an additional chamber in the Court of Appeals, but it is thought that the purpose which the Egyptian Government has in mind can best be

¹³ For despatch No. 69, see *Foreign Relations*, 1928, vol. II, p. 767.

achieved by creating a new chamber of five judges. To such a proposal the American Government would offer no objection. In this connection, however, it is pertinent to recall to the attention of the Egyptian Government the position of the American Government in favor of bringing about a return to the principle of equality of representation as among the principal Capitulatory Powers represented in the Mixed Court judiciary, including specifically the proposed new chamber. As Your Excellency is aware my Government has never acquiesced in the departure from this principle which has taken place in recent years.

5. The American Government perceives no objection to liberalizing the present regulations governing the election of judges to the offices of president and vice-president of the Mixed Courts, but it is unable to concur in the proposal that the election to one of these offices of a judge of any specific nationality be made mandatory. It is felt that outstanding judicial ability should be the sole criterion upon which election to these offices should be based.

6. As to the sixth proposal, involving the granting of Egyptian decorations to judges of the Mixed Tribunals, my Government desires to reserve its decision pending a further opportunity to study the proposed provisions."

KELLOGG

883.05/294

The Minister in Egypt (Gunther) to the Secretary of State

No. 136

CAIRO, February 1, 1929.

[Received February 27.]

SIR: I have the honor to acknowledge the receipt of the Department's telegraphic instructions of January 26, 1929, informing me of the substance of the reply which, should I perceive no objection, it was desired that I should make to the Egyptian Government's Notes of December 25, 1927, and October 28, 1928, in the matter of the proposed revision of the capitulatory régime in Egypt.

I now have the honor respectfully to enclose a copy of the Note which, in pursuance of these instructions, I addressed, under date of January 31, 1929 to the Egyptian Minister for Foreign Affairs.¹⁴

In this Note but one substantial departure is made from the text appearing in the Department's aforementioned instructions, i. e. the omission of the last sentence of the Department's draft reply to the fifth of the specific proposals made in the Egyptian Government's Note of December 25, 1927. This proposal had as its object the liberalizing of the present regulations governing the elections to the offices of President and Vice President of the Mixed Court of Appeals and of the three Mixed Courts of First Instance. The omitted sentence read as follows: "It is felt that outstanding judicial ability

¹⁴ Not printed.

should be the sole criterion upon which election to these offices should be based." My reason for omitting this sentence was that its sense does not represent the principle traditionally followed by the Mixed Court judiciary in the conduct of the elections in question. The generally accepted and applied basis of such elections is, I am informed, "seniority, in the absence of distinct and recognized inability." Outstanding judicial ability alone has never been and cannot, I believe, ever be the sole criterion upon which elections to these offices can be based. The principle of seniority, as modified in the aforementioned sense, is, I am informed, one common to the general practice of European countries as to the choice of presiding officers of chambers of courts of civil law jurisdictions. The Mixed Courts are, of course, organized strictly on these lines. In these circumstances and in the exercise of the discretion granted me in the first paragraph of the Department's instruction under reference, I did not believe it was necessary for me to solicit the Department's instructions before presenting the Note in the enclosed form.

I have [etc.]

FRANKLIN MOTT GUNTHER

883.05/293 : Telegram

The Secretary of State to the Minister in Egypt (Gunther)

[Paraphrase]

WASHINGTON, March 8, 1929—6 p. m.

10. Your despatch 130, January 25.¹⁵ You should set forth formally the views of this Government respecting equal representation among the principal capitulatory powers on the Mixed Judiciary by using such portion of the Department's reasoning in its instruction No. 306, January 22, 1927,¹⁶ as you may deem pertinent to the present circumstances and by specifically referring to the paragraph on proposal 4 in your note dated January 31, 1929, to the Egyptian Minister for Foreign Affairs.¹⁷ You should make it clear that an unfortunate impression will inevitably be produced upon the United States Government by a failure to recognize the principle of equal representation so far as Americans are concerned in the forthcoming appointments by Egypt to the Mixed Courts of Appeal and of First Instance.

You may make discreet oral use of the Department's pleasure should Judge Crabitès be promoted to the Court of Appeals and another American be chosen to fill his place on the Court of First Instance.

KELLOGG

¹⁵ Not printed; it supplemented telegram No. 3, January 25, from the Minister in Egypt, p. 938.

¹⁶ *Foreign Relations*, 1927, vol. II, p. 560.

¹⁷ See telegram No. 4, January 26, to the Minister in Egypt, p. 939.

883.05/302

*The American Minister in Egypt (Gunther) to the Egyptian Prime Minister and Acting Minister for Foreign Affairs (Mahmoud Pasha)*¹⁹

No. 95

CAIRO, April 18, 1929.

EXCELLENCY: I have the honor to refer to paragraph No. 4 on page 2 of my Note No. 65 of January 31, 1929, in reply to the Note received from His Excellency Hafez Afifi Bey under date of October 28, 1928, reopening the general subject of the capitulatory régime in Egypt and requesting particularly that the specific proposals in this sense made by the Royal Egyptian Government in its Note of December 25, 1927, be recalled to the attention of the Government of the United States.

By the paragraph in question, after informing Your Excellency's Government, in reply to the fourth of the proposals in question, that my Government recognizes the desirability of creating an additional chamber in the Mixed Court of Appeals, I had the honor to recall to the attention of the Royal Egyptian Government the position of the American Government in favor of bringing about a return to the principle of equality of representation as among the principal capitulatory powers represented in the Mixed Court judiciary, including, specifically, the proposed new chamber. I added, under instructions from my Government, a statement to the effect that, as His Excellency Hafez Afifi Bey was aware, the American Government had never acquiesced in the departure, which has taken place in recent years, from this principle.

I am now in receipt of further instructions from my Government directing me to supplement the representations on this particular subject made in my last Note. In particular, I am desired to set forth clearly that a failure to recognize this principle of equality insofar as the United States is concerned in the forthcoming appointments to the Mixed Court of Appeals and of First Instance will inevitably lead to an unfortunate impression upon my Government.

I had anticipated seeking an early occasion to discuss this matter in detail with Your Excellency. Unfortunately, however, my present illness prevents my doing so. I take this means, therefore, to bring the matter again to the attention of Your Excellency's Government desiring particularly to acquaint Your Excellency with the very specific nature of my present instructions.

¹⁹ Copy transmitted to the Department by the Minister in Egypt in his despatch No. 174, April 19; received May 11, 1929.

Your Excellency will, of course, realize that my Government has no intention of making its final assent or dissent to the proposals for judicial reform as submitted by the Royal Egyptian Government in its Notes of December 25, 1927 and October 28, 1928, the subject of a diplomatic *quid pro quo*. These proposals have received the sympathetic consideration of my Government which will continue to consider them strictly on their merits. And it would be farthest from my mind to suggest that the final assent of my Government should be contingent upon the appointment to the Mixed Courts of additional American judges.

With respect, however, to the fourth of the proposals in question my Government is, as I have already stated, earnestly desirous that with its adoption there should be, at the same time, a formal recognition of the principle that no preponderance should be given to any one nationality when selecting the foreign members of the Mixed Court judiciary.

Something over two years ago, following an exchange of Notes, dated respectively April 9 and May 16, 1926,²⁰ my predecessor on March 28, 1927, set forth orally in the course of an extended official interview with His Excellency Sarwat Pasha, then Royal Egyptian Minister for Foreign Affairs, the detailed views of my Government with respect to the question of the applicability to the selection of the Mixed Court judiciary of the principle of equal representation amongst the principal capitulatory powers.²¹ This principle, my predecessor was instructed to maintain, if carried to its logical conclusion, would necessarily recognize the fact that the representation of any lesser capitulatory power or of any non-capitulatory country should not exceed that accorded to the principal powers, a conclusion sanctioned also by the practice of nearly forty years. My predecessor was to add that there was no doubt in the mind of his Government that at the time of the entry into force of the Khedive Ismail's project of judicial reform this principle and its logical consequence were properly considered as applying to the selection of the foreign judiciary of the proposed Mixed Tribunals.

In his Note of April 9, 1926, my predecessor quoted an extract from a Note addressed on May 26, 1873 to His Excellency Nubar Pasha by Sir Henry Elliot, at that time His Britannic Majesty's representative at Constantinople,²² wherein the Egyptian Government

²⁰ Note of April 9, 1926, from the American Minister to the Egyptian Minister for Foreign Affairs, and note of May 16, 1926, from the Egyptian Ministry for Foreign Affairs to the American Legation, *Foreign Relations*, 1927, vol. II, pp. 556 and 557.

²¹ See despatch No. 980, March 28, 1927, from the Minister in Egypt and memorandum of March 28, 1927, of an interview between the American Minister and the Egyptian Minister for Foreign Affairs, *ibid.*, pp. 566 and 569.

²² *Ibid.*, 1873, vol. II, p. 1118.

was informed that the British Government was "prepared forthwith to accept the proposed arrangements respecting the judicial reforms in Egypt" on the condition, amongst others, "of avoiding giving any preponderance to one nationality over another in the selection of [the] judges either in constituting the tribunal or in supplying the vacancies that may from time to time occur among them." A copy of this letter was formally transmitted to my Government by the American Minister at Constantinople under covering despatch dated May 27, 1873, and the principle outlined therein was considered by my Government as fundamental when, by Proclamation of the President, dated March 27, 1876,²³ the adherence of the United States was given to the judicial reform in Egypt.

Having thus stated the general proposition upon which my Government's contention in this matter is based, I have the honor to enclose a memorandum elaborating in some measure the considerations which led logically to the adopting of that proposition. This memorandum, I venture to point out to Your Excellency, constitutes but little more than a written statement of the oral reply made by my predecessor to the aforementioned Note received from the Royal Egyptian Ministry for Foreign Affairs under date of May 16, 1926.

In the opinion of my Government, the present is a particularly opportune and propitious moment at which to press for a recognition of this principle of equality as a general proposition as well as for its application, insofar as may be reasonably possible, to the present situation. I have already had occasion to make this clear both to His Excellency Hafez Afifi Bey and to the Judicial Advisor in the course of friendly informal conversations on the subject.

At the present time Your Excellency's Government is considering the question of the establishment of an additional chamber of five judges on the Mixed Court of Appeals and is proceeding to the appointment of three additional judges of first instance. Five of these eight judgeships will, of course, be filled by the appointment of foreign nominees. Those of first instance, I am creditably informed, are to be a Belgian and a Greek national, in accordance with decisions already taken by Your Excellency's Government and communicated respectively to the Belgian and the Greek Governments. And I have learned from the Judicial Advisor that Your Excellency's Government is considering adopting similar decisions whereby the French and Italian Governments and that of one of the lesser powers would be invited to nominate judges to fill the three proposed foreign posts on the Mixed Court of Appeal[s].

²³ 19 Stat. 662; *Foreign Relations*, 1876, p. 1.

The present representation of the different foreign powers on the Mixed judiciary is, as Your Excellency is aware, as follows:

Of the four remaining principal capitulatory powers: Great Britain, 7; Italy, 5; France, 4; United States, 3.

Of the eight lesser capitulatory powers: Belgium, Greece, Norway and Spain, each 3; and Denmark, Netherlands, Portugal and Sweden, each 2.

Of the non-capitulatory powers: Russia and Switzerland, each 2; and Germany, 1.

From these figures it is obvious that the representation of the United States on the Mixed Courts is not commensurate with its position as a principal capitulatory power or in accordance with the principle of equality which is enunciated above and elaborated in the enclosed memorandum. The other three principal capitulatory powers are each represented by a greater number of judges than is the United States, and half of the lesser capitulatory powers have an equal representation.

If, however, the five presently considered appointments are made on the basis of the information mentioned above, this disparity which is now obvious will become even more striking. Not only will the present disparity between the representation of the three other principal capitulatory powers and that of the United States be increased, but that of two of the lesser capitulatory powers will become greater than that of the United States, and one other of the lesser powers will advance into a place at least equal to that of the United States.

In conclusion, I have the honor to express the hope that Your Excellency will be disposed to consider the situation set forth above in the same friendly spirit which has always characterized the relations which it has been my very great pleasure to maintain with Your Excellency's Government. I have set forth my Government's position in favor of bringing about a return to the principle of equality of representation as among the principal capitulatory powers represented in the Mixed Court judiciary and of avoiding giving any preponderance to one nationality over another in the selection of the foreign judges. And I have stated, under instructions from my Government, that a failure to recognize this principle insofar as the United States is concerned in the forthcoming appointments will inevitably lead to an unfortunate impression upon the American Government. I feel certain that with Your Excellency's support a solution of the matter satisfactory alike to our two Governments will be found.

I avail myself [etc.]

FRANKLIN MOIT GUNTHER

[Enclosure]

MEMORANDUM

To accompany Note No. 95 of April 18, 1929, to His Excellency the Royal Egyptian Minister for Foreign Affairs, p. i.

on the

Question of the Applicability to the Mixed Court Judiciary of the Principle of Equality of Representation Among the Principal Capitulatory Powers and of Avoiding Giving any Preponderance to One Nationality Over Another in the Selection of the Foreign Judges

and being in the nature of a written

Reply to the Note No. 29.9/2 (1065) addressed by the Royal Egyptian Ministry for Foreign Affairs to the American Legation, Cairo, under date of May 16, 1926.

In the American Minister's Note No. 339 of April 9, 1926, to which the Royal Ministry's above-mentioned Note of May 16th was in reply, the Minister quoted extracts from the letter addressed by Sir Henry Elliot to Nubar Pasha under date of May 26, 1873, wherein the Egyptian Government was informed that the British Government was "prepared forthwith to accept the proposed arrangements respecting the judicial reforms in Egypt." After a careful study of the available correspondence the American Government concurs in the conclusion which the Minister appears to have drawn from these extracts, i. e. that one of the conditions made by the British Government in giving its adherence to the Khedive Ismail's program of judicial reform, as drafted by the International Commission which sat in Constantinople during the latter months of 1872 and the early months of 1873, was that "of avoiding giving any preponderance to one nationality over another in the selection of judges either in constituting the tribunal or in supplying the vacancies that may from time to time occur among them." Sir Henry Elliot's letter appears to be clear on this point, for he adds that "Her Majesty's Government have instructed me to intimate that their final acceptance was dependent upon the maintenance of this principle."

Stated in other terms, the principle to which expression was given by Sir Henry Elliot was that there should be equality of representation as between the principal capitulatory powers in the appointment of foreign judges chosen to serve on the Egyptian mixed tribunals. This principle carried to its logical conclusion would necessarily recognize the fact that the representation of any lesser capitulatory power or of any non-capitulatory country should not exceed that accorded to each of the principal powers, a conclusion sanctioned by the practice of nearly forty years. There is no doubt in the mind of the American Government that, at the time of the entering into

force of the Khedive Ismail's project of judicial reform, this principle and its logical consequence were properly considered as applying to the selection of the foreign judiciary of the proposed mixed tribunals, i. e. to the selection of the foreign judges to serve both on the Court of Appeal[s] as is evident from the earlier negotiations, and on the inferior courts, as evinced by the later negotiations which led to the choice of two magistrates from each of the principal capitulatory nations to serve on the courts of first instance. A copy of Sir Henry Elliot's letter was formally transmitted to this Government by its Minister at Constantinople under covering despatch dated May 29, 1873, and the principle outlined therein was considered by this Government as fundamental when, by proclamation of the President dated March 27, 1876, the adherence of the United States was given to the judicial reform in **Egypt**.

As a matter of fact, from 1876, the year in which the Mixed Courts commenced to function, to 1915, there was but one departure from this principle of equal representation, i. e. when a French national was appointed to fill one of the two supplementary seats, created in 1879, on the Court of Appeal, thus giving to France a total representation of four, or one greater than that of any other foreign power, on the mixed judiciary. With respect to this case, however, it should be noted that, upon the retirement of the French appointee, his place was filled by a judge of Portuguese nationality.

In 1915, following the proclamation of the British protectorate over Egypt, one French and two British judges were appointed to fill three of the four vacancies left in the judiciary of the first instance courts by the forced vacating of the seats of the German and Austrian judges. The fourth of these vacancies was filled the following year by the appointment of a judge of Italian nationality. Further, in 1920 and resulting indirectly from the elimination of German, Austrian and Russian representation on the Court of Appeal, two additional British judges were appointed to serve on that tribunal. These comparatively recent departures from the principle of equal representation were noted by the American Government but no formal objections were made to the Egyptian or Allied governments for the reason that the American Government had under advisement certain proposals of the British Government which, should they have been adopted by the interested foreign powers, would have led to the conclusion of agreements between them and Great Britain whereby the latter's special position in Egypt would have been recognized and whereby there would have been confided to Great Britain the powers necessary to enable it to discharge the duties which that special position was alleged to impose upon it both towards Egypt and towards foreign nationals there residing.

An essential feature of these proposals was that which provided for a "reconstitution of the mixed tribunals" amounting in effect to the transfer thereto of the jurisdiction exercised in Egypt by the consular courts of the various capitulatory powers. That this particular matter was still under consideration at the time of the most recently expressed adhesion of the powers to the Mixed Courts is evident from the phraseology of the Egyptian Government's circular Note of September 4, 1921, addressed to the representatives of the capitulatory powers in Cairo.²⁴ In that circular the Egyptian Foreign Office, when requesting the representatives to secure the adherence of their governments "to continue the present Mixed Courts for an indefinite period," stated that "the Egyptian Government does not find it expedient to establish a new organization for these courts by the date mentioned." It was with the foregoing considerations in mind that the American Minister in the course of his conversation with His Excellency Sarwat Pasha on March 28, 1927, when mentioning the various precedents for the appointment of a British judge to succeed Judge Booth, referred to them as "not, however, necessarily closed to objection." These same considerations led the American Government logically to the necessity of instructing the Minister to file with the Royal Egyptian Minister for Foreign Affairs an oral exception to the closing paragraph to the Royal Ministry's Note of May 16, 1926.

Leaving for the moment further consideration of the Royal Egyptian Government's Note of May 16 and returning to the discussion of the applicability to the foreign judiciary of the principle of equal representation as amongst the powers, it is to be noted that not only did Sir Henry Elliot express, on behalf of his Government, adherence to this principle, but he clearly indicated, also, that his Government's action was taken specifically in response to proposals received from the Khedive Ismail. The recognition by Egypt of this principle is, in the opinion of the American Government, clearly to be inferred from that passage of Sir Henry Elliot's letter in which he states that "the question . . . respecting the nationality of judges . . . received the attention it deserved from Her Majesty's Government who concur in the view of the Khedive as to the importance of avoiding giving any preponderance to one nationality . . ." As of collateral interest in this connection, reference may be made also to letters addressed by Nubar Pasha to the American Chargé d'Affaires and to the Italian Minister at Constantinople under dates of January 17 and February 24, 1873 (i. e. some months earlier than the date of the British Note) wherein, with reference to the question of equal representation amongst the powers in the choice of judges for the proposed court of appeal, he stated, in part, as follows:

²⁴ Not printed.

To the American Chargé d'Affaires: “. . . l'intention de Son Altesse est de composer notre cour d'appel de magistrats pris dans les pays qui ont été représenté et ont étudié la question dans la commission internationale du Caire.”²⁵

To the Italian Minister: J'ajouterai même au delà de ce que vous m'avez demandé, mon chère comte, que Son Altesse tient à cette composition et elle entend la maintenir pendant l'époque quinquennale d'essai, de sorte que, si pendant cette période quelqu'un des conseillers devrait, pour une cause ou pour une autre, quitter sa position, elle entend le remplacer en engageant un autre magistrat de la même nationalité.”²⁶

Returning now to the question raised in the Royal Egyptian Government's Note of May 16, 1926, it is to be recalled that in his conversation of March 26 [28], 1927, with His Excellency Sarwat Pasha the American Minister considered the matters discussed in that Note, paragraph by paragraph, as follows:

1) Paragraph 1. The American Minister pointed out that the Royal Egyptian Government had evidently read into his Note of April 9, 1926, a meaning which did not follow from the statements made therein. He stated that it was not his intention, nor was it the intention of his Government, to propose that the then vacant seat on the Cairo Mixed Court of First Instance should be filled by an American nominee.

2) Paragraph 2. With the foregoing discussion of the principle of equal representation in mind, the American Minister pointed out that such of the pertinent correspondence, exchanged between Egypt and the powers during the decade beginning 1867, as has come to the attention of the American Government did not appear to indicate that any formal acceptance was necessary on the part of the Egyptian Government to [of?] the statements contained in Sir Henry Elliot's Note, for the reason that the proposals in question originated with the Khedive Ismail and were accepted by the British Government as one of the bases for the judicial reform.

In this connection also the American Minister stated that he would be pleased to receive, for communication to his Government, copies of the correspondence or other documents upon which the Royal Egyptian Ministry for Foreign Affairs relied to negative the sense of Sir Henry Elliot's letter.

3) Paragraphs 3 to 6, inclusive. The American Minister pointed out that there was, of course, no disposition on the part of the American Government to question the statement contained in paragraph 3 of the Egyptian Government's Note of May 16 that “the Tribunals of the Reform are Egyptian courts.” However, the further statement made in this connection, i. e. that “the freedom of

²⁵ Translation: “. . . the intention of His Highness is to constitute our court of appeal of judges chosen from countries which have been represented and have studied the question in the international commission at Cairo.”

²⁶ Translation: “I shall add, even beyond what you have requested of me, my dear count, that His Highness adheres to this composition and intends to maintain it during the quinquennial period of trial, so that, if during this period any one of the judges should, for one cause or another, vacate his position, His Highness intends to replace him by engaging another judge of the same nationality.”

the appointment and of the choice of the judges is not limited except by the conditions imposed in Article 5 of the *Règlement d'Organisation Judiciaire*," is open to the objection that it was specifically with respect to this article that extensive assurances and explanations were offered by the Egyptian Government to the powers during the negotiations which led up to the definitive establishment of the Judicial Reform. The American Minister added that his Government was well aware of the attitude of the Egyptian Government in the matter of the selection of the individual foreign judges to serve on the courts, the appointment and choice of whom was vested in the Egyptian Government by the article in question. This position had been explained in detail by Nubar Pasha in a Note addressed to the American Agent and Consul General at Cairo under date of May 22, 1874, agreeing, upon the recommendation of President Grant, to appoint Mr. Victor C. Barringer as a judge on the projected mixed court of appeal. The American Government accepted that position as one necessary to the maintenance of the principle that the proposed courts were to be truly Egyptian in character.

The American Minister then stated that his Government could not, however, but feel that the contentions set forth in paragraphs 3 to 6 of the Royal Egyptian Government's Note were not wholly pertinent to the issue. It was clear, he stated, that his Government willingly concurred in the contention of the Egyptian Government that it had accorded to each of the principal capitulatory powers a minimum representation in the mixed judiciary, i. e. a minimum of one judge on the Court of Appeal and of two judges on the inferior courts, but he formally questioned the implication, to be drawn from the further statements made in this connection, that the choice of foreign judges for the positions not thus filled might properly be exercised by the Royal Egyptian Government without applying the principle that no preponderance was to be given to any one nationality.

The American Minister concluded his comment on the four paragraphs in question by stating that his Government relied, therefore, both on the understanding existing at the time of the establishment of the courts and on the sanction which almost forty years of successful practice had given to the arrangements then put into effect to establish the desirability of a return to the application of the principle of equal representation amongst the principal capitulatory powers to the composition of the mixed judiciary. In view of the recent departures from this principle, he added, it is probable that such return could most appropriately be effected either by the gradual replacement, when occasion should permit, of the additional British, French and Italian judges now serving on the courts or by the appointment thereto of such numbers of additional American, French and Italian or other judges as would re-establish equality of numbers amongst the representatives of the four remaining principal capitulatory powers.

4) Paragraph 7. The American Minister set forth to His Excellency Sarwat Pasha the pertinent comment on the question raised in this paragraph as contained in the introductory passages of the present memorandum, particularly that beginning on page four.

The American Minister concluded his remarks by stating that his Government did not desire nor did it feel that it needed to enter at that

time into a more detailed discussion of the position taken by the Royal Egyptian Government in its Note of May 16, 1926. That position, refusing as it did to recognize as applicable the aforementioned principle of equal representation, was so evidently opposed to the views of his Government, such denial was so clearly contrary to the understanding of the American Government both at and continuously since the time of its first adherence to the Mixed Courts, that it was felt that, before making any further observations with respect thereto, should such prove necessary, it was essential to request that the Egyptian Government set forth at greater length and in greater detail the arguments which led it to the conclusions expressed in its Note of May 16, 1926. The American Minister requested, therefore, that His Excellency Sarwat Pasha furnish him in due course, for communication to his Government, with an exposé of the evidence upon which was based the conclusion expressed in that Note with respect to Sir Henry Elliot's letter.

It is to be noted also that in response to the American Minister's representations as set forth above His Excellency Sarwat Pasha stated that he thoroughly understood the position taken by the American Government and that, after taking up in due course with the Royal Egyptian Minister of Justice the various particular points raised by the American Minister, he would make appropriate reply. The American Legation has no record of any such reply having been made either orally or in writing.

In addition to the foregoing recapitulation of the sense of the verbal reply made on March 28, 1927, to the Royal Ministry's Note of May 16, 1926, it is believed to be pertinent to add at this time the following more detailed comment with respect to the statements made in the sixth paragraph of that Note.

In the paragraph in question it is stated that "the Egyptian Government has always reserved to itself the right to choose freely among all the capitulatory and even non-capitulatory powers for the positions of judges created or to be created in the Court of Appeal and in the courts of first instance" and that "this has been recognized in various correspondence between Egypt and the powers." In this connection the Legation has the honor to state that diligent search has been made in its archives and in those of the Department of State, Washington, and that no record has been found of any correspondence between Egypt and the United States which thus contravenes the basic principle accepted as fundamental when by the Proclamation of the President dated March 27, 1876 the adherence of the United States was given to the judicial reform in Egypt. The Legation desires, therefore, to reiterate the request made on March 28, 1927, by the American Minister, that it be furnished in due course, for

communication to the American Government, with copies of any papers which the Royal Ministry may believe necessary to a further consideration of the question at issue.

In the paragraph in question it is stated also that "at the beginning of the reform there were three Dutchmen and three Belgians in the courts of first instance." The American Government does not contravert this fact. It desires to point out, however, that at that time, the United States had, as had each of the other six principal capitulatory powers, an aggregate representation of three judges, one on the appeal bench and two on the courts of first instance, such aggregate representation more than offsetting, in the opinion of the American Government, the three first instance posts then held by Belgian and Dutch judges.

The paragraph in question concludes by bringing out the fact that "later two Swiss judges were appointed although Switzerland is not a capitulatory country." As the American Government has understood the circumstances of the nomination of these two Swiss judges and without wishing in any sense to comment on the legality of their appointment, the action in question was taken rather with a view to maintaining the principle of equality of representation than to departing therefrom. It appears from the Legation's current records of the period in question that there had been from 1900 onwards a considerable increase in the business of the Mixed Courts, with the result that the Egyptian Government was faced with a situation not unlike that which it is desired effectively to meet today. The Legation's records suggest that at first no new judges of first instance were appointed to meet this situation because of this principle of equal representation. The breaking up of the dual Monarchy of Norway and Sweden then appears to have afforded an opportunity for the appointment in 1907 of two new judges, a Norwegian and a Swede. And, two years later, the Legation's records suggest that it was seen that further judges of first instance were required and that to meet the situation Switzerland was asked to designate first but one judge and later a second.

883.05/303 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

[Paraphrase]

CAIRO, May 10, 1929—5 p. m.

[Received 5:12 p. m.]

29. Reference my despatch No. 174, April 19,²⁷ and previous. The Egyptian Prime Minister, who is acting Minister for Foreign Affairs,

²⁷ Not printed.

yesterday informed me of his Government's intention to present to the powers a proposal to extend jurisdiction of the Mixed Courts to all cases adjudged now by Consular Courts and to make the suggested constitution of a new chamber of five judges dependent upon the replies of the powers. However, he assured me in response to my full statement of the American position that every consideration would be given our desire for additional representation, if, as, and when there is constituted such a chamber. He reaffirmed repeatedly his desire to please us and to meet American wishes, and his attitude was most sympathetic.

Although the question of this new chamber is unlikely to come up before the autumn, I have explained very fully the American position to Lord Lloyd, the British High Commissioner. For the first time I found him frank in admitting his continued supposition that the United States did not sympathize with British policy and aims in Egypt. The acts of my predecessor were also repeatedly mentioned, but now I think he understands far better the American position, and, as a result of this conversation, Lord Lloyd has already discussed, as promised, our attitude in the matter of Mixed Courts with the British judicial adviser, Judge Booth.

GUNTHER

883.05/304 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

[Paraphrase]

CAIRO, May 11, 1929—12 a. m. [noon].

[Received May 11—9:50 a. m.]

32. My 29, May 10, 5 p. m. Following the conversation I had with Lord Lloyd, I received a call from Judge Booth and learned from him of the extreme unlikelihood that there will be created a new chamber of appeals, with five judges. According to him, the figures and facts of work now pending do not justify it; the British Government is of the view that a partial reference of consular cases first should be tried out prior to taking up any question of transferring all consular jurisdiction; and both the Minister of Justice and Judge Booth strongly oppose creating a new chamber.

The British judicial adviser stated that one of the present judges of first instance would retire by autumn and promised, in response to my representations, to support the appointment of an American judge to fill the vacancy.

GUNTHER

883.05/305 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

ALEXANDRIA, June 3, 1929—7 p. m.

[Received June 3—3:55 p. m.]

40. I learn that Mixed Court of Appeals has just approved a proposal to enlarge its personnel by one foreign judge who is to act as general substitute for ill or absent colleagues handling also any special cases which may be assigned to him. In my last conversation with Judge Booth the latter hinted to me that Judge Hourriet, the Swiss President of the Cairo Courts, would probably be the judge chosen. I understand that this is now settled.

In view of the vacancy which will be thus created in October next, I venture to inquire for my general guidance whether in any further conversations with the judicial adviser or other Egyptian officials you desire to take advantage of the former's undertaking to support the nomination of an American judge for the Cairo vacancy? This promise of Judge Booth was reported to you in my No. 32, May 11, noon. . . .

GUNTHER

883.05/306 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

[Paraphrase]

CAIRO, June 12, 1929—4 p. m.

[Received June 12—3 p. m.]

42. . . .

I have not failed to continue pressing for additional American representation and now am happy to report: (1) I have received a personal letter from the judicial adviser, Judge Booth, stating that now he finds every disposition to accept the suggestion of an eventual appointment of a third American judge to the court of first instance at Cairo; (2) the Prime Minister informed me this morning that, responding to my personal representations to him, he had succeeded in obtaining the consent to appointment of another American judge to fill the vacancy I reported in my 40, June 3, 7 p. m.

While an official communication in this sense has not reached me, may I suggest the desirability of seeking soon for three suitable nominees. If tentatively selected, a really competent judge would have time this summer to become sufficiently proficient in French (if not already so) by being ready to go to France for study during the summer months.

GUNTHER

883.05/350 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

CAIRO, November 19, 1929—noon.

[Received 7:10 p. m.]

69. My 68, November 14, 4 p. m.²⁸ Am just in receipt of formal note from Minister of Foreign Affairs requesting nominations for Cairo appointment. Shall be asked informally in accordance with practice to indicate which candidate I consider best qualified. Does Department care to instruct me to this end?

GUNTHER

883.05/350

The Acting Secretary of State to the Minister in Egypt (Gunther)

No. 82

WASHINGTON, November 29, 1929.

SIR: The Department has received your telegram No. 69, November 19, noon, reporting the receipt of a formal note from the Egyptian Minister of Foreign Affairs, requesting the nomination of American candidates for the existing vacancy among the foreign judges on the Mixed Court of First Instance at Cairo.

With the approval of the President, this Government hereby nominates for this position the following persons:

Edward G. Hill of Louisville, Kentucky.
George W. Kretzinger, Jr., of Chicago, Illinois.
Julian Wright of New York City.

Biographies of each of these nominees, together with the names of the persons who have recommended each to the Department, are enclosed.²⁸

As soon as the Egyptian Government has signified its choice, it is desired that you inform the Department by telegraph in order that the successful candidate may be promptly advised.²⁹

I am [etc.]

J. P. COTTON

**PROPOSED ESTABLISHMENT OF AN EGYPTIAN CUSTOMS REGIME
THROUGH LEGISLATIVE ACTION**

611.8331/7

The Minister in Egypt (Gunther) to the Secretary of State

No. 145

CAIRO, February 20, 1929.

[Received March 13.]

SIR: Referring to my despatch No. 131 of January 30, 1929,²⁸ and previous correspondence, I have the honor to enclose herewith a copy

²⁸ Not printed.²⁹ The Minister in Egypt, in telegram No. 13, January 21, 1930, reported: "Decree appointing Wright published in Official Journal January 20th. I am informing him by telegraph." (883.05/358.)

and translation of a Note, dated February 14th, received from the Egyptian Minister for Foreign Affairs in which the intention is set forth of the Egyptian Government to establish a new Egyptian customs regime through legislative action, exception being made for the conclusion of conventions within the limits of the powers to be granted it under the law which will establish the said regime.

It will be observed that on February 16, 1930, the Egyptian Government plans to allow to elapse such of the "conventions which are still in force" and which accordingly serve as a basis for the treatment accorded the commerce of the United States of America. As far as I can ascertain, however, the only convention still in force is with Italy.³²

I took occasion this morning to discuss this Note, the French of which is somewhat obscure, with the Minister for Foreign Affairs. He explained to me that the convention with Italy would expire on February 16th, next, and that instead of writing merely to Italy he had decided to send a circular Note to all the Powers. I asked him whether he meant to suggest by the Note in question that a commercial treaty be negotiated between us before that date and he replied in the affirmative and added that as a matter of fact he intended to submit to me in the near future a draft convention.

I would suggest, however, if you concur, that instead of awaiting the Egyptian draft you furnish me with a counterdraft which could serve as a basis for any negotiations which you may instruct me to undertake.

I have [etc.]

FRANKLIN MOTT GUNTHER

[Enclosure—Translation]

The Egyptian Minister for Foreign Affairs (Afifi) to the American Minister (Gunther)

No. 42.5/3(12)

CAIRO, February 14, 1929.

MR. MINISTER: I have the honor to bring to the knowledge of Your Excellency that the Government of His Majesty the King of Egypt proposes to establish the Egyptian customs régime through legislative action, exception being made for the conclusion of conventions within the limits of the powers to be granted it under the law which will establish the said régime. Up to now the Egyptian Government has proceeded solely by means of conventions, and the system of duties and taxes applicable to the navigation and commerce of the United States of America has been based, in accordance with the

³² Convention of commerce and navigation signed at Alexandria, July 14, 1906; *British and Foreign State Papers*, vol. c, p. 867.

protocol signed November 16, 1884,³³ on the conventions concluded between Egypt and the other foreign powers. But the Royal Government plans, on the 16th of February 1930, to bring to an end those of these conventions which are still in force and which accordingly serve as a basis for the treatment accorded the commerce of the United States of America. As a result of this, beginning with the following day, the schedule of duties and taxes which will be applied to the navigation and commerce of the United States of America will be fixed by the new laws to be promulgated, with, however, such exceptions as may be introduced, within the limits of the powers granted to the Royal Government by the legislation in question, through the conclusion of a convention between Egypt and the United States of America.

I seize this occasion [etc.]

The Minister for Foreign Affairs
H. AFIFI

611.8331/9 : Telegram

The Acting Secretary of State to the Chargé in Egypt (Wadsworth)

[Paraphrase]

WASHINGTON, August 6, 1929—6 p. m.

35. Reference despatch No. 204, June 22, from the Minister.³⁴ While it is seriously doubted by the Department that the Egyptian Government has authority, under the capitulatory treaties and usage, to make new customs tariffs without obtaining consent of the capitulatory powers, the Department would not wish, in the light of information available now, expressly to raise this issue should the other capitulatory powers not do so. You are desired to endeavor very discreetly to find out from your colleagues the attitudes their Governments take on this question and to telegraph the Department this information.

COTTON

611.8331/11 : Telegram

The Chargé in Egypt (Wadsworth) to the Secretary of State

[Paraphrase]

ALEXANDRIA, August 16, 1929—7 p. m.

[Received August 16—3:02 p. m.]

50. Your 35, August 6, 6 p. m. With another Egyptian matter as a pretext for calling, I have discussed with my principal colleagues the general situation and the proposed new tariff regime.

The general tendency is, I find, to consider the Egyptian tariff thesis open to serious question if capitulatory principles are applied strictly.

³³ Malloy, *Treaties*, 1776-1909, vol. I, p. 442.

³⁴ Not printed.

The British Acting High Commissioner and the French Minister note that the reestablishment of 3 percent ad valorem import duties, in force formerly in the old Ottoman Empire, might be required by the suggested strict interpretation.

Although admitting the weakness of the Egyptian position, the Italian Minister recalled that the powers for some three years have been on notice regarding establishment in 1930 of a new tariff. Their tacit approval might almost be considered to have been shown by their intervening silence and by the generally sympathetic attitude toward reform proposals.

They all believe in a practical meeting of the situation and seem to be willing for the conclusion of *modus vivendi* to accept the new tariff provisionally for a limited period. However, before taking a definitive stand, they wish to examine the promised customs law and tariff schedules.

Owing to the anticipated provisional nature of the new tariff regime, my colleagues generally feel, I find also, that it would not be wise to make an issue of the tariff question, in the light of the general situation and of the more important proposals to act upon capitulatory reform as envisaged by the recent understanding between Egypt and Great Britain.³⁵ I deem this position to be essentially sound.

WADSWORTH

[A printed copy of the Egyptian draft customs law in French was enclosed in despatch No. 307, December 19, 1929, from the Minister in Egypt (611.8331/14). An English version of the draft customs schedules was enclosed in despatch No. 313, January 4, 1930 (611.8331/16)].

ASSENT BY THE UNITED STATES TO THE COLLECTION OF THE
GAFFIR TAX FROM AMERICAN NATIONALS³⁶

883.5122/1

*The Egyptian Minister for Foreign Affairs (Afifi Pasha)*³⁷ to the
*American Chargé in Egypt (Wadsworth)*³⁸

[Translation]

No. 48-2/1 (45 cir.)

BULKELEY, August 7, 1929.

MR. CHARGÉ D'AFFAIRES: Referring to this Ministry's circular No. 48-2/1 (2572) of March 20, 1924,³⁹ transmitting to you the text

³⁵ See Great Britain, Cmd. 3376, Egypt No. 1 (1929) : *Exchange of notes relating to proposals for an Anglo-Egyptian settlement.*

³⁶ For previous correspondence, see *Foreign Relations*, 1924, vol. I, pp. 708 ff.

³⁷ Hafez Afifi Bey's promotion to the grade of Pasha was announced August 6, 1929, while he was with the Egyptian Royal mission in Great Britain.

³⁸ Copy transmitted to the Department by the Chargé in Egypt in his despatch No. 252, August 26; received September 23, 1929.

³⁹ *Foreign Relations*, 1924, vol. I, p. 711.

of the Decree of February 16, 1924,⁴⁰ relative to the contribution for ghaffirs, I have the honor to inform you that the Egyptian Government, after a renewed study of the question has deemed it preferable to apply, in regard to the contribution for ghaffirs on the whole of the Egyptian territory, a uniform rate and to levy this contribution on the buildings and land subject to, or to be subjected to the tax on built-up property or to the land tax.

Therefore, I am sending you herewith the text of the Decree which the Government proposes to promulgate⁴⁰ and I have recourse to your obliging intervention to request of your Government that it be good enough to consent that the provisions of this Decree become applicable to citizens of the United States from January 1st next.

According to the terms of this Decree:—

The ghaffir contribution shall be levied on the whole of the Egyptian territory on buildings and land subject to or to be subjected to the tax on built-up property or to the land tax.

The amount of this contribution is fixed at 20% of the annual amount of the tax and shall be levied at the same time as the quarterly installments of the tax and in accordance with the rules established for the collection thereof.

The owner cannot in any case, and even temporarily, be held to the payment of a contribution exceeding that indicated above.

In transmitting to you the proposed Decree, I am asked to assure you that no other contribution for supervision will be claimed by the Government, which, in return for this contribution intends to take charge of the entire cost of supervision of whatsoever nature it may be.

It is, therefore, understood that should the Government think it necessary to reinforce the Ghaffir force[s] or to designate private watchmen for properties in certain localities, the cost thereof will be defrayed by the Treasury and that the contributor will not have to assume any part whatsoever of the expense thereof.

As regards the collection of this contribution, the Government has adopted the same provisions as those relative to the collection of taxes.

I hope, Mr. Chargé d'Affaires, that your Government will recognize that this Decree is more in conformity with a fair distribution of the contribution for ghaffirs and that it will be willing to accept that it be applied to its nationals.

Kindly accept [etc.]

THE MINISTER FOR FOREIGN AFFAIRS

⁴⁰ Not printed.

883.5122/3 : Telegram

The Secretary of State to the Minister in Egypt (Gunther)

WASHINGTON, October 8, 1929—2 p. m.

42. Your despatch No. 252, August 26,⁴¹ regarding Gaffir Tax. In view of the eradication of the irregularities in the administration of this tax in the interior which existed in 1924 you may, if and when the other Powers enjoying capitulatory rights in Egypt consent to the collection of this tax from their nationals, inform the Egyptian Government that this Government consents to the collection of the Gaffir tax from its nationals resident in Egypt effective from the date when notice of this Government's consent is given to the Egyptian Government.

STIMSON

883.5122/7 : Telegram

The Minister in Egypt (Gunther) to the Secretary of State

CAIRO, November 22, 1929—noon.

[Received November 22—11:35 a. m.]

70. Your 42, October 8, 2 p. m. Second note received from Egyptian Government requesting early reply in order that preliminary step may be taken for application of law as from January 1st.

May I state my Government's consent may be considered effective if and when other powers consent? I would propose if you see no objection at the same time to suggest redrafting of article number 2 to make it clear that tenant may only be held responsible for rent as due and to express hope that rural service be improved. The French have already accepted and others are about to do so.

GUNTHER

883.5122/10 : Telegram

The Secretary of State to the Minister in Egypt (Gunther)

WASHINGTON, December 5, 1929—3 p. m.

51. Your 73, December 3, 10 a. m.⁴² Department perceives no objection to your suggesting desirability of redrafting Article 2 of the Gaffir tax law in the interest of clarity.

STIMSON

⁴¹ Despatch not printed; for its enclosure, see *supra*.

⁴² Not printed; it refers to telegram No. 70, *supra*.

883.5122/11

*The American Minister in Egypt (Gunther) to the Egyptian Minister for Foreign Affairs (Yeghen Pasha)*⁴³

No. 170

CAIRO, December 6, 1929.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's circular note No. 48-2/1 (cir. 81) of November 11, 1929,⁴⁴ reminding me of the note which Your Excellency's predecessor had addressed to the Chargé d'Affaires on August 7, last, communicating a draft decree relative to the Ghaffir Tax and requesting that the matter be submitted to my Government with a view to obtaining its consent to the application of the provisions of this decree to Americans residing in Egypt.

In reply, I have the honor to inform Your Excellency that my Government will be glad to give its consent to the application of the Ghaffir Tax to Americans resident in Egypt if and when the other powers enjoying capitulatory rights in Egypt consent thereto.

I have the honor to invite Your Excellency's consideration to the expediency of redrafting, in the interest of clarity, Article 2 of the above mentioned draft decree. As at present drafted, it is not perfectly clear that the tenant could not be held liable for a greater proportion of his annual rental than that actually due at the moment when the owner of the property may default in the matter of the payment of the Ghaffir Tax. Your Excellency might wish to consider including a phrase in this Article to the effect that the tenant may only be held liable, at any time, for the actual amount of rental already due at that moment, that is to say, at the time the tax is collected. It is understood, of course, that the tenant may deduct the tax from the rental due to his landlord.

In a recent informal conversation with His Excellency Waguih Pasha, he informed me that certain substantial improvements were being made in the Ghaffir service in the rural districts and that he felt that hereafter no one residing in the rural districts would have cause for complaint. As Your Excellency is undoubtedly aware, heretofore Americans having property or business interests in rural Egypt have found it necessary to employ their own independent guards. I know that it would be a source of gratification to my Government if in due course I might be acquainted with the measures of improvement instituted by the Royal Egyptian Government for communication to interested Americans.

I avail myself [etc.]

FRANKLIN MOTT GUNTHER

⁴³ Copy transmitted to the Department by the Minister in Egypt in his despatch No. 298, December 7, 1929; received January 3, 1930.

⁴⁴ Not printed.

[In a note dated February 13, 1930, the Egyptian Minister for Foreign Affairs informed the American Minister in Egypt of the approval by the capitulatory powers of the draft decree (883.5122/13), but the decree was not promulgated. In a note dated January 25, 1931, the Egyptian Minister for Foreign Affairs announced the intention to promulgate a modified decree as of January 1 (883.5122/20). The Secretary of State in instruction No. 36, March 24, 1931, informed the Minister in Egypt: "In view of the fact that the new Egyptian law is even less restrictive than that to which this Government originally consented, your action in the matter [reiterating American consent] is approved." (883.5122/21). The law as promulgated was published on May 2, 1931, in the *Journal Officiel*, No. 43.]

ESTONIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND ESTONIA, SIGNED AUGUST 27, 1929, AND NEGOTIATIONS FOR SIMILAR TREATIES WITH LATVIA

711.60i12A/1

*The Secretary of State to the Estonian Consul General in New York in Charge of Legation (Mutt)*¹

WASHINGTON, April 16, 1928.

SIR: I beg to transmit herewith for the consideration of your Government and as a basis for negotiation a proposed draft of a treaty of arbitration between Estonia and the United States.²

The provisions of this draft operate to extend the policy of arbitration enunciated in the arbitration conventions concluded in 1908 between the United States and several other countries,³ and are identical in effect with the provisions of the arbitration treaty signed between the United States and France on February 6, 1928, a copy of which is also enclosed.⁴

You will observe that Article I of the treaty with France does not appear in the draft submitted herewith. Its language was borrowed from the language of the Treaty for the Advancement of Peace signed in 1914,⁵ and some question having arisen as to whether the new treaty affected the status of the Treaty of 1914, the matter has been resolved in the case of France by an exchange of notes⁶ recording the understanding of both Governments that the earlier conciliation treaty was in no way affected by the later arbitration treaty. In order to obviate further questions of this nature, however, it seemed desirable to avoid the incorporation in other arbitration treaties of any portion of the language of the earlier conciliation treaties, where such treaties exist, and in such cases I have therefore proposed the elimination of Article I of the French treaty and amended Article II (which is Article I of the draft transmitted herewith) by substituting for the words "the

¹ The same, *mutatis mutandis*, on April 6, 1928, to the Latvian Consul General in New York in charge of Legation (711.60p12A/1).

² Not printed; same as treaty signed August 27, 1929, p. 975.

³ For index references to treaties of 1908, see *Foreign Relations*, 1908, p. 832; *ibid.*, 1909, p. 676.

⁴ *Ibid.*, 1928, vol. II, p. 816.

⁵ Signed September 15, 1914, *ibid.*, 1915, p. 380.

⁶ Dated March 1 and 5, 1928, *ibid.*, 1928, vol. II, p. 819.

above-mentioned Permanent International Commission" the words "the Permanent International Commission constituted pursuant to" the applicable treaty of conciliation. As no such conciliation treaty is in force between Estonia and the United States, this latter formula cannot of course be used. I have therefore made no mention in Article I of any Permanent International Commission referring instead to "an appropriate commission of conciliation". The negotiation and conclusion of an arbitration treaty can thus proceed independently of negotiations with respect to a conciliation treaty.

The Government of the United States would be pleased, however, to conclude with the Government of Estonia not only the arbitration treaty referred to above, but also a conciliation treaty modeled after the so-called Bryan treaties which were signed by the United States with many other countries in 1913 and 1914,⁷ and I take this opportunity to transmit for the consideration of your Government and as a basis of negotiation a proposed draft of a treaty of conciliation identical in effect with other treaties to which the United States is a party.⁸

I feel that by adopting treaties such as those suggested herein we shall not only promote the friendly relations between the Peoples of our two countries, but also advance materially the cause of arbitration and the pacific settlement of international disputes. If your Government concurs in my views and is prepared to negotiate treaties along the lines of the two drafts transmitted herewith, I shall be glad to enter at once upon such discussions as may be necessary.

Accept [etc.]

FRANK B. KELLOGG

711.60i12A/4

The Minister at Riga (Coleman)⁹ to the Secretary of State

No. 5346

RIGA, June 4, 1928.

[Received June 18.]

SIR: Referring to the Department's Instruction No. 515, of April 17, 1928,¹⁰ enclosing for the Legation's information a copy of a note which was forwarded on April 16, 1928, to the Estonian Consul General in New York, transmitting, for the consideration of the Government of Estonia and as a basis for negotiation, drafts of a treaty of arbitration and of a treaty of conciliation between Estonia and the United States, I now have the honor to transmit herewith copies in quintuplicate of a Note, dated May 26, 1928, from the Estonian Foreign Office, in reply to the Department's Note under reference.

I have [etc.]

F. W. B. COLEMAN

⁷ For index references to the Bryan treaties, see *Foreign Relations*, 1914, p. 1130; *ibid.*, 1915, p. 1328; *ibid.*, 1916, p. 1007.

⁸ Not printed; same as treaty signed August 27, 1929, p. 977.

⁹ Accredited to Estonia, Latvia, and Lithuania.

¹⁰ Not printed.

[Enclosure]

The Estonian Assistant Minister for Foreign Affairs (Schmidt) to the American Minister (Coleman)

TALLINN, May 26, 1928.

YOUR EXCELLENCY: With a Note dated April 16th, 1928, the Secretary of the Department of State of the United States of America was good enough to transmit, through agency of the Estonian Consul General at New York, for the consideration of my Government two drafts as bases for negotiation of treaties of arbitration and conciliation between Estonia and the United States of America. I am glad to be able now to inform Your Excellency that my Government entirely concurs in the views expressed by the Secretary of the Department of State that the adoption of treaties such as those suggested shall promote the friendly relations between the peoples of our two countries and advance the pacific settlement of international disputes. At the same time I have the honour to inform Your Excellency that my Government is quite prepared to negotiate treaties along the lines of the two drafts. The eventual alterations, which my Government may find appropriate to propound, I hope to be able to submit to Your Excellency for consideration at an early date.

I avail myself [etc.]

SCHMIDT

711.60p12A/7

The Minister at Riga (Coleman) to the Secretary of State

No. 5523

RIGA, August 28, 1928.

[Received September 10.]

SIR: I have the honor to inform the Department that the Latvian Foreign Minister, Mr. Balodis, after a conference with the Estonian Foreign Minister, Mr. Rebane, asked me to come to him on the 24th of August.

It seems that the two Ministers desire to follow a common policy in the making of international agreements and conventions and have so agreed in the matter of the Arbitration and Conciliation treaties submitted to them respectively by the Secretary. Perhaps it is for this reason that Mr. Balodis handed me the enclosed memorandum, unsigned, "privately and confidentially."

When I asked him if he would let me have the two texts which "the Latvian Government is ready to submit," he stated that he could not do this without the consent of Mr. Rebane. What they both desired to know is whether the Department agreed in principle to the amendments suggested.

While it is understood that the Secretary prefers uniformity in the text of these treaties, the Memorandum is forwarded to the Department for its consideration.

I have [etc.]

F. W. B. COLEMAN

[Enclosure]

The Latvian Minister for Foreign Affairs (Balodis) to the American Minister (Coleman)

MEMORANDUM

DRAFT TREATY OF ARBITRATION BETWEEN LATVIA AND THE UNITED STATES

Article I of the Draft provides for the settlement of disputes between the Contracting Parties either by the Court of Arbitration constituted in accordance with the Hague Convention (1907) or by a competent tribunal.

Taking into consideration that the Hague Convention defines in a detailed way the procedure to be followed for the constitution of the arbitration tribunal,

Taking into consideration, on the other hand, that the above-mentioned Article of the Draft as submitted by the United States Government does in no way draw a line of discrimination between cases where recourse is to be taken to the Hague tribunal and cases to be settled by what is called a competent tribunal,

The Latvian Government is of the opinion that a separate Article should be inserted in the Treaty defining the procedure to be followed for constituting such "competent tribunals".

If this suggestion meets with the approval of the American Government the Latvian Government is ready to submit a proposal as to the text of the respective Article following the international practice in this matter.

DRAFT TREATY OF CONCILIATION BETWEEN LATVIA AND THE
UNITED STATES OF AMERICA

In the opinion of the Latvian Government it would be advisable to amend Article 2 of the Draft by inserting adequate stipulations dealing with the case if the Contracting Parties do not reach agreement on the fifth member (superarbiter) of the Commission of Conciliation.

The Latvian Government is ready to submit the respective text.

RIGA, August 20, 1928.

711.60i12A/7

The Secretary of State to the Minister at Riga (Coleman)

No. 554

WASHINGTON, September 11, 1928.

SIR: The Department has received your No. 5346 of June 4, 1928, and the enclosed copy of a note from the Estonian Assistant Minister of Foreign Affairs.

The Department is also in receipt of letters, dated April 12 and June 2, 1928, from the Latvian Consul General in New York,¹¹ in which he acknowledges receipt of the draft treaty of arbitration and the draft treaty of conciliation and expresses the friendly disposition of his Government to negotiate treaties on the basis of these drafts.

This Government has now offered similar treaties of arbitration to thirty countries and similar treaties of conciliation to twenty countries and has proceeded to the signature of eight arbitration treaties and five conciliation treaties. It is desirable that as large a number as possible of these treaties shall be signed before the convening of Congress on December 3rd, in order that they may be submitted to the Senate for its advice and consent.

On the other hand, the Department desires to maintain as far as practicable the uniformity of this series of treaties and would avoid alterations at the suggestion of the other countries as far as possible. It would avoid, through an appearance of too great anxiety in the matter, inviting other countries to feel that they can readily obtain changes in the draft treaties.

Keeping the foregoing in mind, however, you are requested to make an effort to expedite the consideration of this matter by the Government of Estonia and the Government of Latvia and to encourage them to instruct their Consuls General in New York to proceed to signature at an early date.

I am [etc.]

FRANK B. KELLOGG

711.60p12A/8 : Telegram

The Acting Secretary of State to the Minister at Riga (Coleman)

WASHINGTON, October 20, 1928—4 p. m.

60. Your despatch No. 5523, August 28, 1928.

1. Proposed additional article to arbitration treaty defining procedure to be followed for constituting tribunal if reference is to other than The Hague Court of Arbitration seems unnecessary. The requirement for a special agreement in each case affords opportunity to determine procedure appropriate to the case. Please endeavor to dissuade the Latvian and Estonian Governments from insisting upon such an article.

¹¹ Neither printed.

2. Proposed amendment to conciliation treaty so as to provide a method of appointment of fifth member of Commission in the event that the Contracting Parties fail to reach an agreement on such member also seems unnecessary. It is believed that situation would not arise in which Governments would be unable to agree on an acceptable national of a third state. Please bring this view to the attention of Latvian and Estonian Governments.

3. This Government desires that the treaties with Latvia and Estonia shall be uniform with those which it already has signed with other countries. While the Department desires that you bear in mind the principle of uniformity and to a certain extent use this principle in argument, it also desires that the argument be based principally on the reasons stated in above paragraphs one and two.

CLARK

711.60p12A/9 : Telegram

The Chargé at Riga (Sussdorff) to the Secretary of State

RIGA, November 6, 1928—noon.

[Received 3 p. m.]

90. Department's telegram 60, October 30 [20] 4 p. m. 1928. Competent Latvian Foreign Office official believes that Department's arguments will probably remove Latvia's objections but requests that Legation ask Department for a list of countries which have already signed arbitration and conciliation treaties with United States identic with draft treaties proposed to Latvia. American Consul, Tallinn, reports that Secretary General of Estonian Foreign Office informed him that he did not see how the Department arguments could change Estonia's viewpoint. He explained that Estonia proposed the first amendment because she is not a member of The Hague Court of Arbitration and the second amendment to avoid complications with Soviet Russia. In the Estonian-Soviet negotiations for a conciliation treaty the Soviet Government proposed to Estonia a method of choosing a super-arbiter similar to that contained in Department's draft and Estonian government declined Russian proposal. Despatch follows in today's pouch. As I shall probably go to Tallinn on November 11 Department may desire to send me further instructions before that date.

SUSSDORFF

711.60p12A/12

The Chargé at Riga (Sussdorff) to the Secretary of State

No. 5683

RIGA, November 6, 1928.

[Received November 20.]

SIR: Referring to Mr. Coleman's Confidential despatch No. 5523, of August 28, 1928, transmitting an unsigned memorandum from

Mr. Balodis, Latvian Minister for Foreign Affairs, concerning the views of the Latvian and Estonian Governments regarding drafts of the Treaty of Arbitration and of the Treaty of Conciliation between Latvia and the United States, and to the Department's telegram No. 60, of October 20, 4 p m, 1928, in answer to this Memorandum, and confirming my telegram No. 90, of November 6, 12 noon, 1928, I now have the honor to report that I have taken up this matter again with the Latvian Foreign Office along the lines set forth in the Department's telegram under reference and that the American Consul at Tallinn has taken up the matter with the Estonian Government under instructions from the Legation.

In this connection, I now have the honor to report that Mr. Olins, Chief of the Western Section of the Latvian Foreign Office, informed me on October 30, 1928, that in his opinion, the arguments now advanced by the American Government would probably be sufficient to remove Latvia's objections. Mr. Olins requested, however, that the Legation ask the Department to furnish the Latvian Government with a list of the countries which have already signed Arbitration and Conciliation Treaties with the United States.

In a letter, dated October 30, 1928, copies of which are enclosed herewith, Mr. Carlson, American Consul at Tallinn, reports that Mr. Schmidt, Secretary-General of the Estonian Foreign Office, informed him on October 29 that "he did not see how the American Government's latest arguments could change the Estonian view-point as set forth in Mr. Balodis' memorandum." Mr. Schmidt then explained Estonia's reasons for proposing the amendments in question. These reasons are very clearly set forth in Mr. Carlson's letter.

In view of the objections advanced by the Estonian Government to signing the treaty of Conciliation and the treaty of Arbitration with the United States in their present form, I should appreciate further instructions from the Department.

I have [etc.]

LOUIS SUSSDORFF, JR.

[Enclosure]

The Consul at Tallinn (Carlson) to the Chargé at Riga (Sussdorff)

[TALLINN, October 30, 1928.]

SIR: The receipt is acknowledged of the Legation's communication of October 25, 1928, enclosing copies of correspondence with regard to the treaty of arbitration and the treaty of conciliation between Esthonia and the United States, the conclusion of which is now under consideration.

The information contained in the above communication was imparted to Mr. Schmidt, the Esthonian Assistant Minister for Foreign Affairs, on October 29, 1928.

Mr. Schmidt was told that the Department desired that as many of the above treaties with foreign countries as possible should be signed before December 3, 1928, in order that they might be ready for submission on that date to the United States Senate for its advice and consideration. He was also informed of the Department's wish that the treaties with Latvia and Esthonia should be uniform with those which have already been signed with other countries.

Mr. Schmidt gave assurances in behalf of the Esthonian Foreign Office, of the desire of the Estonian Government to enter into negotiations with the United States with the view of bringing about the conclusion of the above treaties.

He stated, however, that the treaties had been discussed by Esthonia and Latvia, and that it had been decided that they could not be accepted unless certain amendments thereto had been made, so as to cover conditions which are peculiar to these two countries.

Mr. Schmidt said that these amendments had been communicated to the American Legation at Riga by the Latvian Foreign Minister, Mr. Balodis.

At this point the arguments of the Department with regard to the proposed amendments were communicated to Mr. Schmidt, who, after having taken them into very careful consideration, said that he would not see how these arguments could very well change the Esthonian point of view. He then explained Esthonia's reasons for proposing the amendments in question.

The first of these refers to the article in the draft of the arbitration treaty which makes provision for the settlement of disputes between the contracting parties either by The Hague Court of Arbitration or by some other competent tribunal. In the memorandum submitted to the Legation by Foreign Minister Balodis, on August 20, 1928, the reference to this matter is limited to the procedure to be followed for constituting the competent tribunals which are mentioned above. Mr. Schmidt had nothing to say on this point. His remarks were confined solely to the effect which the fact that Estonia is not a member of The Hague Court of Arbitration would have on the application of the treaty in question.

Questions referred to The Hague Court, he said, would be settled by judges selected from lists prepared by the above Court. The United States, being a member of the Court, would be able to place its own judges in this list. Estonia, not being a member, could not do this. Hence Estonia would be at a disadvantage as compared with the United States.

For this reason, Estonia could not very well accept the proposed arbitration treaty until an amendment had been included to offset this disadvantage.

Speaking of the proposed amendment to the draft treaty of conciliation, Mr. Schmidt explained that this was based entirely on Estonia's relations with Soviet Russia and, especially, to the non-aggression pact negotiations which Estonia has been carrying on with Soviet Russia for almost two years. Estonia's objections to the non-aggression pact with the U. S. S. R., center in the proposals made by the latter country with respect to the selection of a "super-arbiter" in cases of disputes. These, according to Mr. Schmidt, are almost identical with those now being made to Estonia in the draft treaty of conciliation under consideration.

For more than two years Estonia has consistently declined to accept the Soviet suggestions as to the selection of a super-arbiter on the grounds that by reason of the absence of exact terminology as to the procedure to be followed in the selection of the super-arbiter, Estonia could not be certain that this position would always be filled by a neutral judge.

Mr. Schmidt admitted the correctness of the Department's argument which reads as follows: "It is believed that a situation would not arise in which the two Governments would be unable to agree on an acceptable national of a third State."

However, Estonia could not very well grant to the United States an arrangement which it has declined to concede to Soviet Russia.

The question centers around one of the most vital points in Estonia's present foreign policy, said Mr. Schmidt. The Estonian Government must exercise very great care in this matter, and must not permit itself to be placed in a position where it is subject to attack on the part of Soviet Russia on the charge of lack of consistency in its foreign policies.

Mr. Schmidt assured the Consulate that the Estonian Government would be most happy to enter into relations with the United States Government along the lines outlined in the draft treaties under consideration, but that this could not well be done until the amendments suggested by Estonia had been given due consideration.

The Consulate did not endeavor to urge Mr. Schmidt to accept the Department's points of view. Mr. Schmidt was informed that the reasons he had advanced would be communicated to the American Legation at Riga.

Very respectfully yours,

HARRY E. CARLSON

711.60p12A/11 : Telegram

The Acting Secretary of State to the Chargé at Riga (Sussdorff)

WASHINGTON, November 10, 1928—3 p. m.

63. Your 90, November 6, noon.

1. Arbitration and conciliation treaties similar to those proposed to Latvia have been signed during current year with Albania, Austria, Czechoslovakia, Finland, Germany and Poland. Arbitration treaties alone have been signed with Denmark, France, Italy and Sweden. See Monthly Political Report, May-June, 1928.¹²

2. Estonia's not being member of Hague Court does not interfere with inclusion of complete provision in regard to procedure in the special agreement provided for in each case. This is covered by "provide for the organization etc., . . . and settle the terms of reference", in article 1 of draft.

3. Fifth member of commission provided for in draft of conciliation treaty would in no sense be a "super-arbiter". He would be on same footing as, and would have no power not possessed by, the other members of commission. Difficult to perceive more reasonable method of choosing members of the Commission. Endeavor to obtain Estonia's acquiescence but you need not refuse to receive specific alternative proposals for transmission to your Government.

CLARK

711.60i12A/12

The Chargé at Riga (Sussdorff) to the Secretary of State

No. 5805

RIGA, January 2, 1929.

[Received January 18.]

SIR: Referring to my Confidential Despatch No. 5683 of November 6, 1928, concerning the views of the Latvian and Estonian Governments regarding drafts of the Treaty of Arbitration and of the Treaty of Conciliation between Latvia and Estonia and the United States, and to the Department's telegram No. 63, of November 10, 3 p. m., 1928, I now have the honor to transmit herewith copies in quintuplicate of a Note dated December 17, 1928, from the Estonian Ministry of Foreign Affairs concerning the draft Treaty of Arbitration.

I have [etc.]

LOUIS SUSSDORFF, Jr.

¹² Not printed.

[Enclosure—Translation]

The Estonian Assistant Minister for Foreign Affairs (Schmidt) to the American Chargé (Sussdorff)

9468

TALLINN, December 17, 1928.

MONSIEUR LE CHARGÉ D'AFFAIRES: With reference to the conversation which I had with you during your stay lately at Tallinn on the subject of the Arbitration and Conciliation draft Treaties between Estonia and the United States, I have the honour to request you to recommend to your Government's consideration the following point with regard to the draft Treaty of Arbitration.

Article 1 of this draft Treaty provides that all differences characterized in the same article shall be submitted to the Permanent Court of Arbitration established by the Convention concluded at the Hague on October 18th, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement. In connection with this provision I allow myself to draw your attention to the fact that Estonia has not adhered to the above-named Convention. The Estonian Government, therefore, finds that it cannot pledge itself to submit a difference to a court, in the election of the judges of which it does not participate, and considers itself to be entitled to declare in each case, in accordance with the provision referred to above, that it desires to submit the difference to some other competent tribunal beside the Permanent Court of Arbitration.

I should be much obliged to ascertain whether your Government concurs in this standpoint adopted by the Estonian Government with regard to the interpretation of the draft Treaty.

I avail myself [etc.]

A. SCHMIDT

711.60112A/13 : Telegram

*The Secretary of State to the Minister at Riga (Coleman)*¹³

[Paraphrase]

WASHINGTON, January 30, 1929—3 p. m.

5. Your despatch No. 5805 and enclosed note regarding arbitration treaty.

1. This Government is entirely willing to construe article I so as not to require that cases be referred to the Hague Permanent Court of Arbitration as long as Estonia does not become a party to the convention by which that Court is established.

2. The Department does not understand that the Estonian Government asks that the text of the article be changed.

KELLOGG

¹³ The position of the Department as set forth in this telegram was communicated to the Estonian Minister for Foreign Affairs in a note from the American Minister, dated March 27, 1929; not printed (711.60112A/16).

711.60p12A/16

The Minister at Riga (Coleman) to the Secretary of State

No. 6203

RIGA, June 11, 1929.

[Received July 1.]

SIR: I have the honor to refer to the Department's telegram No. 5 of January 30, 3 pm., 1929, and to the Legation's despatch No. 6088, of April 20, 1929,^{13a} concerning the drafts of the treaties of Arbitration and of Conciliation to be concluded between Latvia and Estonia, and respectively, and the United States, and to enclose herewith copies of a Note dated May 29, 1929, from the Legation to the Latvian Foreign Office, and of the latter's reply, dated June 3, 1929.

I have [etc.]

F. W. B. COLEMAN

[Enclosure 1]

The American Minister (Coleman) to the Latvian Minister of Foreign Affairs (Balodis)

RIGA, May 29, 1929.

EXCELLENCY: I have the honor to refer to the Memorandum of the Latvian Government, dated August 29 [20?], 1928, as well as to subsequent correspondence and conversations concerning the draft Treaty of Arbitration between Latvia and the United States of America.

In order to remove the objections which the Latvian Government has heretofore raised in this connection, and to facilitate the signature of the treaty in its proposed form, I now have the honor to inform Your Excellency that, should the Latvian Government consider itself to be entitled to declare that it desired to submit any difference which might arise, as described in Article I of the Treaty, to some competent tribunal other than the Permanent Court of Arbitration at the Hague, my Government is prepared to agree to this condition.

I avail myself [etc.]

[File copy not signed]

[Enclosure 2]

The Latvian Minister for Foreign Affairs (Balodis) to the American Minister (Coleman)

RIGA, June 3, 1929.

EXCELLENCY: I have the honour to acknowledge the receipt of your Note of May 29th, 1929, concerning the draft Treaty of Arbitration between Latvia and the United States of America.

In reply, I have the honour to inform Your Excellency that the Latvian Government considers itself entitled to declare that it desires to submit any difference which might arise, as described in

^{13a} Letter not printed.

Article 1 of the Treaty, to some competent tribunal other than the Permanent Court of Arbitration at the Hague.

I avail myself [etc.]

A. BALODIS

Treaty Series No. 816

*Arbitration Treaty Between the United States of America and Estonia, Signed at Tallinn, August 27, 1929*¹⁴

The President of the United States of America and the Head of the Estonian Republic,

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries:

The President of the United States of America:

Mr. F. W. B. Coleman, Envoy Extraordinary and Minister Plenipotentiary,

The Head of the Estonian Republic:

Mr. J. Lattik, Minister for Foreign Affairs,

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being

¹⁴ Ratification advised by the Senate, January 20 (legislative day of January 6), 1930; ratified by the President, January 23, 1930; ratified by Estonia, May 13, 1930; ratifications exchanged at Washington, June 18, 1930; proclaimed by the President, June 25, 1930.

susceptible of decision by the application of the principles of law or equity, shall by [*be*] submitted to the Permanent Court of Arbitration established at the Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Estonia in accordance with its constitutional laws.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the High Contracting Parties,

(*b*) involves the interests of third Parties,

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(*d*) depends upon or involves the observance of the obligations of Estonia in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty 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 Estonia in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith thereof the respective Plenipotentiaries have signed this treaty in duplicate in the English language and hereunto affix their seals.

Done at Tallinn the 27th day of August in the year of our Lord one thousand nine hundred and twenty nine.

F. W. B. COLEMAN

[SEAL]

J. LATTIK

[SEAL]

Treaty Series No. 817

*Conciliation Treaty Between the United States of America and Estonia, Signed at Tallinn, August 27, 1929*¹⁵

The President of the United States of America and the Head of the Estonian Republic, being desirous to strengthen the bonds of amity and bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States of America:

Mr. F. W. B. Coleman, Envoy Extraordinary and Minister Plenipotentiary,

The Head of the Estonian Republic:

Mr. J. Lattik, Minister for Foreign Affairs,

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

Any disputes arising between the Government of the United States of America and the Government of Estonia, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

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, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacan-

¹⁵ Ratification advised by the Senate, January 20, 1930 (legislative day of January 6, 1930); ratified by the President, January 23, 1930; ratified by Estonia, May 13, 1930; ratifications exchanged at Washington, June 18, 1930; proclaimed by the President, June 25, 1930.

cies 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, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the 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 America by and with the advice and consent of the Senate thereof, and by Estonia in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith thereof the respective Plenipotentiaries have signed this treaty in duplicate in the English language and hereunto affix their seals.

Done at Tallinn the 27th day of August in the year of our Lord one thousand nine hundred and twenty nine.

F. W. B. COLEMAN

[SEAL]

J. LATTIK

[SEAL]

711.60p12A/17

The Minister at Riga (Coleman) to the Secretary of State

No. 6399

RIGA, September 10, 1929.

SIR: Referring to my despatch No. 6386, of September 9, 1929,¹⁶ transmitting copies of the Treaty of Arbitration and the Treaty of Conciliation between the United States and Estonia signed at Tallinn on August 27, 1929, I have the honor to report that in accordance with the Department's instructions the Legation has taken up the question of similar treaties with the Latvian Foreign Office on several occasions during the last few months. Mr. Feldman, Chief of the Western Section of the Latvian Foreign Office, who is charged primarily with studying this question, informed a member of my staff recently that the Latvian Foreign Office has no objection to the two treaties in their present form. Mr. Feldman stated, however, that before the Latvian Government signs these treaties it desires to secure the authorization of the Latvian Saeima for Latvia to adhere to the Optional Clause of the Hague Statute. The whole question is now being discussed with the Commission on Foreign Relations of the Saeima. As soon as authorization to adhere to the optional clause has been obtained, the Latvian Government will be prepared to sign the Treaty of Arbitration and the Treaty of Conciliation with the United States¹⁷ as well as several similar treaties with foreign countries. Mr. Feldman stated that this would probably be in two or three months.

I have [etc.]

F. W. B. COLEMAN

¹⁶ Not printed.

¹⁷ Treaties of arbitration and conciliation, the same, *mutatis mutandis*, as those with Estonia, were signed by the United States with Latvia January 14, 1930 (Department of State Treaty Series, Nos. 818 and 819).

ETHIOPIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND ETHIOPIA, SIGNED JANUARY 26, 1929

711.8412A/4

*The Acting Secretary of State to the Minister in Ethiopia
(Southard)*

No. 15

WASHINGTON, September 10, 1928.

SIR: Pursuant to its policy of entering into treaties of arbitration and of conciliation with practically all countries, this Government now desires to propose to the Government of Ethiopia the conclusion of such treaties. You are, accordingly, requested, unless you perceive objection, to transmit to the appropriate official of the Ethiopian Government the enclosed draft texts of such treaties. In order to conform to the type of note used by the Department in proposing similar treaties to other Governments, through their representatives at Washington, it is suggested that you may wish to transmit the draft treaties with a covering note substantially as follows:

Under instructions from my Government, I have the honor to transmit herewith for the consideration of the Government of Ethiopia, and as a basis for negotiation, drafts of treaties of arbitration and of conciliation between the United States and Ethiopia.

Both of the proposed treaties are identical in effect with treaties of arbitration and of conciliation which were signed at Washington on May 5, 1928, by representatives of the United States and Germany,¹ and with similar treaties which have recently been concluded between the United States and other countries. The draft arbitration treaty resembles in some respects the arbitration treaties concluded between the United States and many countries beginning in 1908, but represents, in the opinion of my Government, a definite advance over the earlier formula. Substantially in the form submitted herewith, treaties have, during the last few months, been signed by the United States with France, Italy, Germany, Denmark, Finland, Austria, Czechoslovakia and Poland, respectively.

The draft conciliation treaty is in all respects similar to the conciliation treaties negotiated in 1913 by my Government and made effective with many countries. During recent months such treaties have been signed by the United States with Germany, Finland, Austria, Czechoslovakia and Poland, respectively.

¹ *Foreign Relations*, 1928, vol. II, p. 867.

My Government feels that the United States and Ethiopia have an opportunity, by adopting treaties such as those suggested herein, not only to promote friendly relations between the peoples of the two countries, but also to advance materially the cause of arbitration and the pacific settlement of international disputes. If the Government of Ethiopia concurs in this view and is prepared to negotiate treaties along the lines of the two drafts transmitted herewith, I shall be glad to enter at once upon such discussions as may be necessary.

I am [etc.]

J. REUBEN CLARK, Jr.

711.8412 A/6 : Telegram

The Minister in Ethiopia (Southard) to the Secretary of State

ADDIS ABABA, December 19, 1928—4 p. m.

[Received December 20—6:38 a. m.]

Government of Ethiopia is prepared to sign and ratify treaty of conciliation and the treaty of arbitration with the following changes:

King Tafari's name to be included in all places with that of the Empress. In the last paragraph of each treaty replace the words "English language" with the words "English and Amharic languages." I request approval of these changes and authorization to proceed with the preparation of the copies of the treaties for the King's signature and ratification.

SOUTHARD

711.8412 A/7 : Telegram

The Secretary of State to the Minister in Ethiopia (Southard)

WASHINGTON, December 28, 1928—5 p. m.

27. Your December 19, 4 p. m. No objection to changes you mention but you should satisfy yourself that Amharic texts correspond substantially with English texts. President's full powers dated December 21 authorizing you to sign the two conventions go to you by first mail. Ask recognition of this cabled notification of issuance as sufficient authority for you to sign pending receipt of autographed powers. Each treaty should be in two originals and alternat observed. See Chapter 9, Section 2, Instructions to Diplomatic Officers.

KELLOGG

Treaty Series No. 799

*Arbitration Treaty Between the United States of America and Ethiopia, Signed at Addis Ababa, January 26, 1929*²

The President of the United States of America and His Majesty, King Tafari, Heir Apparent to the Throne and Regent Plenipotentiary of the Empire of Ethiopia, on behalf of her Imperial Majesty, Zeoditu, Empress of Ethiopia, and of himself,

Determined to prevent so far as in their power lies any interruption in the peaceful relations now happily existing between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have designated as their respective Plenipotentiaries:

The President of the United States of America; Mr. Addison E. Southard, Minister Resident and Consul General of the United States of America in Ethiopia;

His Majesty, King Tafari, Heir Apparent to the Throne and Regent Plenipotentiary of the Empire of Ethiopia, on behalf of Her Imperial Majesty, Zeoditu, Empress of Ethiopia, and of himself;

Who, having communicated to one another their full powers found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at

²In English and Amharic; Amharic text not printed. Ratification advised by the Senate, May 22 (legislative day of May 16), 1929; ratified by the President, May 28, 1929; ratifications exchanged at Addis Ababa, August 5, 1929; proclaimed by the President, August 7, 1929.

The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide, if necessary, for the organization of such tribunal, shall define its powers, shall state the question or questions at issue, and shall settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Ethiopia in accordance with its constitutional law.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(a) is within the domestic jurisdiction of either of the High Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Ethiopia in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty 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, King Tafari, Heir Apparent to the Throne and Regent Plenipotentiary of the Empire of Ethiopia, on behalf of her Imperial Majesty, Zeoditu, Empress of Ethiopia, and of himself, in accordance with Ethiopian constitutional law.

The ratifications shall be exchanged at Addis Ababa as soon as possible, and the treaty shall take effect on the date of the exchange of ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Amharic languages, and hereunto affix their seals.

Done in duplicate at Addis Ababa on the twenty-sixth day of January, in the year of our Lord nineteen hundred and twenty-nine.

[SEAL] ADDISON E. SOUTHARD

Treaty Series No. 800

*Conciliation Treaty Between the United States of America and Ethiopia, Signed at Addis Ababa, January 26, 1929*³

The President of the United States of America and His Majesty, King Tafari, Heir Apparent to the Throne and Regent Plenipotentiary of the Empire of Ethiopia, on behalf of Her Imperial Majesty, Zeoditu, Empress of Ethiopia, and of himself, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose.

The President of the United States of America has appointed as his plenipotentiary Mr. Addison E. Southard, Minister Resident and Consul General of the United States of America in Ethiopia.

His Majesty, King Tafari, Heir Apparent to the Throne and Regent Plenipotentiary of the Empire of Ethiopia, has been designated plenipotentiary to sign and ratify on behalf of Her Imperial Majesty, Zeoditu, Empress of Ethiopia, and of himself.

They, having communicated to one another their full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

Any disputes arising between the Government of the United States of America and the Government of Ethiopia of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a Permanent International Commission 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.

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, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

³ In English and Amharic; Amharic text not printed. Ratification advised by the Senate, May 22 (legislative day of May 16), 1929; ratified by the President, May 28, 1929; ratifications exchanged at Addis Ababa, August 5, 1929; proclaimed by the President, August 7, 1929.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and 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, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the 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 shorten 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 America by and with the advice and consent of the Senate thereof, and by His Majesty, King Tafari, Heir Apparent to the Throne and Regent Plenipotentiary of the Empire of Ethiopia, on behalf of Her Imperial Majesty, Zeoditu, Empress of Ethiopia, and of himself, in accordance with Ethiopian constitutional law.

The ratifications shall be exchanged at Addis Ababa as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Amharic languages, and hereunto affix their seals.

Done in duplicate at Addis Ababa on the twenty-sixth day of January, in the year of our Lord nineteen hundred and twenty-nine.

[SEAL] ADDISON E. SOUTHARD

**PROPOSED COURT IN ETHIOPIA TO HAVE JURISDICTION OVER
FOREIGN NATIONALS**

884.05/6 : Telegram

The Acting Secretary of State to the Minister in Ethiopia (Southard)

[Paraphrase]

WASHINGTON, August 10, 1929—1 p. m.

38. Reference your despatch No. 179, April 10.⁴ While establishment in Ethiopia of a court having jurisdiction over foreign nationals would, in principle, be agreeable to the Department, it believes the proposal of the Diplomatic Corps at Addis Ababa needs further redrafting and consideration.

Prior to preparing definite instructions, the Department would like to be informed of the attitude of the other powers interested. You should discreetly endeavor to ascertain this from your colleagues.

COTTON

884.05/7

The Minister in Ethiopia (Southard) to the Secretary of State

No. 241

ADDIS ABABA, August 14, 1929.

[Received September 18.]

SIR: I have the honor to acknowledge receipt of the Department's telegraphic instruction No. 38 of August 10th, 1:00 p. m., 1929, expressing the opinion that the proposal for a special court here by the local Diplomatic Corps, as previously submitted to the Department, required further consideration and redrafting before the issuance of definite instructions to this Legation. I am directed to ascertain the attitude of the other interested powers by means of discreet inquiry among my colleagues.

My colleagues of Britain, France, Italy, Germany, and Belgium, all inform me that their respective governments promptly approved the project forwarded with the Legation's No. 179 of April 10th, 1929.⁴ The above governments are all represented here by full Ministers who naturally take the initiative in such matters but also, as a matter of courtesy, consult their lesser colleagues. The career Consul who represents Egypt here has indicated the approval of his government. The Honorary Consul General of Greece, who is always consulted because of the comparative size and importance of the Greek colony here, has indicated the approval of his government. The local representatives of Turkey, Sweden and Austria, who are honorary Consuls, are understood not to have been consulted. I long since informed

⁴Not printed.

my colleagues that no approval had been received from my government but that in the absence of instructions to the contrary I did not anticipate any serious objections.

On the basis of the above the written proposal for a reorganized special court has already been submitted to the Ethiopian Government in practically the form transmitted with the Legation's despatch of April 10th, 1929. I am at once informing the Dean of the Diplomatic Corps of the withdrawal, pending further instructions from Washington, of the Legation's former tentative adherence to the project. This will not, I assume, make any great difference as the matter of a special court is considered at present as of much less interest to Americans than it is to the British, French, Italian and German Legations with their much larger numbers of resident nationals and protégés. Whatever concessions these four nationalities obtain from the Ethiopian Government we can adhere to or not as best suits our opinion. If we do not adhere there is always the danger that an attempt may be made to submit our few Americans here to the . . . Ethiopian legal and court procedure, against the application of which to foreigners the local British, French and Italian Legations have always been most active. There is a sort of "united we stand, divided we fall" situation.

I would, therefore, appreciate the instructions of the Department as to whether I should inform the Ethiopian Government that the American Government does, or does not, adhere to the project for a special court submitted by the Diplomatic Corps. Although I have made no formal indication of American adherence the Ethiopians will assume such unless the Legation makes soon a formal statement to the contrary. Some action from us is, therefore, due without great delay should the Department disapprove of the project as originally drafted. If the Department will indicate the changes desired I can possibly persuade the Dean of the Diplomatic Corps to submit them in the form of an amendment to the original draft.

However, in the final opinion of the Legation there is no important reason for endeavoring just now to submit this amendment. We need only to indicate approval or disapproval of the project. . . .

In summary I respectfully venture the opinion that any form of special court procedure meeting the ideas of the local British, French, Italian, and German Legations as providing sufficient protection for their nationals, would seem to be ample protection for Americans and American interests. The national interests indicated can be relied upon to accept nothing less than the most that is possible in concessions from the Ethiopians. Viewing the matter in this light, and in the light of my own appreciable practical and firsthand experience in observation on the ground in various countries of the functioning of

the more usual forms of extraterritorial or other special courts, I recommended on page three of Despatch No. 179 the Department's approval. Nevertheless the Legation can in the end be guided only by the Department's instructions and such, in detail, would be much appreciated at this time.

I have [etc.]

ADDISON E. SOUTHARD

884.05/9

The Secretary of State to the Minister in Ethiopia (Southard)

No. 101

WASHINGTON, November 1, 1929.

SIR: The Department acknowledges the receipt of your despatch No. 241 of August 14, 1929, with reference to the proposed special court to be established in Ethiopia.

It was the opinion of the Department as evidenced by its telegram to you of August 10, 1 p. m. that the proposal for the new court as set out in the enclosure to your despatch No. 179 of April 10, 1929,⁶ lacked clarity. In Section 17 of the draft proposal, the translation of which was enclosed ⁶ with your despatch above referred to, it is provided that in criminal cases the provisions of the Swiss Penal Code shall apply. In Section 27, under the general heading of crimes, it is provided that the law applied shall be that of the country of the accused. It was the opinion of the Department when reading this that there was some confusion with respect to the law to be applied. However, upon referring to the French text accompanying your despatch it was later ascertained that the word "delits" used in Section 17 should not be translated in English technically by the word "crimes" but rather by the word "misdemeanors". If the distinction is clearly made in the proposed agreement between crimes in which the law of the country of the accused shall be applied and misdemeanors in which the provisions of the Swiss Civil Code are to be applied, there would seem to be no objection. However, in a copy of the Swiss Penal Code which is in the Department there appears to be no accurate classification of crimes and misdemeanors.

The rotating character of the Judges would seem to be a rather cumbersome system but if it is agreeable to the other Powers the Department would not of course object thereto.

There would also seem to be some lack of clarity in Section 18 which states that in matters of contraventions the Ethiopian laws and regulations which have been accepted by the representatives of the Powers shall be applicable to their subjects. The Department is not aware just how far this might become confused with the provisions of the

⁶ Not printed.

Swiss Penal Code with respect to misdemeanors. This matter is further complicated by the fact that the definition of crimes, misdemeanors and contraventions, if defined by the Swiss Penal Code, may cut across the lines of the distinctions of crimes under American law. It was the idea of the Department that it would be clearer to provide that civil and commercial matters and matters of simple contravention of municipal regulations, et cetera, should be governed by the Egyptian Mixed Codes and that crimes in degrees above contraventions should be judged by the laws applicable in the defendant's country.

In general the Department's objections were not leveled against the scheme as a whole but it was thought that a more careful drafting of the provisions might obviate some of the possible confusion with respect to the operation in Ethiopia of laws concerning various degrees of crime.

The Department is entirely in accord with your suggestion that whatever may be suitable to the other Powers having interests in Ethiopia would be all that this Government could hope to obtain and in general would be satisfactory.

I am [etc.]

For the Secretary of State:
WILLIAM R. CASTLE, JR.

FRANCE

SUPPLEMENTARY EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND FRANCE, SIGNED JANUARY 15, 1929

211.51/54

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

No. 9294

PARIS, January 15, 1929.

[Received January 31.]

SIR: With reference to the Department's Instruction No. 2972 of November 22, 1928,¹ (File No. 211.51/48), and previous correspondence, and confirming my telegram No. 22, January 14, 1 P. M.,¹ regarding the supplemental Extradition Treaty to be signed by the French Government covering "infractions of the laws concerning poisonous substances", I have the honor to transmit herewith the text of the Convention¹ as altered after the receipt of the Department's Instruction above referred to, as well as after conference with the Foreign Office.

The Department's Instruction No. 2467 of October 15, 1927,¹ transmitted a draft of a proposed convention, which draft was transmitted to the Foreign Office for its consideration. The Embassy's despatch No. 9019 of October 6, 1928¹ forwarded to the Department a note from the Foreign Office which stated that, since the crimes and offenses specified and numbered 16 in the proposed supplemental extradition convention constitute in French law misdemeanors only, it would prefer a statement slightly different from that contained in the text proposed by the Department. The Department's Instruction No. 2972 authorized the change in wording suggested by the Foreign Office, (i. e. "infractions of the laws concerning poisonous substances" instead of "crimes and offenses against the law for the suppression of the trade in narcotics"). The Department's Instruction, however, did not provide for certain changes in the draft convention which it was found on examination were necessitated by the change in wording above referred to in Article 1. For example, Article 1 of the original draft read as follows:

"The following crimes and offenses are added to the list of crimes and offenses numbered 1 to 15 in the first article of the said Convention of January 6, 1909, that is to say:

16. Crimes and offenses against the laws for the suppression of the trade in narcotics."

¹ Not printed.

The Foreign Office pointed out that the change adopted in Paragraph 16 made it advisable to change Article 1 to read as follows:

“To the list of crimes and offenses numbered 1 to 15 in the second article of the said Convention of January 6, 1909, the following, contained in a paragraph 16, is added:

16. Infractions of the laws concerning poisonous substances.”

Furthermore, when the original draft was discussed with the Foreign Office, it was pointed out by the latter that the Minister for Foreign Affairs did not require any special powers for the purpose of signing a treaty and it was therefore proposed that the wording of the preamble should be so changed as to omit reference to the communication of full powers. (This change was specifically referred to in my telegram No. 22, January 14, 1 P. M.).

Finally, the Foreign Office pointed out that it was the custom to have ratifications exchanged at the place of signature and that unless our Government had any objection thereto, it suggested that Paris alone be named as the place of exchange for ratifications. (This point also was specifically presented to the Department in the Embassy's telegram No. 22, January 14, 1 P.M.).

The only other correction to mention was in Line 2 of the treaty; to the words “list of crimes” was added the addition “and offenses”, this being necessitated by the change in wording of paragraph 16.

I have [etc.]

NORMAN ARMOUR

Treaty Series No. 787

Supplementary Extradition Convention Between the United States of America and France, Signed at Paris, January 15, 1929^{1a}

The United States of America and the Republic of France being desirous of enlarging the list of crimes and offences on account of which extradition may be granted under the Convention concluded between the United States and France January 6, 1909,² have resolved to conclude a supplementary Convention for this purpose and have appointed for that purpose the following plenipotentiaries:

The President of the United States of America:

Mr. Norman Armour, Chargé d'Affaires ad interim of the United States of America at Paris, and

The President of the French Republic:

His Excellency M. Aristide Briand, Minister for Foreign Affairs;

Who have agreed to and concluded the following articles:—

^{1a} In English and French; French text not printed. Ratification advised by the Senate, February 28 (legislative day of February 25), 1929; ratified by the President, March 6, 1929; ratified by France, April 27, 1929; ratifications exchanged at Paris, May 2, 1929; proclaimed by the President, May 9, 1929.

² *Foreign Relations*, 1911, p. 189.

ARTICLE I

To the list of crimes and offences numbered 1 to 15 in the second article of the said Convention of January 6, 1909, the following, contained in a paragraph 16, is added:

16. Infractions of the laws concerning poisonous substances.

ARTICLE II

The present Convention shall be considered as an integral part of the said extradition Convention of January 6, 1909, and the second article thereof shall be read as if the list of crimes and offences therein contained had originally comprised the additional infractions of the laws specified and numbered 16 in the first article of the present Convention.

The present Convention shall be ratified and the ratifications shall be exchanged at Paris as soon as possible.

It shall come into force ten days after its publication in conformity with the laws of the High Contracting Parties and it shall continue and terminate in the same manner as the said Convention of January 6, 1909.

In testimony whereof the respective plenipotentiaries have signed the present Convention in duplicate and have thereunto affixed their seals.

Done at Paris, this 15 day of January 1929.

NORMAN ARMOUR
[SEAL]

A. BRIAND
[SEAL]

PROBLEMS OF TARIFF ADMINISTRATION REGARDING FRENCH EXPORTS TO THE UNITED STATES AND AMERICAN EXPORTS TO FRANCE*

611.5131/763

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

No. 9400

PARIS, March 7, 1929.
[Received March 16.]

SIR: With reference to my telegram No. 91 of this date,⁴ I have the honor to forward herewith in copy and translation a note dated March 6, received from the Foreign Office, containing a draft agreement relative to the verification by American administrative officials of declarations of value made by French exporters. This note is in reply to the note delivered by the Embassy to the Foreign Of-

* Continued from *Foreign Relations*, 1928, vol. II, pp. 820-831.

⁴ Not printed.

file on October 19, 1928, pursuant to the Department's telegraphic instruction No. 361 of October 16, 1928.⁵

After examination of this new draft I feel that the French have made a serious effort to meet our views. This will, I think, become the more apparent when the present draft is carefully compared with the original French note of January 27, 1928, transmitted by my despatch No. 8272 of January 31, 1928.⁶ In the original note, paragraph 3*a* contemplates the production by the exporter of "bills of sale, contracts and correspondence relative to the transactions in question." In the new draft, paragraph 3*a* merely states that the exporter may "make proof, before the official agents of the American consulates, of the sincerity and exactitude of his declaration."

In conference with the competent official of the Foreign Office he made it quite clear that, although the Government could not put it down in black and white on account of the susceptibilities of French producers and merchants, it entirely realized the greatly added latitude for investigation by American agents which will become permissible under the provisions of this paragraph. It is interesting to note, incidentally, that this official likewise readily agreed with my observation that even if this additional latitude should be made possible, cases where investigation might prove embarrassing or irritating would be just as rare as, if not rarer than, in the past.

The paramount importance of paragraph 5 of the new draft will at once be apparent to the Department. My Foreign Office interlocutor felt and hoped that the formula adopted would prove acceptable to us inasmuch as the words "en principe" could only mean that the method would be carried out on the basis mentioned if possible, but that if intervening factors should render this basis impossible the agreement would not be violated. Translating the quoted words into English by the phrase "in principle," I feel that the foregoing is not only a justifiable, but also the proper, construction, which, if approved by the Department, would seem in practice to attenuate to the last degree possible any obligation theoretically assumed by us under the terms of this paragraph.

The Department will note that the first paragraph of the French draft is similar to the first paragraph of its original note. The Foreign Office felt that our note of October 19 did not shut the door upon a renewed suggestion of this kind in view of the recognition embodied in the remainder of the draft that the proposed activities of the agents of the Treasury Department would not have the character of finality.

⁵ *Foreign Relations*, 1928, vol. II, p. 827.

⁶ *Ibid.*, p. 820.

I am quite aware of the various interests at home which have to be brought into agreement if and after the Department is in accord with my views as hereinabove set forth. However, without in any way taking at their full face value all the things that I have been told here, I am still inclined to believe that the Foreign Office realizes the importance of straightening this matter out and concurs in our desire to do so, and that in pursuance thereof it has gone about as far as it can in getting the other French interests concerned to agree to this text, which certainly takes into account the points raised in our note of October 19, 1928. The interests to which I refer are not only, *in primis*, the French Ministries of Finance and Commerce, but above all M. Poincaré himself, who apparently is following this question closely.

I have [etc.]

MYRON T. HERRICK

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

PARIS, March 6, 1929.

The Ministry for Foreign Affairs has the honor to thank the Embassy of the United States for the *Aide-Mémoire* which it was good enough to hand to it on October 19th last concerning the verification of declarations of value made by French exporters.

The Government of the Republic has examined with great care the observations made by the Government of the United States in regard to the suggestions submitted in the French memorandum of January 27, 1928.

Anxious to reach a solution which takes into account the legitimate preoccupations of the two Governments, it has endeavored to elaborate a draft agreement which will meet, insofar as French legislation will permit, the views which the Embassy of the United States was good enough to present.

The Ministry for Foreign Affairs is pleased to hope that this draft will meet with the approval of the Government of the United States. It would be obliged if the Embassy would kindly transmit it to Washington and would be happy if it felt that it could support it with a favorable recommendation./.

[Subenclosure—Translation]

Draft Agreement Relative to the Verification by American Authorities of Declarations of Value Made by French Exporters

1. The delegates of the American administration (i.e. Treasury Department) would be connected with the American consular authorities to whom French exporters must apply for the visaing of their invoices,

and would control, by making use of their knowledge of the market and their personal information, the sincerity and exactitude of these invoices and the documents which usually accompany them.

2. When there is doubt concerning the sincerity or the exactitude of these invoices or documents, the delegates of the American administration would proceed to their verification.

3. In such a case, the exporter would have the choice between the two following methods:

(a) Either he would agree to make proof before the official agents of the American consulate of the sincerity and exactitude of his declaration;

(b) or he would agree to submit his declaration to an expert accountant or to a technical expert, or to two experts: one an accountant and the other a technical expert. These experts, of French nationality, would be chosen by the American authorities from a list drawn up by the French Government.

4. In case the delegates of the American administration should not feel in a position to reach a decision on the proofs furnished by the exporter, one or the other party could have recourse to the second procedure, that is to say to expert valuation.

5. The verifications made by the procedure of expert valuation, while not imperatively binding the American customs authorities, should however, in principle, constitute the basis of the definitive valuation of disputable merchandise.

611.5131/763

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

No. 4161

WASHINGTON, July 13, 1929.

SIR: With reference to the Embassy's despatch No. 9400 of March 7, 1929, and your telegram No. 323, July 8, 4 p. m.,⁷ the Department quotes below for transmission to the French Government a note in answer to the French Government's note of March 6, 1929:

"The proposals with regard to verification of value for customs purposes of French exports to the United States contained in the French Government's *aide memoire* of March 6, 1929, have received earnest and sympathetic consideration by the Government of the United States which has made every effort to find therein a basis for a satisfactory adjustment of this situation which would at the same time be in full harmony with the laws of each of the two countries.

Before discussing the proposals themselves it would seem desirable to present a statement which may serve to clarify for the French Government the exact nature of the American law and the purpose for

⁷Telegram No. 323 not printed.

which investigations are made by officials of the United States Treasury Department. For the purpose of this discussion, there are four bases of value, foreign value, export value, United States value, and cost of production.

The value, for customs purposes, of merchandise imported into the United States is either the foreign value or the export value, whichever is higher. These values are the values of the merchandise in the country of exportation, and, depending upon whether it is sold for home consumption or for exportation to the United States, the value is the market value or the price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade.

If neither the foreign value nor the export value can be ascertained to the satisfaction of the appraising officer, then the United States value is used. The foreign value and export value are usually lower than the United States value. The United States value of imported merchandise is the price at which such or similar imported merchandise is freely offered for sale, packed ready for delivery, in the principal market of the United States to all purchasers, at the time of exportation of the imported merchandise, in the usual wholesale quantities and in the ordinary course of trade, allowance being made for duty, profit, general expenses, transportation and insurance costs, and certain other expenses incident to placing it on the American market.

If neither the foreign value, export value, nor United States value can be ascertained to the satisfaction of the appraising officer, the value shall be the cost of production.

It should be pointed out that it is rarely the case that neither the foreign value nor export value can be ascertained to the satisfaction of the appraising officers if there is opportunity of verification at the source. During the years that Treasury representatives were making verifications in France, it was very seldom necessary to resort to United States value.

There seems to have grown up in some quarters an erroneous understanding that since the withdrawal from France of agents of the United States Treasury Department, an act which was done in accordance with the desires of the French Government,⁸ all French imports into the United States have been appraised according to United States value. It should be made clear that this understanding is incorrect. For some time after the withdrawal of the United States Treasury agents from France, appraising officers of the United States customs were able to apply foreign value or export value to French imports on the basis of reports previously made by those agents. With the passing months the information contained in those reports became obsolescent or obsolete because of changes in prices and marketing conditions of certain articles. With respect to these articles it became necessary to apply United States value as a natural operation of the customs law.

⁸ For understanding limiting the activities of Treasury agents in France, see *Foreign Relations*, 1927, vol. II, pp. 696-701.

When foreign merchandise is received at a port of entry in the United States, it is the duty of the appraising officer to appraise this merchandise in the unit of quantity in which it is usually bought and sold by ascertaining or estimating the value thereof by all reasonable ways and means in his power, any statement or cost of production in any invoice, affidavit, declaration, or other document to the contrary notwithstanding. The authority as well as the responsibility is placed upon him to fix the value of the merchandise. In very rare cases, however, the appraiser is unable to ascertain to his satisfaction the foreign value or export value of imported merchandise. In such cases the American law affords the person manufacturing, producing, selling, shipping, or consigning the merchandise an opportunity to make available to officers of this Government information which may assist the appraiser in ascertaining the foreign value or export value. The exporter, in these cases, is requested to permit a duly accredited officer of the United States to inspect his books and records pertaining to the market value of the merchandise in question. In the rare cases in which this request is made, it should be realized that its purpose is two-fold in that it furnishes the appraiser information which will assist him in ascertaining the value of the merchandise in question and at the same time affords the exporter opportunity to make this information available in order that it will not be necessary for the appraiser to use the United States value or other basis of value as provided for in the law in case neither the foreign value nor export value can be satisfactorily ascertained.

It is desired to emphasize certain of the features of the American law as outlined above. The foreign value or export value of merchandise is not necessarily determined by the values as stated in the invoice covering the shipment, and though the merchandise in question was sold at the prices indicated in the invoice, such prices may not be the foreign value or export value of such or similar merchandise at the time of exportation because other factors must be taken into consideration in determining value. The value is not determined by the price at which the specific merchandise was sold but by the market value of such or similar merchandise which has been freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the usual course of trade. Thus the invoice price may have nothing to do with the value of such or similar merchandise in the foreign country in question on the date of exportation. This is partly due to fluctuations in prices between the date of purchase and date of exportation.

It should be noted also that the customs appraiser ascertains or estimates the value of imported merchandise by all reasonable ways and means in his power. Invoices, affidavits, declarations and other documents, including reports made by officers who have examined the books of the exporter, are in any case only advisory. However, if the information contained in such reports is verified from the best sources by customs officers well versed in our law and court decisions, it is usually conclusive although not binding.

The first proposal contained in the French Government's *aide memoire* of March 6, 1929, is that officers of the United States Treasury Department be attached to the American Consulate in order that such officers could determine the sincerity and exactitude of invoices of

merchandise. As indicated above the values or prices stated in invoices would have, in general, little to do with the question of whether or not such stated values or prices are the actual foreign value or export value of the merchandise. Only in very rare cases is there any ground for questioning the sincerity and exactitude of invoices. Furthermore, it should be pointed out that officers of the United States Treasury Department in foreign countries do not fix the value of merchandise, which by law cannot be established until entry of the goods into the United States. Those officers only report the facts for the confidential use of appraising officers. The Government of the United States would perceive no objection, however, were officers of the United States Treasury Department attached in some manner to the American Consulate and in deference to the wishes of the French Government will be happy to give this matter its earnest attention with a view to determining in what way it can most appropriately meet the wishes of the French Government.

The Government of the United States would, of course, have no objection were a French exporter to submit proof to the Treasury agent of the sincerity and exactitude of his declaration, but such action on the part of the exporter would serve no useful purpose, because of the fact that only in very rare cases is there any question raised in respect of the sincerity and exactitude of the invoice declarations. Verifications, when made, are made not because the invoice may not correctly state the value at which the particular goods were sold, but because there is some question as to whether that price is, in fact, the foreign value or export value, as defined by American law.

The Government of the United States finds, after reconsideration of the question, that there is little that can be added to the statement made in its communication of October last concerning the proposal with regard to verification of value by experts of French nationality. The person making such verification must have a thorough knowledge of the United States Customs law. The verification of information respecting value is an extremely technical matter which can only be satisfactorily accomplished by an officer with long experience in the administration of the Customs law. The courts have construed almost every word and phrase in Section 402 of the Tariff Act⁹ and only officers of long experience and practice will claim even a fair knowledge of the subject. Reports would serve no useful purpose if they do not contain the exact information required by the appraising officer.

In an effort to meet the views of the French Government, the Government of the United States has given its most earnest consideration and study to this whole matter. In deference to the wishes of the French Government and in an effort to arrive at a satisfactory solution of the present situation, the Department of State and the Treasury Department have recommended to the Congress of the United States the repeal of Section 510 of the Tariff Act.¹⁰ In that section provision is made, which is mandatory upon the Secretary of the Treasury, to prohibit the importation of merchandise from any foreign manufacturer or shipper who refuses, upon request of a representative of the United States Treasury Department, to give the latter necessary information in order that the appraising officer in the United

⁹ Tariff Act of 1922, 42 Stat. 858, 949.

¹⁰ 42 Stat. 968.

States may be able to find foreign value or export value. The French Government will find that this Section has been eliminated from the pending tariff bill as it was passed by the House of Representatives.

Thus, under the new law, if finally enacted, it will be entirely optional with the exporter whether he wishes to give to the United States Treasury Agent information which is necessary to the appraising officer in determining export value or foreign value. Under the proposed law, when an appraiser is unable to ascertain the foreign value or export value of any French merchandise, the Treasury Department will so advise its agent in France, and will instruct the agent to call upon the exporter in order to advise the latter of the situation. The agent will at the same time offer his services to the exporter with a view to obtaining the information required by the appraising officer in the United States. If the exporter desires to avail himself of the foreign value or export value, which are the lowest bases of value, he may do so at no expense to himself, and the exporter may rest assured that any information of a confidential character which it is necessary for the agent to obtain will be held in strictest confidence. The laws of the United States provide severe punishment for any officer who should divulge information of the above character. Treasury agents are under instructions to report facts as they find them whether they favor the Government or whether they favor the exporter. They are glad to assist exporters in correctly invoicing their merchandise in order to avoid misunderstanding when the merchandise is imported into the United States.

If it is agreeable to the French Government to permit the return to France of agents of the United States Treasury Department, the Government of the United States will be happy to assure the French Government that such agents will be officers of long standing and experience, fully versed in the French language and who will be in every way acceptable to the French Government."

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

611.5131/781

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

No. 9759

PARIS, August 13, 1929.
[Received August 21.]

SIR: With reference to my telegram No. 380 of yesterday¹¹ I have the honor to transmit herewith in copy and translation the text of the note from the Foreign Office, dated August 9, 1929, replying to our note of July 26,¹² concerning customs evaluations.

As set forth in my telegram under reference, in conversations at the Foreign Office the Division of Commercial Relations stated that there was no present intention of exercising the right of reciprocity requested with respect to the assignment and activities of French customs agents; the Division indicated that this stipulation was

¹¹ Not printed.

¹² See instruction No. 4161, July 13, *supra*.

inserted in order to satisfy the *amour-propre* of various interested parties here.

It will be observed that it is the understanding of the French Government that our Treasury agents should be attached to the American consulates. The Department's note—embodied in its instruction No. 4161 of July 13—refers on page 6 to the French proposal as being “that officers of the United States Treasury Department be attached to the American Consulate,” and lower on the same page the singular, “American Consulate,” is again used. In discussing this point the Foreign Office referred to the draft agreement enclosed with its note of March 6, 1929, which proposes attaching Treasury agents to the “*autorités consulaires américaines*.” It inquired whether the use of the singular in our note was deliberate and, in that event, whether it meant the Consulate General in Paris. In this connection the Division of Commercial Relations referred somewhat vaguely to a conversation had by M. Claudel in the Department, in the course of which recognition was voiced of the idea that it might be advantageous to have a larger number of Treasury agents than heretofore operating in France. Considering how desirous the French were of getting every single American Treasury agent out of France, the foregoing is interesting to say the least.

The remaining sentence in the paragraph of the French note above referred to states that “It is, indeed, desirable that in the exercise of their new functions they (the Treasury agents) should be officially accredited in France.” The Department, however, may take it for granted that the French Government thereby in no way envisages according these agents diplomatic status; consequently, this question, which in the past has occasioned a considerable amount of difficulty, cannot be deemed raised by this portion of the French note.

I have [etc.]

NORMAN ARMOUR

[Enclosure—Translation]

The Director of Political and Commercial Affairs of the French Ministry for Foreign Affairs (Corbin) to the American Chargé (Armour)

PARIS, August 9, 1929.

MR. CHARGÉ D'AFFAIRES: By letter dated July 26, 1929, you were good enough to convey to me a communication from the Government of the United States which concluded as follows:

(Then follows a translation in French of the text of our note embodied in the Department's instruction No. 4161 of July 13, as set forth on pages 8 and 9 thereof, with the exception of the first sentence on

page 8. That is to say, beginning with the words "In deference to the wishes of the French Government," down through the end of the note.)

In acknowledging the receipt of this communication I have the honor to inform you that the French Government has appreciated the friendly spirit in which the Government of the United States has sought the solution of the difficulties relative to the evaluation of French merchandise exported to the United States.

The French Government especially notes with satisfaction that Section 510 of the Tariff Act may be expected to be abrogated and that the role of the Treasury agents would consequently be limited to offering their services to the French exporter in order to give the latter, by furnishing the information required by the American customs administration, the opportunity of claiming the benefit of the foreign value or export value of his merchandise.

Moreover, you are good enough to give me the assurance that the instructions which will be given to the new agents, along with the discrimination in their selection, will make of them collaborators of our exporters and will render their activity acceptable in every way to the French Government.

In view of the essential modifications which the abrogation of Section 510 and the assurances above set forth would effect in the powers of American customs agents, the French Government would see no objection to the return of these agents in France, it being well understood that their activity would be exerted strictly under the conditions explicitly defined in your communication above set forth.

As the American Government is good enough to agree, these agents would be attached to American consulates. It is, indeed, desirable that in the exercise of their new functions they should be officially accredited in France.

Moreover, and by way of reciprocity, the French Government requests that the Government of the United States should consent, as was proposed by it in its note of October 19, 1928, to representatives of the French customs being assigned to the United States with powers identical to those with which American customs agents in France will be invested.

I should be obliged to you to let me know if the Government of the United States gives its definitive approval to the preceding propositions.

In case the Government of the United States should judge it possible forthwith to apply the arrangement resulting from your communication and the present letter, the French Government is ready to accept the immediate return to France of the American Treasury agents.

It remains understood that the present agreement would become null and void if, in the event that Congress should have reenacted the former article 510, the Administration of the United States would have recourse to the reprisals there envisaged.

Please accept [etc.]

CHARLES CORBIN

EXEMPTION FROM TAXATION OF UNITED STATES TRADE COMMISSIONERS AND CUSTOMS REPRESENTATIVES IN FRANCE

102.8102 Taxation/3 : Telegram
France

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

WASHINGTON, May 19, 1928—noon.

142. Department informed by Department of Commerce that Kelly, Canty and Green, Trade Commissioners in Paris, are being required to pay income, personal and local taxes and that failure to pay local taxes would subject them to supertax.

Please bring matter immediately to the personal attention of the appropriate French official stating that this Government would be gratified if the French authorities concerned will postpone action in these cases and that of O'Neill, Customs Attaché, in order that the whole question of taxation of American Government officials in France may be discussed with French Government. You may point out that officials of foreign governments in the United States are exempt from the payment of Federal income tax on compensation paid to them for services rendered in connection with exercise of essential governmental function of the state or political subdivision.

Cable briefly result of your representations and submit report by mail after conferring with Commercial Attaché.

KELLOGG

102.8102 Taxation/7
France

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

No. 8635

PARIS, May 25, 1928.

[Received June 4.]

SIR: I have the honor to refer to the Department's telegraphic instruction No. 142 of May 19 and to my answering telegram No. 130 of May 23, 1928.¹³ A note based on the Department's said instruction was personally delivered to the competent official at the Foreign Office and the question argued at length. This official was disposed to suggest, as an easy solution, that the Embassy add the names of the three Trade Commissioners to its list of officials accredited to the Foreign

¹³ Letter not printed.

Office. As the Embassy understands that the Department has no desire that this be done (see its telegraphic instruction No. 86 of April 8, 1926¹⁴), the reply was made that this was not the point at issue, which was the imposition upon officials of the United States Government of income, personal and local taxes.

Over and above this, the Foreign Office official was inclined—as stated in my telegram—to feel that there was a distinction between the three Trade Commissioners and the customs representative, Mr. O'Neill, on the ground principally that the three former are engaged in work which is to the mutual benefit of the French and American Governments, whereas the latter is not. No acquiescence was made to this contention, and I have no idea that the Finance Ministry will accord any weight to it either.

The Foreign Office promised to transmit the question, particularly as regards the three Trade Commissioners, to the Finance Ministry with a favorable recommendation; but as a matter of fact, I see no reason to believe that this Ministry will abandon the definite and uncompromising attitude already adopted by it in this very question (see enclosure No. 2 to the Embassy's despatch No. 5382 of July 10, 1925, as well as the Department's telegraphic instruction No. 86 of April 8, 1926, and the Embassy's answering telegram No. 140 of April 9, 1926¹⁵). It should be noted in the present phase of the question (i.e. Department's telegraphic instruction No. 142 of May 19, 1928) that objection is made to the assessment by the French authorities of income, personal and local taxes, whereas the argument on our side only covers the exemption from the payment of the Federal income tax accorded to officials of foreign countries in the United States. For use in future conversations, I should be glad if the Department could inform me of any further exemption accorded to such foreign officials with respect to personal and local taxes. In this connection, it may be pointed out that with respect to Trade Commissioners and Assistant Trade Commissioners, this Embassy requested similar information of the Department by despatch No. 5742 of November 20, 1925,¹⁴ but that no reply has been received.

I have [etc.]

MYRON T. HERRICK

102.8102 Taxation/13
France

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

No. 9265

PARIS, January 8, 1929.

[Received January 18.]

Sir: With reference to the Department's cabled Instruction No. 142 of May 19, 1928, 2 P. M. [*noon*], with regard to the taxes imposed on

¹⁴ Not printed.

¹⁵ None printed.

Messrs. Kelly, Canty and Green, Trade Commissioners in Paris, and the Department's cabled Instruction No. 358 of October 13, 1928, 6 P.M.,¹⁷ regarding the taxation of Mr. J. F. O'Neill, Customs Attaché, I have the honor to report that this matter has at last been satisfactorily settled.

In a note from the Foreign Office, dated December 30, 1928, a copy and translation of which is transmitted herewith, it is stated that these officers will be considered as forming part of the personnel of this mission and as such will be considered as exempt from personal taxes.

Mr. Hall, mentioned in the Foreign Office note, is a fourth Trade Commissioner, whose name was added by the Embassy in its communication to the Foreign Office, at the request of the Commercial Attaché.

The Embassy has already informed the Commercial Attaché and Mr. O'Neill of this decision.

I have [etc.]

NORMAN ARMOUR

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

PARIS, December 30, 1928.

By a note dated July 24 last, the Embassy of the United States expressed the wish that exemption from direct taxes be accorded Messrs. Green, Kelly, Canty and Hall, officers of the United States Department of Commerce and attached to the offices of the Commercial Attaché of the Embassy.

Subsequently, by a memorandum of October 15 last, the Embassy requested that the same exemption be accorded Mr. O'Neill, an officer of the United States Treasury Department, likewise attached to the Embassy of the United States at Paris.

The Ministry for Foreign Affairs has the honor to inform the Embassy that it appears that Messrs. Green, Canty, Kelly, Hall and O'Neill should be considered as being part of the personnel of the American diplomatic mission in France and as such are exempt from personal taxes.

By decision of the Departmental Director of Direct Taxes, dated October 19, 1928, exemption has been granted to Messrs. Green, Canty, Kelly and Hall for the amount of taxes assessed against them for 1928. The same measure will be immediately taken with regard to Mr. O'Neill.

The Embassy will find attached hereto the tax notices sent Messrs. Green and Hall¹⁸ which were forwarded with its communication of July 24.

¹⁷ Not printed.

¹⁸ Not attached to file copy.

102.8102 Taxation/14
France

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

No. 3065

WASHINGTON, February 15, 1929.

SIR: The Department has received your Embassy's despatch No. 9265 of January 8, 1929, and is gratified to learn that as a result of your Embassy's representations the French authorities concerned have decided to exempt Messrs. Kelly, Canty, Green and Hall, Trade Commissioners and Mr. J. F. O'Neill, Customs Representative from personal taxes. The Department has informed the Department of Commerce and the Treasury Department of the French Government's decision in the matter.

It is noted that the action of the appropriate French authorities in this case is based on the grounds that "Messrs. Green, Canty, Kelly, Hall and O'Neill should be considered as being part of the personnel of the American diplomatic mission in France".

The Department confidently leaves to your discretion the best procedure to follow in order to insure that its policy with regard to the diplomatic status of Trade Commissioners and Assistant Commercial Attachés as set forth in the circular instruction of April 28, 1927,¹⁹ shall be adhered to and that the names of Messrs. Kelly, Canty, Green, Hall and Mr. J. F. O'Neill shall not be included in the diplomatic list issued by the French Foreign Office.

While for technical reasons it may have been necessary in order to exempt these gentlemen from personal taxation to consider them as being part of the personnel of your Embassy it is not believed that it will be advisable in any other way to consider them as being invested with a diplomatic character. In other words the Department does not deem it desirable that the persons in question should be considered as enjoying general diplomatic immunities other than the exemption from taxation. It may be added for your confidential information that American Trade Commissioners in India for the purposes of taxation are deemed to be attached to the American Embassy at London but that they do not on this account enjoy any of the diplomatic immunities and privileges usually attached to persons who are in the suite of a diplomatic envoy.

In this connection, your attention is invited to Confidential Circular of December 24, 1925, (File No. 102.1702—168²⁰), in which you were instructed to discontinue the use of the term "Customs Attaché and to use for such officers the term "Customs Representative".

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

¹⁹ Not printed.

²⁰ File has been changed to 121.57/14; *Foreign Relations*, 1925, vol. I, p. 252.

EFFORTS BY THE DEPARTMENT OF STATE TO PROTECT AMERICAN MOTION PICTURE INTERESTS FROM RESTRICTIONS IMPOSED BY FRENCH FILM REGULATIONS²¹

851.4061 Motion Pictures/23 : Telegram

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

WASHINGTON, March 28, 1929—8 p. m.

86. Department desires to make approximately simultaneous representations to European Governments which have or which contemplate restrictive film regulations, pointing out the importance which the United States Government attaches to the matter.

You are instructed, unless you perceive objection, to call on the Minister for Foreign Affairs at an early date to discuss the existing situation affecting the importation and distribution of American motion pictures and to leave with him a memorandum substantially as follows:

"I am instructed by my Government to bring to Your Excellency's attention the concern with which the Government of the United States has observed legislative and administrative developments in foreign countries, as they affect the American motion picture industry.

Not only has the production of films become one of the leading industries of the United States, but, as the creator of a popular form of entertainment, it has gained the intimate personal interest of the American people. As a natural result any vicissitudes of this industry provoke general public notice and discussion, whereas similar incidents in other fields may attract comparatively limited public attention. For these reasons it is particularly regrettable that this industry should be the one to suffer from failure to observe the spirit of liberty in international commerce which animated all recent discussions on the abolition of export and import prohibitions.²²

In response to the persistent and substantial demands for American pictures on the part of foreign exhibitors, an extensive foreign market for this American product has been created. The building up of this market has involved an investment of large proportions, which is jeopardized by certain governmental measures arbitrarily restricting the distribution of American films. Detrimental as these regulations are in themselves, to the extent that they are also subject to arbitrary and unpredictable change they introduce an element of commercial uncertainty and industrial instability to which American motion picture producers and distributors find it difficult or impossible to adjust themselves.

In advocating a regime of non-interference with the normal distribution of this product, my Government does not, of course, intend to question such measures as may be imposed by any country for the purpose of protecting, through censorship, the national traditions or the public morals. But the Government of the United States, which has adopted no restrictive regulations similar in any way to

²¹ Continued from *Foreign Relations*, 1928, vol. II, pp. 844-849.

²² See *ibid.*, vol. I, pp. 366 ff.

those in force in certain foreign countries, believes sincerely that the interests of the motion picture industry of all countries are best promoted by the freest possible interchange of films, based solely on the quality of the product. It has indeed observed with sympathetic interest the increasing number of foreign films which have entered the United States in recent years on a free competitive basis. The American motion picture industry has always shown a willingness to collaborate in a most friendly way with representatives of the industry abroad for the unrestricted importation of films, and my Government would be reluctant to see the American motion picture industry compelled to abandon such collaboration as a result of further injury to its interests by the maintenance or extension of these restrictive regulations.

The Government of the United States hopes most earnestly, therefore, that appropriate steps may be taken to alleviate the serious injury to which American motion picture producers are subject by restrictive regulations which must eventually prove a hindrance to the international development of the motion picture industry. Owing to the prominent position occupied by this industry in the United States, not only through the extent of the investment, but the keen interest of the people, great importance is attached to this matter and it is hoped that the representations of my Government will meet with favorable consideration by Your Excellency's Government."²³

Repeat to Berlin as Department's 20, to Rome as 27, to Budapest as 3, to Vienna as 6, to Prague as 16, to Madrid as 10, indicating in the communication to Prague and Madrid that the following should be substituted for the first sentence of the last paragraph above: "The Government of the United States hopes most earnestly, therefore, that restrictive measures constituting a hindrance to the international development of the motion picture industry will be avoided."²⁴

KELLOGG

851.4061 Motion Pictures/40 : Telegram

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

[Paraphrase]

PARIS, April 19, 1929—noon.

[Received April 19—12:05 p. m.]

161. Department's telegram No. 86, March 28, 8 p. m. The Embassy has just received a courteous note couched in general terms answering

²³ The Department in telegram No. 107, April 11, 7 p. m. (851.4061 Motion Pictures/35) approved a suggestion made by the Chargé in France in telegram No. 138, April 10, 11 a. m. (851.4061 Motion Pictures/29), that the first sentence of the final paragraph of the proposed note be changed as follows:

"The Government of the United States hopes most earnestly, therefore, that appropriate steps may be taken to avoid serious injury to American motion picture producers through restrictive regulations which must eventually prove a hindrance to the international development of the motion picture industry."

²⁴ Following the presentation of the notes to the respective Foreign Offices by the missions concerned, no further action on the part of the Department was taken.

our note; a copy and translation will go forward to the Department this evening.

Informal conversations between François-Poncet²⁵ and MacLean,²⁶ with two or three representatives of the respective film interests on each side, will start tomorrow and will probably go on for some time. In the course of these discussions it is quite possible that François-Poncet might say, in effect: "Perhaps the contingent system is not, after all, the best way of protecting the French industry; what have you gentlemen to suggest to take its place?" The position of the American representatives would not appear to be strengthened if in such a contingency they should have nothing to propose. A proposition which might be advanced is that of higher customs duties, which, as I recall it, Mr. Hays²⁷ was prepared to put forward last year. His organization may be able to evolve other propositions, or Mr. Hays may feel, of course, that his organization should simply stand pat. I merely advance the foregoing suggestion to put the case as both MacLean and I see it, and for what it is worth in event that Department may wish to consult with Mr. Hays.

In regard to this controversy there has been a considerable amount of bitter and inaccurate comment in the French press, but there is likewise an appreciable amount of sober proofs of fact that the French film industry cannot be developed on basis both sound and permanent by attempts to frustrate the American interests, but rather by the production of better films.

ARMOUR

851.4061 Motion Pictures/51

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

No. 9487

PARIS, April 19, 1929.

[Received April 29.]

SIR: With reference to the Department's telegraphic instructions Nos. 86 of March 28 and 107 of April 11,²⁸ and to my telegram No. 161 of this date, I have the honor to transmit herewith, in copy and translation, a note from the Foreign Office, dated April 18 and received this morning, in reply to our representations concerning restrictive film regulations.

I have [etc.]

NORMAN ARMOUR

²⁵ French Under Secretary for Fine Arts.

²⁶ American Commercial Attaché.

²⁷ Will H. Hays, president of the Motion Picture Producers and Distributors of America, Inc.

²⁸ Latter not printed.

[Enclosure—Translation]

The French Minister for Foreign Affairs (Briand) to the American Chargé (Armour)

[PARIS,] April 18, 1929.

MR. CHARGÉ D'AFFAIRES: By a letter under date of the 12th of this month you were good enough to set forth the opinion and attitude of the Government of the United States concerning the situation which the American films have encountered by virtue of administrative measures which have had to be taken in certain countries for the protection of their national cinematographic production.

You may be assured that the representations of the American Government and the question which inspired them have commanded, on the part of the French Government, all the attention which they merit. The various aspects of the question will be seriously studied; and the care which the Undersecretary of State for Fine Arts has already taken to inquire of the Commercial Attaché of your Embassy as to the point of view and the desiderata of the American producers themselves, testifies clearly to the conscientiousness and fairness with which this study will be undertaken.

However, I feel that I should not leave you in ignorance of the fact that in contesting at the present time the very principle of the regime established in France, as in other European countries, for the indispensable protection of so important a branch of industrial and intellectual activity, the American Government is raising a grave problem and a real difficulty; and there will be all the more need of the mutual, sincere and considerate respect of the important interests which are concerned in this affair, in order to arrive at the definitive agreement which has become highly desirable.

Please accept [etc.]

A. BRIAND

851.4061 Motion Pictures/52: Telegram

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

[Paraphrase]

PARIS, May 2, 1929—4 p. m.

[Received May 2—2:35 p. m.]

189. Meeting of the French and American film interests was held yesterday. Harold Smith²⁹ has reported it to the Hays organization, and Commercial Attaché has reported it to the Department of Commerce.

It appears that the very contingency materialized the parrying of which the Embassy suggested in its telegram No. 161, April 19, noon,

²⁹ European representative of the Motion Picture Producers and Distributors of America, Inc.

second paragraph. When asked to make suggestions the representatives of the American film interests had nothing to propose.

The official communiqué, which was brief, stated that the discussion took place in an atmosphere of cordiality. The contrary was the fact, and I understand that certain of American film men took an aggressive attitude poorly calculated to facilitate the course of further negotiations.

Next meeting is on Saturday.

ARMOUR

851.4061 Motion Pictures/55 : Telegram

The Acting Secretary of State to the President of the Motion Picture Producers and Distributors of America, Inc. (Will H. Hays)

WASHINGTON, May 4, 1929.

Embassy at Paris in reporting meeting of French and American film interests held May 1st mentions aggressive stand taken by certain American film men which led to an absence of the cordiality hitherto marking the negotiations and which is believed to be ill-calculated to aid the progress of further discussions. The Embassy notes furthermore that when asked to submit alternate proposal to take the place of the quota, the American representatives had nothing to bring forward which, as the Embassy suggested in its telegram of April 19, would not appear to strengthen the American position.

It is of course unnecessary to point out that the success of the present negotiations is largely dependent upon the cooperation to be preserved by representatives of the American industry and their support of the leader you have designated to represent them.

J. REUBEN CLARK, JR.

851.4061 Motion Pictures/58 : Telegram

The President of the Motion Picture Producers and Distributors of America, Inc. (Will H. Hays), to the Secretary of State

NEW YORK, May 5, 1929.

[Received May 6.]

Your wire received. Agree of course with your suggestions of need of cordiality and united action. Am sure that is purpose of American industry there. We have several times suggested tariff instead of quota and will continue so to be [do?]. We are unable to finance French production or pay French producers actual cash to win their support for abandonment of quota which is what they ask. There will be no doubt about the American industry cooperating among themselves and supporting our representative conducting the negotiations,

also they will support our Government's representative there. Our own reports do not vindicate facts same as your wire infers, and I will have man [at] your office tomorrow. Am very anxious to pursue fully program agreed upon with State Department and appreciate your interest in matter.

WILL H. HAYS

851.4061 Motion Pictures/56 : Telegram

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

WASHINGTON, May 7, 1929—6 p. m.

138. Your 189, May 2, 4 p. m. and 192, May 6, noon.³⁰ For your guidance.

Representative of Hays organization informs Department as follows: (1) That American film interests are unalterably opposed to contingent plan and will fight present system in any form to the finish; (2) That while it is not desired to take the initiative in endorsing a tariff proposal, increased customs duties or taxes, even if relatively high, would be a solution acceptable to interests represented by the Hays organization.

STIMSON

851.4061 Motion Pictures/63 : Telegram

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

[Paraphrase]

WASHINGTON, May 9, 1929—5 p. m.

145. Reports in the press have it that French Government is considering solution of film controversy whereby a relatively high tax would be laid on all foreign films entering France and the proceeds thereof would be given to French film industry. Under section 303 of the Tariff Act of 1922,³¹ it is apparently mandatory on the Secretary of the Treasury to impose countervailing duties in case of exportation to the United States of any article enjoying directly or indirectly benefit of a bounty or grant upon production in the country of origin.

In view of Commercial Attaché's participation in the hearings before the French authorities, the Embassy should guard against possible imputation of responsibility in the event that France, without full knowledge of the possible consequences, should adopt any measure which might require imposition of additional American duties on French films exported to this country.

STIMSON

³⁰ Latter not printed.

³¹ 42 Stat. 858, 935.

851.4061 Motion Pictures/64 : Telegram

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

[Paraphrase]

PARIS, May 11, 1929—noon.

[Received May 11—10 : 30 a. m.]

206. Department's 138, May 7, 6 p. m., and 145, May 9, 5 p. m., and previous telegrams exchanged between Embassy and Department.

The American film interests have taken the definite position that they would pay nothing to the French film industry; that payments would be made only to French Government. As any payments thus made would increase the general revenue of the French Government, it might, as a result, without any earmarking assist situation of the French film industry by alleviation of taxes or other means. Would the Department regard this as an indirect bounty within terms of section 303 of Tariff Act? Our feeling here had been that this act which was designed for protection and advancement of American interests, would not be construed so as to be a hindrance to arriving at a settlement advantageous to American interests.

As the Department is aware, the difficulty so far has been to find any solution which would enable the French to abandon the application of the contingent principle, and so far the increase of customs duties has been the only proposal evolved. Informal negotiations have now reached point where French Film Commission feels that matter must be referred back to François-Poncet, whereupon presumably the French Government will study possibilities of the application of this principle of higher duties or taxes. Any suggestion to the French that the application of this principle would result in the creation of further difficulties for French films exported to the United States would seem, as matter of necessity, to imperil its already problematical adoption.

Of course I appreciate the Department's point that the French Government must not agree to any solution under a misapprehension; I wish only to inquire whether application of section 303 of the Tariff Act, which Department suggests, is so probable that MacLean should inform François-Poncet with regard to it.

Will the Department please instruct me fully on this question, with specific reference to course which the Commercial Attaché is to follow?

ARMOUR

851.4061 Motion Pictures/71 : Telegram

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

WASHINGTON, May 13, 1929—7 p. m.

154. Your 206, May 11, noon. Section 303 of Tariff Act states specifically that "whenever any country (hiatus) person, partnership, association, cartel or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country," there shall be levied in the case of importation of any such article into the United States "an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed."

Treasury Department cannot give an official ruling or interpretation of its attitude prior to actual occurrence of a case of this kind, but Customs official states informally and unofficially that provisions of Section 303 are unequivocal, that Treasury is constantly on the alert for just such a case as the *New York Times* now reports to be under consideration by the French Government, and that in the event of such a proposal being adopted there would probably be no alternative for Treasury Department but to impose countervailing duties on all French films actually exported to the United States.

While it is conceivable, as you suggest, that an alleviation of taxes might escape the application of Section 303, yet the attitude of the Treasury is such as to suggest that it might regard this case as coming within the provisions thereof. It would appear desirable, therefore, purely as a precaution against eventual misunderstanding, that the Commercial Attaché should mention Section 303 and its possible consequences in the course of his forthcoming conversations with the Undersecretary for Fine Arts.

STIMSON

851.4061 Motion Pictures/77 : Telegram

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

WASHINGTON, May 28, 1929—6 p. m.

177. Hays informs the Department by telephone that MacLean has apparently told the Minister of Fine Arts that the motion picture industry would be satisfied with the continuance of last year's status. Hays is much disturbed at this since he states that the industry has determined, if possible, to do away with the quota system. He thinks the Minister of Fine Arts is friendly and is afraid of the effect of MacLean's alleged statement. Please report facts.

STIMSON

851.4061 Motion Pictures/78 : Telegram

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

[Paraphrase]

PARIS, May 29, 1929—1 p. m.

[Received 2:55 p. m.]

242. Department's No. 177, May 28, 6 p. m. Pursuant to your telegrams Nos. 145, May 9, 5 p. m., and 154, May 13, 7 p. m., the Commercial Attaché called on the Under Secretary for Fine Arts on May 27 to discuss question of the possible application of section 303 of Tariff Act should any plan be attempted whereby French film industry would receive financial aid from the Government. I understand that the only other person present during the discussion was the Director of Fine Arts.

The Under Secretary took this occasion to reassert his dissatisfaction with the contingent system and his intention to continue studying possibility of putting on increased customs duty in its place. François-Poncet stated, however, that, even were this principle of tariff regulations approved, to apply it would require new legislation and, in consequence, would involve further delay, whereas some immediate action is clearly necessary. He explained situation by saying that in view of insistence on the part of the *Chambre Syndicale*³² not only upon maintenance of the contingent system but of [*upon?*] its application in most severe form, and from fact that the *Chambre Syndicale* is largely under influence of Jean Sapène,³³ who, as Department is aware, possesses considerable power both politically and with French press, the Government would find it extremely difficult to reject flatly the proposals of the *Chambre*.

The Under Secretary expressed opinion that the best hope, therefore, of a solution acceptable to American interests lay in gaining time through maintenance of the *status quo* for another year during which time the French Government will guarantee a sincere attempt to find a solution that is mutually satisfactory.

Parenthetically, I may say that the clear implication seems to be that only by there being more time given is there any chance of the shelving of the contingent principle.

The Under Secretary then asked whether the American film companies would resume business in France if the *status quo* were prolonged. MacLean made it clear in reply that only the complete abolition of the objectionable contingent system would be acceptable; but, as his own informal opinion, he said that if maintenance of the *status quo* was the only possible temporary method of keeping way

³² French Motion Picture Chamber of Commerce.

³³ Head of a group of French motion picture production and operation companies.

open for eventual adoption of another system, he felt that the American film interests might be willing to resume their sales.

There would seem to be little doubt that the Under Secretary freely understood MacLean's reply as he gave it, and that the version telegraphed to Hays, presumably by Harold Smith, represents slightly exaggerated interpretation of what actually took place.

ARMOUR

851.4061 Motion Pictures/81 : Telegram

The Acting Secretary of State to the Chargé in France (Armour)

WASHINGTON, June 3, 1929—11 a. m.

180. It is reported to the Department that Sapène has persuaded French Cabinet officers that American film interests will accept the 4 to 1 quota and thirty per cent free entry for three years and that the matter will probably be decided in this sense at Cabinet meeting Tuesday. Hays informs the Department that American film interests cannot accept any such decision, that on the contrary they will withdraw entirely from France as soon as their present contracts expire. You should inform Foreign Office of this before the Cabinet meeting, explaining that the decision was unanimously reached at a meeting of all motion picture companies held in New York last Friday.

CLARK

851.4061 Motion Pictures/87 : Telegram

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

PARIS, June 7, 1929—8 p. m.

[Received June 7—4:19 p. m.]

266. Department's 180, June 3, 11 a. m. Contents communicated to Foreign Office as directed.

Today I was informed by the Foreign Office that the French Government has reached no decision; that there is a strong sentiment in favor of the contingent quota but that the French Government will endeavor to reach a solution in the best interests of France and also taking into consideration our Government's point of view.

Foreign Office hopes that our Government will understand the difficult situation in which it is placed.

Foreign Office states that local American companies have received instructions from head organizations in the United States looking toward the closing of their establishments and discharging their personnel thereby giving the impression that they consider the negotiations terminated unfavorably to themselves which is not the case. However Foreign Office states that such action on part of company

cannot but give the impression of endeavoring to bring pressure to bear on the French Government which may have adverse results if taken up by the press. The Foreign Office hopes that Hays can be persuaded to withdraw such instructions, if issued, at least until such time as a definite decision has been reached.

Foreign Office wishes it to be distinctly understood that Sapène does not represent the French Government's views and is not authorized to speak for it.

ARMOUR

851.4061 Motion Pictures/92 : Telegram

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

[Paraphrase]

PARIS, June 10, 1929—5 p. m.

[Received June 10—3 p. m.]

274. Embassy's telegram No. 266, June 7, 8 p. m. I was told today by Mr. Harold Smith that in the course of a friendly informal conversation he and several other representatives of American film companies were having with the Under Secretary on June 7, François-Poncet had made definite statement that the French Cabinet could not possibly come to decision on the film question until the matter of the debt agreements³⁴ was out of the way. François-Poncet added that although the debt agreements debate would begin on June 25, he did not think that a decisive vote could be reached before end of the month.

ARMOUR

851.4061 Motion Pictures/91 : Telegram

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

WASHINGTON, June 10, 1929—11 a. m.

192. Department understands that French press takes attitude that this Government is not interested in film matters. The following statement was given to the press on Saturday and it might be well for you to give similar statement in Paris.

"Last March the Department instructed various American missions in Europe to present the American point of view on the moving picture situation. Broadly speaking, this was that the various quota systems which have been put into effect by various Governments are destructive of the liberty in international commerce which was the basis of the recent discussions concerning export and import restrictions. It was pointed out that foreign interest in American films had led to extensive American investment in foreign countries and that this investment

³⁴ See *Foreign Relations*, 1926, vol. II, pp. 91 ff.

was jeopardized by arbitrary Government measures which change from month to month. It was pointed out that, aside from censorship measures, there should be the freest exchange of films, and that the motion picture industry in this country had always been most friendly and helpful in the importation of good foreign films, and the hope was therefore expressed that appropriate steps might be taken to remove the restrictive regulations which not only jeopardize American investments but would hinder the international development of the film industry.

Since that time the Department has made no further protest but has watched developments and has gladly transmitted statements made by the Industry here to the various bodies considering the question.

The principal debate on the matter which has centered around a quota system has occurred in Paris. A few days ago the Department sent a statement made by the organized film interests that, if this quota system should be definitely established, American motion picture interests would probably be compelled to withdraw from France altogether. The latest word from Paris is that the French Government has reached no decision and that, although there is sentiment in favor of a contingent quota, every effort will be made to come to an equitable solution of the whole matter. The Department understands that all negotiations in Paris are being carried on by the representative of the motion picture industry who is being assisted by the Commercial Attaché."

STIMSON

851.4061 Motion Pictures/95 : Telegram

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

PARIS, June 11, 1929—6 p. m.

[Received June 11—5:07 p. m.]

277. Your 192, June 10, 11 a. m. *Petit Parisien*, *Journal* and *Matin* in Sunday editions made short inside page comment on your Saturday statement. While it is true that they colored the matter in the sense of the first sentence of your telegram, the brevity of and inconspicuous place given to these items would seem to render them fairly innocuous.

[Paraphrase.] The press has been full of polemics on the film question for so long that even statements which are designed to rectify inaccuracies and to present the plain facts are now likely to arouse fresh attacks extending beyond the field of moving picture films, and to confuse issues rather than to clarify them. As regards the press, the situation is rendered even more delicate by the fact that the newspapers controlled by Pierre Coty (which in this matter may be followed by others) have seized upon this occasion to attack the group of newspapers which is opposed to them.

For that reason I feel that were the Embassy to give out statement contained in your telegram No. 192, even if it should be specified to come from you, it would only add new fuel to the fire and would be assailed by press hostile to us on this question as an unusual, if not an

improper, method of procedure while a decision on the part of the Government is pending; and this attack might well be delivered in such wise as to necessitate consideration of advisability of making a further reply in the press. It is of course possible, furthermore, that the local American press would handle statement in such a way as further to complicate and intensify the controversy.

I find myself the more confirmed in this view inasmuch as the decision is now entirely in hands of the French Government, which is fully cognizant of the facts in the case. No statement on our part would affect it beneficially no matter how straightforward the statement is and how plainly it appears to clear up misunderstandings.

The foregoing is submitted as my considered opinion. If it should not meet with your approval, however, of course I shall at once give statement to press, both French and local American, through the usual channels. [End paraphrase.]⁸⁵

ARMOUR

851.4061 Motion Pictures/111 : Telegram

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

PARIS, July 12, 1929—1 p. m.

[Received 2:35 p. m.]

333. Embassy has just received from Foreign Office, under covering letter dated yesterday referring to French note of April 18th (see my despatch No. 9487 of April 19), an undated note from "The Under Secretary of State for Fine Arts charged by the French Government with following this affair" (i. e. the film question) of which the following is a translation:

"The French Government has received the conclusions of the Cinematograph Superior Control Commission concerning the regime which is to be applied in France from October 1st, next, to the entrance of foreign films. These conclusions are favorable to the maintenance of a contingent regime.

However, it has appeared to the French Government that in conformity with the desires expressed by American producers and notably by the representative of the Hays group, the adoption of another system of protection based upon a customs arrangement might be contemplated without, however, it being possible now to give any assurance on this latter point.

But the study of means for realizing such a system concerns several ministerial departments and thereby necessitates a certain delay.

The Control Commission, which in such an event would have again to be consulted, has asked that [*the*] representatives of the Hays group if the firms and organizations which compose this group would

⁸⁵ In telegram No. 197, June 13, the Chargé was instructed that, in view of the circumstances, the Department expected him to use his discretion regarding the release of the statement.

be inclined to continue or to resume their business in France during the time which this new study would require.

The Commission is reported to have received a negative reply.

The French Government desires to know if this refusal was in fact given and if it will be maintained. It is proper indeed to point out that if it were so the French Government, in view of the decision which it must take, could only abide by the solution proposed by the Superior Control Commission."

A copy and translation of the above note and covering letter going forward by today's pouch.³⁶

[Paraphrase.] I presume that the Department will be given full and exact information by Mr. Hays of the circumstances surrounding the alleged query regarding the continuance or resumption of business in France and the answer to the query as set forth in the note quoted above. [End paraphrase.]

ARMOUR

851.4061 Motion Pictures/138 : Telegram

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

[Paraphrase—Extract]

PARIS, September 18, 1929—10 a. m.

[Received 12:43 p. m.³⁷]

427. Yesterday evening Harold Smith came to the Embassy and stated that Hays had telephoned him to try to obtain the insertion of an additional clause in the proposed agreement so that it would read as follows: . . . a system based on a method of protection different from the actual one and not based on a quota provision.

An added clause of the kind indicated would, I believe, be desirable and I consider it proper to endeavor to obtain its acceptance. However, it should be pointed out that probably difficulties will be encountered in obtaining its acceptance by the French. . . .

ARMOUR

851.4061 Motion Pictures/139 : Telegram

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

[Paraphrase]

PARIS, September 19, 1929—11 a. m.

[Received 11:45 a. m.³⁸]

429. Embassy's telegram No. 427, September 18, 10 a. m. At an interview last night with François-Poncet, which was attended by the

³⁶ Not printed.

³⁷ Telegram in four sections.

³⁸ Telegram in two sections.

Commercial Attaché, the Assistant Commercial Attaché, and Mr. Harold Smith, the draft of an agreement was submitted to the Under Secretary containing the additional clause mentioned in first paragraph of my No. 427 and certain other strengthening changes; for example, the inclusion of sound and talking, as well as silent, films, and the specific definition of the quota.

Without expressing any objection or in fact any definite opinion, François-Poncet said that he would take the new draft under consideration and that after he had conferred with Delac³⁹ he would see Smith later in the evening. Parenthetically it may be added that in the course of the conversation he again intimated clearly that in his mind the principle of tariff protection was the end to be attained.

At his interview later with Smith, the Under Secretary said that Delac had vigorously opposed the new clause regarding the abolition of quota, stating that at an informal conference which had recently taken place between him, two other leaders of the French film industry, and the Paramount representative, the latter had agreed that this new clause making provision for quota abolition was not necessary, and he had even gone so far as to approve the draft of an agreement which did not contain this clause. According to what Smith says, this conference was held without his knowledge, he having learned about it only yesterday.

Under these circumstances Smith felt that there was no alternative to his agreeing to suppression of this clause; accordingly he agreed, upon François-Poncet's conveying to him Delac's assurances that rest of agreement, including the changes above mentioned, was acceptable to him.

If this agreement is in turn accepted by Hays and there remains no further obstacle to its immediate signing and to the required action by the Cinema Control Commission, François-Poncet requests that our Government send an official answer to the French Government's note of July 11. The Under Secretary desires that this reply [coincide in time?] as nearly as possible with the signature. If the Department perceives no objection to this procedure the desired reply, sent by cable, presumably would recite willingness of the American film industry to resume business upon conditions embodied in the agreement. [End paraphrase.]

ARMOUR

³⁹ President of the *Chambre Syndicale*.

851.4061 Motion Picture/140 : Telegram

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

PARIS, September 19, 1929—6 p.m.
[Received September 19—2:50 p. m.]

433. My 427, September 18, 10 a. m. Agreement signed this afternoon by Smith and Delac and approved by Chambre Syndicale. Text being cabled by Smith tonight.

Cinema Control Commission meets on Tuesday and presumably will take necessary action.

With reference to last paragraph of my telegram. [Paraphrase.] Although a reply by our Government presumably cannot now be made nearly simultaneous with the signature of the agreement and although its lack is not going to hold up consummation of negotiations (namely, adequate action on part of Cinema Control Commission), it still seems clearly desirable, nevertheless, that François-Poncet's request be complied with at earliest possible moment. [End paraphrase.]

ARMOUR

851.4061 Motion Pictures/146 : Telegram

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

WASHINGTON, September 21, 1929—2 p.m.

299. Your recent telegrams on film agreement particularly 433, September 19, 6 p.m., last paragraph.

In telegram to Hays dated September 20⁴⁰ Department stated that it would be glad to convey to French Government through appropriate channels such assurances in answer to French note of July 11⁴¹ as he might wish to give. Hays' reply of same date gives text of agreement as signed⁴⁰ and then reads as follows:

"This is a modified redraft of a compromise proposal suggested on September 4th by François-Poncet at the meeting attended by the Commercial Attaché and Harold Smith in François-Poncet's office.

The suggestions of September 4th were carefully considered by the American industry and taken up with our State Department and our Embassy in Paris and after due thought we decided [*sic*] Mr. Smith on September 17th to consult with our Embassy as to method and then proceed to conclude matter with slight modifications of the September 4 suggestions. The above agreement meets our necessities and if it meets with your approval it is satisfactory to us for you to advise the minister that we are able to meet his wishes and that immediately upon the approval of the above accord by the Cinema Con-

⁴⁰ Not printed.

⁴¹ See telegram No. 333, July 12, from the Chargé in France, p. 1018.

trol Commission and the competent ministry the American companies will start selling in France. Also that we are hopeful that in the conferences contemplated in the near future a permanent agreement may be reached which will be satisfactory to all parties. If you think any other assurance should be given by us or any different wording more appropriate you will be free to indicate to me and I will be pleased to accept any suggestions. The Department's own information the accord is not of course an adequate conclusion as to the unfair present quota regulation but in view of all the circumstances and to advance the amity both in the film industry and generally we know it should be settled for the present as above set out and we will proceed immediately to sell upon the approval by the Cinema Control Commission and the minister [*competent ministry*]. We are hopeful that immediately thereafter the French will proceed with the study of the situation as suggested in the French note to this Government of July 11 and that the negotiations may be carried on in a friendly spirit and earnestly toward a final conclusion upon a fundamentally fair basis. To that end we will aid in every possible way. The organized industry appreciates thoroughly the cooperation of the Department in the whole matter."

You may convey to appropriate authorities in response to Foreign Office note of July 11 Hays' assurances as above set forth that immediately upon the approval of the agreement by the Cinema Control Commission and the competent ministry the American companies will start selling in France.

[Paraphrase.] Hays indicated, in oral discussion, that approval of "competent ministry" as specified in the last paragraph of the agreement would in his mind mean approval by the Under Secretary for Fine Arts. He expressed no concern, however, regarding the precise form which approval by the competent ministry should take. [End paraphrase.]

STIMSON

851.4061 Motion Pictures/148 : Telegram

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

PARIS, September 25, 1929—10 a. m.
[Received September 25—8:30 a. m.]

447. Department's 299, Sept. 21, 2 p. m. Official answer conveying Hays' assurances was welcome to appropriate French authorities. As Cinema Control Commission of Inquiry, presided over by François-Poncet, yesterday evening unanimously approved agreement of Sept. 19 and [as] François-Poncet himself has reiterated his approval of this agreement, the present negotiations have come to a successful conclusion. With the state of mind now prevailing it is

reasonable to hope that a permanent agreement on a satisfactory basis will be arrived at within the time specified,⁴² and the Embassy is correspondingly gratified with the results obtained.

ARMOUR

PROTEST AGAINST USE OF THE DESIGN OF THE AMERICAN FLAG FOR ADVERTISING PURPOSES AS CONTRAVENING THE CONVENTION OF JUNE 2, 1911, FOR THE PROTECTION OF INDUSTRIAL PROPERTY⁴³

811.015251/20

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

No. 4253

WASHINGTON, September 19, 1929.

SIR: The Department has received a letter from the Department of Commerce, a copy of which is enclosed herewith,⁴⁴ regarding a trademark No. 148177, bearing the American flag, which was published in the Official Bulletin of the French Trade-Mark Office on May 23, 1929.

The registration of this trademark would appear to be in conflict with the provisions of the Convention for the Protection of Industrial Property, signed at Washington on June 2, 1911. Article 6 of this Convention states that trademarks may be refused or invalidated which are contrary to the public order. Article 6 of this Convention provides:

“It is understood that the use of badges, insignia or public decorations which shall not have been authorized by competent powers, or the use of official signs and stamps of control and of guaranty adopted, by a unionist country, may be considered as contrary to public order in the sense of No. 3 of Article 6”.

Since this Government has not authorized the use of the American flag in connection with this trademark, you are instructed to communicate with the Foreign Office in the sense of the foregoing and request that steps be taken to invalidate trademark No. 148177 issued to the Société Industrie et Commerce du Fruit Conservé par le Sucre.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

⁴² Before May 1, 1930.

⁴³ For text of the convention, see *Foreign Relations*, 1913, p. 1363.

⁴⁴ Not printed.

811.015251/22

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

No. 10035

PARIS, November 23, 1929.

[Received December 4.]

SIR: With reference to this Embassy's despatch No. 10007 of November 18, 1929,⁴⁵ enclosing a copy and translation of a note from the Foreign Office in which it was stated that the Société Industrie et Commerce du Fruit Conservé par le Sucre had been advised semi-officially that it would be to its interest to give up trade-mark No. 148177, bearing the American flag, I have the honor to report that I am in receipt of a further note from the Foreign Office, dated November 21, 1929, in regard to this matter. In this note it is stated that the company has replied that it was its intention to register before the Tribunal de Commerce de la Seine a renunciation of the trade-mark in question and as soon as possible to dispose of all containers and labels on which it is reproduced.

I have [etc.]

NORMAN ARMOUR

⁴⁵ Not printed.

GERMANY

INTEREST OF THE UNITED STATES IN THE PLAN FOR THE FINAL SETTLEMENT OF GERMAN REPARATIONS RECOMMENDED BY THE COMMITTEE OF EXPERTS, JUNE 7, 1929¹

462.00R296/2613½

Memorandum of a Conversation Between the Secretary of State and the British Ambassador (Howard)

[WASHINGTON,] January 12, 1929.

The British Ambassador called to inquire if the Government was still of the opinion that it did not desire an American on the Experts Committee to be chairman. I informed the Ambassador that the United States had not changed its opinion; that it was its desire that an American should not be elected chairman; that it was also the desire of Mr. Young² that he should not be elected chairman because his wife was ill and he expects to take an alternate with him and he might have to leave at any time; that it was a question principally interesting the European Governments; the United States desired, of course, that any advice or assistance they could get from American experts that they should get it but it was largely a question for the European Governments; that if they got in a jam where they could not organize, Mr. Young would communicate confidentially with the President and the President, of course, would give it most sympathetic consideration as he did not wish to deprive our delegates of rendering assistance; that he had left that in the hands of Mr. Young. I asked the Ambassador to request his Government to keep this in strict confidence and to leave the matter in the hands of Mr. Young. He said he would do it.

F[RANK] B. K[ELLOGG]
W[ILLIAM] R. C[ASTLE]

¹ For correspondence relating to the establishment of the committee, see *Foreign Relations*, 1928, vol. II, pp. 871 ff. See also Great Britain, Cmd. 3343 (1929): *Report of the Committee of Experts on Reparations*.

² Owen D. Young.

462.00R296/2622 : Telegram

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

PARIS, January 17, 1929—7 p. m.

[Received 10:50 p. m.³]

32. Reparation 175.

1. Have just received letter from Reparation Commission reading as follows:

“My Dear Mr. Wilson: ^{3a} I enclose herewith the text of a communication which, if you see no objection, it is desired that you should make to the United States Government on behalf of the Reparation Commission and the German Government, with respect to the appointment of United States citizens as members of the Experts Committee. (Signed) F. Chapsal.”

The communication in question reads as follows:

“The six Governments having selected Messrs. Owen D. Young and John Pierpont Morgan as members of the Committee of Experts to be established according to the decision reached at Geneva on September 16, 1928,⁴ the German Government and the Reparation Commission propose to appoint them accordingly. The mandate of this committee is fixed as follows: “The German, Belgian, French, British, Italian and Japanese Governments, in pursuance of the decision reached at Geneva on September 16, 1928, whereby it was agreed to set up a Committee of Independent Financial Experts, hereby entrust to the Committee the task of drawing up proposals for a complete and final settlement of the reparation problem: these proposals shall include a settlement of the obligations resulting from the existing treaties and agreements between Germany and the creditor powers. The Committee shall address its report to the Governments which took part in the Geneva decision and also to the Reparation Commission.” The German Government and the Reparation Commission on behalf of the powers which it represents desire to inquire whether the United States Government sees any objection to such appointments.”

2. Have received identical letter and communication from Kriegslasten Kommission signed Boden. (Boden is in charge of the Kriegslasten Kommission in Ruppel’s absence.)

3. The Committee is very anxious to make the appointments as soon as possible and, without in any way wishing to press the United States Government for a reply, is hoping to hold a meeting for that purpose on the afternoon of Saturday the 19th. If it were possible to furnish me with the text of the reply by that time it would, I am sure, be greatly appreciated by the Commission.

³ Telegram in two sections.

^{3a} Edwin C. Wilson, First Secretary of Embassy in France, and American unofficial representative on the Reparation Commission.

⁴ See the London *Times*, September 17, 1928, p. 12.

4. I understand that British Foreign Office had by last night received replies from all Governments concerned agreeing on selection of Young and Morgan and that it had instructed Sir Esme Howard to approach them asking if they would serve on Committee. It will be noted that the procedure mentioned in paragraph 1 [of] my Reparation 173⁵ has been expedited to the extent that action has now been taken by the Reparation Commission without waiting for the answer from Howard as to whether the American experts are willing to serve. This change was made by the Commission in agreement with the British Foreign Office, as it was felt that the replies from the Governments constituted the selection of the Americans and that this was all that was necessary before proceeding to consult with United States Government.

ARMOUR

462.00R296/2622 : Telegram

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

WASHINGTON, January 18, 1929—3 p.m.

29. Your No. 32, January 17, 7 p.m. I do not understand what further communication the governments are waiting for. They all authorized the British Ambassador here to inquire of me if there were any objection to the six powers selecting and appointing American experts, and on December 24th I informed the Ambassador that if the six governments desired to select and appoint American experts on the committee this Government would have no objection.

Yesterday the British Ambassador informed me that he was going to New York to offer the appointment to Young and Morgan and to Perkins as an alternate. I again informed him that this Government had no objection. I do not know of any further communication the foreign governments need.

Your 24, January 15, noon.⁵ I do not understand what communication the Reparations Committee desires or needs to make to the United States Government as I understand all the governments have agreed upon these appointments.

KELLOGG

462.00R296/2630 : Telegram

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

PARIS, January 19, 1929—7 p. m.
[Received January 19—6:19 p. m.]

39. Reparation 176.

1. At meeting this afternoon the Commission appointed, jointly with the German Government, Messrs. Young and Morgan as mem-

⁵ Not printed.

bers of the Committee of Experts each with power to appoint his alternate. A communiqué to this effect is being issued to the press. Commission and the German Government are cabling direct to the American experts announcement of their appointment.

2. I do not understand the last paragraph of Department's 29, January 18, 3 p. m. The communication which the Reparation Commission made to the United States Government (transmitted in my Reparation 175, January 17, 7 p. m.) was for the purpose of submitting names to the United States Government before proceeding to the appointment of American members. The Department in its Reparation 67, January 9, 3 p. m.,⁶ clearly indicated that it expected this to be done. The cable in question suggested "that names should be finally submitted by the Commission to this Government". In accordance with this suggestion, procedure was adopted comprising as a final step submission of names by the Commission to the United States Government. Reference to this procedure was made in Reparation telegrams 166, January 10; 169, January 11; 173, January 15; and 174, January 16.⁷ The fact that the British Ambassador on January 16th apparently submitted the names to the Department on his own initiative and was informed that there was no objection was not known to the Commission. Inasmuch as the Commission before proceeding to the appointment of the American members had requested to be informed (in its communication transmitted in my Reparation 175) whether there was any objection on the part of the United States Government, I replied this morning to the Commission's letter giving the information contained in the first two paragraphs of the Department's 29, January 18, 3 p. m. I sent a similar letter to the Kriegslasten Kommission.

3. Arrangements are now being made for the Experts Committee to hold its first meeting in Paris on February 9th at the Bank of France.

HERRICK

462.00R296/2630 : Telegram

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

WASHINGTON, January 21, 1929—1 p. m.

31. Your 39, January 19, 7 p.m., Reparations 176. It was merely my understanding that when Sir Esme spoke in the name of the Governments that that cancelled the procedure as previously arranged. I am glad, however, that you solved the difficulty by writing in time to Reparations Commission.

KELLOGG

⁶ Not printed.

⁷ None printed.

[The Committee of Experts was constituted with the following membership:

- Belgian Experts: M. Emile Francqui, M. Camille Gutt; alternates: Baron Terlingen, M. H. Fabri.
 French Experts: M. Emile Moreau, M. Jean Parmentier; alternates: M. C. Moret, M. Edgar Allix.
 German Experts: Dr. Hjalmar Schacht, Dr. A. Voegler; alternates: Dr. C. Melchior, Mr. L. Kastl.
 British Experts: Sir Josiah Stamp, Lord Revelstoke; alternates: Sir Charles Addis, Sir Basil Blackett.
 Italian Experts: Dr. Alberto Pirelli, M. Fulvio Suvich; alternates: M. Giuseppe Bianchini, M. Bruno Dolcetta.
 Japanese Experts: Mr. Kengo Mori, Mr. Takashi Aoki; alternates: Mr. Saburo Sonoda, Mr. Yasumune Matsui.
 American Experts: Mr. Owen D. Young, Mr. J. P. Morgan; alternates: Mr. Thos. N. Perkins, Mr. T. W. Lamont.]

462.00R296/2766a : Telegram

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

[Paraphrase]

WASHINGTON, February 28, 1929.

60. For Owen Young:

Can you send me by cable by early part of next week a general review of what has been accomplished and what the situation is in Paris; whether any total amount has been discussed, the prospects of fixing one, and the annual payments; and whether there is any real intention of floating a large bond issue soon. If you will send the message "Personal for the Secretary" it will be communicated to no one but the President.

KELLOGG

462.00R296/2768 : Telegram

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

[Paraphrase]

PARIS, March 3, 1929—9 a. m.

[Received 2:20 p. m.⁸]

84. Reparation No. 190. Message from Owen D. Young follows: "Experts Committee has been in session three weeks. First week was devoted to presentation by Germans of economic situation in Germany principally directed to establishing their contentions that Germany must pay over the frontier not less than one billion marks

⁸ Telegram in eleven sections.

per year for the services of her private debts of thirteen billion marks principal; that of these borrowed thirteen billions not all has gone into productive enterprises, some of amount having been wasted or lost, especially in agriculture; and therefore as a consequence the liquid capital supply in Germany created by the loans is not in excess of face value of the loans; that Germany also has in addition a large amount of foreign bank deposits and other short obligations not offset by more than 25 or 30 percent of the corresponding German obligations in other countries. Although the Germans did not seriously challenge the figures in Gilbert's⁹ latest report, they objected to optimistic tone it carried and to the inferences to be drawn therefrom.

German position was that, in view of facts presented, if transfer protection were to be abolished Germany could not safely assume obligation to pay annually over the frontier more than one billion marks on reparations, which with the out-payment service of her private loans would make altogether two billion marks per annum.

The Committee devoted the second week to discussion of the number of annuities and amounts of each. With regard to number, Germany took position that Treaty of Versailles in express terms looked to discharge of all war obligations in one generation;¹⁰ while she disliked many things in that treaty, she did like this particular one, and, having accepted the treaty, she proposed to claim the benefit of this particular clause in it. Her position is that there is no reason for Germany's yielding her position in regard to one generation merely because the Allied Governments have extended their payments over two generations or more.

Question of number of annuities was then laid aside in order to take up investigation of what amount of annuity Germany would be able to pay, measured by her capacity. Result was three-point discussion: (1) How much could Germany pay unconditionally; (2) how much could she pay conditionally; (3) how much in deliveries in kind could she pay?

Subcommittees were set up for the study of each of these questions.

Lord Revelstoke was made chairman of the subcommittee on unconditional payments, which has been working principally on question of how these payments should be set up and what machinery ought to be created to handle their mobilization and their commercialization if, sometime in the future, commercialization were to take place.

Subcommittee on conditional payments, of which Sir Josiah Stamp is chairman, has been working on question of transfer, as only dis-

⁹ S. Parker Gilbert, Agent General for Reparation Payments; see *Foreign Relations*, 1924, vol. II, pp. 135 ff.

¹⁰ Art. 233, Malloy, *Treaties*, 1910-1923, vol. III, pp. 3331, 3420.

inction between conditional and unconditional payments is that former are to be subject to a moratorium which Germany may declare for period not to exceed two years and which corresponds to similar provision in the American debt settlements. Moratorium applies only to transfers, and does not exempt Germany from obligation to raise through taxation and to pay internally the amounts required during moratorium period for service of the conditional payments.

This subcommittee has also had under discussion the question of an advisory council from the creditor nations to come into existence (1) on Germany's call or (2) in case of default on her part to advise either the German Government or the creditor powers, or both in regard to the situation.

The third subcommittee, of which Perkins is the chairman, is working on deliveries in kind in endeavor to see to what extent they can be used, say over a period of ten years, to facilitate transfers from Germany. For the first year it is thought that deliveries might run as high as 750 million marks, gradually diminishing year by year to the end of the period to 300 million marks, thereby easing the shock on German industries when such deliveries cease.

During the third week we have held only one meeting of the main committee, which took place on Monday. Rest of the time has been devoted to work by the subcommittees. Next Monday all will make progress reports to the full committee.

There are certain matters which fall outside the formal work of the Committee and the subcommittees. Important informal talks are going on and individuals are suggesting many different schemes which are not matured sufficiently to be brought formally before full Committee; of these, only two are important at present time.

First, is that in private conversation with me Schacht has indicated that over a period of approximately thirty years Germany would pay through unconditional, conditional, and delivery-in-kind obligations, amounts which our people have computed to have present value, excluding the amount payable to non-debtor powers on a $4\frac{1}{4}$ percent discount basis, of about 6,540,000,000 dollars. This amount is about 650 million dollars less than present value of the out-payments of the creditor powers to the United States. Difficulty resides, however, in fact that when German payments are distributed in accordance with the Spa percentages¹¹ the several debtor countries do not come out with pro rata deficits. On a present value calculation at $4\frac{1}{4}$ percent, Great Britain would show, in round figures, a deficit of 450 million dollars; in like manner Italy would show

¹¹ For text of the agreement between the Allies, signed at Spa, July 16, 1920, see *Foreign Relations*, 1920, vol. II, p. 406.

deficit of substantially 490 million dollars; taken together these two countries would show a deficit of 900 million and one billion dollars. As for France and Belgium the former would show a surplus of about 220 million dollars and the latter approximately 65 million; together these two countries would show a total somewhere in the neighborhood of 275 million dollars. Thus the 650 million dollars deficit of Germany's payments would be entirely undistributed. Also, while this excess would probably satisfy Belgium, it will not satisfy France, as she wants a larger contribution toward her own reconstruction.

Probably Germany will be willing to make some sort of a side trade with Italy which will alleviate that situation, and British Government may be willing to accept substantial deficit in order to get a settlement; this is especially likely if deliveries in kind detrimental to British industry are terminated within relatively short time.

I have not transmitted to the representatives of the creditor countries the foregoing figures given me by Schacht as I hope to improve his offer before beginning negotiations with the creditor powers.

Second important matter of the agenda is question of an international settlement and credit bank for handling of all the German obligations. The French and the Belgians would like to have all the German obligations put in one basket; then, if some were commercialized or mobilized, Germany would have to pay service on all in order to be sure that payment was being made on the commercialized obligations. That is to say, they would like to throw color of commercialized debts over entire amount of German obligations thereby diminishing risk of segregated and separate amount which might be held by bank agents of the creditor powers and therefore might be treated in future by Germany as political debts.

To effectuate this program a bank has been suggested by Francqui which would be a mere shell to hold the German obligations in their entirety and to collect from Germany the service of such obligations and to make the distribution of it to the interested persons whether they be private or Government holders.

On the other hand Schacht has proposed formation of an international credit bank into which Germany would pay substantial amount of capital, the shares issued against that capital to be distributed to the creditor countries in some agreed proportion. Under this plan it is contemplated that Germany also should have privilege of becoming stockholder.

I think that Schacht would make this payment in addition to figures which he has already suggested, as his object is to obtain establishment of a bank with a capital which can grant credits to develop international trade and will thereby be a means of enlarging the total inter-

national business which Germany would be able to share through increased exports without being under compulsion of diverting existing business from other nations in order to make up her required export balance in addition to wiping out the average export deficit of two billions per year which she has had over the last four years.

The question which we are now studying informally is whether Francqui's bank and Schacht's bank could not be combined and act as trustee; receipt and collection of German obligations and their distribution to be in one department, another department to act as credit bank and promote international trade, and a third department to handle and finance deliveries in kind. If bank were to perform all these acts, there would be practically no further need for Reparation Commission, as far as Germany is concerned. Briefly, we could abolish Reparation Commission, withdraw from Germany all the receivership machinery of the Dawes Plan,¹² obtain military evacuation and leave Germany a free and responsible power to deal, through the bank, with her own indebtedness. A bank of this sort would also be able to aid Germany in transfer, but it would not assume the responsibility for transfers. To sum it up, the world would be rid of all the war agencies and there would be turned over to the bank the machinery for handling the German obligations through the normal channels of finance and commerce, and thus, at one stroke, we would get rid of machinery which is largely political in character and which has been very embarrassing during the past decade because of that fact.

It would be agreeable to Schacht to have such a bank located at Antwerp. We have said that we would not have it located at Geneva, and Schacht wishes to avoid political capitals anywhere. I do not know whether anything will come of the bank, but we can see its great possibilities to aid in all these debt settlements of the future and thereby render the United States, as creditor country, less the football of politics and source of constant irritation in Europe.

The bank, it might be added, would be agency through which mobilization and commercialization, if there be any, would later take place. Indeed, the detail work of the three subcommittees described above would be merged into and become part of the organization of the bank if it were to be set up.

If such a bank as has been described can be organized, it possesses, I believe, so many advantages for each country that a satisfactory settlement on figures will be reached; if plans along this line are formulated I intend to ask Schacht to offer new proposal based on these new conditions.

¹² See *Foreign Relations*, 1924, vol. II, p. 1; and *The Experts' Plan for Reparation Payments* (Reparation Commission, Paris, 1926); also printed in Great Britain, Cmd. 2105: *Reports of the Expert Committees Appointed by the Reparation Commission*.

With regard to immediate flotation of a large bond issue in near future, I quote a memorandum which Lamont has furnished me; he has been sitting in with Morgan on the first subcommittee:¹³

‘There has been no discussion whatever as to the issuance in the near future of any large block of reparation bonds; any newspaper reports to that effect are unfounded. Members of Revelstoke committee have been discussing among themselves eventual plans which might ultimately make feasible the mobilization and sale of certain German annuities but no amounts or definite plans for issuance have as yet been talked of. Hitherto the so-called Revelstoke group has been engaged chiefly in outlining some mechanism which would be in shape to function towards the issuance of reparation bonds on a reasonable scale in the event that, subsequent to the issuance and adoption of the committee’s report, the Allied Governments should deem that market conditions were favorable for some such bond issue. There seems to be no present expectation here in any responsible quarters that prior to the adjustment of the committee any definite plan for bond sales will be laid out or agreed to.’

Neither in the Committee nor informally outside it has there been discussion of or any evident desire to discuss the debts due the United States.

This message is intended solely for the President, the Secretary of State and the Secretary of the Treasury. [Young]”

HERRICK

462.00R296/2772 : Telegram

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

[Paraphrase]

PARIS, March 28, 1929—7 p.m.

[Received March 29—1:55 a.m.¹⁴]

114. Reparation 200. From Young. For the President, the Secretary of the Treasury and yourself:

“Experts Committee had reached impasse through inability to get figures on the table, and this morning in order to break deadlock I made following statement:¹³

‘The Committee has now reached the stage of its work where figures must be considered. Until now the Committee has devoted its attention to the development of methods and the creation of machinery for the effective handling of such obligations and payment as will result from a settlement. We have felt that if “a complete and final decision of the reparation problem” were to be reached we must arrange some mechanism such as the proposed bank for international settlements that would remove the German debt from the realm of politics and place it upon a just and orderly financial basis. You have considered on the one hand the facts presented to you bearing

¹³ Quotation not paraphrased.

¹⁴ Telegram in two sections.

on the economic strength of Germany, and on the other hand the requirements of the creditor countries. Only after such important preliminary work could intelligent consideration be given to the figures.

The general problem bristles with difficulties, one of which is the method of approach. There has been a natural hesitancy on the part of those most vitally interested to suggest figures lest they be considered offers. So, with the approval of all the groups, the chairman takes the responsibility of suggesting certain figures for discussion. It is a difficult and unwelcome task and I do it reluctantly in order to aid the Committee in its work. My American associates are in accord with these suggestions but I make them on my own responsibility. The information on which they are based has been gained largely from private discussion with the several groups. It is probable that each delegation will from its particular point of view regard them as unsatisfactory. That is one test and a rather vital one as to whether these suggestions fall within the area of fair debate.

It is obvious at the start that the initial suggestion should deal in the amounts to be received by the larger creditor countries. The cases of countries entitled to lesser participations may well be postponed until it shall have been determined how the first amount shall be met. If the requirements of the larger creditors cannot be satisfied it is fruitless to discuss those of the others. If they can be, the problem, so far as this committee is concerned, is a common one of doing justice and equity to all. With this in mind I suggest that the committee consider a set of figures which will provide for the four larger creditor countries the following results: For France, her out-payments and not less than 40 milliard francs present value determined on fair rate. For Italy, her out-payments and some reasonable additional amount for reparations taking into account her damage. For Belgium, her out-payments on the understanding however that an additional amount adequate to make the so-called mark settlement and provide for reparations will be arranged between Belgium and Germany. For Great Britain, her out-payments only and without reimbursement for her arrears.

The above sums are to be covered by annuities in addition to providing for:

- (a) The prior service of the German external loan of 1924.¹⁵
- (b) Costs of the armies of occupation and any expenses of administration under this plan.
- (c) Payments required to satisfy the awards of the Mixed Claims Commission.¹⁶
- (d) Appropriate amounts (reserved for later discussion) for the out-payments and reparations of Servia and the remaining creditor powers.

No suggestion is made by the chairman as to the number and amount of the annuities which will produce the above results; nor as to what part of the annuities if any should be qualified as to trans-

¹⁵ Provision for an external loan to Germany in the amount of \$800,000,000 was included in the Dawes Plan; see *The Experts' Plan for Reparation Payments*, p. 2.

¹⁶ *Foreign Relations*, 1922, vol. II, pp. 240 ff.

fer or payable in deliveries in kind. These also are matters which should be developed by discussion. The question of how long a period annuities should run is merely a matter of apportionment. It is a method of distributing a burden as distinguished from determining it. How the annuities are to be made up, whether they shall be moderate in the earlier years and higher later, or high in the first years and lower later, is also a matter for examination and debate. It is certain that all of these matters will obtain careful consideration by you if discussion of them can get a fair start without prejudice.

And finally it is not necessary to emphasize again that these suggestions are made only for the purpose of securing an area for fruitful debate. The chairman himself, like every other delegate, would wish to make all reservations on the question of what the final figures of the settlement should be. I believe that these specifications and the memorandum already presented at this meeting (this will be cabled in subsequent message¹⁸) afford opportunity for illuminating and fruitful discussion; and I hope that when we reconvene next week the active consideration of specific figures may begin.⁷

I regretted to have to deal with out-payment and with reparations separately, but as the creditor Governments had made all their figures on that basis there was no other way of inducing creditor group to develop discussible figures. It has been agreed by all groups that these memoranda be treated with closest secrecy as any publicity might well arouse public opinion to point where conference would be broken up. [Young]"

HERRICK

462.00R296/2773 : Telegram

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

PARIS, March 28, 1929—8 p. m.

[Received March 29—2:54 a. m.¹⁹]

115. Reparation 201. Personal for the Secretary.

[Paraphrase.] Following is text of memorandum referred to in Young's statement contained in my telegram No. 114, Reparation 200. Memorandum was prepared and circulated by the British, French, Belgians and Italians, who are the four principal creditor groups: [End paraphrase.]

"After seven weeks of negotiations, the general lines of a new scheme facilitating for Germany the complete and definitive settlement of the problem of reparations has been sketched out in collaboration with the German group. It now remains to fix the annuities which will be payable under this new regime.

Upon the basis of the Dawes Plan the annuities reached two and a half milliards of gold marks and increase according to the move-

¹⁸ See *infra*.

¹⁹ Telegram in two sections.

ments of additional prosperity. These are the annuities that are payable at present and which will continue in being under the conditions established by the Dawes Plan if no agreement has been reached.

The Governments alone are able to modify these figures but the experts can propose different ones within the framework of a new plan.

By reason of the necessity for opening the discussion upon the annuities on a basis which will permit of reaching a solution acceptable to all the following procedure is suggested:

(1) To replace a part of the advantage of the index of prosperity by a participation by the creditor states in the profits of the International Bank and by the commercialization of a part of their credits which can be carried out by means of the bank;

(2) Readjustment of the standard annuity constitutes covering actually at the moment two categories of needs:

(a) A part covering the exterior debts of the creditor European states towards the United States of America;

(b) The other part covering the internal claims resulting from damage sustained by the civil population—damage the existence of which justifies the whole of the allied credit.

Subparagraph (a) As to the debts, 1,350,000,000 are indispensable as a constant annuity over 58 years to discharge it in full. At the moment, these annuities amount only to 870,000,000 but they will grow to reach 1,700,000,000 towards the end of the period. The difference between 1,350,000,000 and 870,000,000 is at present kept as a balance by the European creditor states. In view of the fact that the new system permits the creditor states to mobilize their annuities, *id est* to have capital receipts in the immediate future, the creditor nations can give up these temporary surpluses and agree to distribute these payments, following exactly the scale of payments made by each nation to the United States.

The first part of the annuity can thus be lowered from the start from one thousand three fifty to eight seventy millions which will reduce considerably in the beginning to [*the?*] budgetary charge on Germany. This part of the annuity will be divided into two sections, one subject to transfer postponement corresponding to the debt annuities of each country, so far as these are subject to moratoria, and the second being an ordinary unconditional portion payable in any case.

A part of the profits of the International Bank may be assigned to Germany and mount up to allow her to cover, after 37 years, all or part of the annuities remaining due for debt payment, the German budget having only (but being obliged) to complete the balance not covered by the product of the German share in the bank profits.

Subparagraph (b) The second part of the annuity should be made unconditional and mobilizable; its period which the creditor states might limit to 58 years would be converted to 37 years, the present value being kept unchanged. The experts of the creditor nations, knowing the interior needs of their respective countries, are ready to study, each so far as it concerns himself, the reduction of their shares of the second part of the annuity thus calculated.

They are ready to open on this basis negotiation figures with the idea that it is possible to arrive by this procedure at results acceptable to all.

Their proposition has no other aim than to furnish a basis of discussion to facilitate putting into practical application the program whose essential features have been traced in the course of the committee's work during its first weeks of session.

This program, if taken as a whole, appears to them to meet the situation because it makes it possible to relieve the problem of reparations of all political character, to get rid of the flagrant controls which limit German sovereignty and the uncertainties which weigh upon her credit and her economic life, to create the International Bank with its great advantages for Germany, and finally to facilitate international *rapprochement* and the development of world prosperity."

HERRICK

462.00R296/2773b : Telegram

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

WASHINGTON, April 8, 1929—7 p. m.

102. Reparations Number 72. [For Wilson.]

Please bring the following strictly confidential message immediately to the attention of Mr. Owen Young:

"The following memorandum has been prepared by the Secretary of the Treasury in the statements of which this Government is in entire agreement:

"I am very much disturbed at the course which is apparently being taken in Paris in the matter of the settlement of reparations as reported in the attached cable from Owen Young²¹ and in the article appearing in the *New York Times* under date of April 6, 1929.

1. Previous cables from Mr. Young have described a proposed International Bank which is to be set up and the principal duty of which will be to collect reparation payments from Germany and to distribute them, whether in cash or payments in kind, to the creditor governments. In this connection you will remember that it is suggested that the Governor of the Federal Reserve Bank of New York, or some one that he might designate as an alternate, should serve as a director of the proposed International Bank.

2. It is now proposed, both by Mr. Young and his American associates and the creditor governments, that German reparation payments be divided into two categories: (a) Payment in satisfaction of the internal claims of the creditor governments resulting from the damages alleged to have been sustained by the civilian population. These claims are apparently to be unconditional, irreducible and to be paid over a shorter period of time than those in category (b). (b) Payments in this category are to correspond, dollar for dollar, to the payments to be made by the so-called creditor governments to the United States under the various debt settlement agreements, the periods of payments to correspond exactly to the periods of payment

²¹ Telegram No. 115, Reparation 201, *supra*.

provided for in the debt settlement agreements. In this connection they apparently then go so far as to provide that the moratorium privilege extended in our debt settlement agreements shall apply to German payments in this category, the net effect of which would appear to be that when Germany fails in any given year to make a transfer the governments that are debtors to us will exercise the moratorium privilege.

3. In the article appearing in the *New York Times* it is suggested that the amount which we receive in satisfaction of the claims of American citizens, which are now being satisfied through the machinery provided for by the Settlement of War Claims Act of 1928,²² may be diminished.

It is apparent from all of this that the position which has consistently been taken by this Government, that the payments of the war debts to this country were entirely independent in so far as the United States is concerned from any sums that the allied governments might collect from Germany, is being most effectively nullified. Theoretically we may still maintain that our position is unchanged but practically Germany will be paying her obligations directly to an International Bank on the Board of Directors of which our Federal Reserve System is represented in the person of the Governor of the Federal Reserve Bank of New York, and these payments will be transferred directly to us by the International Bank in payment of the obligations of the British, French, Belgian and Italian Governments. In other words, we will be collecting reparations from Germany in satisfaction of the allied debt to us through the means of an International Bank which we have created and in the management of which we participate through the person of one of the principal officials of our Federal Reserve System.

In so far as the payment of the mixed claims is concerned, I feel most strongly that the annual payment of Germany should not under any circumstances be reduced below the amount payable under the standard annuity. The Settlement of War Claims Act which provided for the satisfaction of the just claims of our own citizens and incidentally provided for the temporary holding of 20 per cent of the property of German citizens, which, as a matter of policy, we were unwilling to confiscate, was based on the assumption that we could rely on the payment of such an amount over a considerable period of years. If that amount is reduced it will destroy the basis on which after so many years of effort these very difficult problems were finally adjusted.

It is impossible for me to draw any other conclusion but that the American delegates have failed to maintain the position consistently taken by their government and that their failure to do so may have unfortunate consequences in the future in so far as the protection of America's interests are concerned. If the settlement goes through as planned, for all practical purposes the United States will be the one creditor nation. The whole burden of the collection and transfer of reparation payments will fall on our shoulders and the allied debtor nations will have succeeded, by including Germany in their ranks, in creating a solid European front which will exert continued pressure for the reduction and the eventual repudiation of these

²² 45 Stat. 254.

debts. In the meanwhile they will have created a most unfavorable popular atmosphere in this country for the capitalization of future payments and for the ultimate settlement of these debts on a fair and reasonable bases.

In summary—

1. That under no circumstances will Mr. Harrison or any other official of the Federal Reserve System be permitted to serve as a director of the International Bank or to name a director.

2. That our Government would consider it most unfortunate, both from the standpoint of public sentiment in this country and such future steps as might be taken in the matter of a final settlement of war debts, if the proposed payments by Germany are divided into two categories, one of which is to be made to correspond exactly to payments by the allied governments to this country.

3. That our Government cannot consent to a reduction of the payments to be made for account of mixed claims below the amount provided for under the standard annuity.' ”²³

STIMSON

462.00R296/2773c : Telegram

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

[Paraphrase]

WASHINGTON, April 9, 1929—4 p. m.

103. Please show Department's telegram No. 102, Reparation No. 72, April 8, 7 p. m., to Mr. Frank B. Kellogg.²⁴ I should like to know from him what the understanding was with Mr. Young and Mr. Morgan on subjects in that telegram. From the correspondence it would seem that we had distinct understanding that the European war debts owed to the United States were not to be made a subject of either inquiry or report. If Mr. Kellogg is in accord with sentiments expressed in Secretary Mellon's memorandum, I should be glad to have him confer with the American representatives on the Experts Committee and to use his influence along the lines of the memorandum.

STIMSON

462.00R296/2774 : Telegram

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

[Paraphrase]

PARIS, April 10, 1929—1 p. m.

[Received 1:20 p. m.]

139. From Kellogg.

Department's No. 103, April 9. I never saw Young's statement of March 28 and its accompanying memorandum on annuities until

²³ Laid down in the agreement of January 14, 1925, *Foreign Relations, 1925*, vol. II, pp. 145, 149.

²⁴ Secretary of State, March 5, 1925–March 28, 1929.

this morning. On this subject I had no understanding whatever with Young and Morgan. The conditions under which our Government raised no objections to their appointment were stated in my telegram No. 368, October 31, 1928, to Embassy in Paris.²⁵ I do not think that the President discussed this subject at all, but I was not present at their interviews either with him or with Mr. Mellon.

I have seen your No. 102, April 8, and offer following comment on your summary:

1. I agree with your view; I do not understand, however, that it is an essential element of plan that an American should serve as director of the International Bank. Presumably this provision was inserted to give the United States opportunity for representation if the Government desired it; it would be for you to decide that question later when it arises.

2. I agree with your view that it would be unfortunate were the payments to be so divided that one category would correspond exactly to debt payment made by Allies to the United States. I cannot say whether such arrangement should be made, is in fact contemplated, or whether it would so appear in final report.

3. I agree wholly that on mixed claims account there should be no reduction in our share, and I understand that Young has indeed recommended no change.

I have arranged to see Young and Morgan this afternoon.

ARMOUR

462.00R296/2775 : Telegram

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

[Paraphrase]

PARIS, April 11, 1929—1 p. m.

[Received 2:15 p. m.²⁶]

141. From Kellogg.

Conference with Young and Morgan mentioned in previous telegram (Embassy's No. 139, April 10, 1 p. m.) took place yesterday afternoon and evening. I went over entire situation and set forth your views, with the substance of which I entirely agree, as strongly as possible. They informed me in effect as follows:

(1) That there was no thought of making provision as an essential part of bank organization for an American director either representing the Federal Reserve Bank or appointed by it, but that this idea was intended simply to give the Government the opportunity of having one if it so desired.

(2) That they did not have in mind that Committee's report to the Allied Governments would provide for division of the reparation

²⁵ *Foreign Relations*, 1928, vol. II, p. 873.

²⁶ Telegram in three sections.

payments, one corresponding to dollar payments by the Allied Governments to the United States and conditional on ability to transfer, and the other to be paid directly to the Allied Governments to cover reconstruction and to be unconditional. They said that this was simply the suggestion of the Allied Governments in their memorandum forwarded to you by Mr. Young, and was presented as basis for bargaining with Germany over amount of reparations which they would ultimately receive.

At this point I took occasion to say in substance that in every one of the debt-settlement negotiations between the United States and the several Allied Governments, the former had definitely refused to make payments due the American Government from the debtor Governments in any way conditional on German payments or in any way to link them with reparations; that the Government of the United States relied solely on capacity to pay of the debtor Governments, and would not in any manner connect them with the reparation payments. I saw no reason whatever, therefore, to make any separate division of reparations to cover payments to the United States.

Regarding question of the moratorium I said that the moratoriums provided for in the debt settlements between the debtor Governments and the United States were not uniform; that I could see no reason whatever for the Allied Government's attempting to grant these particular moratoriums to Germany; that if they wished to give her a moratorium on any or all of the reparation payments, that was a question which did not interest the American Government, but that it should not be linked to question of payment of debts to the United States.

I am unable to repeat all the statements I made, but I am quite sure that I presented your views.

(3) I learned from them that there had been no suggestions of any kind by any member of the Committee that payments to the United States on account of mixed claims should be reduced below [the?] $2\frac{1}{4}$ percent of the Dawes Plan payments. In any event I do not believe that these payments could be reduced without the consent of the Government of the United States in view of the provision of the Paris agreement, January 14, 1925.²⁷ It may be that somebody on the Committee, however, will make suggestion that the United States accept $2\frac{1}{4}$ percent of the new schedule of payments. That did not seem to be the view of those with whom I talked yesterday and last night.

They told me that an answer to your No. 102, April 8, would be prepared by Mr. Young. What their answer will be I am unable to say, but I have given in brief outline above substance of what they said to me. Kellogg.

ARMOUR

²⁷ *Foreign Relations*, 1925, vol. II, p. 145.

462.00R296/2778 : Telegram

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

[Paraphrase]

PARIS, April 11, 1929—8 p. m.

[Received 10:13 p. m.²⁸]

145. Reparation No. 205. From Young:

This reply to your message dated April 8²⁹ is being sent after full consultation with my American associates on the Committee, and represents their conclusions and views as well as my own.

(1) Although Secretary of the Treasury's memorandum purports to be official definition of the American Government's attitude on various important features of problem on which Committee of Experts engaged, we assume from its confidential designation that for the present the message is intended only for our information; and that if you think it necessary for protection of interests of the United States, the quoted memorandum or substance of it will be communicated to Experts Committee or to the interested Governments through official channels, not through us. Obviously, we cannot regard ourselves, any more than you have so far regarded us, as representatives in any sense of the Government of the United States for this purpose or for any other.

(2) For reason stated above, and notwithstanding general tone and tenor of Treasury's memorandum, we must assume that message was not meant to be an instruction. It is clear to us that should you give instructions and should we accept them, this would mean complete reversal of the course and a realignment of responsibilities. The Government of the United States declined to participate in this enterprise either through appointment of experts or by permitting any official of the Government to serve. It acquiesced in and even encouraged our assumption of this arduous task provided we assumed it on our own individual responsibilities. Whatever may be said for the [rejected?] procedure we do not see any way to return to it now. On the joint invitation of the Reparation Commission, acting for the Allied creditor powers, and of the Government of Germany we assumed these heavy responsibilities, and we are approaching the end of our work. Our view is that we are bound to complete the work as free agents accepting full responsibility for what we do and not in any respect serving in a representative capacity. Under these circumstances we cannot allow the situation to become at all ambiguous, and we deem it important, therefore, to place on record at this time and in this way our interpretation of the Treasury memorandum as neither

²⁸ Telegram in six sections.

²⁹ See telegram No. 102, April 8, to the Chargé in France, p. 1038.

an official communication to the Committee of Experts through us, nor as an instruction to us.

(3) Going on to substance of Treasury memorandum we are unable to avoid feeling that apprehensions set forth in it rest upon a misunderstanding. It should be borne in mind that memorandum mentioned in my statement of March 28³⁰ had been prepared by the experts of certain of the Allied powers and that it was transmitted simply for its informative value; the American experts had no responsibility for it. We cannot accept any responsibility, moreover, for unauthorized press reports. We have, in fact, just reached critical stage in the negotiations, and speculation over final form and substance of report is for present moment futile.

(4) Certain points which are touched upon in Treasury memorandum are fairly clear, however, and are in line with our purpose to keep you informed with regard to actual developments. As a supplement to my previous message we are in a position to make following additional statement:

(a) Payment to the United States of Mixed Claims Commission awards are not called into question and all elements recognize that these payments must be covered. In what way this result is to be brought about has not yet been settled.

(b) In my opinion the International Settlement Bank is an essential piece of machinery to hold the German obligations, facilitate their payment and effect the distribution of the sums received to Germany's creditors. It may well be that International Settlement Bank would be asked to transmit to the United States some part of amounts received from Germany in payment of indebtedness to the United States; it would be normal and natural method of making such payments. In order for the bank to render the greatest service and to be as free as possible from political control and from private domination, the provision has been made that its directorate shall be composed of the governors of the central banks of issue or of persons nominated by them. At same time, we have made provision for representation of American banking system on directorate, but only to extent that it may be represented, not that there is any obligation upon it to be so represented; it is our belief that interests of the United States will be better served by standing aloof from such a bank. I am hardly able to conceive that America, with the scanty knowledge now available, would wish to decide for all time that she would not participate in the bank. The wiser course would seem to be to provide the option for exercise of it, if and when the interests of the United States are served thereby.

³⁰ See telegram No. 114, March 28, from the Ambassador in France, p. 1034.

(c) Details of possible division of German payments into categories remain to be established. There is no reason to feel apprehensive that report will state claims against Germany in terms of the inter-Allied debts. The Allied Governments are bound to demand, however, an amount sufficient to cover their indebtedness to the United States and the inter-Allied Governments, and to ask that Germany's payments to them run through duration of same period. If any such coincidence exists, it is a coincidence of fact which is inherent in situation from which Committee of Experts cannot escape. We know of neither any sound or fair argument to use nor way to prevent the Governments which are our debtors from making such normal arrangements in handling of their own affairs. As matter of business, it would seem that the United States, as a creditor, would welcome any action on the debtor's part to facilitate the regular and convenient payment of the debts which are owing from the Allies. The responsibilities of the several debtors are not lessened—their capacity to pay is increased. Present contemplated payment from Germany to the Allied Governments will be in excess of ten billion dollars, and out of this amount over six billion dollars, under the existing debt agreement, will eventually come to the United States.

(d) Replying to Germany's request for privilege of moratorium, the creditor powers so far have stated their unwillingness to grant any moratorium equivalent to that which is provided for by their agreements *inter se* and with the Government of the United States. It is our opinion that any plan will have to carry provision that in case out-payments of Allied Governments are diminished for any reason during the next fifty-eight years, then to some extent Germany's obligations shall be diminished.

(5) Work of the Committee of Experts has reached its most crucial stage. Since April 4, when we reconvened, the members of the Committee have labored literally night and day for purpose of seeing whether agreement can be reached on difficult question of the number and the amount of the annuities. Within the next few days either an accord or a break will come. Young.

ARMOUR

462.00R296/2779 : Telegram

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

PARIS, April 12, 1929—4 p. m.

[Received 10:20 p. m.³¹]

146. Reparation 206. From Wilson.

Last night I was told that the four principal creditor groups had arrived at agreement among themselves regarding their demands

³¹ Telegram in three sections.

on Germany and that at a meeting, to be held this afternoon, they planned to submit definite proposals to the Germans. These proposals, I was told, affected our interests in two particulars: (1) Cancellation of all Army costs in arrears; (2) Present value of mixed claims awards to the United States should be covered over period of fifty-eight years. Effect would be to reduce to approximately 20 million marks on account of mixed claims during first years of the new settlement, then gradually increasing to about 36 millions in later years.

This morning I saw Lamont and he confirmed foregoing in substance, though he added that nothing had yet been definitely settled. I pointed out to him obvious injustice to the United States of these provisions, and fact that the Government of the United States would never agree to them. What appeared particularly objectionable to me was that should the Allied creditors and Government of Germany come to an agreement on the size of the annuities, basing the agreement on assumption that the United States would waive its Army costs and agree to spread payment of its mixed claims over fifty-eight years, and later on they learned that this assumption was not true, undoubtedly much embarrassment would be caused. Should that happen, either the creditor powers would have to take less than they expected or Germany would have to pay more, and in either case they would try to lay the blame on the United States.

Later on I saw Young, and, as it seemed to me so wholly necessary that there be no misunderstanding with regard to the position of the United States, I left a personal letter with him, text of which follows: ³³

"I am writing you personally in regard to a situation which causes me much concern. I was advised last night, I believe reliably, that the Allied creditor groups have now reached an agreement among themselves regarding their demands on Germany and that at a meeting to be held this afternoon they will submit proposals to the German experts as to the annuities to be paid under the proposed settlement. I understand that among these proposals are two which affect the interests of the United States as follows: (a) That all Army costs in arrears should be wiped out; and (b) that the present value of the United States mixed claims awards should be satisfied over a period of fifty-eight years—this would have the effect of reducing the mixed claims payments from 45 million marks, which is the amount annually received from the present Dawes annuities, to 20 million marks during the first years of the proposed new settlement, increasing gradually in the future to approximately 36 million marks annually.

With regard to the foregoing I venture to submit the following observations:

³³ Quotation not paraphrased.

(a) The proposal to wipe out all Army costs in arrears is manifestly inequitable to the United States.

According to figures available as of August 31st, 1928, the British Army costs in arrears had received approximately 87 percent of satisfaction; the French costs had been satisfied by 90 percent and the United States costs by only 29 percent. The unpaid costs as of the date in question, and which would be waived under the new proposal, amount to approximately 123 million marks for Great Britain, 141 million marks for France and 886 million marks for the United States. Moreover, of the large percentage of satisfaction which Great Britain and France have received, the major part was paid during the first few years following the war. The United States received no effective payments on account of its Army costs (with the exception of one relatively small payment at the time of the January 1925 agreement) until September 1926. The position of the United States Army costs claim was clearly recognized by the other powers in the January 1925 agreement which granted a prior charge on cash made available for transfer out of the Dawes annuities after the service of the German external loan and costs of commissions. Personally I am convinced that the Government of the United States will not be willing to waive *in toto* its unpaid Army costs.

(b) The Settlement of War Claims Act which provides for the payment of the adjudicated claims of American citizens and the ultimate return of German property held by the Alien Property Custodian is based on the assumption that the United States would continue to receive annually until the satisfaction of these claims the sum of 45 million marks as provided for under existing arrangements. I feel that it would be impossible for the United States Government to agree to any reduction in the annual amount of payments on account of mixed claims.

Please let me restate in other terms what I understand the effect of the present proposals to be:

Under existing arrangements the United States receives 4 percent of the standard Dawes annuities, *id est*, 100 million marks out of 2,500 millions; the new arrangement as I understand it would propose that the United States receive slightly over 1 percent of the new German annuity, *id est*, 20 million out of 1,800 millions.

I hope you will appreciate the spirit in which I am writing you. I am not in any way seeking to interfere or to hamper your work, the difficult and arduous nature of which I fully appreciate. I do, however, feel it my duty to write you personally as to the foregoing in order to furnish you information which it is possible you do not possess and in an effort to avoid, which I know you desire as well as I, any possible embarrassment arising subsequently as to these matters."

Young informed me that this afternoon the four principal creditor groups were going to present their proposal to the German representatives in definite form. He said that the American experts had declined to sign the proposal or to assume any responsibility for it. At present Young's idea seems to be that the American experts will

reserve right to request appointment of subcommittee to consider claims of governments other than those represented by the four principal creditor powers and that we could officially state our position at that time. Young said he fully agreed that they could not recommend any proposal based on such drastic cut in American share. He emphasized fact that matters are still in state of flux and subject to change.

I was told by Fraser ⁸⁴ that last night Parmentier approached him in some doubt apparently as to whether the Government of the United States would accept proposed changes affecting its participation. Fraser told him that he thought decidedly it would not, but that he could not speak, of course, for the Government. I have told Fraser that he is quite at liberty to tell Parmentier that he has mentioned matter to me and that I had strongly expressed myself that the Government of the United States will not give its consent to proposals such as these and that they should not be under any misapprehension in regard to the matter.

I have fully talked over the foregoing with Kellogg and with Armour, both of whom concurred in sending of my letter to Young. Kellogg is telegraphing you personally regarding these new developments.

I have just learned that Young is sending another message to be transmitted to you which I may shortly expect to receive. Wilson.

ARMOUR

462.00R296/2780 : Telegram

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

[Paraphrase]

PARIS, April 12, 1929—5 p. m.

[Received 7:50 p. m.]

147. From Kellogg.

See my telegram (Embassy's No. 141, April 11), part numbered (3), and Wilson's telegram Reparation No. 206 of today's date.

This morning I personally and separately saw Young and Lamont again, and explained fully to them that the 2¼ percent to be paid the United States applied to the Dawes annuities and did not apply to some other annuities agreed between the Allied Governments and Germany; that these Dawes annuities were pledged under an act of Congress for payment of American claims and repayment to German property owners for that part of their property kept and paid to American claimants; and that this could not be changed without another act of

⁸⁴ Leon Fraser, financial expert assisting the American members of the Committee of Experts.

Congress by which very unfavorable sentiment in the United States would be created. I told Young and Lamont that this would be wholly unacceptable to the United States and that, moreover, the Allies had received fully 90 percent of their Army costs and that of ours only a very small percentage had been received. I said to them that for this agreement to be made and put up to the United States to accept or reject would be very embarrassing. I said everything I could for your position.

Young insisted that when he talked with me night before last, that he was not then aware of the details of the Allied proposals, and that anyway this was all subject to change. I endorse fully what Wilson says in his telegram.

I leave for London tomorrow morning to stay for about two weeks and then sail for home on April 27. I can do nothing more here. Both Armour and Wilson are fully informed of developments. Kellogg.

ARMOUR

462.00R296/2781 : Telegram

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

[Paraphrase]

PARIS, April 12, 1929—6 p. m.
[Received April 13—1:29 a. m.³⁵]

148. Reparation 207. From Young.

So many rumors and misapprehensions are afloat in Paris about effect of present procedure on claims of the United States that I deem it wise to inform you regarding present situation and contemplated program:

1. This entire week, practically, has been taken up with meetings of French, British, Italian and Belgian members of the Committee who represent the four heavy creditor powers here. They have been endeavoring to agree upon an offer to be made at next plenary meeting to the Germans by them. It has been impracticable to get offers from the German representatives and then have these considered by the creditor Governments for the reason that each change made in German offer would entail new and difficult questions of distribution as between the creditor powers. Each offer would compel discussion practically as full and complete as would one offer made by the creditors. The American delegation has sat with the representatives of the creditor powers at request of latter during formulation of their offer, but offer to be made is not one in which the American experts

³⁵ Telegram in two sections.

join for the reason that they have been invited here by Reparation Commission and Government of Germany, so, obviously, it would be just as improper for them to join in an Allied offer to Germany as it would be for them to join in a German offer to the Allies. Position of American members has been universally accepted, and if we have to express views on figures at all, it will be, in all probability, at plenary session where any offers or counteroffers may be discussed.

2. As now drafted, the offer of the four principal creditor powers does not contain any provision for American Army costs, but it does provide for payment of mixed claims in full through annuities over period of fifty-eight years, present value of which is same as present value of the debt, if it can be assumed that the normal operation of the Dawes Plan can go on and the claims continue to be paid. As the Americans are not parties to offer of four principal creditors, and are resisting any attempt to make them parties to it, we find it quite impossible, of course, for us to say what the offer shall contain without involving ourselves in it.

3. The procedure proposed is that the four principal creditor Governments will make their offer to the Germans at plenary session to be held either tonight or tomorrow. If Germans reject offer and decline to make counteroffer, there will be disagreement on figures which will prevent there being any unanimous consent.

If the Germans do consider the offer and debate it, it will be with the understanding that subcommittee of the full Committee will be appointed to hear proposals from representatives of all minor powers participating who wish to be heard. Serbia has already asked for hearing and there are certain memoranda before the Reparation Commission in behalf of other powers. If and when such subcommittee is appointed, it would be proper for the American Government, if it wishes, to file its protests or to state its views to the subcommittee, and through subcommittee's report the matter would be brought before full Committee at a plenary session.

All the experts, including the Americans, would then express their views regarding what should and what should not be the allowances for all minor participations. Until then the American members of the Committee do not see how they can express officially their views on question of the claims of the United States.

In closing I may say that even under the tremendous pressure of the last few days no question has been raised regarding any diminution or any change in the status of the debts to America. Young.

ARMOUR

462.00R296/2786 : Telegram

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

PARIS, April 13—1 p. m.

[Received 3:05 p. m.⁸⁶]

149. Reparation 208. [Paraphrase.] I am transmitting herewith, at Young's request, the text of the proposal submitted to the Germans at plenary meeting this morning by the experts of the four principal creditor powers. It was decided by the Committee to regard the proposal as secret and at the meeting on Monday to consider the question of publication. This morning there was no discussion of the proposal. Text as follows: [End paraphrase.]

“Memorandum by the experts of the four chief creditor countries.

1. On the 28th March the conference received, without prejudice, as a basis of discussion and as representing the area within which such discussion should proceed, the memorandum of the chairman together with a memorandum prepared by the four chief creditor powers. In pursuance of the arrangements then implied, the experts of each delegation have mentioned individually to Dr. Schacht the amounts which each of them was entitled to claim on the one hand as a fair representation of the minima in the chairman's report and on the other hand as an appropriate statement of their claims in the particular circumstances. The particular circumstances include of course their existing rights under the Dawes Plan in the light of the discussions which have taken place upon the position of Germany in relation to that plan and also the arrangements which have been provisionally suggested for replacing it.

2. In due course Dr. Schacht informed the groups as a whole what these individual representations would mean in the aggregate; and the experts of the four chief creditor countries have, in accord with him, decided to give joint consideration to the position so aggregated in accordance with the statements in their original memorandum. In the process they paid most careful regard to the various representations they [*that?*] have emerged during the course of their previous deliberations as to the German viewpoint, in details relating to the duration, the character and the progression of the annuities.

They have accordingly agreed to put before the Committee of Experts a series of annuities as shown in the annexed table which, taken as a whole, represents in their opinion a moderate burden to meet the minimum requirements of the creditors. It is moreover framed in such a manner as to give the maximum consideration to the German viewpoint. For example, the following features of the proposal are specially emphasized:

(a) It establishes a scale of payments according to which the next annuity to be paid under the Dawes plan will be reduced by more than one-quarter.

⁸⁶ Telegram in three sections.

(b) During the next ten or fifteen years while economic life is still further developing, the rise in the annual payment is exceedingly gradual and the annuity never reaches the standard payment by Germany under the Dawes Plan nor even approaches it until after many years.

(c) The benefit to Germany is in fact greater than this because the standard payment of the Dawes Plan would have been progressively increased by the index prosperity which will be abolished if the new plan is accepted.

(d) During this time Germany will have enjoyed an economic consolidation of the relief given during the earlier years which must act as a material assistance in meeting the heavier but greatly mitigated burdens in the later years. On a reasonable computation the difference in the period from the 19th to the 37th year compared with the annuities payable under the Dawes Plan, including the index, must represent a relief approaching fifty percent.

(e) In order to meet the express views of the German experts, Germany will assume after the 37th year only the obligations mentioned in the annexed table.

3. A calculation of a flat annuity equivalent in its present value at five and a half percent to this scale of annuities for the first 37 years shows that the burden has been reduced approximately to 2,198 millions per annum plus the sum of 25 million gold marks which the creditor powers have agreed to put forward as representing the special claim of Belgium on account of marks and which has not been heretofore included in the Dawes Plan payments.

Under these conditions the probable annuities payable under the operation of the Dawes scheme over 37 years are reduced by more than one-third and Germany's total reparation obligations are made definite in duration and amount and represent a burden which Germany may safely assume on her own responsibility if she accepts the constructive program now proposed.

As in the judgment of the experts of the four chief creditor powers the Dawes Plan as a financial burden is not unduly onerous upon Germany. The object of the changes now proposed is rather to substitute a more normal and natural machinery. These modifications are a striking renunciation by the creditors of a large part of their claims but the proposal has been drawn only with special reference to its applicability to the substituted machinery involving for the creditor countries the advantage of mobilization and commercialization.

In an analysis of the scheme it should be added that it is intended to divide the annuities into an unconditional part and a "postponable" part affording to Germany powers of postponement calculated by reference to these which the creditor powers themselves enjoy in respect to their war debt liabilities. Accordingly, the obligation to transfer those amounts in foreign currencies is relieved by substituting the obligation to pay the equivalent in marks within Germany. The details are being worked out for the more precise information of the German group.

In order to convenience German economy in relation to deliveries in kind and to prevent any ill-effect from a too sudden cessation of the

system in force it is proposed that for a period of years that facility should remain in existence on a diminishing scale as follows:

1929-30,	600,000,000	gold marks;
1930-31,	550,000,000	gold marks;
1931-32,	500,000,000	gold marks;
1932-33,	450,000,000	gold marks;
1933-34,	400,000,000	gold marks;
1934-35,	350,000,000	gold marks;
1935-36,	300,000,000	gold marks.

Apart from the [scale] of annuities in view of the status and facilities provided by the proposed bank which alone made that scale feasible and acceptable to the creditor Germany is to be under an obligation to provide towards the capital of the bank an amount of capital in marks to be agreed and to be paid in installments in the early years. The ownership of the capital so provided will vest in the creditor governments and the German Government in proportions to be determined, and Germany will also profit by the utilization of these funds.

It is obvious that in the event no agreement upon the figures the only solution would seem to be the settlement of the number of annuities, under the Dawes Plan the amounts being therein determined.

Table of annuities German fiscal years. Figures in millions of Reich marks:

<i>Year</i>	<i>Amount</i>	<i>Year</i>	<i>Amount</i>
1929-30	1, 800	1938-39	2, 225
1930-31	1, 825	1939-40	2, 250
1931-32	1, 875	1940-41	2, 275
1932-33	1, 925	1941-42	2, 300
1933-34	1, 975	1942-43	2, 325
1934-35	2, 025	1943-44	2, 350
1935-36	2, 075	1944-45	2, 375
1936-37	2, 150	1945-46	2, 400
1937-38	2, 200	1946-47	2, 425

From 19th year to and including 27th [37th ?] year, *id est* from 1947-48 to 1965-66, the annuity remains constant at 2,450 millions.

<i>Year</i>	<i>Amount</i>	<i>Year</i>	<i>Amount</i>
1966-67	1, 703	1977-78	1, 802
1967-68	1, 702	1978-79	1, 813
1968-69	1, 712	1979-80	1, 838
1969-70	1, 745	1980-81	1, 849
1970-71	1, 760	1981-82	1, 866
1971-72	1, 770	1982-83	1, 871
1972-73	1, 779	1983-84	1, 882
1973-74	1, 782	1984-85	1, 862
1974-75	1, 785	1985-86	1, 087
1975-76	1, 791	1986-87	1, 094
1976-77	1, 796	1987-88	913 ."

462.00R296/2783a : Telegram

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

[Paraphrase]

WASHINGTON, April 13, 1929—6 p. m.

109. For Young.

Press carries report that figures on reparations will be given out Monday. Complete statement of this Government's position will be telegraphed you tomorrow, and it is hoped that there may be no publicity until after you have had opportunity to consider statement. I may add that Mr. Wilson's letter of April 12 to you correctly states position of this Government respecting mixed claims and Army costs.

STIMSON

462.00R296/2787 : Telegram

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

PARIS, April 15, 1929—2 p. m.

[Received 6:18 p. m.⁸⁷]

154. Reparation 211. [Paraphrase.] Following message is for you from Young:

"At plenary session of Committee on March 28, before adjournment for Easter vacation, I submitted a memorandum which has already been transmitted to you. Last week France, Great Britain, Italy and Belgium, the four principal creditor powers, held meetings which resulted in production of a memorandum submitted to Committee on April 13, copy of which was also transmitted to you. While the four principal creditor powers were in session and before drawing up their memorandum they requested me to boil down into definite figures my memorandum of March 28. I did this on understanding that it might be submitted later to full Committee. It was submitted this morning, and I transmit it to you now in full so that you will have all the documents which are before the full Committee for its consideration. [End paraphrase.]

'Gentlemen of the French, British, Italian and Belgian groups:

You have asked me to aid you in arriving at some annuity figures which may be used as a basis for further discussion by you with the German group. I have considered the matter with my American associates and it is our unanimous opinion that I can best do so by suggesting a definite set of figures which fall within the general propositions contained in my memorandum submitted at the plenary session of March 28th now known as Annex No. 7. This I now undertake to do with some reluctance and misgivings and with all the reservations stated in my original memorandum and as an effort further to delimit the area of debate.

⁸⁷ Telegram in ten sections.

I may say at once that the total figures which I accordingly suggest for your consideration when translated into annuities shows an average of 1,942,000,000 reichs marks each over a period of 15 years and of 2,452 million reichs marks each over the remaining 22 years and in addition coverage of the out-payments only of the creditor powers for 22 years more. In the distribution of the annuities I have endeavored to apply as best I could the principle which was stated during the last meeting, namely, that safety for the creditor powers and for Germany lies in making the first 15 annuities well within Germany's capacity to pay. In my judgment that was one of the merits of the Dawes Plan—that Germany was not overloaded in the first years and so the momentum she gained in that period was sufficient to carry her through years of higher figures without undue strain. Whether we like it or not I think we should face the fact that this conference and the questions discussed here have again raised in the minds of the world, and to some extent in the minds of the German people, themselves, the question of Germany's capacity. Accordingly the Committee should be most careful in setting up a new plan as in the case of the Dawes Plan to keep the figures such that no doubts can reasonably exist as to her ability to pay and thereby insure as successful a working of the permanent plan as we have had of the interim one.

The result therefore is that I have diminished the average annuities during the first 10 years; have brought them up around the average during the next 5 years; and increased the annuities above the average for the remaining 22 years. I feel sure that the higher annuities after the 15th year will be the ones most easily paid, as indeed they should be. By that time the burdens of the war should be, and I think they will be, diminished as a result of intervening peacetime development, notwithstanding that the payments may increase in terms of currency. Indeed, if I am correct in my last statement, it may well be that Germany with her vastly improved credit would find it to her advantage to discount in the market the remaining 22 years of her regular annuities.

There is another aspect of low annuities in the earlier years which might well be considered and that is the question of whether the deliveries in kind might not be thrown into the postponable class. If they were and the unconditional class correspondingly increased it would solve the question which has troubled me very much in suggesting lower annuities in earlier years. I did not wish to decrease unduly the amount of the annuities subject to early commercialization or mobilization.

In connection with the figures in this memorandum and the distribution of those figures into annuities I do not intend to make any reference to the interests in nor the profits from the proposed International Settlements Bank. I regard the bank not only as the key to the wise and successful administration of the plan but as an instrumentality which in its normal operation is likely to yield a substantial contribution for the benefit of Germany as well as the creditor nations in one way or another to the figures which I have suggested. How that distribution shall be made with reference to the figures proposed is a question which should appropriately be discussed frankly and fully, not only among the creditor powers them-

selves but between them and Germany. Your preliminary discussions have already convinced me of your liberality of thought in the use of profits of the bank as a medium by which the last difficulties of a settlement may be overcome. Now let me give you the specific consideration which I have had in mind with respect to the different countries, together with a brief statement in each case of the methods which I have used and my reasons. First, as to France. In my memorandum, Annex 7, I said:

“For France: Her out-payments and not less than 40 billion francs present value determined on fair rate.”

I have retained the figure of 40 billion francs present value computed on a 5½-percent basis. Let me say at the outset that I realize that the sum of 40 billion francs is a substantial reduction of the actual reparation costs of France. I have named that figure not because in my judgment it does complete justice but rather because of my conviction that in view of the relative positions of other creditor countries to France it is impossible to reach a final settlement of the reparations problem on a sound basis and provide more than the sum proposed. After all, this is a matter of sound business with which we are faced where we must deal with facts and conditions as they are and where we must take into account not only economics but to a certain extent politics and general public opinion. In this respect the problem is not different from any other business problem. We are seeking for practical results which are as fair as they can be under the conditions with which we deal. It is in this spirit and this only that I have retained the figure of 40 billion francs.

Now as to the rate for fixing present value I realize well how important it is and what a wide divergence of opinion there may honestly be concerning it. I quite understand that at present the normal rate for German credit is around 7 percent. Two things may be said regarding that. First, that those high rates do not reflect altogether fairly Germany's credit, but rather a temporary state of the world's money market. For reasons well known to you all, we happen to be sitting just now in a high rate period. Second, it may be said fairly that if the reparations question is finally settled Germany's rate will diminish. So I am convinced that initially it is unfair to consider anything like 7 percent. We have to remember that we are fixing a rate projected over a long period in the future and if we were to let history guide us it may well be assumed that during the greater part of the period the rate would be nearer 4 percent than 7 percent. This leads me to the belief that a fair rate should not be more than 7 percent and not less than 5 percent and so I have fixed it at 5½ percent with the general feeling which I must confess to you that the fair region is likely to lie rather under 5½ percent than above it. I may say, that my American associates, in whose judgment I have more confidence than my own, share with me the feeling that 5½ percent is a fair basis to take under the circumstances.

Accordingly I have asked that an annuity be constructed, 54 percent of which would yield France 40 billion francs surplus over out-payments computed on a five and a half basis.

“For Italy: Her out-payments and some reasonable additional amount for reparations, taking into account her damage.”

The figures show that, even on the basis of an annuity from Germany of 2½ billion gold marks per year for 37 years, Italy would not receive enough from her present share to cover her out-payments. There would be a deficit of 74 millions on this basis present worth at 5½ percent discount and some adjustment must be made in order to meet the requirements of my memorandum quoted above. I have therefore concluded in preparing the figures to give Italy enough, first, to make up the deficit in her out-payments and, second, an additional amount for reparations which represents about 12½ percent of the additional sum allowed to France for reparation purposes. I understand that this total exceeds what Italy would be entitled to receive on the basis of existing inter-Allied agreements, but, I believe, gives her a reasonable allowance for reparation purposes and that as between the Allied Governments it may be taken to represent a reasonable adjustment for the general equities which Italy has presented to us.

“For Belgium: Her out-payments on the understanding however that an additional amount adequate to make the so-called mark settlement and provide for reparations will be arranged between Belgium and Germany.”

The whole world has shown every disposition to be generous to Belgium and there should be no disposition here to change that attitude. We are, however, faced with the problem now of securing fair sacrifices from original demands in order that a permanent settlement may be reached and peace insured. For no country is that more important than Belgium and it may be fair in view of her large payments already received under the preferences granted to ask her to share with the other creditors in trying to make the pattern fit the cloth. The equities of the mark controversy as presented by the Belgian delegation seem strong but its history throughout has been such as to weaken its position when one endeavors to fix its fair value from a purely business standpoint. The best guess that I can make, and I confess it to be little more, is that a fair surplus for Belgium over out-payments including reparations and mark settlement is 1,200,000,000 marks, which represents 11.7 percent of the annuity available for surplus.

“For Great Britain: Her out-payments only and without reimbursement for her arrears.”

I adhere to the recommendations of my memorandum. 20.2 percent of the annuity constructed as aforesaid yields Great Britain a surplus over her future out-payments (but not including her arrears) of 160.8 million marks per annum. That sum I have regarded as available for application elsewhere. 2.8 per cent of the annuity I have recognized as an out-payment of Great Britain to her colonies.

As to Serbia and the other creditor powers: “appropriate amounts (reserved for later discussion) for the out-payments and reparations of Serbia and the remaining creditor powers”.

I have made these figures on the basis of the same proportionate reduction of their respective shares of the Dawes Plan payments of 2,500,000,000 as that assumed for France.

I have assumed that the following items referred to in my memorandum, *id est*, “(a) The prior service of the German external loan of 1924, (b) costs of the armies of occupation and any expenses of

administration under this plan, (c) payments required to satisfy the awards of the Mixed Claims Commission" stand without diminution.

I suggest a distribution of the annuities as follows: That the first annuity of Germany be fixed at 1,750,000,000 marks and that such annuity be increased 25,000,000 marks each year for 10 years making the annuity in the 11th year 2 billions. Then I suggest that the annuity be increased at the rate of 50,000,000 marks per year for the next 4 years making it 2.2 billions in the 15th year. Thereafter each annuity is to absorb its share of the deficits of the first years. On this basis the annuities would be such as are disclosed in the accompanying schedule.

In closing let me say that I have exercised my best judgment in the light of the information at my disposal and within the limits defined in my memorandum of March 28, to suggest for your consideration a set of figures that seems to me to offer a sound and practical business basis for further discussion. I would wish to avoid in any sense sitting in judgment and therefore these figures are to be considered only as suggestions for your aid. I make all reservations in regard to them, and I shall approach their further consideration with an entirely open mind in order that any injustice may be corrected so far as practical applications of business principles to an existing situation will permit.

It should be made quite clear that the reservations of which I speak are made not only with reference to the creditor powers but to Germany as well.

SCHEDULE OF ANNUITIES

<i>Year</i>	<i>Annuity</i> of reichs marks	<i>Year</i>	<i>Annuity</i> of reichs marks
1	1,750,000,000	20	2,466,000,000
2	1,775,000,000	21	2,391,000,000
3	1,800,000,000	22	2,435,000,000
4	1,825,000,000	23	2,418,000,000
5	1,850,000,000	24	2,422,000,000
6	1,875,000,000	25	2,429,000,000
7	1,900,000,000	26	2,440,000,000
8	1,925,000,000	27	2,435,000,000
9	1,950,000,000	28	2,430,000,000
10	1,975,000,000	29	2,438,000,000
11	2,000,000,000	30	2,470,000,000
12	2,050,000,000	31	2,446,000,000
13	2,100,000,000	32	2,457,000,000
14	2,150,000,000	33	2,475,000,000
15	2,200,000,000	34	2,466,000,000
16	2,464,000,000	35	2,479,000,000
17	2,460,000,000	36	2,478,000,000
18	2,455,000,000	37	2,506,000,000
19	2,472,000,000		

Remaining annuities to cover out-payments, et cetera, not to be listed but to be worked out so far as possible in connection with profits from bank capital."

462.00R296/2787a : Telegram

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

WASHINGTON, April 15, 1929—4 p. m.

112. Please bring the following strictly confidential message to the attention of Mr. Owen Young:

"With reference to your cable of April 11th,³⁸ the memorandum sent you on April 8th, through the American Embassy, was, of course, not intended as an official communication to your committee of experts or as an instruction to you and your associates. It was not prepared by Mr. Mellon for submission to you; but after consultation with him and the President, I sent it to you in order that you might be apprised frankly as to how the Allied proposals set out in your cables Nos. 200 and 201, March 28th,³⁹ had impressed Mr. Mellon with his peculiarly intimate and responsible knowledge of the development of United States policy in these matters, and also to permit you to correct any unwarranted conclusion or misunderstanding on our part as to the course the negotiations have taken. We fully appreciate the difficulty of the task which you have so unselfishly undertaken and the pressure under which you are working, and we regret to have to add to your anxieties; but the Allied proposals seem to us to lead so directly to future serious dangers and injustice to the United States that we have felt compelled to take this course.

Your cables Reparations 205 and 207 of April 11th and 12th, respectively,⁴⁰ have been carefully considered. While they make clear the attitude of the American experts, they do not relieve the apprehension excited by the central feature of the Allied proposals nor do they change our opinion that this plan, if carried out, will nullify the wise policy under which for nearly ten years the United States has insisted upon the complete separation of Allied debts owed to the United States from reparation payments sought from Germany. This policy was definitely and clearly established by President Wilson in a letter to Mr. Lloyd George of November 3, 1920, in which he said:

"The United States Government entirely agrees with the British Government that the fixing of Germany's reparations obligations is a cardinal necessity for the renewal of the economic life of Europe and would prove to be most helpful in the interest of peace throughout the world; however, it fails to perceive the logic in a suggestion in effect either that the United States shall pay part of Germany's

³⁸ Telegram No. 145, April 11, from the Chargé in France, p. 1043.

³⁹ Telegrams No. 114 and No. 115, March 28, from the Ambassador in France, pp. 1034 and 1036.

⁴⁰ Telegrams No. 145, April 11, and No. 148, April 12, from the Chargé in France, pp. 1043 and 1049.

reparation obligation or that it shall make a gratuity to the Allied Governments to induce them to fix such obligations at an amount within Germany's capacity to pay. This Government has endeavored heretofore in a most friendly spirit to make it clear that it cannot consent to connect the reparation question with that of intergovernmental indebtedness.'

The American Government has held this position ever since. This policy was in large part based upon its attitude taken towards Germany at the close of the War. It neither sought nor received material benefits from the War. It asked for no compensation in the form of territory, economic privileges, or indemnities. From the first it announced its willingness to bear the complete burden of its own war costs. Subsequently, through Secretary Hughes, it formally renounced its right to general reparations. In spite of the general prevailing policy of confiscation of private German property, we are returning all of such property sequestered during the war, 80 per cent of which is now being delivered, and this Government has confined itself to a demand for a very modest sum necessary to meet its just claims for actual injury to persons and property and debts, these claims to be duly established by a tribunal constituted in accordance with the provisions of a formal treaty.

On the other hand, in making debt settlements with its former allies the United States deliberately reduced its claims to amounts carefully calculated upon the capacity of the debtor to pay, irrespective of the reparations which such debtor expected to receive from Germany. By this means in the case of all the debtor nations with one exception these debts based on present values at 5 per cent were reduced to amounts either less or approximately the same as the post-war advances, with interest, to the debtor in question and was equivalent in result to an assumption by American tax payers of all of that portion of these debts which represented the war costs of such debtor. In some cases the present value of the payments to be received from the debtor is less than one-third of the amount legally due under the original contractual obligations.

In view of this the principal vice of the proposals now made by the Allies, as pointed out in Mr. Mellon's memorandum, is that they would confuse and obscure this distinct and sharply characteristic American position towards Germany and the Allies, and would confront the United States with the alternative of either pressing against Germany claims of a character which she, herself, has hitherto refused to make or of, herself, assuming to an even greater extent than she already has part of the Allied war costs. It is idle to point out that the proposed arrangement leaves the debt settlement legally unaffected when the public position of the holder has been thus emo-

pletely transformed. The division of the German reparations into two categories, one of which corresponds dollar for dollar with the payments to be made to the United States by the creditor governments, together with the further provision that German reparations shall be reduced if the United States agrees to a similar reduction of debt payments, makes such a transformation absolutely inevitable. The United States instead of standing before the world as she does today as the holder of voluntary contractual debts from her associates in the War, the amount of which she has already generously reduced, would be placed in the invidious position of the chief beneficiary of claims for German reparations which she has hitherto declined to make. Upon her will inevitably be placed the burden of pressing and enforcing these claims, or else of assuming still further the war losses of the Allies. And against her in all of these matters will necessarily be aligned in a solid front the interests of all the European nations, including Germany. This seems to us to forecast very serious results for the world in the years to come, results which would go far towards nullifying the great advantages which might otherwise be derived from a settlement of the question of reparations and the evil consequences of which would fall mainly upon the United States.

Insofar as the International Bank is concerned, we feel that if we should permit a representative of the Federal Reserve System to become a director, we should directly participate in the repudiation of our above-described historic policy and actively concur in the enforcement of reparations from Germany. This we will not do.

So far as the cancellation of American Army of Occupation costs and proposed alteration in the payments upon which the Mixed Claims awards are based is concerned, we believe that Messrs. Kellogg and Wilson have correctly stated to you the position which will be taken by our Government and Congress. As compared with the treatment which has been accorded to France and Great Britain, the cancellation now of American Army costs would be highly unfair. Unlike her allies, the United States did not receive any payments until 1925 and to date she has received less than 30 per cent; whereas Great Britain and France have each received approximately 90 per cent of such costs.

In respect to the Mixed Claims, our proportion of the Dawes annuities were pledged under an Act of Congress for the payment of American claims; and on the faith of that pledge, 80 per cent of the sequestrated German property is now being delivered to its owners. A modification of these payments could, therefore, not be made without the consent of Congress, which in our opinion should not be asked for and could not be obtained.

I have pointed out these considerations respecting the probable future attitude of this Government in order that you might be fully advised before the committee of experts might become formally committed to proposals which we regard as containing elements of serious danger to this country, and in time to avoid the embarrassment which the subsequent disclosure of this Government's attitude might occasion. These matters have been fully discussed with the President and the Secretary of the Treasury. We fully recognize that you are, in the language of your cable, free agents accepting full responsibility for what you do and not serving in any respect in a representative capacity. Yet in view of the fact that the consent of this Government was asked in respect to the appointment of American experts by the Allied and German Governments, it is quite evident that your appointment was sought not only on account of your eminent personal standing, but because it was anticipated that you would bring to bear upon these negotiations the viewpoint of Americans. Under these circumstances, it would seem highly important that, however, unofficially, you should yet make perfectly clear to your colleagues on the committee of experts what you know to be the attitude of the American Government and people."

STIMSON

462.00R296/2846 : Telegram

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

PARIS, April 15, 1929—8 p. m.

[Received April 16—6:29 p. m.⁴¹]

155. Reparation 212. I have received today a letter from the secretary general of the Reparation Commission to the effect that he had been asked by the secretary of the Experts Committee to inform me that the experts of the five creditor powers (France, Great Britain, Italy, Belgium and Japan) would like to confer with me tomorrow, April 17th, [*sic*] and asking me to get in touch with the secretary of the Experts Committee in order to arrange the hour (a similar letter was sent to the representatives on the Reparation Commission of the other powers not represented at the Experts Committee, Servia, Greece, Roumania, Portugal and Poland). Upon receipt of the foregoing I telephoned to the secretary of the Experts Committee and requested further information in the matter. He has now advised me orally "that the experts of the five creditor powers, France, Great Britain, Italy, Belgium and Japan, before definitely recommending to the Committee the adoption of the annuities proposed in Annex 8 (see my Reparation 208⁴²) would like to see the repre-

⁴¹ Telegram in two sections.

⁴² Telegram No. 149, April 13, from the Chargé in France, p. 1051.

sentatives on the Reparation Commission of the powers who are not present at this conference in order to explain to them the basis on which their proposals are made and to request their views."

[Paraphrase.] I have replied to the secretary general that I would inform my Government of request and would ask for instructions; I added that they probably could not be received as early as tomorrow, but that I would inform him immediately upon hearing from my Government.

Young's message to you which was transmitted in my Reparation No. 207⁴³ mentioned (see paragraph 3) that subcommittee would be appointed to hear proposals from representatives of all the minor creditor powers who wished to be heard. I now understand that procedure in this regard has been changed. Yesterday at full Committee meeting decision was taken not to appoint such a subcommittee, but that no objection would be made to experts obtaining information informally on position of the other governments. That the experts of the major creditor groups now wish to ascertain views of the other governments is result, apparently, of this decision.

Personally, I do not perceive any objection to your authorizing me to accept this invitation from the experts of the major creditor groups and to confer with them informally. My idea would be to listen to what they have to say regarding provisions they have made for satisfaction of claims of the United States, and then to leave a memorandum with them, without discussion, which sets forth our position. Please instruct. [End paraphrase.]

ARMOUR

462.00R296/2847 : Telegram

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

[Paraphrase]

PARIS, April 17, 1929—10 a. m.

[Received April 17—9:40 a. m.]

156. Reparation 213. The following message for the Secretary from Owen Young was received last night:

"Only introductory part of your 112, April 15, has been received by me, and in behalf of my American associates and myself, I thank you for the kindly spirit of your approach.

In my message dated April 12, Reparation 207, I stated that a subcommittee of the full Committee would be appointed to hear proposals from the representatives of all powers of debts participations who wish to be heard. In view of the decision which the full Committee took at its plenary session held yesterday to the effect

⁴³ Telegram No. 148, April 12, from the Chargé in France, p. 1049.

that neither the full Committee nor any subcommittee would hear proposals or objections from governments, that statement needs to be corrected. When the Germans objected that the Committee's character as an independent experts committee would necessarily be impaired, if not indeed destroyed, if the door were opened for governmental participation in its work at any point, this decision was reached. However, it was informally understood that as a matter of courtesy the four creditor powers, whose memorandum had been filed with the full Committee, would invite statements as to the provision made for them in that memorandum from all powers of minor participation. Accordingly I understand that through the Reparation Commission the four creditor powers have asked that representatives of powers of minor participation sit with them for the purpose of discussing their memorandum and that the secretary of the Reparation Commission has asked Wilson whether he would care to represent the United States at that meeting. The way for you to indicate the American views, and perhaps get the memorandum modified to meet your wishes, would seem to be opened by this procedure."

The reason Mr. Young refers to receiving only the introductory part of your 112 is because the message was so badly garbled I was able to transmit only the first two sections to him yesterday. I am immediately delivering the rest of the message following receipt of service messages from the Department this morning.

ARMOUR

462.00R296/2846 : Telegram

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

[Paraphrase]

WASHINGTON, April 17, 1929—2 p. m.

114. Reparation No. 73. Your Reparation No. 212, April 15, 8 p. m. There is no reason, of course, why the representatives of the creditor powers to whom you refer in your No. 212 should not explain to you the bases on which they have made their proposals, but Department feels that you should not be asked officially to express views of your Government without first having had opportunity to consult Department. Our presumption is that only question which would be asked you would be whether this Government would agree to annuities proposed as they affect payments of costs of the American Army of Occupation and the Mixed Claims Commission's awards. This subject is discussed in two paragraphs of our telegram No. 112, April 15, 4 p. m.; this telegram was sent only for information of Young and Morgan on general attitude of the American Government, and therefore it should not be made basis of any official statement by you. If, furthermore, any other questions either general or specific, such as Central Bank of Issue, are brought up, it is Department's desire that you ex-

press no opinion whatever. If and when you meet with the members of the Experts Committee you should cable the Department immediately the specific questions asked you and request instructions.

STIMSON

462.00R296/2852 : Telegram

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

[Paraphrase]

PARIS, April 19, 1929—5 p. m.
[Received April 19—4:10 p. m.]

163. Reparation 218. The following is a confidential message from Mr. Owen Young to the Secretary of State:

"I have received your message of April 15⁴⁴ and send this to acknowledge it and to express my appreciation for your sending me the complete statement of your views.

The developments which took place here yesterday may or may not result in a final break of the negotiations. Therefore I shall not today trouble you with an expression of my views regarding the questions which your message raises further than to express the hope that my message of reply, when it is received, may be regarded as justifying the President, the Secretary of the Treasury, and yourself in giving further consideration to the attitude and position of the United States Government towards the efforts which are being made here to settle the serious problems before the Committee of Experts. As soon as the present critical situation here has crystallized sufficiently to permit a forecast as to whether it is possible to hold further conferences with any hope of reaching an agreement, I will send you my full reply."

ARMOUR

462.00R296/2852 : Telegram

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

WASHINGTON, May 2, 1929—7 p. m.

133. For Mr. Young. I thank you for your message of April 19th. I have studied it carefully and have discussed it with the President and Mr. Mellon. We feel that there is little to add to my message of April 15th. I want to be sure, however, that you understand that this message was in no sense an instruction. I fully realize that your Committee is in no way responsible to the Governments whose nationals are represented thereon and I did not intend that you should transmit my message, either formally or informally, to your col-

⁴⁴ See telegram No. 112, April 15, to the Chargé in France, p. 1059.

leagues. It was sent, as I said then, in order that you might understand how the Allied proposals had impressed this Government and also to permit you to correct unwarranted conclusions or misunderstandings on our part. For the same reason, I do not wish to formulate a statement of the position of this Government for transmission to the Committee, either by you or by Wilson.

I think the misunderstanding, in so far as there was any, is due to the fact that we considered the task of the Experts Committee as similar to that of the Dawes Committee in that it was again to determine, in the light of later information, Germany's capacity to pay. It was to go further in that it had "the task of drawing up proposals for the complete and final settlement of the reparation problem", which meant not only a recommendation as to annual payments but the term in which these payments were to conclude Germany's obligation. It seemed to us, therefore, when your telegrams indicated that Allied needs rather than German capacity to pay played a preponderating part in the discussions, that there had thus been introduced what was essentially a political element which was absent in the negotiations leading to the formulation of the Dawes Plan.

I wonder, therefore, if the work of the Committee should be resumed, whether it might not still be possible to attack the problem from a purely economic point of view. To be strictly within the province of expert economists and financiers who are not responsible to their Governments, it seems to us that negotiations should be confined to an attempt to reconcile the payments which the Germans consider themselves able to make to the payments which the Allied experts, through their study of German capacity, believe the Germans able to pay. This method would avoid, it seems to us, the introduction of political questions with which your Committee should not be called on to deal and, from our point of view, would prevent any apparent correspondence between German payments and Allied out-payments, two matters which, as I explained to you before, we do not consider economically related. Questions of this nature might properly have been taken into consideration by the different governments after receiving the report of the Experts.

I am not now sending you the above in any spirit of criticism because I do not know the conditions under which you have been working. Like my message of April 15th, this telegram is intended merely to assist you in understanding our attitude. Again it is not for transmission to your colleagues who should not even know of its receipt from us. If the resumption of negotiations is possible, we shall earnestly hope for success and shall consider the final report of the Committee of Experts in the most sympathetic spirit.

STIMSON

462.00R296/2882½ : Telegram

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

[Extract—Paraphrase]

PARIS, May 10, 1929—9 a.m.

[Received 12:45 p.m.⁴⁵]

203. Reparation 236. I have had long discussion with Young and Lamont regarding question of appearing before Committee of Experts in connection with provisions relating to satisfaction of Germany's obligations to the United States. My best judgment, which is based largely on their advice and intimate knowledge of situation existing in the Committee, is as follows:

Unless we are in position where we are willing to state in substance that we are ready to accept a proportionate reduction in our share of German annuity, there is nothing to be gained, at least as far as I can see now, from a meeting with the Committee. On the contrary, a very awkward situation for us might be opened up. In the Committee itself the situation is very uncertain and almost anything may happen. It is wholly possible that the Committee will be unable to come to any agreement on distribution, and that this question will have to be referred to the several Governments. It is equally possible that a break may come over conditions which Schacht has in mind regarding acceptance of Young's figures. Schacht's conditions have not yet been definitely formulated, but I have heard that they are likely to contain some political implications; if they do, it is probable that they will be unacceptable to the Allied groups. Were we to announce now that we are unable to accept any reduction in our share, this statement might be just enough to weight developments towards a breakdown. In any event, should break become inevitable for any other reason, the experts from the other countries would be very eager to take advantage of our position and attempt to place blame for the breakdown squarely upon us. Some of the experts would welcome a definite break provided responsibility for it could be shouldered onto someone else.

Of course I realize possible embarrassment to us which would follow from Committee's reaching an agreement based upon plan of distribution unacceptable to us and against which in the future we should have to protest. Embarrassment from such a situation would be less, I feel, than that which would arise for us from our being placed in a position where the responsibility for a breakdown might be placed, no matter how unjustly, upon us. Even should agreement be reached and basis of distribution not be acceptable to us, our legal

⁴⁵ Telegram in four sections.

position under Treaty of Berlin⁴⁶ and Paris agreement of January 14, 1925, would remain intact. Committee has no mandate to settle distribution of German payments, and even if position be taken, such as the French take, that question of distribution is inherent in any recommendation for a final reparation settlement, we should not be bound by experts' recommendations unless we accepted them.

ARMOUR

462.00R296/2882½ : Telegram

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

[Paraphrase]

WASHINGTON, May 11, 1929—2 p. m.

148. Your No. 203, Reparation 236, May 10, 9 a. m. Department is disposed to concur in your judgment as to whether you should appear before Experts Committee. If Committee adjourns without allocating payments to the several Governments, it does not appear to be necessary to state at present time what this Government is willing to accept. You are authorized to tell Young now, however, that, in event experts reach point where they are definitely prepared to allocate the annuity among the several creditors of Germany, you desire to appear before Committee and inform them regarding the position of this Government. You are now authorized to tell Young what that position will be.

As we understand plan now under consideration, it proposes reduction of standard Dawes annuity to an average annuity of 1,988,000,000 gold marks per annum; we shall be glad to recommend acceptance by the United States of its proportionate share of that reduction. This Government is now receiving on account of mixed claims and Army costs 100 million gold marks per annum, which is 4 percent of present standard Dawes annuity. The same percentage of the new proposed average annuity would be approximately 79 million gold marks. We should be disposed, therefore, to recommend to Congress that an annuity of 79 million gold marks over a term of 37 years be accepted in full discharge of Germany's obligations to the United States on the mixed claims and Army costs accounts. This would enable us, by allocation of 50 million gold marks to mixed claims account, to discharge that obligation in full in 37 years on basis of Settlement of War Claims Act of 1928.

By applying balance to Army costs account we shall be able to discharge 90 percent of those costs in 37 years, making allowance of 3½-percent interest on deferred payments.

⁴⁶ Treaty between the United States and Germany, signed August 25, 1921, *Foreign Relations*, 1921, vol. II, p. 29.

A settlement on foregoing basis would mean that this Government is willing to make following sacrifices:

1. To cut claim for Army costs to percentage already received by Allied nations for such costs;
2. To defer payment in full of these costs for period of 22 years beyond time at which they would be terminated under present arrangement. This would mean postponement in payment of approximately one-half the principal of such costs as now remain unpaid.
3. To accept interest at only 3½ percent on deferred payments during period of delay.

In order to measure fairly these sacrifices, let me remind you that in agreement of January 14, 1925, this Government has already made very substantial concession in amount of its claim for Army costs; that these costs represent the expenses of an occupation of the Rhineland in which this Government was not interested for its own sake, but was acting on the requests of its associates; that under the Treaty of Versailles these Army costs were expressly given priority; and that corresponding costs of occupation by the Associated Powers have already been paid. It should be pointed out further that such a settlement would result in a substantial concession on mixed claims obligations also, as it would be based on payments as set up in the Act for the Settlement of War Claims (1928), whereas Germany's treaty obligations to this Government run into much higher figures.

You should make it quite clear that this Government would not be willing to extend payments beyond 37 years on either the mixed claims or the Army costs account. You should also make clear to Young that it will be necessary to obtain congressional authorization for any such settlement, as it necessarily modifies Germany's treaty obligations.

We are not yet in position to inform either you or Young whether we would agree to place this annuity or any part of it in postponable class until you have cabled exact provisions regarding postponement.

We are much concerned, furthermore, as we have already pointed out in previous cables, lest methods which Experts Committee evidently have used in calculating amount of proposed standard annuities be allowed to appear in Committee's final report. In making those calculations, the representatives of the creditor nations have evidently used, to large extent, the obligations of their respective war debts as measure of their proposed settlement with Germany. To that method we have already indicated our objections. It is only necessary to say now that we should be unwilling to subscribe to settlement which would recognize a direct relationship between Germany's reparation payments and the Allied payments to the United States on account of war debts; and we should be unwilling to accept any revised annuities if, after examining completed plan, it should appear to our judgment

that by acceptance we would give sanction to such a relationship. Our assumption is, in all this, of course, that the 1,988,000,000 gold marks is total annuity, including reparations in kind. This last paragraph is not to be stated to Committee, as it is intended for your information and for that of Young only.

STIMSON

462.00R296/2887½ : Telegram

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

[Paraphrase]

PARIS, May 13, 1929—11 a. m.

[Received May 13—9:20 a. m.]

208. Reparation No. 240. Next to last sentence of your telegram No. 148, May 11, 2 p. m.

In order to eliminate any possible misapprehension, I feel that I should point out that the 1988 millions is average annuity exclusive of service of the Dawes loan. With the service of that loan included, average total annuity works out at 2050 millions. I assume that this fact was taken into consideration when the Government's position as defined in your telegram No. 148 was formulated, but I should appreciate confirmation of this point before I advise Young definitively of our position.

ARMOUR

462.00R296/2887½ : Telegram

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

[Paraphrase]

WASHINGTON, May 13, 1929—5 p. m.

152. Your 208, Reparation No. 240. We based our computations on 4 percent of average annuity of 1988 million. Service of the loan was not taken into consideration in making these calculations, but as the 79 million gold marks takes care both of mixed claims and our Army costs in 37 years at an interest rate of 3½ percent for deferred payments on latter, we are willing to stand on figures sent you in Department's telegram No. 148. The sentence to which you refer was inserted for purpose of making sure that the 1988 million included all reparations, thus including reparations in kind, to all creditors.

STIMSON

462.00R294/2890½

Statement Issued to the Press by the Secretary of State, May 16, 1929

In respect to the statements which have appeared in the press in regard to the participation of any Federal Reserve officials in the

creation or management of the new proposed International Bank, I wish to make clear the position of this Government:

While we look with interest and sympathy upon the efforts being made by the Committee of Experts to suggest a solution and a settlement of the vexing question of German reparations, this Government does not desire to have any American official, directly or indirectly, participate in the collection of German reparations through the agency of this bank or otherwise. Ever since the close of the war the American Government has consistently taken this position; it has never accepted membership on the Reparations Commission; it declined to join the Allied Powers in the confiscation of the sequestered German property and the application of that property to its war claims. The comparatively small sums which it receives under the Dawes Plan are applied solely to the settlement of the claims judicially ascertained by the Mixed Claims Commission, (United States-Germany) in fulfillment of an agreement with Germany, and to the repayment of the expenses of the American Army of Occupation in Coblenz, which remained in such occupation on the request of both the Allied nations and Germany. It does not now wish to take any step which would indicate a reversal of that attitude and for that reason it will not permit any officials of the Federal Reserve System either to themselves serve or to select American representatives as members of the proposed International Bank.

462.00R296/2890½ : Telegram

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

[Paraphrase]

PARIS, May 17, 1929—3 p. m.

[Received 3:15 p. m.⁴⁷]

216. Reparation No. 244. Considerable reaction caused here by your statement given to the press yesterday on proposed International Bank. This morning Young and Morgan sent for me and told me that Moreau had stated to them that in view of attitude of our Government he was unable to go on with discussion either of the German conditions or of distribution. Moreau has put great faith, apparently, in proposed bank as solution of the reparation problem and he feels that without the support of the Federal Reserve System, both bank and proposed plan of settlement would be substantially weakened. In his talk with me, Young emphasized point that Moreau was sincere in his position, that he was looking at the entire picture as a banker and was not in any way attempting to use the proposed

⁴⁷ Telegram in two sections.

bank as an agency for tying reparations up with war debts. Moreau said that he would put his views into writing and submit them to Young. If he does this, Young will probably request me to transmit them to you. Meantime, Morgan is conferring this afternoon with Moreau in effort to persuade latter to change his views.

This development seems greatly to have discouraged both Morgan and Young. They say that matters were practically at point of settlement. The German conditions were found susceptible to agreement and they have hoped to reach accord in principle on question of distribution either today or tomorrow. They seem to feel that every hour counts as Schacht is bombarded by continual attacks from the Nationalists in Germany and it is increasingly difficult to keep him in line. This morning the German experts advised Young that there had been renewed attacks from Germany on ground that the United States now disapproved bank scheme. Young seems to feel that success may be jeopardized by a few days' delay.

This morning the Paris press published news despatches giving your statement of May 16. They published Havas despatch also, to effect that it had been added that there would be no objection raised on the part of our Government to participation in the banker's bank by private American banks. This latter statement was not direct quotation, however, as was your statement on participation by Federal Reserve Bank, and it has had little or no effect, apparently, on opinion here.

ARMOUR

462.00R296/2890½ : Telegram

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

WASHINGTON, May 17, 1929—12 p. m.

164. Your 216, May 17, 3 p. m., Reparation 244. You may inform Young authoritatively that this Government does not object to the creation of the proposed International Bank nor to the participation therein of private American banks and bankers. Our objection is to the participation of any American official in the organization or management of the Bank whose primary function at least in the beginning will be the collection and distribution of reparations payments and the protection of the interests of the creditor nations. You might suggest to Young by way of explanation of our position that it is in no sense dictated by a lack of sympathy with the economic plan of which the Bank is so essential a part but due entirely to the fact that the United States Government has never presented a claim for reparations of the character which the Bank is to handle and does not feel that it should under these circumstances assume the moral

and legal responsibility of either collecting them or of assuring their distribution. On the contrary my statement on May 16th was made because the press despatches from Paris which had indicated that Federal Reserve officers would officially participate had excited such an adverse reaction here that we feared unless that error was corrected it would be impossible for us to secure congressional approval of any revised annuities which might be proposed by the Experts Committee. For that reason I felt it essential to make public our position, of which we had already informed Young.⁴⁸

STIMSON

462.00R296/2908½ : Telegram

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

[Paraphrase]

PARIS, May 18, 1929—3 p. m.

[Received May 18—2:25 p. m.⁴⁹]

224. Reparation No. 246. Reference your No. 164, May 17, 12 p. m. Your telegram has proven most helpful. Moreau was persuaded by Young and Morgan yesterday not to submit his views in writing for the present, and your message now seems to have straightened out the situation satisfactorily.

The great problem now is the question of distribution. The scheme now under discussion by the creditor groups is that of distribution according to existing rights. The figures put down for the United States are 40.8 millions for mixed claims and approximately 30 millions, Army costs. The figure for mixed claims appears to me to represent our strict legal rights under the agreement of January 14, 1925. It is calculated at 2¼ percent of amount available for reparations after prior charges have been deducted. In view of fact that there is to be a reduction of the total annuity, I do not see how we can claim as a legal right the amount of 45 million marks which we now receive on basis of an annuity of 2500 million marks. I do not believe that the agreement of January 14 can be so construed unless we should wish to assume position that we would not consent to reduction of the total annuity below 2500 million marks. The approximate figure of 30 million marks is calculated to satisfy 90 percent of our Army costs in period of 37 years at 5½ percent, upon understanding that British and French will waive their Army costs arrears.

If such figures as these for the United States are recommended by the experts, there is nothing to be gained, in my judgment by appear-

⁴⁸ See telegrams No. 102, April 8, and No. 112, April 15, to the Chargé in France, pp. 1038 and 1059.

⁴⁹ Telegram in three sections.

ing officially before the Committee. Yesterday Young defended these figures for United States participation against strong attempts made by other groups to reduce them. In their memorandum of April 12,⁵⁰ you will recall, no provision was made by the creditor groups for Army costs, and the payments for mixed claims were materially reduced. Inclusion of these figures to cover our legal rights is due to Young's efforts. I am convinced that it would not be possible to obtain any better figures from the other experts. An attempt in that direction would certainly risk causing break-down of the conference and in the eyes of the world assuming the responsibility for it. If these figures are not acceptable to the Government of the United States, we can state that fact when the report of the Committee is made public, and then defend our position at subsequent conference of the governments. Our legal rights, in that event, would remain unaffected by anything which the experts have done.

If the annuity proposed for mixed claims is not sufficient to satisfy all the awards to the Government, in addition to the private claims, then we could reserve in any case our rights as against Germany under Treaty of Berlin.

Reference your No. 148, May 11, 2 p. m. It would seem doubtful that we could claim 4 percent of average annuity on any basis of legal rights. We could receive 4 percent of the Dawes annuity for only 15 years; that is to say, until the Army costs are paid. We would receive thereafter only 1.8 percent. Present proposal means flat participation of about 3.5 percent for 37 years. We could claim, of course, 55 million marks a year under existing rights on account of Army costs until we have been paid in full. It would seem, however, on assumption that we will desire to waive 10 percent of these costs on the understanding that the other creditors will do the same, that the annuity provided to cover our Army costs over a 37-year period is satisfactory.

After you have considered the foregoing, if you still think it advisable for me to appear before the experts on basis of your telegram under reference, please instruct me immediately. Events are moving rapidly and if you wish me to meet the experts I ought to have your instructions by Monday morning at latest, as it is possible that on Monday or Tuesday agreement regarding distribution may be reached.

Foregoing recommendations are made, of course, on assumption that distribution which will be recommended by the experts of the creditor groups will include figures for the United States at approximately amounts mentioned.

⁵⁰ See telegram No. 149, April 13, from the Chargé in France, p. 1051.

Reference your No. 161, May 17, 1 p. m.,⁵¹ you inquire as to method by which figures for the average annuity have been reached. The figure of 1988.8 as average annuity with service of the Dawes loan deducted and figure of 2050.6 as average with service of Dawes loan included have both been calculated as representing the flat annuity which would produce required sum, discounted at 5½ percent, for 37 years.

ARMOUR

462.00R296/2908½ : Telegram

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

[Paraphrase]

WASHINGTON, May 19, 1929—8 p. m.

165. Reparation No. 74. We have carefully considered your No. 224, May 18, 3 p. m. You may state to Young for communication to Committee of Experts that the President will make following recommendations to Congress:

(1) That the Government of the United States agree to accept 90 percent of its claims, due September 1, 1929, on account of Army costs, provided Governments of France and Great Britain make similar concession. We will accept annuity sufficient to cover this amount in 37 annual payments; interest on all deferred payments, 5½ percent. Treasury estimates that an annuity of about 32,800,000 gold marks will be required.

(2) That the Government of the United States agree to accept a flat annuity of 40,800,000 gold marks on account of mixed claims which is to be paid annually until our claims as covered in Settlement of War Claims Act of 1928 are completely discharged. This will discharge all private claims under that act in approximately 35 years, as nearly as we can estimate, and the claims of this Government in 17 additional years. You may inform Young, however, that, if proposal of a flat annuity should prove so unacceptable to his colleagues as to lead to breakdown of the conference, we believe Congress would probably be willing to accept figures set down in your No. 224; namely, 2¼ percent of amount available for reparations, which you say would represent an average annuity of 40,800,000 gold marks for 37-year period, and, after 37th year, a flat annuity sufficient to discharge balance of this claim in a 15-year period.

(3) That the Government of the United States agrees to place the Army costs payments in the conditional class; but, in view of its

⁵¹ Not printed.

obligations to its own nationals who are being asked to accept postponement of ultimate payments, it must insist that payments on account of mixed claims be placed in unconditional class.

STIMSON

462.00R296/2917½ : Telegram

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

[Paraphrase]

PARIS, May 20, 1929—5 p. m.

[Received 5:30 p. m.⁵²]

225. Reparation No. 247. This morning I discussed your No. 165, May 19, 8 p.m., with Young. He said that he personally was not in position to communicate our stand to Committee, as latter had decided that it would not receive any communications from governments (see his message to you transmitted in my 156, Reparation No. 213, April 17, 10 a.m.). It had been agreed, however, that the four creditor groups should receive, unofficially, views of the position of the governments not represented at the present conference of experts. Young said he felt that time had now come when our position should be made known to Committee, and that in view of progress that is being made among the creditor groups regarding question of distribution, he felt that I should appear before them at once.

Consequently I met informally with the representatives of the four principal creditor groups this afternoon, and set forth our position as stated in your telegram No. 165.

Our position on Army costs, as set forth in first paragraph of your telegram is not entirely clear to me; it seems, perhaps, to have been based on misunderstanding of concession which British and French are making. You state that we would accept 90 percent of our Army costs "due September 1, 1929." This would seem to mean that concession would amount to waiver of 10 percent of balance unpaid and due as of date in question. However, British and French are waiving 10 percent of total amount of their Army costs. My assumption is that we would wish to make similar concession; that is, 10 percent of our total Army costs. In figures this would be expressed as follows: Our unpaid Army costs, as of September 1, 1929, will amount, approximately to 813,000,000 gold marks; ten percent of our total Army costs is 122,000,000 marks; deducting this amount from 813 million marks would leave 691 million marks, to be paid over period of 37 years.

Regarding phrase "interest on all deferred payments, 5½ percent," I assume it has following meaning:

⁵² Telegram in three sections.

Accepting amount of 691 millions as being that of our Army costs to be paid starting September 1, 1929, approximately thirteen annuities of 55 millions would be required to discharge this amount. In agreeing to accept payment over term of 37 years we would receive 5½ percent on payments deferred after the 13th year, that is to say, during the last 24 years.

It may be added that in my discussion with the creditor groups I did not mention, of course, the foregoing points touching our Army costs, but merely made statement to effect that the President would recommend our acceptance of 90 percent of our Army costs, provided France and Great Britain did likewise, and that for the moment I was not in position to furnish them with figures as to annuity required to cover this amount, but that I hoped shortly to be able to do so. If you would instruct me definitely regarding points mentioned and furnish figures of approximate amount of annuity required, I should appreciate it.

In regard to second paragraph of your telegram concerning mixed claims, I set forth our position on basis of flat annuity. This was not discussed, if it appears later that there is serious objection to proposal for flat annuity, it may then become advisable to accept 2¼ percent of amount available for reparations over a period of 37 years and a flat annuity thereafter sufficient to discharge balance of claim in 15 years. I interpret your instruction as giving me the authority to do this should it seem advisable.

The meeting with the creditor groups was brief and entirely satisfactory. Only point which seemed to raise some doubt was whether the Germans could be induced to agree to the 15 annuities after the 37th year on the mixed claims account.

ARMOUR

462.00R296/2909 : Telegram

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

[Paraphrase]

WASHINGTON, May 21, 1929—6 p.m.

167. Reparation No. 75. Your No. 225, May 20, 5 p.m., Reparation No. 247.

1. President will recommend to Congress that the United States waive 10 percent of total amount of Army costs, which is \$292,663,000. Converted into marks at 23.82 cents to the mark the total amount of Army costs comes to 1,228,000,000 marks. Deducting 10 percent leaves net amount of 691,000,000 marks due as of September 1, 1929. Annuity of 31,231,000 gold marks for term of 37 years will pay this amount with interest at 5½ percent on all deferred payments. Under

the present plan we are receiving 55,000,000 marks a year, which would retire debt of 691,000,000 marks in about twelve and one-half years. Interest would continue on difference between 55,000,000 marks and 31,231,000 gold marks beginning with the first year.

2. You are correct in your interpretation of my message as giving you authority to accept $2\frac{1}{4}$ percent of amount available for reparations over period of 37 years, and thereafter flat rate sufficient to discharge balance of claim in 15 years; this Government would prefer, however, the flat annuity on mixed claims.

3. Not under any circumstances can we agree to a settlement which does not provide for discharge in full of obligations on account of mixed claims as established in the Settlement of War Claims Act of 1928, which an annuity of 40,800,000 marks over period of 37 years only will not do. If Germany is not willing to extend payments beyond the 37th year, the annuity on the mixed claims account for term of 37 years must be 50,000,000 marks a year.

STIMSON

462.00R296/2910 : Telegram

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

PARIS, May 23, 1929—5 p.m.

[Received May 24—9:10 a.m.⁵³]

233. Reparation 252. Following receipt of your 167, May 21st, I yesterday addressed to Pirelli, who presided over the meeting of the creditor groups at which I appeared on May 20, the following letter:

“At the meeting which I had with the representatives of the creditor groups on May 20, over which you presided, I stated the position of the United States Government as you will recall as follows:

That the President would recommend to the Congress:

1. That the United States agree to accept 90 percent of its Army costs, provided France and Great Britain make a similar concession. On this basis the United States would accept an annuity sufficient to cover this amount in 37 yearly payments with interest at $5\frac{1}{2}$ percent on all deferred payments. I mentioned that my estimates were that this would require an annuity of about 32.8 million gold marks but that I wished to reserve this figure until I could obtain a more precise estimate and that I would communicate with you later.

2. That the United States Government agree to accept on account of mixed claims a flat annuity of 40.8 million gold marks to be paid yearly until the claims as covered in the settlement of War Claims Act are completely discharged. As nearly as could be estimated this would require a flat annuity of 40.8 million gold marks for 52 years, *id est*, for 37 years plus 15 additional annuities of 40.8 millions after the 37th year.

⁵³ Telegram in two sections.

3. That the United States agree to place its payments on account of Army costs in the conditional class of the annuity, but, in view of its obligations to its own nationals who would be accepting a postponement of ultimate payment of their claims, it would require that payments on account of mixed claims be placed in the unconditional class.

With regard to the annuity on account of Army costs, I am now in a position to advise you that it is estimated that an annuity of 31,231,000 gold marks for 37 years will be required. This figure is arrived at as follows:

Deducting 10 percent of the total amount of the United States Army costs leaves a net amount due as of September 1st, 1929, of approximately 691,000,000 marks. Under the present plan the United States is receiving 55,000,000 marks a year which would retire the debt of 691,000,000 in about twelve and a half years. Interest at 5½ percent would run on the deferred payment, viz: on the difference between the 55,000,000 and the 31,231,000 marks beginning the first year. This would require as stated above an annuity of 31,231,000 gold marks for 37 years.

I should be glad if you would communicate the foregoing to the other representatives of the creditor groups who were present at the meeting on May 20."

The situation as to provision for our claims are [is] as follows:

The creditor groups have reached agreement on distribution of the annuity given in their memorandum sent to Schacht yesterday (see my Reparation 250⁵⁴). This distribution gives us in the first year April 1st, 1929, to March 31st, 1930, the amount of 92.2 millions. As explained in my Reparation 250, this first annuity is composed of 9 months of the Dawes annuity and 3 months of the new annuity of 2,050,000,000. We thus receive three-fourths of 100,000,000 or 75,000,000 plus 17.2 millions for the 3 months of the new annuity. Thereafter the proposal is to give us an annuity of 69.2 millions over 36 years. The creditors calculate that this, together with the annuity of 92.2 in the first year, will provide an average annuity of 70.5 millions for 37 years.

[Paraphrase.] Of course this is insufficient to satisfy American claims on the basis you lay down in your telegrams No. 165, May 19, and No. 167, May 21. Allocation of 40.8 millions for mixed claims would leave but 29.7 millions for Army costs payments. Deficit is further increased by fact that first annuity year would begin on April 1, 1929, while our figures are based on status of our claims as of September 1, 1929, after applying the payments which are to be received up to that date.

It will be very difficult, I think, to get creditor groups to increase our share in any material measure. There has been a struggle, as you will readily imagine, over every 100,000 marks and every group has

⁵⁴ Not printed.

had to whittle down requirements which were supposed to be its minimum. Possibly I can obtain an increase of one-half or three-fourths of a million, but I have small hope of getting anything larger. For that reason I feel that we should carefully consider whether there is anything we can do to come somewhat nearer their figure; particularly is this true in regard to rate of interest charged. The 31,231,000 for Army costs annuity stated in your No. 167 was based, it is presumed, upon compound interest at $5\frac{1}{2}$ percent on payments deferred. May I suggest that we should consider accepting interest at rate approximately what the United States would have to pay for money, let us say $4\frac{1}{4}$ percent. The following estimate has been made for me by accountants here:

On assumption that we receive 29.7 millions for Army costs over period of 13 years ($12\frac{1}{2}$ years would be more exact, but 13 years is basis of estimate), there would be deficit to be carried to deferred payments of 25.3 millions per annum; that is to say, 55,000,000 minus point 7. At end of 13 years the interest on these annual deficits at $4\frac{1}{4}$ percent compound interest would amount to 90.2 millions. This amount added to the 305,000,000 of principal which would remain to be paid the 13th year comes to 395.2 millions, and the annuity required to produce this amount at $4\frac{1}{4}$ percent discount over remaining 24 years comes close to 27.3 millions.

If the above figures are approximately correct and would be acceptable to us, they would bring us very near the annuity which the creditor groups proposed for us. A slight deficit would probably still be left, due to fact that, as I have pointed out above, the annuities are to start as of April 1 and the foregoing estimate has been based on our claims as of September 1, 1929.

It may be added that, as far as I know, none of creditors has calculated claims on basis of $5\frac{1}{2}$ percent interest. Only use which has been made of that figure has been in computing value of 74 proposed settlements.

If there is to be any settlement reached here, apparently it will be on basis of first annuity's beginning as of April 1, 1929. I venture to suggest, therefore, that Treasury be asked to prepare figures on following lines:

Amount of the annuity for 37 years which would be required to pay our Army costs as they stood on April 1, 1929, after making deduction of 10 percent of total costs with interest at $4\frac{1}{4}$ percent on all deferred payments. If this amount added to the 40.8 millions for mixed claims fairly approximates annuity of 70.5 millions now provided for us, I may be able to obtain the difference. I should also appreciate confirmation by Treasury that an initial annuity of 90.2 millions plus 36 annuities of 69.2 millions would give us, in fact, average annuity of 70.5 millions value over period of 37 years.

Certain difficulties are also offered by the 15 additional annuities of 40.8 millions for mixed claims. On basis of existing rights we could claim, so it would seem, only $2\frac{1}{4}$ percent of amount available for reparations after the 37th year. This amount will be about 1,600,000,000. Creditor groups, however, have agreed to add to schedule of annuities presented to the Germans statement to effect that 15 additional annuities of 40.8 millions will be required to satisfy the United States mixed claims. What German reaction will be to this I do not know, but if they are prepared to make settlement on basis of the new proposal they have received from the Allied groups, I should think that they would raise no very serious objections to these additional figures for us; particularly should this be true as the matter is bound up with return of German property in the United States. If this point raises any difficulty, I feel that Young will help as much as possible by talking with Schacht.

Early reply to points raised in foregoing would be appreciated, as a little time may be required to obtain any readjustments here. [End paraphrase.]

ARMOUR

462.00R296/2910 : Telegram

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

[Paraphrase]

WASHINGTON, May 25, 1929—4 p. m.

171. Reparation No. 77. Your No. 233, May 23, 5 p. m., Reparation No. 252.

Department's telegrams No. 165, May 19, 8 p. m., and 167, May 21, 6 p. m., were sent to you as result of meeting held by President with several responsible leaders of House and Senate. After a long discussion they agreed personally to support new schedule which will be presented to Congress by the Executive with earnest request for approval. Many members of Congress undoubtedly will oppose even this arrangement on ground that this Government is not collecting reparations as such but merely Army costs, which, under existing arrangement, are prior obligation of Germany and are due solely for reason that both Germany and the Allies urged us to keep our Army on the Rhine for the general good; and similarly with regard to the mixed claims, which are result of judicial settlement. It would not be possible now to call another meeting asking for sacrifices even greater.

The figures presented at the White House meeting were drawn up very carefully by the Treasury, and proposals it contained relative to our share of the annuities seemed generous to us. For that reason we feel that it is not possible to take any further steps until experts'

final report is sent to the Governments, and it should be borne in mind that any further diminution in the annuities to be paid to the United States might add seriously to opposition in Congress to the acceptance of the new schedule.

It does not seem to be necessary for you to communicate again formally with the Committee of Experts.

STIMSON

462.00R296/2910 : Telegram

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

WASHINGTON, May 25, 1929—7 p. m.

174. Reparation 78. Your 233, May 23, 5 p. m. Reparation 252.

The following is furnished for your information in answer to your question as to figures: The Treasury understands that the Allied experts in their agreement have allowed the United States on account of Army Costs and Mixed Claims an annuity of 92,200,000 marks from April 1, 1929, to March 31, 1930, and thereafter an annuity of 69,200,000 marks for 36 years.⁵⁵ If 41,000,000 marks are allocated for Mixed Claims, it would leave approximately 51,000,000 for Army Costs the first year, and if 40,800,000 are allocated for Mixed Claims for the next 36 years it would leave approximately 28,400,000 available for Army Costs. The Treasury estimates that these annuities would discharge the amount due on account of Army Costs in 37 years with interest at approximately 4½ per cent.

STIMSON

462.00R296/2937 : Telegram

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

[Extracts—Paraphrase]

PARIS, May 31, 1929—5 p. m.

[Received May 31—3:35 p. m.]

246. Reparation No. 256. Both sides are now making concessions with regard to German conditions, and it looks as if Committee might reach complete agreement within next 24 or 36 hours, and final report be ready for signature by middle of next week.⁵⁶

. . . I understand that the creditor groups have not allotted to the United States anything in the unconditional category. Practically everything in this category has been given to France, who will deposit with the bank approximately 500,000,000 marks to equalize

⁵⁵ For the figures finally recommended for the annuities by the Committee of Experts, see Great Britain, Cmd. 3343 (1929), pp. 60 ff.

⁵⁶ The report of the Committee of Experts was signed on June 7, 1929.

her disproportionate share of the conditional payment. Young does not feel that anything further can be accomplished on this point at present conference.

Our position as set forth in your No. 165, May 19, is now matter of record with the experts of the creditor groups, and, if we so desire, we can insist upon participating in the unconditional payments when the conference of the governments is held to put the new plan into effect. . . .

ARMOUR

[A conference was held at The Hague, August 6-31, 1929, for the purpose of bringing into effect the plan offered by the Committee of Experts.—Great Britain, Cmd. 3392, Miscellaneous No. 5 (1929): *Protocol With Annexes Approved at the Plenary Session of The Hague Conference, August 31, 1929.*

The Government of the United States was represented at the Conference by Mr. Edwin C. Wilson in the capacity of observer and with specifically limited powers.]

**NEGOTIATIONS FOR AN AGREEMENT TO PROVIDE FOR PAYMENT OF
AMERICAN ARMY OF OCCUPATION COSTS AND MIXED CLAIMS
COMMISSION AWARDS**

462.00R294/674a : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

WASHINGTON, September 14, 1929—2 p. m.

64. The United States, under the Paris agreement of January 14, 1925,⁵⁷ to which Germany is not a party but of which it has cognizance, is receiving from Germany 55,000,000 gold marks a year on account of the costs of the American Army of Occupation⁵⁸ and 45,000,000 gold marks a year on account of the awards adjudicated and to be adjudicated by the Mixed Claims Commission constituted under the agreement of August 10, 1922.⁵⁹ As of September 1, 1929, the unliquidated balance owed by Germany on account of army costs was \$193,936,765.20 and on account of Mixed Claims Awards approximately \$251,300,000, interest included.

In view of the schedule of payments recommended by the Committee of Experts appointed by Germany and the Reparation Commission to submit proposals for a final and definitive settlement of Germany's

⁵⁷ *Foreign Relations*, 1925, vol. II, p. 145.

⁵⁸ See *ibid.*, 1923, vol. II, pp. 110 ff.

⁵⁹ *Ibid.*, 1922, vol. II, p. 262.

obligations,⁶⁰ the President is prepared to recommend to the Congress that the United States accept in full discharge of Germany's obligations in the aforementioned categories the annuities allotted the United States in the report of that Committee. To this end it is desired to ascertain whether the German Government will agree to pay directly to the United States the said annuities over the period of years provided for in the Experts' report, with a provision, on the lines of postponement provisos in other debt settlements negotiated by the United States, permitting postponement of payments at the debtor's option for a period of time not to exceed two years (viz "Provided, however, that Germany may at its option, upon not less than ninety days advance notice to the United States, postpone any payment to a time not more than two years distant from its due date, but only on condition that in case Germany shall at any time exercise this option as to any payment, the payment falling due on the corresponding date in the next succeeding year cannot be postponed to any date more than one year distant from the date it becomes due unless and until the payment previously postponed shall actually have been made, and the payment falling due on the corresponding date in the second succeeding year cannot be postponed at all unless and until the payment of principal due two years previous thereto shall actually have been made.").

The President is not prepared to relinquish the rights and priorities the United States enjoys under the Paris agreement of January 14, 1925 until authorization of Congress has been obtained. It is desired at the proper time to lay the matter before Congress in the form of an agreement with Germany, which shall have been recognized in such appropriate form as may prove convenient by the other creditor powers signatory to the agreement of January 14, 1925.

You are requested to communicate the foregoing orally to the appropriate German authorities and report reaction of the German Government. While no reluctance on its part is anticipated, you may find it appropriate to refer to the proposal as a new exemplification of the consistently liberal attitude which the United States has displayed toward Germany, as in renouncing its right to general reparations, returning private German property sequestered during the war, and subjecting the claims of American citizens against Germany to adjudication by a mixed tribunal constituted under an agreement with Germany. The position of this Government is also influenced by the wish to submit to Congress a simple question which will not draw the whole Young Plan into controversy and delay.

⁶⁰ Report of the Committee of Experts on Reparations, June 7, 1929, commonly referred to as "The Young Plan"; Great Britain, Cmd. 3343 (1929).

You will make it clear that besides the Young Plan annuities payable after September 1, 1929, the United States expects that payment of the 100,000,000 marks due under the fifth Dawes annuity will be completed.

You may further add that pending the submission of the new agreement to the Congress and the obtaining of the necessary authority from the Congress, this Government is prepared to accept payments based on the new schedule, reserving, however, all its rights under the Treaty of Berlin⁶¹ and under the agreement of January 14, 1925, and with the understanding that the existing methods of payment will remain undisturbed.

Mail cipher copy to Paris for Wilson's⁶² information. Keep him fully informed.

STIMSON

462.00R294/682 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, October 26, 1929—11 a. m.

[Received October 26—10:47 a. m.]

201. [Paraphrase.] Following is translation of Foreign Office *aide-mémoire* received yesterday: [End paraphrase.]

"The German Government is of the opinion that, through the exchange of views up to the present and the *aide-mémoire* of the American Ambassador of October 24, 1929,⁶³ the basis for entering upon material negotiations regarding a German-American debt agreement has been created. It has noted with satisfaction that the American Government will hand to the German Government a written draft of the agreement and that an American expert will shortly arrive in Berlin for the purpose of further discussion of the matter in question. The German Government is prepared to take up these negotiations immediately. Ministerial Direktor Ritter of the Foreign Office has been commissioned to conduct the negotiations. In these negotiations the German Government would again discuss the question dealt with in paragraph 2 of the *aide-mémoire* of October 24 regarding the extent to which some regulations corresponding to the Young Plan are to be made the subject of the agreement itself or of a subsequent supplementary German-American accord.

The German Government emphasizes particularly the urgency of the matter. A consequence of the conclusion of the German-American agreement is that the American annuities must be taken out of the Young Plan. As the Committee of Jurists which was appointed

⁶¹ Treaty between the United States and Germany, signed August 25, 1921; *Foreign Relations*, 1921, vol. II, p. 29.

⁶² Edwin C. Wilson, First Secretary of Embassy in France, and acting American observer on the Reparation Commission.

⁶³ Presumably an *aide-mémoire* recapitulating the oral discussions based upon the Department's instruction, *supra*.

by The Hague Conference⁶⁴ and [by whom the question will also be taken up] will probably meet about November 10, it would be most desirable if a German-American accord could be reached by that date.

In view of the fact that, contrary to the wish of the two Governments, the German-American negotiations have already been made public, the German Government deems it necessary to acquaint the other creditor Governments, without delay, with the fact of the negotiations. The German Government attaches particular importance to having this done by the German and the American Governments jointly and suggests for this reason that their respective Ministers in Brussels be instructed immediately by telegraph to notify M. Jaspars,⁶⁵ president of The Hague Conference, accordingly. The German Government will instruct its Minister in Brussels to get into touch with his American colleague prior to this step. The various interested Governments themselves could then be advised when an accord has been reached regarding the text of the agreement."

SCHURMAN

462.00R294/682 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

[Paraphrase]

WASHINGTON, October 26, 1929—5 p. m.

78. Yesterday the *New York Herald Tribune* carried an article on our negotiations with Germany. In order to avoid misunderstanding, the Secretary stated at his press conference that he would make an announcement, in view of the statements printed, although Department had not intended to do so. He then recalled that a meeting had been held at the White House last spring, at which time question of accepting certain reductions which the experts had proposed was discussed by the President and the Secretary of State with the leaders of the House and the Senate. He stated that the negotiations with the German Government are in accord with what Department understands to have been general sentiment of that conference, and that no reason exists for secrecy regarding them. One correspondent inquired whether the United States is not in this way lined up with the Young Plan; the Secretary stated in reply that this agreement is being negotiated separately with the Reich Government. Several specific questions were asked by the correspondents relative to what was to be included in the agreement, but the Secretary would not discuss details.

The Department also informed British Chargé and French and Italian Ambassadors about what was being done. Assistant Secre-

⁶⁴ See Great Britain, Cmd. 3392 (1929) : *Protocol . . . Approved at the Plenary Session of The Hague Conference, August 31, 1929*, p. 3.

⁶⁵ Henri Jaspars, Belgian Prime Minister.

tary Castle had already told Dr. Kiep⁶⁶ that if German Government desired, there was no reason why it should not inform the interested Ambassadors.

Reference your No. 201, October 26, 11 a. m. Under the circumstances, the United States obviously would have no objection should German Minister at Brussels wish to discuss matter with Jaspar. There does not appear to be any reason, however, why the American Ambassador should be associated with him in this action.

You will please keep Wilson fully informed.

STIMSON

462.00R294/683f : Telegram

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

WASHINGTON, November 2, 1929—5 p. m.

359. Reparation 98. Repeat following to Berlin as Department's 80.

"Your 201, October 26, 11 a. m. Department is instructing Mr. E. C. Wilson, Acting American Observer with the Reparation Commission, to proceed to Berlin to present draft agreement and to discuss it with representative designated by the German Government. In accordance with American debt settlement precedents, proposal contemplates an agreement which will be signed at Washington by the Secretary of the Treasury after it has been submitted to Congress and Congress has authorized signature.

Please make appropriate arrangements and extend Mr. Wilson all possible assistance and facilities."

STIMSON

462.00R294/695 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, November 7, 1929—5 p. m.
[Received November 7—3:55 p. m.]

209. From Wilson.

Had first meeting this morning with Ritter and presented draft agreement.⁶⁷ It will require a day or so for the Government services to examine the document, and we shall then begin detailed discussion. He volunteered the statement, however, that he thought we should have no difficulty except in connection with a postponement, or rather safeguard, clause. He referred to the provisions of the Young Plan regarding the special advisory committee as constituting a "revision clause" and said German opinion attached great importance to this and he hoped similar provisions could be embodied in our agreement.

⁶⁶ Counselor of the German Embassy.

⁶⁷ Not printed.

[Paraphrase.] In reply I said that this was the first time I had ever heard anything about a "revision clause" in the Young Plan and that I did not believe the passage in question was regarded in that light by other people. Ritter agreed that it was not so regarded in other countries but repeated that public opinion in Germany attached the utmost importance to the possibilities of this clause. I told him it was my personal opinion that the United States would find any such clause unacceptable; that what we were endeavoring to do was, so far as possible, to give Germany the advantages of an arrangement on the lines of agreements which we had concluded with other countries; we should, in fact, be reducing the amount of our claims by accepting payment under the Young schedule and it could not be expected that we would agree to anything such as a "revision clause"; we had refused this in connection with our other debt agreements. However, it is my impression that the Germans will go the limit in trying to have our agreement contain a reference to the special advisory committee provided for in the Young Plan or to insert some similar provision in our agreement. [End paraphrase.]

In view of the insistence of press correspondents it was agreed that a brief statement would be given out by the Foreign Office and the Embassy to the effect that discussions concerning special agreement had been begun today in Berlin. It was also agreed that no further communication would be made to the press. [Wilson.]

SCHURMAN

462.00 R294/691 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, November 12, 1929—5 p. m.
[Received November 13—1:15 a. m.]

215. From Wilson. Reference my telegram November 7, 5 p. m., Embassy's 209.

I had second meeting with Ritter and his associates yesterday afternoon and further meeting this morning. He began by saying that there were, in general, two bases upon which our agreement might be drafted. The first was to take the Young Plan as a basis and provide merely that the payments allocated to the United States in the Young Plan, subject to the conditions of that plan, would be made direct by Germany to the United States; this was the basis which Germany would have preferred. The second basis, which was the one adopted by the United States, was to make the payments depend on the agreement, the obligations of Germany under the Armistice agreement,⁶⁸ and the Treaty of Berlin. If the agreement was to follow this basis

⁶⁸ *Foreign Relations*, 1919, The Paris Peace Conference, vol. II, p. 1.

he felt that certain provisions would have to be included in it in order to bring it into line with Germany's position under the Young Plan.

He then went on to stress two points which he said the German Government regarded as of primary importance as follows:

(a) The renunciation of sanctions and special pledges.

He pointed out that under the Young Plan (paragraph 102) the creditor Governments would release all controls, securities, et cetera; furthermore, many of the creditor Governments had already renounced the rights accorded them, under paragraph 18 of annex 2 of part 8 of the Versailles Treaty.⁶⁹ He said that the German Government felt it would be an anomaly if the other creditor Governments should release such sanctions and pledges and the United States still retained them. He stated that the French Government was the only one which was making any difficulty over the release of these pledges and that Great Britain, Italy, and Belgium had advised Germany that they would accept any formula which was satisfactory to France and Germany. The French and German Governments are now discussing a formula and the German Government hopes that when agreement has been reached upon this formula it may be followed as closely as possible in our agreement. For the moment, therefore, Ritter said that he would like to reserve the question of the exact wording of the form of release but that the German Government wishes to inquire whether the United States would agree in principle to renounce its rights to sanctions and pledges under the treaties. In order to give me a more definite idea of just what they had in mind he handed me the following rough draft:

"The obligations of Germany under this agreement shall be of a purely commercial and financial character. With regard to these obligations the United States therefore renounces all sanctions, securities, pledges, charges and controls, to which she might have or might be entitled according to the treaty signed at Berlin, August 25th, 1921; and according to the parts [*terms?*] of the Armistice convention signed November 11th, 1918; and of the treaty signed at Versailles, June 28th, 1919, which are referred to in the said Treaty of Berlin. The United States agrees that the relations between the Reparation Commission and Germany will be terminated with the coming into force of this agreement insofar as the United States should participate in the Reparation Commission."

[Paraphrase.] I submit the following observations with regard to the foregoing:

In general, the German proposal looks to two categories of release: (a) As to application of sanctions; (b) as to special securities for payments made by Germany.

⁶⁹ Malloy, *Treaties*, 1910-1923, vol. III, pp. 3331, 3424.

I assume that we should be willing to give up any right to sanctions as such; but I think that question of renunciation of our right to special pledges might be influenced by decision reached with regard to German request for revision of safeguard clause (see below, paragraph (b)). Paragraph 102 of Young Plan recommends release by creditor Governments of all controls, etc., except those which are specifically referred to in part 8-A of plan. Should Germans insist on safeguard clause, then it is obvious that all our rights in the way of special pledges, under the treaties, should remain intact. If, on the other hand, they agree, as I think that eventually they may do, to give up idea of a safeguard clause and to make their payments to the United States in effect unconditional, then I think that we might consider releasing special pledges and regard basis of security for payment of the annuities as resting upon solemn undertaking of German Government. [End paraphrase.]

(b) The so-called revision or safeguard clause.

Ritter laid emphasis on obvious points such as the size of the total German annuity, danger to Germany's economy involved in transferring the annuity, and the fact the German Government had accepted the Young Plan only because of the safeguards which it contained. After discussion, however, he agreed that the relatively small annuities to be paid to America did not in themselves constitute any threat to German economy so long as Germany retained the safeguard provisions of the experts' report as concerns the bulk of the postponable payments. He then went on to point out the difficult situation which would arise for Germany at the final Hague Conference if the other creditor Governments realized that Germany had voluntarily increased the amount of her unconditional payments in this special agreement with the United States. In this case Germany would probably be faced with a demand from the other creditors for an increase in the unconditional payments to them, and he felt that every effort should be made to avoid these difficulties being raised.

[Paraphrase.] (I am inclined to feel that this is chief preoccupation of German Government with regard to this matter.) Ritter then put forward as his entirely personal suggestion the thought that if complete text of our agreement were not made known to the other powers before assembling of Hague Conference—that is to say, if the other powers did not realize that German Government was promising to make payments to the United States unconditional—then it might be possible to have inserted in final Hague protocol a clause simply to effect that other creditor powers raised no objection to direct payment by German Government to the United States without passing through the bank the payments which under the Young Plan are allocated to the United States. [End paraphrase.]

He said that Jaspar was planning to hold the final Hague Conference during the first week in December and that if this was done he felt that we probably should not have completed our agreement by that time and that this would facilitate the presentation of the matter at The Hague. The German Government, he added, regards it as essential that the special agreement should be recognized by the other powers at their final approval of the Young Plan. I replied that I felt the advisable thing for us to do was to complete our agreement as soon as possible and then to deal with the question of the other powers when that problem arose. I also said that I personally did not feel that the United States should take any part in presenting the agreement at The Hague where we were not officially represented. As regards the attitude of the other powers, the United States has rights and priorities under the January 14, 1925, agreement which would doubtless be taken into consideration in connection with the special American-German agreement. I repeated the opinion I had expressed on November 7th that I personally felt strongly that for obvious reasons any so-called revision or safeguard clause would be entirely unacceptable to the United States. In view of his insistence, however, I agreed to transmit to you his request for the inclusion of a clause which he drafted reading as follows:

“Should Germany declare that she has come to the conclusion in good faith that Germany’s exchange and economic life may be seriously endangered by her payment under this agreement in connection with her other international obligations resulting from the war, the two Governments shall enter into new negotiations.”

[Paraphrase.] With reference to date of Hague Conference, I may add that from word I have received from London and Paris, it seems possible that British and French Governments may prefer to postpone meeting until German plebiscite on Young Plan is definitely over with. [End paraphrase.]

I shall report in a subsequent telegram upon the numerous other points which Ritter has raised. [Wilson.]

SCHURMAN

462.00R294/693 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, November 13, 1929—3 p. m.

[Received 8:10 p. m.]

217. From Wilson. Reference last paragraph my telegram No. 215, November 12, 5 p. m.

Following further points have been raised by Ritter:

1. Paragraph 1 (a) of the draft agreement. He inquires whether it would be possible to maintain at 45,000,000 marks annually the

amount allocated to mixed claims until these are paid, reducing proportionately in the first years the allocation to Army costs and increasing it in the later years. He points out that this would be of advantage German nationals whose property would be returned more quickly and to the American claimants who would receive payment earlier. He has made it clear he is not suggesting any reduction in the annuity but only a rearrangement of the allocation of the total share of the United States.

2. Question has been raised as to the amount of the mixed claims awards. Since Germany is to agree to pay the exact amount of the awards with interest and since it is impossible at the present time to fix the exact amount in view of the fact that the commission is still sitting, Ritter feels it necessary to ensure that the payments set out in the agreement shall not exceed the total of the awards when these are finally established. He therefore proposes that the following should be added after paragraph 1 (a) "these payments shall cease however before said date if and when the obligations incumbent upon the United States by whom the Settlement of War Claims Act of 1928⁷⁰ shall have been fully satisfied. Bonds not yet matured at this time will be returned to Germany." In this connection, the Foreign Office would appreciate full information as to the basis upon which it has been calculated that 52 annuities of 40.8 millions will satisfy the estimated total of the awards remaining to be paid. Department's telegram 64, September 14, 2 p. m., to Berlin stated that as of September 1st, 1929, the unliquidated balance on account of mixed claims amounted approximately to [\$]251,300,000 interest included. Does this cover only awards actually entered or does it include an estimate as to future awards?

3. Paragraph 3, draft agreement. Ritter suggests that after the word "interest" some such phrase should be inserted as "in case of postponement of payments under the provisions of paragraph 4 hereinafter," since no interest will be paid except in the event of postponed payments. The same remark applies to paragraph 5 of the draft.

4. Attention has been called to the fact that no provision is made in the draft for payment at the option of Germany in obligations of the United States as is the case in the other American debt agreements. Ritter argues that if we are to follow the precedent of the other agreements, then Germany should be given the advantages of such agreements and it is conceivable that at some time in the future the option of making payment in United States obligations may be of value. He requests that a provision to this effect be added to the agreement.

⁷⁰ 45 Stat. 254.

5. It has also been pointed out that the draft makes no provision for payments before maturity as is the case in the other American agreements. Furthermore the Young Plan, in paragraph 154, provides for the right to anticipate payments. Ritter therefore requests that a clause be included in this similar to that in our other agreements.

6. Paragraph 7 of the draft. Ritter said he was struck by the fact that it was only Germany which was called upon to assume obligations under this paragraph. I pointed out that the clause was identical with that contained in our other agreements and that it is obviously only Germany which will be called upon to issue bonds in connection with which legal formalities must be fulfilled. Ritter said he appreciated this but that public opinion in Germany was very nervous and fearful of anything which might have the appearance of a new or unilateral obligation and that he must ask us to consider having the clause read throughout "Germany and the United States." In support of this he pointed out that by the agreement the United States would be undertaking certain obligations to Germany such as a reduction in the Army costs and a renunciation of sanctions and special privileges, see my telegram of yesterday, and that it could be held in Germany that it was equally necessary to be assured that the pertinent legal requirements in the United States had been completed. In this connection I should appreciate it if the Department would telegraph me the exact significance of this paragraph. Ritter seems to feel that it may have the effect of a "ratification clause" in the sense that it indicates that the necessary prior approval has been given by the legislative bodies of both countries and that the agreement becomes immediately effective upon signature without requiring further submission to the legislatures. Furthermore an interpretation of the article would be helpful in view of the question which the legal experts of the Foreign Office are examining as to whether the legal requirements mentioned in the paragraph must include the new laws to be voted under the Young Plan concerning the Reichsbank, the railways and pledged revenues.

[Paraphrase.] For my own information I should also appreciate Department's views as to whether it desires that Reichstag should approve agreement before signature as Congress will do. I observe that in our agreements with France and Italy the phrase "subject, however, to ratification" does not appear in final paragraph. Customary procedure in Germany would be, signature first followed by ratification.

7. Regarding that part of draft containing phrase "in two counterparts," Ritter said he understood it to mean that each counterpart would comprise one text in German and one text in English so that both texts would possess equal validity.

8. Forms of bonds. The suggestion has been made that some phrase like "in view of the provisions of the agreement dated between the United States and Germany", should be inserted to take place of the phrase "for value received," which hardly seems applicable to Germany.

9. Should it be agreed that Germany have the option of paying in obligations of the United States (reference paragraph 4, above), appropriate reference thereto should also be included in the forms of bonds.

Ritter has reserved various other points with regard to which he is consulting with German treasury, the Reichsbank, and his own expert legal assistants. Wilson. [End paraphrase.]

SCHURMAN

462.00R294/691 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

[Paraphrase]

WASHINGTON, November 19, 1929—2 p. m.

83. For Wilson. Your No. 215, November 12, 5 p. m.

(a) The United States perceives no objection in principle to renunciation, ultimately, of its rights to sanctions and pledges in the event that this agreement and the Young Plan become effective, but it would prefer a formula which is consonant with the character of a financial agreement rather than that of a political treaty. For example, have included in the draft at the appropriate place the following new paragraph:⁷¹

"Security. The United States hereby agrees to accept the full faith and credit of Germany as the only security for the fulfilment of Germany's obligations hereunder."

Reference may be made, in this connection, to the reservation made by the Senate to the ratification of the Treaty of Berlin to effect that this Government shall neither be represented in nor shall participate in any body, agency, or commission in which the United States is authorized by that treaty to participate unless and until provisions for such representation or participation shall be made by act of Congress. Reference may also be made to the statement issued to the press, May 16, 1929, by the Secretary of State, as follows:^{71a}

"This Government does not desire to have any American official, directly or indirectly, participate in the collection of German reparations. . . . Ever since the close of the war the American Government has consistently taken this position; it has never accepted membership on the Reparation Commission; it declined to join the

⁷¹ Quotation not paraphrased.

^{71a} Printed in full on page 1070.

Allied Powers in the confiscation of the sequestered German property and the application of that property to its war claims.”

It would seem from the foregoing that statement in this agreement of any renunciation of our relations to Reparation Commission would be meaningless.

(b) This Government is unable to accept any so-called revision or safeguard clause. Regarding Ritter's suggestion on procedure, the United States in compliance with expressed and obvious interest of German Government in expediting transition to Young annuities, desires to lay agreement before Congress as soon as this can be done in the regular session which opens on December 2, but not until the agreement has been brought to attention of the other creditor powers, either at Hague Conference⁷² or individually. This Government concurs in suggestion that agreement be recognized, in some appropriate manner, by the other creditor powers.

The Government of the United States does not share apprehensions of German Government that other creditors will demand increase in unconditional payments to them unless this Government accepts a clause either of revision or safeguard. Essential characteristics of unconditional annuities within meaning of Young Plan are that they are nonpostponable and noncommercializable. The annuities to be paid to this Government have neither of these characteristics.

While the Young committee (acting under pressure of conditions which it is unnecessary to describe) and the first Hague Conference allocated annuities to the United States without regard to position of this Government under agreement of January 14, 1925, it is not believed that the powers signatory to the agreement of January 14, by which the priority of American Army costs over reparations was recognized, either can or will argue that special terms, which are consistent with the Young Plan and which are less rather than more favorable to the United States, negotiated between this Government and the Government of Germany and accepted by the United States in order to avoid the raising of questions which might obstruct entire program of relief to Germany through putting Young Plan into force, afford excuse to ask for further concessions to them in excess of those which the Young committee recommends. The discussions in the first Hague Conference turned on the Spa percentages,⁷³ which have always been subject to the priority of Army Costs and which remain subject to the priority of United States Army Costs arrears. This Government's rights in this respect have been fully reserved.

⁷² The second session of the Conference convened at The Hague on January 3, 1930.

⁷³ Agreement between the Allies, signed at Spa, July 16, 1920, *Foreign Relations*, 1920, vol. II, p. 406.

With regard to the mixed claims awards, the United States has been receiving payments, under the agreement of January 14, 1925, on a parity with the reparation payments to the other powers in the amount of 2¼ percent of the payments by Germany which are available for distribution as reparations. The recommendations of the Young committee allocated these awards to an inferior position in relation to the unconditional annuities in which no participation has been allocated to this Government, although it has not in any way waived its rights in this respect. In addressing the Government of the Reich, it is not necessary to argue with regard to the respective equities of the mixed claims awards and the reparations payable to other creditor powers. Irrespective of fact that German nationals, under the Settlement of War Claims Act of 1928, are participating in the payment of these awards, the claims of this Government were subjected to rigorous examination and determination by a judicial commission which was set up by an agreement with Germany and in which the German Government had equal representation; and the United States is returning to German nationals the property on which these awards, by treaty, were secured, while the reparation claims of other creditor powers were determined unilaterally and were collected under the economic clauses of the treaty through establishment of clearing offices and confiscation of German property; certain ones, it is understood, not returning to the German Government even the balances which remained after their own claims had been satisfied.

This Government will have to obtain the authorization of Congress before it can release its rights under the agreement of January 14, 1925, and the utmost that can reasonably be asked of Congress to sanction is a promise on faith and credit of Germany similar to the undertakings of other debtors of the Government of the United States, with respect to all of which this Government, while granting liberal postponement terms at option of the debtor, has refused to grant any so-called safeguard clause. Draft agreement which has been submitted to Germany contemplates acceptance of Young annuities in full discharge of Germany's obligations to the United States under the treaty.

This acceptance on our part means a sacrifice of (a) the priority which this Government now enjoys applicable to very considerable portion of its claims; (b) substantial reduction of principal which is owed on account of arrears of Army costs; (c) material postponement of the payments on the Army Costs account and the mixed claims account; (d) permitting postponement of both the mixed claims and the Army costs accounts, while other creditor powers are

to receive large unconditional and nonpostponable payments. It is unthinkable that this Government should be asked to make any further concessions. The President would be unable consistently to recommend them to Congress, and even if he did there is no reason to believe that Congress would authorize them. In disregarding priority enjoyed by United States and allowing us not one cent of unconditional payments over which they themselves wrangled so bitterly, the other creditor powers are hardly in position to assert that proposed agreement constitutes preferential treatment to us.

If the United States is to collaborate effectively with Europe in obtaining advantages contemplated by Young committee, this Government must be free to present matter to Congress in manner which is consistent with our special position, while minimizing the grounds for objection which are indicated above, and at same time providing utmost safeguard to American interests concerned.

This Government's effort is to collaborate to furthest extent in promoting success of Young Plan, benefits of which will be felt chiefly in Europe. The difficulties in our efforts to collaborate arise from the elements prejudicial to the United States which have already been recommended by Young committee in response to exigent demands of the European creditor governments.

It is not believed that any government which seriously desires success of Young Plan will place any further obstacles in way of American collaboration or that any responsible official who is acquainted with the facts could do so without displaying an animus that would clearly fix responsibility for the consequences.

The Department will discuss matter informally with the representatives here of the interested powers.

STIMSON

462.00R294/693 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

[Paraphrase]

WASHINGTON, November 19, 1929—3 p.m.

84. For Wilson. Your No. 217, November 13, 3 p.m.

1. The Government of the United States cannot consider reallocation of annuities as between Army costs and mixed claims. You will recall that when questions of paying the Mixed Claims Commission awards and the return of German property were submitted to the Congress in 1926, the Treasury, with a view to facilitating payments to American claimants, recommended that the receipts on account of the Army costs be applied in the liquidation of the mixed claims. Congress took position, in rejecting the Treasury's recom-

mentation, that payments on account of Army costs had prior status, and that funds due this Government could not be used to pay private claims against Germany; consequently, Congress refused to approve recommendation, but enacted instead the Settlement of War Claims Act of 1928. It is our understanding that the 40,800,000 reichsmarks stipulated in the Young Plan is based on our rights under the Paris agreement of January 14, 1925, that is, 2¼ percent of the average annuity available for reparations.

2. With reference to the figure of \$251,300,000 which was furnished you in our telegram No. 64, September 14, 2 p.m., as representing the amount of the mixed claims, it was, of course, only an estimate, and is believed to be a very conservative one; it included an estimate by the representatives of the Mixed Claims Commission of the awards which are yet to be entered. Because of complications of Settlement of War Claims Act of 1928 it is not practicable to furnish details by cable. Request of the German Government for detailed information may be satisfied by following revision of that Government's estimated liability on account of the awards: ⁷⁴

1. Principal of awards certified to Treasury for payment	\$113, 295, 478. 68	
Interest up to August 31, 1929	59, 407, 605. 03	
		\$172, 703, 083. 71
2. Estimated principal amount of awards yet to be entered and certified . . .	32, 000, 000. 00	
Estimated interest up to August 31, 1929	21, 000, 000. 00	
		53, 000, 000. 00
3. Awards to United States Government	42, 034, 794. 41	
Interest up to August 31, 1929	22, 900, 000. 00	
		64, 934, 794. 41
		290, 637, 878. 12
Received from Germany up to August 31, 1929 . . .	31, 831, 472. 03	
Earnings and profits on investments	2, 149, 692. 70	
		33, 981, 164. 73
		256, 656, 713. 39

⁷⁴ Tabular statement not paraphrased.

Acceding to request of the German Government for an addition to paragraph on "Amounts to be paid" of draft agreement, we suggest that following sentence be added at end paragraph:⁷⁵

"The obligations of Germany hereinabove set forth in this paragraph shall cease as soon as all of the payments contemplated by the Settlement of War Claims Act of 1928 have been completed and the bonds not then matured evidencing such obligations shall be canceled and returned to Germany."

3. Although change does not seem to be necessary, considering that agreement carries express provision that the bonds are not to bear interest unless payment thereof is postponed pursuant to paragraph 4 of the agreement, you are authorized to acquiesce, if necessary, to having inserted after the word "interest" in paragraphs 3 and 5 of draft agreement the words "if any."

4. War debt precedents by which debtors are permitted to make payment in obligations of the United States were made originally with reference to obligations intimately identified with Liberty bonds of the United States, which, in part, were issued for express purpose of satisfying credits established in favor of certain foreign governments.⁷⁶ The Liberty Bond Acts in fact require that payments which are received on accounts of the principal of cash advances must be used for retirement of outstanding bonds of the United States. These reasons are inapplicable to German payments, and it is believed that the Congress would raise objection to a provision of this kind respecting Army costs, while not under any circumstances could payments made in obligations of the United States be used in execution of the Settlement of War Claims Act of 1928. As the Government of the United States is acting, moreover, in a fiduciary capacity for its own citizens in receiving the German payments on account of mixed claims, it could not accept, therefore, its own obligations in payment of the German Government's obligations on this account.

5. Acquiescing in the German Government's request that agreement contain provision for advance payments, following paragraph may be appropriately inserted in the draft agreement:⁷⁵

"Payments before maturity. Upon not less than ninety days' advance notice in writing to the United States and the approval of the Secretary of the Treasury of the United States, Germany may, on March 31 or September 30 of any year, make advance payments on account of any bonds issued under this agreement and held by the

⁷⁵ Quotation not paraphrased.

⁷⁶ See *Combined Annual Reports of the World War Foreign Debt Commission* . . . Fiscal Years 1922, 1923, 1924, 1925, and 1926 (Exhibit 114): "Excerpts from the first Liberty Bond Act and the Act of July 9, 1918, and Acts of February 25, 1919, and March 30, 1920, which contain authority for acquiring obligations of foreign governments."

United States. Any such advance payments shall be applied to the principal of such bonds as may be indicated by Germany at the time of the payment.”

6. Paragraph of draft agreement entitled “Compliance with legal requirements” was drawn up with view to having all legal requirements, of whatever nature, completed before execution of agreement. While it is unusual for creditor to be included in such requirements of debt agreements, the Government of the United States has no objection to suggestions made by Government of Germany that the clause should be made to read throughout “Germany and the United States.” The German Government must determine whether, under its constitution and laws, the Reichstag must ratify the agreement. If it must be ratified by the Reichstag, then this paragraph contemplates that such ratification shall have been completed before execution of the agreement. Under special authority from Congress, the World War Foreign Debt Commission executed French and Italian debt agreements before their approval either by Congress or by the respective foreign governments.⁷⁸ Consequently it was necessary to insert phrase “subject to ratification.” But as there is no authority to execute this agreement on behalf of this Government and as in granting such authority the Congress will be approving agreement before its execution, this Government must satisfy itself that all legal requirements have been fulfilled by the Government of the Reich as well as by the United States at time agreement is executed.

7. The United States acquiesces in German suggestion relative to paragraph entitled “Counterparts,” and suggests that it read as follows:

“Counterparts. This agreement shall be executed in two counterparts, each of which shall be in the English and German languages, both texts having equal force, and each counterpart having the force and effect of an original.”

8. Department does not understand why Germany should have any objection to use in bonds of the standard consideration phrase “for value received”. Should German Government insist, you are hereby authorized to substitute following for that phrase:⁷⁹

“In consideration of the premises and the mutual covenants contained in an agreement dated between it and the United States of America.”

STIMSON

⁷⁸ *Combined Annual Reports of the World War Foreign Debt Commission . . .* pp. 256 and 221, respectively.

⁷⁹ Quotation not paraphrased.

462.00R294/702

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] November 19, 1929.

I asked the representatives from the four embassies⁸⁰ to come to my office because I wanted to discuss with them the question of the arrangement being made between this Government and the German Government. Naturally I sent for them at separate times, since obviously they could not be approached in exactly the same way. In general, however, I gave them all an outline of what we were discussing with Germany, the reason why it was necessary to have a separate agreement and the reasons for the slight variations between our projected agreement and the provisions of the Young Plan. All four expressed themselves as grateful for the information. All four said that, so far as they were personally concerned, it did not seem to them possible that their Government could object to the separate agreement in itself or to any of the details of that agreement as I had explained them. I pointed out very clearly that, if there should be any desire to upset our agreement because we did not put in it a "security clause" for possible future revision of figures, that we might well be compelled to stand on our rights and insist that our payments be made unconditional, as had been first suggested. This would, as they well knew, pretty well destroy the Young Plan.

W[ILLIAM] R. C[ASTLE]

462.00R294/710: Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, November 29, 1929—5 p. m.

[Received 9:27 p. m.]

241. From Wilson.

The German Foreign Office has sent me in confidence copies of notes which it has just received from the Belgian, British, French and Italian Governments concerning our agreement. These notes so far as regards the substantive part are practically identical.

The following is the text of the British note, dated November 20th, addressed to Jasper by Snowden.⁸¹

"I have to acknowledge the receipt of your letter of the 11th [29th] ultimo, in which you are good enough to inform me of a verbal communication made to you by the German Minister at Brussels, relative to the method of payment of the United States share in the annuities fixed by the Young Plan.

⁸⁰ Belgian, British, French, and Italian.⁸¹ Philip Snowden, British Chancellor of the Exchequer.

While His Majesty's Government had hoped that all the countries concerned would have agreed to receive their share in the annuities through the agency of the Bank for International Settlements, as was contemplated in the Young Plan, they nevertheless, for their part, acquiesce in the proposal. In doing so His Majesty's Government of course assume that the German payments to the United States will be governed by the same conditions as the payments to the bank for account of the other creditor Governments, so that there should at no time be any discrimination as regards either payment or transfer between the share of the United States and those of the other creditor Governments, and that this principle will find its place in any document entered into between the two countries. Should the German Government accord to the United States conditions more favorable than those affecting the remainder of the annuities, the other creditor Governments would naturally reserve the right to require the same privileges to be extended to them.

His Majesty's Government consider that the German Government should be so informed and requested to take account of the views expressed in the terms of any agreement it may negotiate with the United States. They should further be requested to transmit the text of the agreement, when concluded, to the other creditor Governments so that they may consider the framing of an appropriate convention to enable effect to be given thereto."

I shall see the Germans tomorrow and get their reaction to the above. [Wilson.]

SCHURMAN

462.00R294/714 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, December 2, 1929—3 p. m.

[Received 5:25 p. m.]

247. From Wilson.

1. German Government agrees to waive the safeguard clause provided it is understood that in the event the other powers should raise objections at The Hague to our *aide-mémoire*, making it impossible for Germany to put the agreement in force without changing the Young Plan, then Germany would reserve the right to reopen negotiations with us. The German Government desires that this understanding be recorded in a strictly confidential minute of our meetings (not to be communicated to the other powers) in the sense of the following:

"The German Government reserves the right to enter into new negotiations with the Government of the United States in case that the inviting creditor powers or one of several of them, alleging that the conditions accorded to the United States were more favorable than those affecting the remainder of the annuities, should make their definite approval of the experts' plan dependent on the condition that the German Government should consent to a corresponding change of the regulations of the plan."

I might add that the Germans now express the opinion after reading the notes of the four powers, see my 241, November 29, 6 [5] p. m., that when the latter have cognizance of the terms of our agreement they will probably not raise objections. However, the German Government feels it necessary to put on record a statement such as the foregoing in order to protect themselves in the eventuality of unexpected opposition from the other creditors.

2. As a counterpart to the waiver of the safeguard clause, the Germans request the following draft for the new paragraph numbered 4 of the agreement which is an amplification of the Department's proposal in its 83, November 19, 2 p. m., paragraph (a) and which would satisfy the Germans as to the renunciation on our part of not only financial pledges but also the right to employ sanctions:

"Security. The United States hereby agrees to accept the full faith and credit of Germany as the only security and guaranty for the fulfillment of Germany's obligations so that in this respect Germany will be in the same position as other powers under their existing World War debt funding agreements with the United States."

Germany would accept the foregoing without waiting for the conclusion of negotiations with the French on the same point (see paragraph (a) my 215, November 12, 5 p. m.). However if a formula such as the above clearly implying the renunciation of sanctions is not acceptable to the United States, then Germany would have to reserve this point until the French negotiations are concluded in order not to prejudice her position. As of possible interest, it appears that the French are willing to agree that there can be no question of sanctions so long as the Young Plan continues in effect but that in the event of a break-down of the plan then all rights under the Treaty of Versailles come into force again. The Germans contest this and claim that with the entrance into force of the Young Plan all sanctions definitely disappear. Probably a vague compromise will eventually be reached susceptible of interpretation in opposing senses in order to satisfy public opinion in both countries. [Paraphrase.] If Department prefers, there is possibility I think that German Government might agree that the above-suggested paragraph should end with word "obligations," and that remainder should be embodied in a minute of our meeting as interpretation of paragraph in question with understanding that it could be made public. [End paraphrase.]

3. The German Government asks that in the new paragraph 6, payments before maturity (see paragraph 5, Department's 84, November 19, 3 p. m.) provision be made granting Germany $5\frac{1}{2}$ percent discount on advance payments. I have expressed my personal opinion that it would be impossible for us to agree to this and have pointed out the obvious difficulties it would raise in connection with rati-

fication by Congress. [Paraphrase.] The Germans have asked me, however, to submit their request to Department, although it is my impression that they are not attaching great importance to it, but that they want to be in position to state that they have done everything possible in the matter. [End paraphrase.]

Their argument is that under paragraph 154 of the Young Plan Germany has the right to redeem any part of the not yet mobilized annuities at 5½ percent and that Germany should not be treated less liberally in this respect by the United States, than by the other creditors. They interpret paragraph 154 as covering the non-mobilizable portion of the annuities as well as the mobilizable. Personally, I should question this interpretation, although, as a practical matter, the creditor Governments would doubtless be delighted to have the conditional annuities redeemed on a 5½ percent basis.

4. We are now in complete agreement on all points, except the three mentioned herein above, although I have still reserved a final reply as to paragraph 3, method of payment, see Department's 87, November 22, 7 p. m.⁸² [Wilson.]

SCHURMAN

462.00R294/714 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

[Paraphrase]

WASHINGTON, December 8, 1929—11 p. m.

103. For Wilson. Your No. 247, December 2, 3 p. m.

(1) Since this Government's refusal of safeguard clause is final and decisive, and is independent of attitude which may be taken by other creditor powers, this Government considers the strictly confidential understanding which Germany has suggested to be unnecessary and undesirable. Proposals of this Government contemplate that the other creditor powers shall make known their acquiescence in terms of proposed agreement between the German Government and the Government of the United States before Congress is requested to authorize the Secretary of the Treasury, with the President's approval, to execute the agreement. The proposed agreement, furthermore, will not be executed until all acts necessary to bring Young Plan into operation have been fully completed.

(2) In reconsidering new paragraph number 4 of draft agreement, it appears to Department that this paragraph might be construed in Congress as conflicting with authority of the latter as expressed in Settlement of War Claims Act of 1928. To obviate any

⁸² Not printed.

possible misunderstanding, Department desires to add a proviso, which will make the paragraph read as follows: ⁸⁸

“Security. The United States hereby agrees to accept the full faith and credit of Germany as the only security and guaranty for the fulfillment of Germany’s obligations hereunder; provided, however, nothing contained herein shall be construed as requiring the United States to release any German property which it now holds other than as heretofore or hereafter authorized by the Congress of the United States”.

The part of the security provision as suggested by the Germans following the word “obligations” is void of meaning in view of fact the security provisions in the existing World War debt-funding agreements between the United States and debtor countries are not uniform.

Department does not perceive that text it proposes differs from that proposed by the Germans with respect to “clearly implying the renunciation of sanctions,” the matter to which they attach importance.

(3) The Government of the United States is unable to accede to Germany’s request for 5½ percent discount on advance payments. Respecting the mixed claims payments, through the joint operation of present text on payments before maturity and last sentence of paragraph 1 (a) of draft agreement, Germany receives, in effect, 5 percent discount on all advance payments on account of mixed claims, for reason that immediate application of an advanced payment to claims outstanding would shut off 5 percent interest which they carry. A rate of discount on advance payments greater than that borne by awards would cause deficiency in amount necessary to make payment in full of the awards with interest to date of payment.

As regards Army costs arrears, it is believed that Congress would not consider granting any discount on advance payments.

The Government of the United States will not consent, therefore, to insertion of new paragraph for any discount provision in advance payments in the draft agreement.

STIMSON

462.00R294/738 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

WASHINGTON, December 28, 1929—6 p. m.

117. The Associated Press having received a report from Berlin that the German Government had announced the conclusion of an agree-

⁸⁸ Quotation not paraphrased.

ment with the United States, the following statement by the Acting Secretary of the Treasury was issued for release in the morning papers Sunday, December 29:⁸⁴

"The State Department and the Treasury Department have for some weeks past conducted conversations with the German Government with a view to drafting a proposed agreement covering payments by Germany to the United States on account of Army Costs and Mixed Claims in the annual amounts recommended by the Young Committee of Experts. The two Governments are in accord as to the form and terms of such an agreement, but it cannot be definitely concluded until the Executive Branch of the Government has been so authorized by the Congress. The purpose of the negotiations was to enable the Executive Branch of the Government to submit to the Congress in definite form an agreement acceptable to the German Government so that the Congress before granting the necessary authority would have before it the form of the agreement.⁸⁵

The schedule of payments conforms to the annuities proposed by the Young Committee for the United States. From each of the annuities to be received, 40,800,000 reichmarks are to be allocated to the satisfaction of Mixed Claims and the balance to the satisfaction of our Government's claims on account of Army Costs. This is substantially in accord with the program outlined at the White House conference of May 19, 1929, which was attended by a number of the leaders of both Houses of Congress.

The form of the agreement and the provisions in respect of postponement, generally speaking, follow the agreements heretofore negotiated for the settlement of the debts owed the United States by foreign governments. The execution of this agreement is contingent, of course, upon the Young Plan coming into effect. In the meanwhile the United States retains all of its existing rights."

Mail copy to Wilson.

STIMSON

**RECIPROCAL TREATMENT TO BE ACCORDED BY THE UNITED STATES
AND GERMANY TO CONSULAR STAFFS IN THE PAYMENT OF IM-
PORT DUTIES AND OTHER TAXES**

662.11241/13: Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

BERLIN, April 9, 1926—noon.
[Received April 9—10:35 a. m.]

72. Hamburg customs authorities have informed Consulate that, under a new ruling, goods cannot be admitted duty free for consuls already in the country and that duty must be paid on goods previously so admitted including automobiles. Foreign Office informs Em-

⁸⁴ See *Annual Report of the Secretary of the Treasury . . . 1930*, p. 334.

⁸⁵ The text of the agreement, subsequently signed on June 23, 1930, pursuant to act of Congress, June 5, 1930 (46 Stat. 500), is printed in *Annual Report of the Secretary of the Treasury . . . 1930*, p. 341, and in League of Nations Treaty Series, vol. cv, p. 121.

bassy that German Government is ready to accept on a basis of reciprocity whatever interpretation the American Government cares to put on article 27 of recent treaty⁸⁶ and that it cabled the German Ambassador to take question up with the Department but has not yet had an answer.

SCHURMAN

662.11241/13 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

WASHINGTON, April 12, 1926—3 p. m.

25. Your 72, April 9. Under Article 27 of recent treaty this Government accords German career consular officers assigned United States privilege importing effects and merchandise free of duty at any time. November 10, 1925, German Embassy asked free entry mail package for Consul Lüders, attached Embassy, citing Article 27 as ground for request. This and all subsequent similar requests granted. Insist on full reciprocity for American Consular Officers assigned Germany.

KELLOGG

662.11241/42

The Ambassador in Germany (Schurman) to the Secretary of State

No. 4504

BERLIN, April 29, 1929.

[Received May 11.]

SIR: I have the honor to refer to the Department's cablegram No. 25 of 3 p. m. April 12, 1926, and my despatch of June 3 of that year⁸⁷ relative to customs privileges for consular officers under Article 27 of the Treaty of Friendship, Commerce and Consular Rights of December 8, 1923.

During the past months consular officers in Germany have been complaining that the privileges apparently granted to them by the rights of the Treaty have been denied by the application of internal revenue taxation. This matter I personally took up with Dr. von Schubert, leaving with him an *Aide Mémoire* which is transmitted as enclosure No. 1 of this despatch. The reply of the Foreign Office is enclosed as No. 2. It is to be noted that the attitude of the German Government is that the position of the minor officials of their consular service in the United States has never been clarified and that their interpretation apparently is that such officials (*mittlerer Konsulardienst*) should be considered on a basis identical with that of consular officers of career. From the *Note Verbale* of the Foreign Office it would

⁸⁶ Treaty of Friendship, Commerce and Consular Rights, signed December 8, 1923, *Foreign Relations*, 1923, vol. II, pp. 29, 43.

⁸⁷ Latter not printed.

appear that this matter is already in course of negotiation between the German Embassy at Washington and the Department in order to arrive at a definite premise which would place categorically consular officers and employees upon a reciprocal basis.

The attitude of the German Government relative to the internal revenue tax being assessed upon consular officers of career emanates from a decree of the Reichsrat of December 7, 1928, (No. II a 15483). This decree was unknown to consular officers until their requests for free entry were refused pending the payment of the internal revenue tax. The consuls certainly should have been apprised of the decree and by adopting this arbitrary attitude the German Government caused a considerable amount of ill feeling inasmuch as under the terms of the Treaty the American Consular Corps had every right to feel that free entry was a privilege that was accorded them. The Embassy is informed that the above-mentioned decree has not been published and a copy cannot be obtained.

The attitude of the Department of State in claiming that neither by Article 27 nor Article 19 of the Treaty a claim could be based for the exemption of consular officers from the traffic and consumption taxes unless such exemption was placed on the basis of a most-favored-nation clause such as appears in the Spanish-American Treaty of Friendship of July 3, 1902,⁸⁸ is not compatible with the regulations which the German Reich has adopted concerning the position or capacity of the minor officials employed in their consulates. Furthermore, it is pointed out in the *Note Verbale* that the German Government apparently desires to declare its position to the Department of State through its Embassy at Washington within a short period of time.

Consular officers in Germany have been informed that the question of their exemption from internal revenue taxes (*innere Abgaben*) is under discussion and that for the time being it is not advisable for them to import such articles as are taxable under the law.

In order to upset the decree of the Reichsrat it would be necessary for that body to pass a new decree which would have to receive general support and a member of the Embassy was confidentially informed at the Ministry for Foreign Affairs that there was little likelihood of this occurring. The relationship of this matter to the interpretation of the automotive tax and sick insurance law, as transmitted by despatches in this pouch should be duly noted.

In view of the above and as the Embassy has no knowledge of the negotiations pending in Washington to arrive at an agreement, I respectfully request that I be instructed in the premises.

I have [etc.]

JACOB GOULD SCHURMAN

⁸⁸ *Foreign Relations*, 1903, p. 721.

[Enclosure 1]

The American Ambassador (Schurman) to the German Secretary of State for Foreign Affairs (Von Schubert)

AIDE-MÉMOIRE

The American Ambassador informed Dr. von Schubert that from information he had received from American consular officers in Germany, a decree had been passed by the Reichsfinanzministerium on December 7, 1928, which made it necessary for American consuls to pay duty upon articles imported by them in so far as they were and are subject to "innere Abgaben."

Inasmuch as this regulation apparently is contrary to the terms of the Treaty of December 8, 1923, the Ambassador felt it necessary to refer to the decree and requested that through the good offices of the Ministry for Foreign Affairs steps be taken in order that the privileges accorded by the said treaty be granted to American consular officers.

BERLIN, February 1, 1929.

[Enclosure 2—Translation]

The German Foreign Office to the American Embassy

V 526

NOTE VERBALE

Adverting to its *Note Verbale* of November 7, 1928,—V M 5540—regarding the exemption of Mr. Lester L. Schnare, American Consul at Breslau, from the internal revenue tax levied on cigarettes, (*Verbrauchssteuer auf Zigaretten*), as well as with reference to the *aide memoire* of February 1, 1929, regarding exemption of American Consuls from "innere Abgaben", presented on that day by His Excellency the Ambassador of the United States of America, the Foreign Office has the honor to inform the Embassy of the United States of America as follows:

Negotiations have been carried on in Washington for some time, between the German Embassy and the American Department of State relative to the interpretation of Article XXVII of the Treaty of Friendship, Commerce and Consular Service between the German Reich and the United States of America of December 8, 1923.⁸⁹ In the course of these negotiations the question was discussed, amongst others, as to whether and to what extent the Consular Officers of both parties are to be exempted also from the "innere Abgaben" (taxes on production, manufacture, consumption and sale) levied besides customs duty. (cf. note of the Assistant Secretary of State to the Amba-

⁸⁹ See *ibid.*, 1928, vol. II, pp. 929 ff.

sador of May 31, 1926—VM 3072—).⁹¹ Germany assumed at the beginning that, according to the organization of the German Consular Service, the uncommissioned consular officials (*Konsularbeamte des mittleren Dienstes*), (chancellors, secretaries, cashiers, file clerks) and higher employees, as for instance commercial experts, were to be counted as consular officers and would thus, if occasion should arise, enjoy exemption from the taxes in question. In the further course of the negotiations the American government then assumed the standpoint that

a.) consular officers are to be understood as including only Consuls-General, Consuls, Vice-Consuls, Interpreters, Student-Interpreters, and Consular Agents, and

b.) that neither on Article XXVII nor on Article XIX of the treaty a claim could be based for the exemption of consular officers from the traffic and consumption taxes, but that the German consular officers in America could be granted such exemption on the basis of the most-favored-nation clause in Article XVII of the treaty in connection with Article XV of the Spanish-American Treaty of Friendship of July 3, 1902, provided the German Reich granted the American consular officers equal rights.

The American interpretation of the term "consular officers" in Article XXVII of the German-American Treaty is at present being examined again by Germany, as it does not take into account the position and work of the officials of the German middle consular service (*mittlere Konsulardienst*). The German Government reserves the right of shortly presenting its objections in this matter or of declaring its agreement to the American Government through the German Embassy in Washington.

The German Government agrees with the American Government that exemption of consular officers from "innere Abgaben" can not be deduced from the mere wording of the German-American Treaty of Friendship etc. The German Government, however, for reasons of organization, is not in a position to adopt the method suggested by the American Government for the exemption of consular officers from the "Abgaben" in question. It reserves the right, however, to revise its point of view, in case the American Government should later arrive at another, broader, interpretation of the term "consular officers". The German Embassy in Washington has been instructed to inform the American Government in this matter.

The exemption from the cigarette tax applied for by Consul Schnare could unfortunately not be granted under the circumstances.

BERLIN, April 11, 1929.

⁹¹ Not printed.

662.11241/47

The Ambassador in Germany (Schurman) to the Secretary of State

No. 5142

BERLIN, December 9, 1929.

[Received December 27.]

SIR: In continuation of my despatch No. 4504, dated April 29, 1929, I have the honor to enclose for the Department's information copy in translation of a decree⁹² granting exemption for the payment of customs duties and internal taxes to foreign consular officers stationed in Germany, provided reciprocity is granted by the appointing State, transmitted to the Embassy by the German Foreign Office.

With reference to the Department's telegraphic instruction No. 25, dated April 12, 3 p. m., 1926, authorizing the Embassy to insist on full reciprocity for American consular officers assigned to Germany in importing effects and merchandise free of duty at any time, the Embassy has the honor to request the Department's authorization to inform the Foreign Office that the reciprocity is granted to German consular officers in the United States and that the authorization be sent by cablegram in order to assist American consular officers in Germany in receiving their Christmas packages.

I have [etc.]

JACOB GOULD SCHURMAN

662.11241/48 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

WASHINGTON, December 31, 1929—6 p. m.

118. Your 293, December 31, 9 a. m.⁹² German consular officers and clerks in United States enjoy privilege of free importation on basis of reciprocity. You are granted authorization to inform Foreign Office in this sense, as requested in your despatch No. 5142, December 9, 1929.

STIMSON

⁹² Not printed.



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